

Appeal of Elmer H. and Joan C. Thomassen

| <u>Years</u> | <u>Proposed Assessments</u> | <u>Penalty</u> |
|--------------|-----------------------------|----------------|
| 1960 | \$ 85.97 | \$ 4.30 |
| 1962 | 144.66 | 7.23 |
| 1963 | 72.96 | 3.65 |
| 1964 | 4,102.32 | 205.12 |
| 1965 | 5,437.78 | 271.89 |
| 1966 | 5,609.71 | 280.49 |
| 1967 | 11,659.17 | 582.96 |

Appellants are residents of Newport Beach, California. Elmer H. Thomassen is a practicing orthopedic surgeon with offices in Newport Beach and Garden Grove.

Appellants' federal personal income tax returns for the years in issue were audited by the Internal Revenue Service. The audit resulted in numerous changes to appellants' taxable income for the years in question. Thereafter, based on the federal audit reports, respondent issued notices of proposed assessment for the same years to the extent the adjustments were applicable under California law. Primarily, the changes reflected increased business income as well as increased income from other sources such as rental income, farm income and dividends. Appellants protested respondent's action and requested the matter be held in abeyance since they were challenging the federal determination. Ultimately, respondent determined that appellants' action in the United States Tax Court had been dismissed for failure to prosecute. Thereafter, respondent affirmed its proposed assessments which resulted in this appeal.

A deficiency assessment issued by respondent on the basis of a federal audit report is presumed to be correct, and the burden is on the taxpayer to show that it is erroneous. (Rev. & Tax. Code, § 18451; Todd v. McColgan, 89 Cal. App. 2d 509 [201 P.2d 414] (1949); Appeal of Samuel and Ruth Reisman, Cal. St. Bd. of Equal., March 22, 1971.) Here, appellants have offered absolutely no evidence to indicate that the federal action was erroneous. Appellants' sole argument in support of their position is based on the belief that the United States monetary system is unconstitutional. Appellants' unresponsive argument has been rejected as spurious by many federal courts as well as by this board. (United States v. Porth, 426 F.2d 519 (10th Cir.), cert. denied, 400 U.S. 824 [27 L. Ed. 2d 53] (1970); Hartman v. Switzer, 376 F. Supp. 486 (W.D. Pa. 1974); Lou M.

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Hatfield, 68 T.C. 895 (1977); Appeal of Armen B. Condo, Cal. St. Bd. of Equal., July 26, 1977; Appeal of Donald H. Lichtle, Cal. St. Bd. of Equal., Oct. 6, 1976.) Consistent with these decisions we reject appellants' argument as utterly without merit. Accordingly, we conclude that respondent's action in this matter must be sustained.

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Elmer H. and Joan C. Thomassen against proposed assessments of additional personal income tax and penalties in the amounts and for the years as follows:

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| 1967 | 11,659.17 | 582.96 |

be and the same is hereby sustained.

Done at Sacramento, California, this 27th day of September, 1978, by the State Board of Equalization.

_____, Chairman

_____, Member

_____, Member

_____, Member
_____, Member

