

Appeal of William Harold Shope

In 1977 respondent obtained information with respect to appellant's 1975 income from employee records maintained by the Employment Development Department. Respondent had no record of appellant having filed a personal income tax return for that year and demanded that a return be filed. In absence of any response, respondent issued a proposed assessment, The latter was based upon payroll information filed by appellant's employers with the Employment Development Department. Penalties for failure to file and for failure to file after notice and demand were added. In this appeal, appellant makes several tenuous legal tender and constitutional arguments.

Respondent's determinations of additional tax and penalties are presumptively correct, and the taxpayer has the burden of proving that they are wrong. (See Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980, and the cases therein cited.) Here, as in Durham, no error has been shown. Appellant's "arguments" are so clearly without merit as to be completely frivolous. (See Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July 26, 1977.) Respondent's action in this matter will 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,

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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 William Harold Shope against a proposed assessment of additional personal income tax and penalty in the total amount of \$1,770.00 for the year 1975, be and the same is hereby sustained.

Done at Sacramento, California, this 21st day of May, 1980, by the State Board of Equalization.

John J. Lee, Chairman
Ernest W. Rosenberg, Member
Robert L. ..., Member
William ..., Member
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