



Appeal of Michael Mason

After receiving information indicating that appellant was required to file a California personal income tax return for the year 1977, respondent advised appellant that it had no record of his having filed a return for that year, and it demanded that he file. When appellant failed to comply, respondent issued a proposed assessment for that year based upon information obtained from appellant's employer, Hughes Aircraft Co. The assessment included penalties for failure to file a timely return, failure to file after notice and demand, negligence, and failure to pay estimated tax.

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.) Here, as in Durham, no error has been shown. Appellant's 'constitutional' objections to the proposed assessment are frivolous and clearly without merit. (See Appeal of Harry Sievert, Cal. St. Bd. of Equal., April 8, 1980; Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July 26, 1977.) On basis of the record before us, we can only conclude that respondent correctly computed appellant's tax liability, and that the imposition of penalties was fully justified. Respondent's action in this matter will, therefore, be sustained.

