

Appeal of Robert B. Rodenbaugh

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. Appellant responded with a statement that he was not required to file a return. Respondent then issued a notice of proposed assessment based upon information from the Employment Development Department which indicated that appellant had been employed by Universal City Studios, Inc., and had derived an income of \$24,035 from this employment. The assessment included penalties for failure to file a timely return and for failure to file after notice and demand.

Respondent's determination of tax and penalties is 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 contentions that he is not a "taxpayer" and is not required to file returns are clearly without merit, based as they are on a variety of frivolous "constitutional" objections to the existing system of income taxation. (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.) Based upon 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.

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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 Robert B. Rodenbaugh against a proposed assessment of personal income tax and penalties in the total amount of **\$2,449.50** for the year 1977, be and the same is hereby sustained.

Done at Sacramento, California, this 30th day of March , 1981, by the State Board of Equalization, with Members Dronenburg, Bennett and Nevins present.

Ernest J. Dronenburg, Jr. , Chairman
William M. Bennett , Member
Richard Nevins , Member
_____, Member
_____, Member