



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
H. FRANKHAUSER)

For Appellant: Brad Henschel

For Respondent: John A. Stilwell, Jr.,
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of H. Frankhauser against a proposed assessment of additional personal **income** tax and penalties in the total amount of \$400.19 for the year 1977.

Appeal of H. Frankhauser

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 has no record of his having filed a return for that year, and it **demande**d that he file. When **appellant** failed to comply, respondent, issued a proposed assessment based upon information obtained from appellant's employer, the Los Angeles Department of Water and Power. The assessment included penalties, for failure to file a timely return, failure to file after notice and demand, negligence, and for failure to **pay** estimate'd 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 contentions that he is not **subject** to the personal income tax and is not required to file returns are clearly without merit, based as they are on a variety of frivolous "constitutional" objections. (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.) Appellant has also urged that respondent is attempting to tax **gross** income. We disagree for the reasons set forth in our opinion in the Appeal of Francis J. Pearson, decided this day.

On the basis of the evidence 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.

Appeal of H. Frankhauser

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 H. Frankhauser against a proposed assessment of additional personal income tax and penalties in the total amount of \$400.19 for the year 1977, be and the same is hereby sustained.

Done at Sacramento, California, this 19th day of May , 1981, by the State Board of Equalization, with all Board members present.

<u>Ernest J. Dronenburg, Jr.</u>	, Chairman
<u>George R. Reilly</u>	, Member
<u>William M. Bennett</u>	, Member
<u>Richard Nevins</u>	, Member
<u>Kenneth Cory</u>	, Member