



82-SBE-228

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
RUTH STUDLEY )

Appearances:

For Appellant: Catherine Howard  
For Respondent: Allen R. Wildermuth  
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the actions of the Franchise Tax Board on the protests of Ruth Studley against proposed assessments of additional personal income tax in the amounts of \$22,124.65 and \$21,898.07 for the years 1978 and 1979, respectively.

Appeal of Ruth Studley

Appellant did not file California personal income tax returns for either 1978 or 1979 and respondent received no response to its demand that she file. Proposed assessments were issued for both years which included penalties for failure to file, failure to file after notice and demand, failure to pay estimated tax, and negligence. Appellant's gross income was computed by increasing her 1977 reported rental income and gross receipts from her real estate business by 10 percent per year for growth and inflation. The standard deduction was then applied to determine her taxable income for 1978 and 1979.

Appellant contends the proposed assessment taxes her on her gross receipts, that she had insufficient adjusted gross income to be required to file a return, and that her commissions from real estate sales were not income. She also argues that respondent's determination violates several of her constitutional rights.

Appellant, who bears the burden of showing that respondent's determination was erroneous, has presented no evidence at all to support her factual contentions. The same statutory arguments which she raises were discussed and rejected in the recent Appeals of Fred R. Dauberger, et al., decided by this board on March 31, 1982. We are precluded from deciding the constitutional questions raised both by this board's own policy and by section 3.5 of article III of the California Constitution. (Appeals of Fred R. Dauberger, et al., supra.)

Respondent's actions, therefore, are sustained.

