

Appeal of Otto A. Autenrieth

The sole issue presented by this appeal is whether appellant has established error in respondent's proposed assessment of personal income tax or in the penalties assessed for the year in issue:

Respondent received information indicating that appellant was required to file a California income tax return for 1978. Respondent so advised appellant, and demanded that he file the required return; appellant did not respond. Thereafter, respondent issued a notice of proposed assessment based upon information received from ~~the~~ California Employment Development Department. The proposed assessment also included penalties for failure to file a return, failure to file upon notice and demand, failure to pay estimated income tax, and negligence. After due consideration of appellant's protest, respondent affirmed the proposed assessment, thereby resulting in this **appeal**.

It is well settled that respondent's determinations of tax are presumptively **correct**, and appellant bears the burden of proving them erroneous. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980; Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) This rule also applies to the penalties assessed in this case. (Appeal of K. L. Durham, supra; Appeal of Myron E. and Alice Z. Gire, Cal. -St. Bd. of Equal., Sept. 10, 1969.) No such proof has been presented here.

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.

