

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of: KARLINE RACHELLE QUILLMAN <hr style="width: 40%; margin-left: 0;"/>)))))))	OTA Case No. 18011145 Date Issued: August 29, 2018
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OPINION

Representing the Parties:

For Appellant:	Nick Couchot, Tax Appeals Assistance Program ¹
For Franchise Tax Board (FTB):	Claudia L. Cross, Senior Legal Analyst

G. THOMPSON, Administrative Law Judge: Pursuant to California Revenue and Taxation Code (RTC) section 19045, Karlene Rachelle Quillman (appellant) appeals an action by FTB on appellants’ protest against a proposed assessment of \$904 in additional tax and applicable interest for the 2014 tax year. Appellant did not request an oral hearing and therefore the matter is being decided based on the written record.

ISSUE

Is appellant entitled to the head of household (HOH) filing status for the 2014 tax year?

FACTUAL FINDINGS

1. Appellant filed a 2014 California Resident Income Tax Return (Form 540).² On the return, she claimed the HOH filing status. As her qualifying person for the HOH filing status, she listed an individual whom we will refer to as “S” to protect privacy. Appellant indicated S’s relationship to her as “other,” rather than indicating he was her son or another specified qualifying relationship.

¹ Appellant filed her own appeal letter.

² The record does not show when the return was filed.

2. S was 20 years old as of the end of 2014, he was not a full-time student during 2014, and his gross income in 2014 was not less than \$3,950.³
3. On October 14, 2015, FTB issued a Notice of Proposed Assessment (NPA) to appellant. The NPA stated that, based on the information appellant provided, she did not qualify for the HOH filing status.⁴ The NPA therefore recomputed her tax liability and proposed additional tax of \$904, plus interest.
4. On October 15, 2015, appellant protested the NPA, stating that she was an unmarried woman and that her son (apparently referring to S) lived in her home. She also stated that her son works and files his own taxes. She provided a letter from her tax preparer stating that the return was prepared correctly.⁵
5. On November 8, 2016, FTB responded to appellant's protest. FTB stated that, based on the information provided by appellant, she did not qualify for the HOH filing status. FTB explained that, to qualify for the HOH filing status, appellant's qualifying person must meet the requirements to be a "qualifying child" or "qualifying relative." FTB further explained that, to be a "qualifying child," the person must be under the age of 19 or a full-time student, and that, to be a "qualifying relative," the person's gross income must be less than \$3,950. FTB stated that appellant's claimed qualifying person did not meet these requirements and provided an opportunity for appellant to provide further information.
6. On March 30, 2017, FTB issued a Notice of Action (NOA). The NOA stated that, because FTB received no response to its November 8, 2016 letter, it was affirming the NPA.
7. Appellant then filed this timely appeal.

³ Appellant provided this information on a schedule filed with her 2014 tax return. Also, S's California income tax return for 2014 reflected a gross income of more than \$3,950.

⁴ The NPA noted that appellant's claimed qualifying person's income exceeded the allowable amount. The NPA also stated that appellant indicated that no qualifying person lived with her during the taxable year. However, in a schedule filed with her 2014 tax return, appellant indicated that S lived with her during the taxable year. As discussed below, S was not a qualifying person for purposes of the HOH filing status. Therefore, even if S lived with appellant during 2014, he cannot qualify appellant for the HOH filing status.

⁵ The letter also states that, contrary to the statement in the NPA (see footnote 4), appellant had claimed that her son lived with her during 2014. The letter is dated March 24, 2011, but that date cannot be accurate because the letter refers to appellant's 2014 tax return.

DISCUSSION

RTC section 17042 incorporates the requirements for the HOH filing status contained in Internal Revenue Code section 2(b).⁶ Section 2(b)(1)(A) provides that, among other requirements, a taxpayer who claims the HOH filing status must have a qualifying person who is either a qualifying child or a dependent.

Section 2(b)(1)(A)(i) provides the requirements for a qualifying child by reference to Section 152(c). In relevant part, section 152, subsections (c)(1)(C) and (c)(3), provide that, as of the end of the tax year, a qualifying child must be under the age of 19 or, if a full-time student, under the age of 24. Here, appellant's claimed qualifying person, S, was not under the age of 19 at the end of 2014 and was not a full-time student during 2014. As a result, S was not a qualifying child for purposes of the HOH filing requirement.

Section 2(b)(1)(A)(ii) provides that a dependent can serve as a qualifying person if he or she is a dependent of the taxpayer for which the taxpayer is entitled to a deduction for the taxable year. Section 152(a)(2) provides that the definition of "dependent" includes a qualifying relative. Section 152(d)(1)(B) provides that a qualifying relative must have gross income for the calendar year that is less than the exemption amount for that tax year (as defined in Section 151(d)). The exemption amount for the 2014 tax year was \$3,950.

Here, S's gross income for the 2014 tax year was not less than \$3,950. Therefore, S was not a qualifying relative for purposes of the HOH filing status.

For these reasons, S does not satisfy the qualifying person requirements of Section 2(b)(1)(A). As a result, appellant is not entitled to the HOH filing status for the 2014 tax year.

We note that S initially indicated S's relationship to her as "other," rather than indicating he was her son or another specified qualifying relationship. Later, she referred to S as her son. However, even if S is her son, S cannot qualify her for the HOH filing status because, as noted above, he was not under the age of 19 or a full-time student, and his income was too high.

We also note that appellant states that S lives with her and that she pays for everything for her household. We appreciate appellant's work to support her household, but we must follow

⁶ All further statutory references are to the Internal Revenue Code unless otherwise stated. RTC section 17042 also references IRC section 2(c), but that section refers to treating married taxpayers as unmarried for purposes of the HOH filing status, and does not apply here.

specific legal requirements for the HOH filing status. Because of those legal requirements, S cannot qualify appellant for the HOH filing status, even if S lived with appellant and appellant paid all the expenses for her household.

HOLDING


Appellant is not entitled to the HOH filing status for the 2014 tax year.

DISPOSITION

FTB's action is sustained.

DocuSigned by:
Grant S. Thompson
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Grant S. Thompson
Administrative Law Judge

We concur:

DocuSigned by:

0C90542BE88D4E7...
Tommy Leung
Administrative Law Judge

DocuSigned by:
Nguyen Dang
4D465973FB44469...
Nguyen Dang
Administrative Law Judge