

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:
A. PRICE

) OTA Case No. 20066283
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OPINION

Representing the Parties:

For Appellant:

A. Price

For Respondent:

Melisa Recendez, Legal Assistant

M. GEARY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, A. Price (appellant) appeals an action by respondent Franchise Tax Board proposing \$1,564 of additional tax, and applicable interest, for the 2018 taxable year.

Because appellant waived his right to an oral hearing, the matter is being decided on the basis of the written record.

ISSUE

Did appellant qualify for the head of household (HOH) filing status for the 2018 taxable year?

FACTUAL FINDINGS

1. Appellant filed a timely California Resident Income Tax Return for the 2018 taxable year using the HOH filing status and claiming one dependent child. In the accompanying HOH Filing Status Schedule (Form 3532), appellant indicates that he was legally married and lived with his spouse from June 1, 2018, to December 31, 2018, and that his child was a full-time student under the age of 24 and lived with him during all of 2018.
2. Respondent issued to appellant an October 3, 2019 Notice of Proposed Assessment (NPA), which explained that appellant did not qualify for the HOH filing status for 2018 because appellant lived with his spouse during the last six months of 2018. The NPA

further indicated that respondent recomputed appellant's tax liability using the single or married filing separately filing status and adjusting claimed credits and deductions accordingly, and informed appellant that he also may be able to file an amended joint return with his spouse reporting their combined incomes.

3. Appellant did not meaningfully respond to the NPA.¹
4. On April 27, 2020, respondent issued to appellant a Notice of Action, affirming the NPA and informing appellant regarding his right to appeal. This timely appeal followed.

DISCUSSION

Eligibility for the HOH filing status is governed by Internal Revenue Code (IRC) section 2(b), (c). (R&TC, § 17042.) As relevant here, IRC section 2(b)(1) provides that an individual shall be considered a head of a household if, and only if, such individual is not married at the close of his taxable year.² The taxpayer has the burden of proving entitlement to the HOH filing status, and unsupported assertions are not sufficient to satisfy that burden. (*Appeal of Verma*, 2018-OTA-080P.)

Appellant filed two documents in this appeal: a "Statement of Facts" and copies of his credit union statements for May through November 2019. The Statement of Facts refers to a \$585-per-month installment payment agreement (IPA) to satisfy a liability from the 2016 taxable year and indicates that respondent informed appellant about the additional liability for the 2018 taxable year. The credit union statements show appellant's monthly payments to respondent from May through October 2019 in the amount of \$585 and a \$418.19 payment to respondent in November 2019. Appellant does not state his specific disagreement with the asserted liability for the 2018 taxable year. Appellant does not specifically dispute that he lived with his spouse during the last half of the 2018 taxable year, and he makes no argument that he was entitled to use the HOH filing status for that year.

We do not see the significance of appellant's IPA. It was for a different taxable year. The relevant and apparently undisputed fact is that appellant was married at the close of the 2018

¹ According to respondent, appellant responded by providing a copy of the same Form 3532 that was filed with the return.

² There are other requirements for eligibility to file using the HOH filing status. In this appeal, there appears to be no dispute that appellant and the qualifying person met those other requirements, which we need not discuss further.


taxable year and lived with his spouse during the last half of that year. Since appellant was married at the end of 2018, he did not qualify for the HOH filing status for that taxable year. (IRC, § 2(b)(1).)

HOLDING

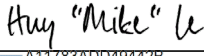
Appellant did not qualify for the HOH filing status for the 2018 taxable year.

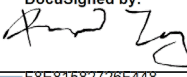
DISPOSITION

Respondent’s action is sustained.

DocuSigned by:

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Michael F. Geary
Administrative Law Judge

We concur:

DocuSigned by:

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Huy "Mike" Le
Administrative Law Judge

DocuSigned by:

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Richard Tay
Administrative Law Judge

Date Issued: 1/4/2021