

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
  )  
ARTHUR B. AND HELEN V. COLNON    )

Appearances:

For Appellants:   Arthur B. Colnon, in pro. per.

For Respondent:   Burl L. Lack, Chief Counsel

OP I N I O N

This appeal is made pursuant to Section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protests of Arthur B. and Helen V. Colnon against proposed assessments of additional personal income tax in the amounts of \$42.00 and \$25.65 for the years 1956 and 1957, respectively.

Appellants, husband and wife, filed joint personal income tax returns in California for each of the years involved here. In 1956 Appellants received certain payments of money in the total amount of \$4,000 and in 1957 they received \$2,400. Appellants did not include these amounts in their reported income for those years. Following an examination of their Federal income tax returns, an internal revenue agent concluded that the payments represented taxable income to Appellants. His action appears to have been based primarily on the fact Appellants were unable to furnish any documentary evidence to support their claim that these payments were merely reimbursements for money advanced to one Elias Orshansky, Jr.

The Franchise Tax Eoard based its assessments on the Federal adjustments to Appellants' income.

Appellant, Arthur B. Colnon, testified before us that he at one time was associated with Crshansky in a partnership, the Crown Engineering & Development Company, for the purpose of developing a hydraulic device which had been invented by Orshansky. During this time Mr. Colnon advanced approximately \$9,000 to Orshansky on behalf of Crown for travel expenses and for living expenses of the Orshansky family. Subsequently, Orshansky formed Skyroe Corporation to take over development of his invention. Skyroe entered into a contract with Mr. Colnon agreeing to pay him \$9,000 at the rate of \$400 per month. The payments here in dispute were made pursuant to that contract.

Appeal of Arthur B. and Helen V. Colnon

Mr. Colnon further testified that he had retained all of the records of these transactions for a period of five years and then destroyed them believing they were no longer important. He was thus unable to supply any direct documentary evidence in support of his claim.

Appellant did offer in evidence a letter addressed to the District Director of Internal Revenue, Los Angeles, written by an employee of Skyroe, which substantially corroborates Mr. Colnon's testimony. The following statements are particularly pertinent:

. . . I was informed by both Mr. Colnon and Mr. Orshansky that living expenses of the Orshansky family, and traveling expenses incurred by Mr. Orshansky in trips to the East Coast and Midwest, as well as trips to West Coast Naval installations, were paid for by Mr. Colnon.

\* \* \*

Subsequently, Mr. Orshansky brought to the office of SKYROE a contract, by the term of which SKYROE agreed to pay off its obligation to CROWN for the equipment acquired from CROWN (as I recall the document), by making monthly payments to Mr. Colnon. Mr. Orshansky informed me that CROWN was obligated to Mr. Colnon in an amount in excess of the obligation of SKYROE to CROWN, and that the contract terms had been agreed to by all partners in CROWN.

After consideration of the evidence presented, we find that the Appellant, Arthur B. Colnon, did advance money to Orshansky and that the sums received from Skyroe Corporation in 1956 and 1957 were merely repayments of said advances.

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 protests of Arthur B. and Helen V. Colnon against proposed assessments of additional

Appeal of Arthur B. and Helen V. Colnon

personal income tax in the amounts of \$42.00 and \$25.65 for the years 1956 and 1957, respectively, be and the same is hereby reversed,

Done at Sacramento, California, this 19th day of March, 1963, by the State Board of Equalization.

John W. Lynch, Chairman

Geo. R. Reilly, Member

Paul R. Leake, Member

Richard Nevi ns, Member

                                , Member

ATTEST: Dixwell L. Pierce, Secretary