



BEFGRE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the **Matter** of the Appeal of)
JOHN V. DURAND)

For Appellant: John V. Durand, in pro. per.

For Respondent: Burl D. Lack, Chief Counsel
Israel Rogers, Assistant Counsel

O P 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 protest of John V. Durand against proposed assessments of additional personal income tax in the amounts of \$11.24 and \$15.47 plus delinquency penalties of \$1.12 and \$3.87 for the years 1957 and 1958, respectively.

In 1957, Maurice Durand, **Appellant's** uncle, moved from **Appellant's** household where he had lived for a number of years. By mutual agreement Maurice Durand moved to an apartment a few blocks away, and Appellant continued to support him. The reason for the move was that Maurice Durand had accumulated so many personal belongings that the living quarters were not big enough to accommodate them.

The Franchise Tax Board disallowed Appellant's claimed status of "head of a household," but allowed Appellant to claim his uncle as a dependent. Appellant brought this appeal after denial of his protest,

Under Section 17042 of the Revenue and Taxation Code an individual shall be considered a "head of a household" if:

... such individual is not married at the close of his taxable year, and ... maintains as his home a household which constitutes for such taxable year the principal place of abode, as a member of such household, of . . . any ... person who is a dependent of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such person under Section 17181(d).

It is evident in the present case that this section of the code was not complied with. Although Appellant was unmarried and maintained a home for himself, it was not the principal place of abode of his uncle during the years in question. And although

