



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
ROBERT C. AND JOAN E. LOONEY)

Appearances:

For Appellants: Robert C. Looney, in pro. per.

For Respondent: James W. Hamilton
Tax 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 Robert C. and Joan E. Looney against a proposed assessment of additional personal income tax in the amount of \$63.77 for the year 1962.

At the hearing of this matter, respondent conceded the deductibility of certain business expenses totaling \$226.00 which it had previously disallowed. Accordingly, the only question remaining for decision is whether appellant Robert C. Looney properly deducted the cost of his 1962 European trip.

Appellant is an adult education teacher in the Los Angeles City school system. His subjects include English, world affairs, world history, and geography. He has an Adult Educational Credential. Teachers holding this type of credential are paid on an hourly basis, and they do not qualify for salary increases by taking additional college courses or by traveling to earn "travel points."

In the summer of 1962 appellant spent several months in Europe at his own expense. He was not traveling on any sabbatical leave. On that trip appellant visited numerous places of historical and geographical interest in England,

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France, Belgium, Spain, Italy, Switzerland, the Netherlands, Austria, Yugoslavia, and Germany. While traveling he collected maps, brochures, and colored slides, which he has since found useful as classroom teaching aids.

In his 1962 personal income tax returns appellant deducted as educational expenses all **expenses** incurred on his trip to Europe, which totaled \$2,615.00. The protested assessment resulted from **respondent's** disallowance of these **expenditures** on the ground that they were personal in nature.

Section 17202 of the Revenue and Taxation Code allows the deduction of all ordinary and necessary expenses paid or incurred by the taxpayer in carrying on any trade or business. Expenditures for education are considered to be deductible business expenses if they are undertaken primarily for the purpose of: (1) maintaining or improving skills required by the taxpayer in his employment; or (2) meeting the express requirements imposed by the **taxpayer's** employer for the retention of the taxpayer's salary, status or employment. (Cal. Admin. Code, tit. 18, reg. 17202(e).)

Unless specifically allowed, expenses of a taxpayer which are of a personal nature are not deductible. (Rev. & Tax. Code, § 17282.) Expenditures made by a taxpayer for his education are not deductible if they are for education undertaken primarily for the purpose of fulfilling the general educational aspirations **or other personal purposes of the taxpayer.** (Cal. Admin. Code, tit. 18, reg. 17202(e), subd. (2).) Generally, a taxpayer's expenditures for travel as a form of education shall be considered as primarily personal in nature and therefore not deductible. (Cal. Admin. Code, tit. 18, reg. 17202(e), subd. (3).)

In the instant case appellant was not required to travel in order to retain his position with the Los Angeles City schools. Appellant therefore has the burden of establishing that the European trip was undertaken primarily to maintain or **improve** skills required in his teaching **position,** and that the **cost** of that **trip** therefore **constituted an** ordinary and necessary expense incurred in carrying on his profession. (Richard Seibold, 31 T.C. 1017; Manoel Cardozo, 17 T.C. 3.)

In this **connection** appellant argues that the itinerary of his trip was not that of the typical American tourist vacationing in Europe. He contends that many of the places he visited while in Europe were places of particular educational significance to him as a teacher of world history, geography, and world affairs, rather than being the places usually attracting tourists. Appellant stresses the fact that he has found the maps, brochures and colored slides

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which he gathered on this trip to be very helpful as teaching materials. Appellant also contends that when an adult education teacher is rated by his superiors, they do take into consideration the academic courses which he has taken and the traveling he has done, even though such activities may not be required, and although the teacher cannot thereby increase his salary.

Whether travel costs incurred by teachers constitute deductible educational expenses is a question which has arisen under federal statutes and regulations substantially similar to California's provisions. The federal courts have generally considered such expenditures to be primarily for personal purposes, and deduction has been denied even when the teacher was traveling on sabbatical leave or was receiving academic credit for his travel. (See Adelson v. United States, 342 F.2d 332; Thomas P. Dennehy, T. C. Memo., Dkt. No, 73349, May 25, 1961, aff'd, 309 F.2d 149; Richard Seibold, supra, 31 T.C. 1017.)

In our opinion appellant has failed to establish that the cost of his trip to Europe was a deductible business expense. He was not required to travel, nor did he receive any financial benefit from it such as an increase in salary. His trip was completely voluntary and was made at his own expense. He planned and followed his own itinerary. He did not take any formal course of instruction at any time during that trip, and he submitted no report of his travels to his employer.

We do not doubt that the trip was of educational value to appellant, and that his classroom presentations have been enriched by the maps, brochures, and colored slides which he collected. Such incidental benefits, however, are insufficient to establish that the primary purpose of appellant's trip was to maintain or improve his teaching skills. We must therefore sustain respondent's action on the matter of the deductibility of the costs of appellant's European trip.

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,

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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 protest of Robert C. and Joan E. Looney against a proposed assessment of additional personal income tax in the amount of \$63.77 for the year 1962, be and the same is hereby modified in that appellants are to be allowed certain business expense deductions, totaling \$226000. In all other respects, the action of the Franchise Tax Board is sustained.

Done at Sacramento California, this 30th day of August , 1967, by the State Board of Equalization.

Paul R. Liak, Chairman
John W. Lyman, Member
Richard Allen, Member
_____, Member
_____, Member

ATTEST: [Signature], Secretary