



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
ROBERT W. AND RANDALIN V. TROUGHTON)

For Appellants: Robert W. Troughton, in pro. per.

For Respondent: Crawford H. Thomas
Chief Counsel

James W. Hamilton
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 W. and Randalin V. Troughton against a proposed assessment of additional personal income tax in the amount of \$119.95 for the year 1963.

The sole question presented is whether appellants were limited to a medical expense deduction of \$2,500.

In 1963, appellant Robert W. Troughton provided more than one-half of the support for his dependent mother, Virginia G. Troughton. She is now deceased but was then a widow without income. He paid \$4,898.96 in expenses for her medical care, and the amount was deducted in full on appellants' 1963 joint personal income tax return. Respondent disallowed the medical expenses claimed in excess of \$2,500 and issued a notice of proposed assessment on February 8, 1968.

Appellant contends that paying for the medical needs of an aged mother "should be a legal responsibility of a sole surviving son and should also be a legal deduction from my State Income Tax." Appellants point out that the full medical deduction was allowed by the Internal Revenue Service and they rely upon their understanding that a three-year limitation period precludes the deficiency assessment.

Appeal of Robert W. and Randalin V. Troughton

Respondent points out that the \$2,500 limit was specifically provided for by former section 17255, subdivision (b) of the Revenue and Taxation Code and it relies on the four-year statute of limitations expressed in section 18586.

During the year in question section 17253 provided a medical expense deduction for expenditures incurred for the medical care of a dependent mother who had attained the age of 65. Section 17255 limited the deduction in 1963 by providing:

Except as provided in subsection (c) the deduction under Sections 17253 . . . shall not exceed . . . (b) Two thousand five hundred dollars (\$2,500) if the taxpayer files a, joint return with his spouse....

Subsection (c) did not increase the allowable maximum unless either appellant or his spouse attained age 65 and was disabled. Appellant does not claim that either he or his wife was within this category in 1963.

In 1967 section 17255 was repealed by the Legislature, thereby removing the maximum limitation on the medical deduction. (See Stats. 1967, ch. 1557, pp. 3739, 3742.) The provisions of the act repealing section 17255 were expressly made operative with respect to taxable years beginning on and after January 1, 1967.

Accordingly, respondent conformed to statutory requirements as they existed in 1963 in limiting the deduction to \$2,500. Furthermore, unlike former section 17255, the provisions of section 213(c) of the Internal Revenue Code of 1954 provided for a maximum ceiling applicable to appellants clearly in excess of the amount claimed.

Appellants refer to the three-year federal statute of limitations (Int. Rev. Code of 1954, § 6501(a)) and believe erroneously that a similar limitation period applies with respect to the California personal income tax. However, pursuant to the clear provisions of sections 18586 and 18588 of the Revenue and Taxation Code respondent's proposed deficiency would have been barred only if notice were mailed to appellants more than four years after the last day prescribed by law for filing the 1963 personal income tax return.

ORDER

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 protest of Robert W. and Randalin V. Troughton against a proposed assessment of additional personal income tax in the amount of \$119.95 for the year 1963 be and the same is hereby sustained.

Done at Sacramento, California, this 6th day of January, 1969, by the State Board of Equalization.

John W. Lynch, Chairman
George A. Lee, Member
Frank C. Davis, Member
Paul R. Keady, Member
_____, Member

ATTEST: Ronald A. White, ^{Acting} Secretary