

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
DAVID AND HAZEL SPATZ)

For Appellants: David Spatz, in pro. per.

For Respondent: Crawford H. Thomas
Chief Counsel

Jack E. Gordon
Counsel

O P I N I O N

This appeal is made pursuant to section 19059 of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claim of David and Hazel Spatz for refund of penalties in the amounts of \$25.75, \$2.00 and \$541.00 for the years 1963, 1965 and 1966, respectively.

Appellant David Spatz and his wife are residents of Illinois. During the years in question appellant owned interests in over 30 partnerships which were located and operated in a number of states. Appellant indicates that these interests were held as passive investments and he did not participate in the management of the partnerships. One of the latter, an Illinois partnership, held an interest in another partnership which owned real property located in California. During the years on appeal certain amounts of net income were realized with respect to this property. However, Mr. and Mrs. Spatz did not file timely California personal income tax returns for these years. In 1968 the Franchise Tax Board discovered this failure to file and notified appellant of his obligation. The returns were filed and the tax liabilities paid. Respondent then assessed the 25 percent late filing penalties in question, which were subsequently paid. Whether those

Appeal of David and Hazel Spatz


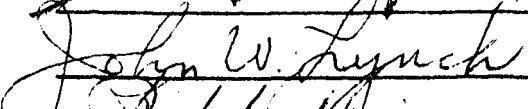
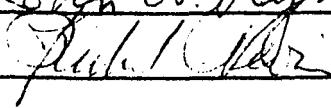
Mr. Spatz also argues that the apparent source of the income was his passive investment in the Illinois partnership, and this obscured the California tax liabilities involved here. However the standard of ordinary business care and prudence at least requires an investor to be aware of the holdings of a partnership in which he owns an interest. This would seem to be especially true where the investor's involvement with such business entities was as extensive as appellant's. We must conclude that Mr. and Mrs. Spatz have failed to carry their burden of proving that the late filing at issue was due to reasonable cause.


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 19060 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claims of David and Hazel Spatz for refund of penalties in the amounts of \$25.75, \$2.00 and \$541.00 for the years 1963, 1965 and 1966, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 4th day of May, 1970, by the State Board of Equalization.


_____, Chairman

_____, Member

_____, Member
_____, Member
_____, Member

ATTEST: 
_____, Secretary