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BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
NAKE M. KAMRANY)

For Appellant: **Make M. Kamrany, in pro. per.**

For Respondent: Crawford H. Thomas
Chief Counsel

Richard C. Creegan
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 Make M. Kamrany against a proposed assessment of additional personal income tax in the amount of \$157.60 for the year 1967.

The issue presented is whether appellant is entitled to a deduction for alleged medical expenses.

Appellant's 1967 federal income tax return was audited by the Internal Revenue Service. On the basis of the Revenue Agent's Report, respondent Franchise Tax Board determined that appellant had understated his 1967 state taxable income by \$1,798.00. In addition, respondent disallowed one of appellant's dependent credits due to the fact that the dependent qualifying him as a head of household could not also be claimed for purposes of the credit for dependents. On the basis of these adjustments, respondent proposed the tax deficiency here in issue.

These adjustments by respondent are not contested. Appellant asserts, rather, that an additional \$2,000 in unreported medical expenses were incurred by him in 1967

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on behalf of Fakir M. Melgaria, one- of his dependents, and that this previously unclaimed deduction would eliminate the proposed deficiency for 1967 and result in a small refund.

Mr. Melgaria is appellant's brother-in-law. He and his family came to the United States under appellant's sponsorship. Appellant alleges that in 1967, Mr. Melgaria was treated for mental illness in the Los Angeles County Hospital. It is further stated that upon the recommendation of his doctors, the patient was sent to Afghanistan. His treatment and transportation costs, which were allegedly paid by appellant, constitute the claimed medical deduction.

All deductions are a matter of legislative grace and the taxpayer has the burden of proving he is entitled to the deduction claimed. (New Colonial Ice Co. v. Helvering, 292 U.S. 435 [78 L. Ed. 1348]; Appeal of James M. Denny, Cal. St. Bd. of Equal., May 17, 1962.)

Respondent's regulations provide:

. . .the taxpayer shall furnish the name and -address of each person to whom payment for medical expenses was made and the amount and date of the payment thereof in each case.... Claims for deduction must be substantiated, when requested by the Franchise Tax Board, by a statement or itemized invoice from the individual or entity to which payment for medical expenses was made showing the nature of the service rendered, arid to 'or for whom rendered; -the nature of any other item of expenses and for whom incurred and for what specific purpose, the amount paid therefor and the date of the payment thereof;... (Cal. Admin. Code, tit. 18, reg. 17253-17256(a), subd. (d).)

Respondent has requested that appellant submit bills of charges and payment amounts and dates giving rise to the claimed deduction. In addition; respondent has asked for the names of Mr. Melgaria's doctors and some statement of their reasons why it was considered necessary to send him to Afghanistan.

While appellant has asserted that there are documents and records available which would establish his

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contentions, he has not availed himself of numerous opportunities to submit this information. He has not complied with respondent's repeated requests for substantiation, as required by the above quoted regulation. The taxpayer's own assertions constitute the only proof of the claimed medical expenditures. Under the circumstances, appellant has not proven his right to the claimed deduction and, consequently, respondent's action must be sustained.

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 protest of Nike M. Kamrany against a proposed assessment of additional personal income tax in the amount of \$157.60 for the year 1967, be and the same is hereby sustained.

Done at Sacramento, California, this 15th day of February, 1972, by the State Board of Equalization.

John W. Lynch, Chairman
Geoffrey A. [unclear], Member
Geoffrey A. [unclear], Member
William W. [unclear], Member
[unclear], Member

ATTEST: W. W. [unclear], Secretary