

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
KERMIT K. PURCELL )

Appearances:

For Appellant: Kermit K. Purcell, in pro. per.  
For Respondent: James C. Stewart  
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Kermit K. Purcell against a proposed assessment of additional personal income tax in the amount of \$182.22 for the year 1976.

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The issue for consideration is whether appellant qualified for head of household status for 1976.

Appellant Kermit K. Purcell filed his 1976 personal income tax return claiming head of household status. He specified "Kevin", a son, as the dependent qualifying him for that status. He also claimed a daughter, Judith, as a dependent.

In response to a request for additional information, appellant indicated the following: (1) he lived with his wife and three children until April 16, 1976; (2) on that date he moved out of the house and lived separately the balance of the year; and (3) he was divorced on December 21, 1976.

Appellant further stated that he was one-half owner of the house in which his wife and three children lived during 1976, and that he paid child support for all three children throughout the year.

On the basis of this information respondent denied the head of household status for the reason that no qualifying dependent lived with appellant for the entire year. Respondent did, however, allow appellant exemption credits for 'the two children he claimed as dependents. Appellant protested. After a hearing and due consideration, respondent affirmed the proposed assessment. Appellant appeals from respondent's action.

Section 17042 of **the Revenue** and Taxation Code provides in part:

For purposes of this part, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of his taxable year, and ...

(a) Maintains as his home a household which constitutes for such taxable year the principal place of abode, as a member of such **household, of--**

(1) A son, ... [or] daughter . . . of the taxpayer ....

Appellant argues that the above statute is satisfied if a qualifying dependent **lived** with the **tax-**payer for a substantial part of the year, or lived in any household to which the taxpayer contributed one-half or more of the cost of maintenance. He characterizes

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this as the federal position with respect to comparable provisions of the Internal Revenue Code. He additionally states that the Internal Revenue Service (IRS) allowed him to file as head of household for the year in question.

We find no merit in appellant's contentions. The statutory requirement with respect to a dependent such as son or daughter is that such dependent must have lived with the taxpayer for 'the entire taxable year. We have so-held in prior appeals. (Appeal of George Goodwin, Cal. St. Bd. of Equal., March 7, 1979; Appeal of Paul F. Kramer, Cal. St. Bd. of Equal., Dec. 5, 1978; Appeal of Gwen R. Fondren, Cal. St. Bd. of Equal., May 10, 1977; Appeal of Henry C. H. Hsiung, Cal. St. Bd. of Equal., Dec. 17, 1974; Appeal of Willard S. Schwabe, Cal. St. Bd. of Equal., Feb. 19, 1974; see also Cal. Admin. Code, tit. 18, reg. 17042-17043, subd. (b)(1).) Moreover, the federal position is identical. (W. E. Grace v. Commissioner, 51 T.C. 685.) Since appellant lived separately from his children after April 16, 1976, he does not meet the requirements for **head of household status** for 1976. With respect to appellant's claim that he was allowed head of household status by the, IRS, we note that the claim was not documented. Respondent thus properly disallowed the claimed head of household status.

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 Kermit K. Purcell against a proposed assessment of additional personal income tax in the amount of \$182.22 for the year 1976, be and the same is hereby sustained.

Done at Sacramento, California, this. **21st** day  
of May , 1980, by the State Board of Equalization.

*Dwight Beer* , Chairman  
*Ernst W. Winkler* , Member  
*John R. Lee* , Member  
*William B. Blundell* , Member  
 /  -- , Member