

BEFORE THE STATE BOARD OF EQUALIZATION OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
GARY E. WEBB

For Appellant: Gary E. Webb, in pro. per.

For Respondent: Vasio Gianulias

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 Gary E. Webb against a proposed assessment of additional personal income tax in the amount of \$171.84 for the year 1977.

Appeal of Gary E. Webb

Appellant, Gary E. Webb, filed a timely California personal income tax return for the year 1977 and claimed head of household status. Respondent examined the return and disallowed the head of household status on the basis that appellant was not separated from his spouse for the entire year, and there was no final judgment of dissolution of marriage or legal separation by the last day of the taxable year. Respondent then proceeded to issue a notice of proposed assessment of additional tax.

Respondent's determination of additional tax are presumptively correct, and the taxpayer has the burden of proving that they are wrong. (See Appeal of K.L. Durham, Cal. St. Bd. of Equal., March 4, 1980.)

Here appellant has not argued against the disallowance of his claimed head of household status and we noted that action of respondent is in accord with sections 17042 and 17173 of the Revenue and Taxation Code.

Instead, appellant has merely made some "constitutional" objections against the proposed assessment which are frivolous and clearly without merit. (See Appeal of Harry Sievert, Cal. St. Bd. of Equal., April 8. 1980; Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July 26, 1977.) On basis of the record and for the reasons set out above, respondent's action in this matter must be sustained.

Appeal of Gary E. Webb

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 Gary E. Webb against a proposed assessment of additional personal income tax in the amount of \$171.84 for the year 1977, be and the same is hereby sustained.

Done at Sacramento, California, this 30thday of March , 1981, by the State Board of Equalization, with Members Dronenburg, Bennett and Nevins present.

Ernest J. Dronenburg, Jr.	, Chairman
William M. Bennett	, Member
Richard Nevins	, Member
	, Member
	, Member