

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
JAMES R. SUTHERLIN)

Appearances:

For Appellant: Lee **Boothby**
Attorney at Law

For Respondent: Brian W. **Toman**
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 James R. Sutherlin against a proposed assessment of additional personal income tax and penalty in the total amount of **\$1,981.02** for the year 1977.

Appeal of James R. Sutherlin

In 1977, appellant worked for Best Electrical Co., the Navy Finance Center, and Henry F. Buddle Publications, receiving remuneration from each for his **services**. He filed a California personal income tax return for that year, but it was delinquent, not being filed until July 15, 1978. On the return he reported no income and claimed charitable contribution deductions for "remuneration received for assigned service and agent of the Miletus Church" and donations of his personal residence and items of personalty to the Miletus Church. The return was processed and a refund of all personal income tax withheld was issued.

Upon subsequent examination of **appellant's** return and correspondence with appellant, respondent issued a proposed assessment for 1977 based on appellant's federal Wage and Tax Statements, including a penalty for delinquent filing. Appellant protested, respondent affirmed the proposed assessment, and this timely appeal followed.

The issue presented is **whether** appellant has shown respondent's determination to be erroneous.

Appellant appears not to have contested the disallowance of his charitable contribution deduction and, having presented no evidence which would support such a deduction, we **must** find against him on this issue. In all other essential respects, the facts and arguments in this case are the same as those in the Appeal of Jack V. and Allene J. Offord, decided this day. We therefore find the Offord appeal controlling, and, on the basis of the analysis in that appeal, sustain respondent's action.

Appeal of James R. Sutherlin

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 James R. Sutherlin against a proposed assessment of additional personal income tax and penalty in the total amount of **\$1,981.02** for the year 1977, be and the same is hereby sustained.

Done at Sacramento, California, this **23rd** day
of June , 1981, by the State Board of Equalization,
with Board **Members** Mr. Dronenburg, Mr. Reilly, Mr. Bennett
and Mr. Nevins present.

Ernest J. Dronenburg, Jr. _____, Chairman

George R. Reilly, Member

William M. Bennett \ , Member

Richard Nevins, Member

_____, Member