



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
 )  
LAKRY M. ANDERSON )

Appearances:

For Appellant: Larry M. Anderson, in pro. per.

For Respondent: John A. Stilwell, Jr.  
Counsel

# OPINION

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 Larry M. Anderson against a proposed assessment of additional personal income tax in the amount of \$287.35 for the year 1978.

Appeal of Larry. Anderson

The sole issue for determination is whether appellant qualified as head of household for the year 1978.

Appellant filed a California personal income tax return for 1978 claiming head of household status. He named his daughter as the qualifying dependent. Respondent determined that, although appellant paid substantial amounts for child support, his daughter resided with him only on weekends and during the summer. Since appellant's daughter did not live with him during the entire year, respondent denied appellant head of household status and issued the proposed assessment in issue.

The term "head of household" is defined in section 17042 of the Revenue and Taxation Code, which provides, in pertinent 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 . . . .

In a number of prior appeals, we have held that the statutory requirement that a household be provided for the "taxable year" means the taxpayer's entire taxable year. (See, e.g., Appeal of Harlan D. Graham, Cal. St. Bd. of Equal., Oct. 18, 1977; Appeal of Gwen R. Fondren, Cal. St. Bd. of Equal., May 10, 1977; see also former Cal. Admin. Code, tit. 18, reg. 17042-17043, subd. (B) (1) (repealer filed 12-21-78; (Reg. 81, No. 52)).) In this appeal, appellant's daughter did not occupy his household for the entire taxable year. Although respondent's regulations make an exception in the case of a "temporary absence due to special circumstances," the record in this appeal does not indicate the existence of any special circumstances. Therefore, appellant did not qualify for head of household status in 1978, notwithstanding the fact that he contributed substantial amounts toward his daughter's support during that year. Accordingly, respondent's action in this matter **must be sustained.**

Appeal of Larry M. Anderson

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 Larry M. Anderson against a proposed assessment of additional personal income tax in the amount of \$287.35 for the year 1978, be and the same is hereby sustained.

Done at Sacramento, California, this 29th day of June , 1982, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Dronenburg and Mr. Nevins present.

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