



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
JAMES D. HAYTON)

For Appellant: James D. Hayton, in pro. per.

For Respondent: Mark McEvilly
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 D. Hayton against a proposed assessment of additional personal income tax in the amount of \$199 for the income year 1978.

Appeal of James D. Hayton

The issue presented is whether appellant was entitled to head of household status in 1978.

Appellant filed his 1978 personal income tax return as a head of household. In answer to respondent's inquiries, appellant revealed that he was divorced in October 1978, and that after the divorce, appellant's son lived with his mother. Appellant paid for his son's support.

Respondent determined that appellant was not qualified for head of household status, and issued a proposed assessment reflecting this determination. Subsequent to appellant's protest, respondent reaffirmed its proposed assessment, and this timely appeal was filed.

Revenue and Taxation Code section 17042 provides, - in pertinent part, that an individual is entitled to head of household status if he is unmarried and maintains as his home a household which is his child's principal place of abode for the taxable year. The taxpayer's home qualifies as the child's principal place of abode only if the child resides with the taxpayer during the entire taxable year. (Appeal of Kermit K. Purcell, Cal. St. Rd. of Equal., May 21, 1980; Cal. Admin. Code, tit. 18, reg. 17042-17043 (Repealer filed Dec. 23, 1931; Reg. 81, No. 52).) Since appellant's son moved from appellant's home in October, appellant's home was not his son's principal place of abode for the entire year, and appellant was not entitled to head of household status.

For the foregoing reasons, the action of respondent must be sustained.

Appeal of James D. Hayton

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 James D. Hayton against a **proposed** assessment of additional personal income tax in the amount of \$199 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