



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
HENRY JONES)

Appearances:

For Appellant: Henry Jones, in pro. per.
For Respondent: Kendall E. Kinyon
Counsel

OP I N I O N

This appeal is made pursuant to section 19057, subdivision (a), of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claims of Henry Jones for refund of personal income tax in an amount in excess of \$1.00 for each of the years 1977 and 1978.

The issue presented by this appeal is whether appellant is entitled to renter's credits for the years in issue.

Appellant has filed two claims for refund for renter's credits for years prior to 1979. During those years, appellant received payments under the Supplemental Security Income/State Supplementary Payment programs ("**SSI/SSP**"). Respondent refused the claims on the basis that, prior to 1979, recipients of such payments did not qualify for the renter's credit. Appellant subsequently filed this appeal.

The Revenue and Taxation Code provides a credit for certain individuals who were California residents on March 1 of the taxable year for which the credit was claimed, and who rented their principal places of residence. (Rev. & Tax. Code, § 17053.5,) Prior to its amendment in 1979, subdivision (c)(2) of section 17053.5 provided that an individual was not entitled to the renter's credit for any period of time during which he "received public assistance grants which took into account housing or shelter needs."

Initially, we note that respondent cites an unpublished opinion of the Court of Appeal in support of its position that **SSI/SSP** payments constitute public assistance which take into account housing or shelter needs. We cannot consider this decision since unpublished decisions have no precedential value. (People v. Valenzuela, 86 Cal.App.3d 427 [150 Cal.Rptr. 314] (1978); People v. North Beach Bonding Co., 36 Cal.App.3d 663 [111 Cal.Rptr. 757] (1974).) However, for the reasons set forth below, we agree with respondent's determination.

In the Appeal of Gloria J. Oliveria, decided by this Board on March 31, 1982, we addressed an issue identical to the one presented here, i.e., whether **SSI/SSP** payments constitute public assistance grants which take into account housing or shelter needs. The analysis used in that decision is equally applicable here:

SSI is a federal program which provides assistance to the elderly, blind and disabled, (42 U.S.C. §§ 1381, 1381(a).) **SSP** is a program administered by the federal government whereby the state makes supplemental payments to the

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same recipients. (Welf. and Inst. Code, §§ 12000, et seq.)

The SSI/SSP programs take housing needs into account in two ways. First, the maximum payment under each program takes into account the average cost of housing. The maximum SSI payment is determined by reference to a base figure which is adjusted to reflect changes in the Consumer Price Index. (42 U.S.C. §§ 1382(f), 415(i).) Since the Consumer Price Index is affected by changes in the average cost of housing, the amount of the maximum SSI payment varies in accordance with average housing costs. Similarly, the maximum SSP payment is calculated by adjusting a base figure in accordance with changes in the separate Consumer Price Indices (all items) for Los Angeles-Long Beach and San Francisco-Oakland. (Welf. & Inst. Code, § 12201.) One of the Consumer Price Indices is the housing index. Thus, the SSP program also considers average housing costs. The second manner in which the SSI/SSP programs consider housing needs is that both programs reduce an individual's payments if that individual receives free housing. (42 U.S.C. § 1382(a)(2)(A); Welf. & Inst. Code, § 12200, subd. (i).) From this, we conclude that a portion of the SSI/SSP payment is intended to provide recipients with funds to be used to meet their housing needs.

Accordingly, since the SSI/SSP programs take housing or shelter needs into account, and because appellant received payments under those programs during the years in issue, he is not entitled to renter's credits for the appeal years.

For the foregoing reasons, the action of the Franchise Tax Board must be sustained.

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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 19060 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claims of Henry Jones for refund of personal income tax in an amount in excess of \$1.00 for each of the years 1977 and 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