



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
RAYMOND K. KUBO)

Appearances:

For Appellant: Raymond K. Kubo,
in pro. per.

For Respondent: Bruce R. Langston
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 Raymond K. Kubo against a proposed assessment of additional personal income tax in the amount of \$277.00 for the year 1979.

Appeal of Raymond K. Kubo

The issue presented is whether **appellant** qualified to claim head of household status for **1979**.

Appellant filed his 1979 California personal income tax return claiming **head of** household status and naming his son as the qualifying, dependent. In response to respondent's request for additional information, appellant revealed that his son had lived with his mother during the entire year at issue.

Respondent determined that appellant was not entitled to head of household status and issued a proposed assessment reflecting this determination. After considering appellant's protest, respondent affirmed the proposed assessment, giving rise to this appeal.

Section 17042 of the **Revenue** and Taxation Code defines the term "head of household." It provides, in pertinent part:

[A]n 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 . . . of the taxpayer**

It is well established that in order for the taxpayer's home to be the dependent's principal **place** of abode, the dependent must occupy the taxpayer's home for the entire taxable year. (Appeal of Stanley T. Cozzens, Cal. St. Bd. of Equal., Dec. 5, 1978; Appeal of Harlan D. Graham, Cal. St. Bd. of Equal., Oct. 18, 1977.) Since appellant's son did not reside with appellant during any part of 1979, appellant was not qualified to claim head of household status for that year.

Appellant asks that he not be required to pay interest on the amount due because he is experiencing financial difficulties. We must reject this request since the imposition of interest is mandatory once it has been determined that the total tax due was not paid by the date prescribed for payment. (Appeal of John M.

Appeal of Raymond K. Kubo

Shubert, Cal. St. Bd. of Equal., Sept. 25, 1979; Rev. &
Tax. Code, § 18686,)

For the above reasons, we must sustain
respondent's action.

Appeal of Raymond K. Kubo

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 Raymond K. Kubo against a proposed assessment of additional personal income tax in the amount of **\$277.00** for the year 1979, be and the same is hereby sustained.

Done at Sacramento, California, this **28th** day of July, **1983**, by the State Board of Equalization, with Board **Members** Mr. Bennett, Mr. Collis, Mr. Dronenburg, Mr. Nevins and Mr. Harvey present.

William M. Bennett - - -, Chairman
Conway H. Collis - - -, Member
Ernest J. Dronenburg, Jr. - - -, Member
Richard Nevins - - -, Member
Walter Harvey* - - -, Member

*For Kenneth Cory, per Government Code section 7.9