

Appeals of George H. and Sky Williams, et al.

The question presented by these appeals is whether respondent properly denied appellants' claims for refund.

The facts and parties in these appeals are the same as those in the Appeals of George H. and Sky Williams, et al., decided by this board on January 5, 1982. Appellants were shareholders in Classic Sales, a California corporation. Classic Sales had elected to be treated as a Subchapter S corporation for federal income tax purposes and distributed the corporation's net income to the shareholders rather than adding it to retained earnings. On its state franchise tax returns, however, Classic Sales reported the income distributions as loans to its shareholders. Some of the loans were reported as repaid, and the remainder were reported as cancelled in 1975.

Appellants reported the corporate distributions as income on their individual federal tax returns, but not on their state returns since the distributions were treated as loans on the corporation's state returns. In appellants' previous appeals before this board, we determined that appellants had received unreported income in 1975 from the cancellation of indebtedness arising out of loans made to them by Classic Sales. We then affirmed the action of the Franchise Tax Board in assessing additional personal income tax. Appellants did not petition for rehearing and our decision became final. Appellants then paid the tax, filed claims for refund, and appealed again from the denial of those claims.

No new facts have been presented in the present **appeals**. Appellants merely state that respondent was on notice of Classic Sales' election of Subchapter S status and appellants' "**mischaracterization**" of the distributions from the corporation. They argue that respondent should have examined their returns earlier and discovered their "**mischaracterization**."

Although appellants' argument is couched in terms of estoppel, in essence they are asking us once again to determine whether the corporate distributions were loans to the shareholders. We have already decided this question in their previous appeals. No petitions for rehearing were filed, and that decision became final on February 5, 1982, thirty days after it was rendered. (Cal. Admin. Code, tit. 18, § 5037.) Exactly the same year, basic issue, and parties are involved in these appeals. We find our previous decision in the Appeals of George H. and Sky Williams, et al., supra, to be controlling in the present **appeals** and, therefore, the action of the Franchise Tax Board in denying appellants' claims for refund must be sustained.

Appeals of George H. and Sky Williams; et al.

O R D E R

Pursuant to the views expressed in the opinion of the board on file in these proceedings, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 19060 of the Revenue and Taxation Code, that the actions of the Franchise Tax Board in denying the claim of George H. and Sky Williams for refund of personal income tax in the amount of **\$7,612.19** for the year 1975 and the claim of Robert L. and Rita Williams for refund of personal income tax in the amount of **\$7,342.17** for the year 1975, be and the same are hereby sustained.

Done at Sacramento, California, this 28th day of February, 1984, by the State Board of Equalization, with Board Members Mr. Nevins, Mr. Dronenburg, Mr. Collis, Mr. Bennett and Mr. Harvey present.

<u>Richard Nevins</u>	, Ch'airman
<u>Ernest J. Dronenburg, Jr.</u>	, Member
<u>Conway H. Collis</u>	, Member
<u>William M. Bennett</u>	, Member
<u>Walter Harvey*</u>	-, Member

*For Kenneth Cory, per Government Code section 7.9