



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
FRANK E. AND PATRICIA E. TIERNEY )

For Appellants: Frank E. Tierney,  
in pro. per.

For Respondent: Crawford H. Thomas  
Chief Counsel

Richard C. Creeggan  
Counsel

O P I N I O N

This appeal is made pursuant to section 18594 of the 'Revenue and Taxation Code from the' action of the Franchise Tax Board on the protest of Frank E. and Patricia E. Tierney against a proposed assessment of additional personal income tax in the amount of \$1,725.74 for the year 1963.

The sole issue presented is whether appellants should be allowed business bad debt deductions claimed on their joint 1963 California personal income tax return.

Appeal of Frank E. and Patricia E. Tierney.

In 1962 and 1963 Mr. Tierney was a self-employed contractor. He and his wife filed a joint return for 1963 in which they reported a net profit from Mr. Tierney's contracting business of \$18,758.21. In computing this profit, appellants deducted business bad debts in the amount of \$31,087.81.

On-December 8, 1967, respondent requested further information from appellants regarding the bad debt deductions claimed for 1963. There was no response. Based upon the limited information available, respondent found no basis for allowing any portion of the \$31,087.81 bad debt deduction and, accordingly, it assessed additional tax of \$1,725.24. From that action, this appeal was taken.

It is well settled that the taxpayer carries the burden of proving that he is entitled to a bad debt deduction, (Redman v. Commissioner, 155 F.2d 319.; W. B. Mayes, Jr., 21 T.C. 286.) In order to claim a business bad debt deduction under section 17207, subdivision (d)(2), of the Revenue and Taxation Code, it must be shown that the debt is related to the taxpayer's trade or business. (Cal. Admin. Code, tit. 18, reg. 17207(e), subd. (2)(B).) Further, it must be shown that the debt became worthless in the year for which the deduction is taken. (Appeal of Morlyn L. and Velma K. Brown, Cal. St. Bd. of Equal., Oct. 27, 1964.)

Over five years have elapsed since respondent made its first request for information, and appellants have never provided respondent or this board with any explanation or support for the deductions claimed. In light of appellants' complete failure to carry their burden of proof, respondent's action in this matter must be sustained.

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,

Appeal of Frank E. and Patricia E. Tierney

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 Frank E. and Patricia E. Tierney against a proposed assessment of additional personal income tax in the amount of \$1,725.74 for the year 1963, be and the same is hereby sustained.

Done at Sacramento, California, this 9th day of April, 1973, by the State Board of Equalization.

William W. Doolittle, Chairman  
John W. Lynch, Member  
Robert H. ..., Member  
Paul ..., Member  
\_\_\_\_\_, Member

ATTEST: W.W. Doolittle, Secretary