

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
LEON ARSLANIAN)

For Appellant: Leon Arslanian, in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

James C. Stewart
Counsel

OPINION

This appeal is made pursuant to section 19059 of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claim of Leon Arslanian for refund of personal income tax in the amount of \$94.37 for the year 1972.

Appeal of Leon Arslanian

The issue to be decided is whether appellant is entitled to a refund of his 1972 California income tax liability under the special tax credit for 1973 provided by section 17069 of the Revenue and Taxation Code.

Appellant paid California income taxes plus interest and penalties in the amount of \$94.37 for the year 1972. He had no taxable income for 1973. On April 29, 1974, appellant filed a claim for refund of all taxes, interest and penalties paid for 1972 on the ground that he had contributed to the surplus which permitted a tax credit to be allowed to California taxpayers in 1973.

Respondent denied the claim for refund on the grounds that the special tax credit was effective for years beginning after December 31, 1972, and before January 1, 1974, and it was not retroactive to 1972. After denial of his refund claim; appellant filed this appeal.

Section 17069 of the Revenue and Taxation Code, as amended in 1973, provides in relevant part:

(a) A special tax credit at the percentage provided in subdivision (b) or (c) shall be allowed against the amount of "net tax" (as defined in section 17069.5), with respect to taxable years beginning after December 31, 1972, and before January 1, 1974.

In claiming entitlement to the credit, appellant seems to contend that the Legislature intended to benefit 1972 taxpayers. No such intention can be inferred from any reading of section 17069. To the contrary, the statute specifies that the credit shall be allowed against net taxes with respect to 1973. A refund for taxes paid in prior years could have been authorized had the Legislature intended to do so.

Furthermore, respondent points out in its brief that even if appellant's 1972 tax liability had accrued in 1973, appellant still would not have qualified for the credit because his tax liability arose from a capital gain realized upon the sale of property held over one year. Section 17069.5, subdivision (a), of the Revenue and Taxation Code specifies that the tax credit may not be applied against such capital gains.

Appeal of Leon Arslanian

For the above reasons, it is concluded that respondent's action in this matter must be sustained.

ORDER

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 claim of Leon Arslanian for refund of personal income tax in the amount of \$94.37 for the year 1972, be and the same is hereby sustained.

Done at Sacramento, California, this 22nd day of April, 1975, by the State Board of Equalization.

Sullivan W. Barnes ✓ Chairman
George R. Heston, Member
Robert C. Heston, Member
_____, Member
_____, Member

ATTEST: W. W. Dwyer, Executive Secretary