



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
RAY M. AND SIGRID S. WAHBA )

For Appellants: Ray M. Wahba, in pro. per.

For Respondent:      Bruce W. Walker  
                                 Chief Counsel

Noel J. Robinson  
Counsel

## OPINION

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 Ray M. and Sigrid S. Wahba against a proposed assessment of additional personal income tax in the amount of \$35.52 for the year 1968.

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The question presented is whether tuition and expenses associated with attending a C. P. A. review course are deductible business expenses within subdivision (a) of section 17202 of the Revenue and Taxation Code.

Ray M. Wahba (hereinafter appellant) is a certified public accountant (C. P. A. ) who has been practicing his profession in San Jose, California, since 1968.

Appellant immigrated to the United States in 1963 from Cairo, Egypt, where he had practiced accountancy after graduating from the University of Cairo with a Bachelor of Science degree. In January 1968 appellant commenced employment as a staff accountant with Stern Management Associates, an accounting firm located in San Jose, California. Allegedly, appellant's employer requested that he take some accounting courses in order to obtain exposure to American accounting theory and gain some needed practical experience. During the entire 1968 taxable year appellant drove to San Francisco weekly and attended the Becker C. P. A. review course, an educational program designed specifically to assist enrollees in passing the national C. P. A. examination. Appellant also attended a general accounting course at San Jose State College. Thereafter, appellant passed the national C. P. A. examination and was licensed as a C. P. A. in 1969.

In his 1968 personal income tax return, appellant claimed a \$507.45 deduction for expenses associated with attending the Becker course and the accounting class at San Jose State College. Respondent purported to allow appellant's adjustments to income except for the expenditures attributable to the Becker course. In restoring the disallowed amount to appellant's income and proposing the assessment in issue, however, it appears that respondent mistakenly set the figure at \$507.45 which includes other educational costs, such as those connected with the general accounting course at San Jose State College. Based upon information before us, it appears that the expenditures attributable to the Becker course totaled \$316.00.

Appellant contends that he properly deducted the cost of the Becker course because the education was taken in accordance with his employer's request. In support of his position appellant maintains

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that the education provided him with the practical exposure to American accounting theory his employer required.

Section 17202, subdivision (a) of the Revenue and Taxation Code allows as a deduction all ordinary and necessary business expenses paid or incurred during the taxable year in carrying on any trade or business; That section has been construed to include the taxpayer's educational expense if the expense is primarily for the purpose of:

(A) Maintaining or improving skills required by the taxpayer in his employment or other trade or business, or

(B) Meeting the express requirements of a taxpayer's employer, or the requirements of applicable law or regulations, imposed as a condition to the retention by the taxpayer of his salary, status or employment. (Cal. Admin. Code, tit. 18, reg. 17202(e).)

The federal law is identical. (See Int. Rev. Code of 1954, § 162; Treas. Reg. § 1.162-S. ) Federal precedents are entitled to great weight when construing state law that is based upon or comparable to federal law. (Meanley v. McColgan, 49 Cal. App. 2d 203 [121 P. 2d 45].)

The Becker C. P. A. review course was designed solely for the purpose of assisting enrollees in passing the C. P. A. examination and costs associated with attending the course constitute expenditures incurred for the purpose of meeting minimum educational requirements for qualification in a new trade or business. (Robert C. Smith, T. C. Memo. , July 30, 1970. ) More recently, in the case of William D. Glenn, 62 T. C. 270, it was again held that advancement to the status of C. P. A. by one previously employed as an accountant constitutes entry into a new trade or business and training taken, the primary purpose of which is to achieve the status of C. P. A. , is education taken to accomplish more than merely maintain or improve existing skills required in a present position. Based upon the facts presented and the applicable authorities, we conclude that the costs of the Becker C. P. A. review course were personal in nature and therefore not deductible.

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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 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Ray M. and Sigrid S. Wahba against a proposed assessment of additional personal income tax in the amount of \$35.52 for the year 1968, be modified to reflect our finding that the costs attributable to the Becker course amounted to only \$316.00 rather than \$507.45. In all other respects, the action of the Franchise Tax Board is sustained.

Done at Sacramento, California, this 21st day of October, 1975, by the State Board of Equalization.

John W. Lynch, Chairman  
William E. Zinner, Member  
George R. Boney, Member  
Paul A. Geron, Member  
\_\_\_\_\_, Member

ATTEST: W. W. Kline, Executive Secretary