

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
CHARLES AND HARRIET M. **LUCKMAN**)

For Appellants: Charles **Luckman**, in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

Brian W. **Toman**
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 Charles and Harriet M. **Luckman** against a proposed assessment of additional personal income tax in the amount of **\$8,192.13** for the **year** 1971.

Appeal of Charles and Harriet M. Luckman

The sole issue presented by this appeal is whether appellants **incurred** a net business loss in 1971 that may be applied as an offset against their income from items of tax preference for purposes of computing the tax on preference income.

Appellants filed a joint California personal income tax return for 1971 wherein **they** reported income from items of tax preference in the amount of \$357,773. However, in computing the tax on such income imposed by section 17062 of the Revenue and Taxation Code, appellants utilized certain business losses in the total amount of \$435,579 to completely offset their income from items of tax preference.

After conducting an audit of appellants' 1971 return, respondent determined that appellants had not incurred a "net business **loss**" which they could offset against their tax preference income. Accordingly, respondent recomputed appellants' tax liability under section **17062** and issued the proposed assessment which gave **rise** to **this** appeal.

The issue and arguments presented by this appeal were addressed by this board in the appeal of Richard C. and Emily A. Biagi, decided May **4, 1976**. On ~~the~~ basis of that decision,, and for the reasons stated therein,, we conclude that 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,

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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 Charles and Harriet M. **Luckman** against a proposed assessment of additional personal income tax in the amount of **\$8,192.13** for the year 1971, be and the same is hereby sustained.

Done at Sacramento, California, this 10th day of May, 1977, by the State Board of Equalization.

Mike Bernier, Chairman
Paul D. Olson, Member
George C. Seely, Member
Iris Sankey, Member
_____, Member

ATTEST: *B. B. Bell*, Executive Secretary