

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
REBECCA **SMITH** RANDOLPH )

For Appellant: Rebecca Smith Randolph, in pro. per.

For Respondent: Bruce W. Walker  
Chief Counsel

James C. Stewart  
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 Rebecca Smith Randolph against proposed assessments of additional **personal income** tax in the amounts of \$85.40 and \$133.00 for the years 1973 and 1974, respectively.

Appeal of Rebecca Smith Randolph

The sole issue presented is whether **appellant** was entitled to. claim head! of households status for **the 1973** and 1974 taxable years.

Appellant filed timely California personal income **tax** returns **for** 1973 and 1974. In those returns, she claimed; head of **household** status and computed **her** tax liability accordingly. Appellant identified the individual **qualifying** her as a head of **household** as John **Peter** Randolph,, her fiance, who lived with her and: **allegedly received** over one-half of his support from her during the years in issue. Sometime after the appeal years, appellant **and** Mr. Randolph- were married; however, during 1973 **and** 1974 they were not related.

Respondent disallowed appellant's **claimed** head of **household** status. on the ground that Mr. Randolph was not a qualifying dependent, Appellant protested that action. and, upon review, respondent affirmed its disallowance of appellant's claimed head of household status in **1973** and 1974 but allowed her an \$8.00 dependent exemption credit for Mr. Randolph pursuant to section **17054**, subdivision **(c)**, of the Revenue and Taxation; Code. This timely appeal followed.

The facts of this case are substantially similar to those presented in two recent appeals to this board. (See Appeal of Stephen M. Padwa, Cal. St.. Bd., of Equal., May 10, **1977**; Appeal of Amy M. Yamachi, Cal. St. Bd. of Equal. , June 28, 1977.)

In the Padwa appeal we sustained the action, of respondent and **held that** the appellant therein was not entitled to head of household status based upon his living arrangement with a dependent female friend. The decision in that case was based upon section 17044 of the Revenue and Taxation Code, which precludes a taxpayer from being considered a head of household when the individual otherwise qualifying as a dependent of the taxpayer is unrelated by blood or marriage.

We also sustained respondent's action in the Yamachi appeal notwithstanding the taxpayer's argument **which was** in the nature of estoppel. In Yamachi the taxpayer argued, **as** does appellant here, that respondent's **instructions** were incomplete. After reviewing the nature of estoppel, however, we determined that the taxpayer did not **rely** to her detriment in selecting her living arrangement during 1974, since respondent's instructions were not

Appeal of Rebecca Smith Randolph

issued until 1975. The inability of the taxpayer to establish detrimental reliance precluded an application of the doctrine of estoppel.


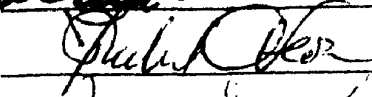
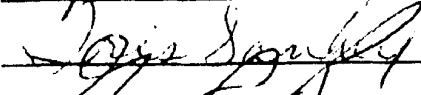
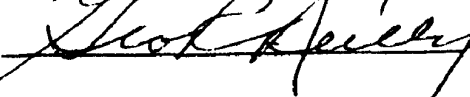
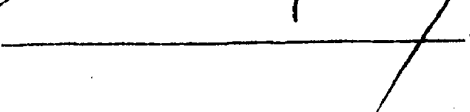
We believe our decision in the instant appeal must be governed by the same principles set forth in the Padwa and Yamachi opinions and, for the reasons stated therein, we must sustain respondent's denial of appellant's claimed head of household status for 1973 and 1974.

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,

**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 Rebecca Smith Randolph against proposed assessments of additional personal income tax in the amounts of \$85.40 and \$133.00 for the years 1973 and 1974, **respectively**, be and the same is hereby sustained.

Done at Sacramento, California, this 16th day of August , 1977, by the State Board of Equalization.

 Chairman  
 , Member  
 , Member  
 , Member  
 , Member