

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
WILLIAM C. AND DORIS G. HALL)

For Appellants: William C. Hall, 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 William C. and Doris G. Hall against a proposed assessment of additional personal income tax in the amount of \$163.26 for the year 1972. Appellants have conceded their liability for \$71.96 of the deficiency assessment, contesting only respondent's disallowance of \$1,826.00 of their total charitable contributions deduction. Consequently, for purposes of this appeal the amount remaining in issue is \$91.30.

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During 1972 William C. Hall (hereafter referred to as appellant) was an officer of his Masonic lodge; In that year he allegedly incurred some \$1,826.00 in out-of-pocket expenses in connection with his lodge activities. On the joint return which appellant and his wife filed for 1972, they included those expenditures in their larger charitable contributions deduction. When asked by respondent for more information as to the nature of those expenditures, appellant described them as follows:

Lodge: Hillcrest #104 (served as Junior Warden)

Visitation sick and distress:
transportation, tokens, cards, etc. \$35.0 .00

Contribution for entertaining
members, their families, Adaptive
[sic] Chapter, and friends 4th of
July \$ 300.00

Social Club (THAL) entertainment,
preparations for Club's project,
club meeting, etc. \$350.00

Yearbook \$ 50.00

Charity Box \$ 23.00

Grand Session: registration,
transportation, living accommo-
dation, etc. (Taken from Lodge
\$125.00) \$296 .00

Other Masonic Orders:

Visitation other lodges and
Chapters, participation, etc. \$100.00

Consistory #26: projects,
initiation, etc. \$180.00

Shrine - Egyptian #5: contribu- :
tions to Drum and Bugle Corps;
purchase of uniform, purchase
Fez, etc, \$200.00

Of the items set out above, respondent allowed the \$23.00 labeled "Charity Box" as a charitable deduction and disallowed all of the other amounts. That action gave rise to this appeal.

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Appellant contends that Masonic lodges are non-profit organizations and that the out-of-pocket expenses which he incurred on behalf of the lodge in 1972, when he was an officer of that organization, were therefore properly deductible as charitable contributions. For the reasons hereafter stated, we cannot agree.

Section 17214 of the Revenue and Taxation Code provides as follows:

In computing taxable income there shall be allowed as a deduction, in case of an individual, contributions or gifts, payment of which is made within the taxable year to or for the use of:

* **

(d). .. a domestic fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

Under the identical federal provision (Int. Rev. Code Of 1954, **§ 170(c)(4)**), it has been ruled that contributions for the purpose of acquiring, erecting or maintaining a building which was to be used by a fraternal organization in carrying on its fraternal and other activities were not deductible (Rev. Rul. 56-329, 1956-2 Cum. Bull. **125**). The Internal Revenue Service there concluded that such expenditures did not constitute **contributions** for exclusively charitable purposes; even though some of the activities of the **fraternal** organization might be of a charitable nature. 1/

1/ It is noted in Revenue Ruling 56-329, supra, that **under** certain conditions an exempt organization may establish a separate fund exclusively for religious, charitable, scientific, literary or educational purposes, apart from its other funds, and contributions to that fund would be deductible by donors. (Rev. Rul. 54-253, 1954-1 Cum. Bull. 92; see also Fred Draper, 32 T.C. 545 (1959).) Respondent indicates that appellant's \$23.00 contribution labeled "Charity Box," allowed as a deduction, is assumed to have been made to such a separate fund created by the lodge.

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Our review of appellant's own description of his alleged expenditures on behalf of the Masonic lodge reveals that, with the one exception already noted, they were all incurred in carrying on the lodge's fraternal and social activities and not for exclusively charitable purposes. That being so, their deduction as charitable contributions was expressly precluded by subdivision (d) of section 17214 of the Revenue and Taxation Code, and respondent's action in this matter must therefore 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,

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 William C. and Doris G. Hall against a proposed assessment of additional personal income tax in the amount of \$163.26 for the year 1972, be and the same is hereby sustained.

Done at Sacramento, California, this 28th. day of September , 1977, by the State Board of Equalization.

William G. Bennett Chairman
Paul J. Davis Member
Geoffrey H. Hensley Member
Eric Sankey Member
_____, Member