



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
DORA B. VAN WESTERHUYZEN)

For Appellant: Dora B. Van Westerhuyzen,
in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

Kathleen M. Morris
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 Dora B. Van Westerhuyzen **against** a proposed assessment of additional **personal** income tax in the amount of \$158.00 for the year 1974.

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The sole issue for our determination is **whether** appellant qualified as a head of household for the **year** 1974.

Appellant was divorced in June of 1964. Her daughter, Sharon Van Westerhuyzen, resided with her until late in November of 1974, when **Sharon** obtained employment and moved out of appellant's home. Thereafter, appellant subsidized her daughter's living expenses for a period of time, including the balance of the year 1974. The record does not indicate that Sharon ever returned to live in appellant's home.

Appellant filed her California personal income tax return for the year 1974 as head of household. Respondent determined that appellant did not qualify **for** such status in 1974 because her daughter had not occupied appellant's household for the entire year. The proposed assessment in question was issued to reflect this determination.

The term "head of a household" is defined in section 17042 of the Revenue and Taxation Code which provides, in pertinent part:

For purposes of this part, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of his taxable year, and ...

(a) Maintains as his home a household which constitutes for such taxable year the principal place of abode, as a member of such household, of--

(1) A ... daughter ... of the taxpayer

In prior appeals we have held that the statute, which requires that the taxpayer's home constitute the principal place of abode of another individual for the "taxable year," means that such individual must occupy the household for the taxpayer's entire taxable year. (Appeal of Willard S. Schwabe, Cal. St. Bd. of Equal., Feb. 19, 1974; Appeal of Henry C. H. Hsiung, Cal. St. Bd. of Equal., Dec. 17, 1974; Appeal of Gwen R. Fondren, Cal. St., Bd. of Equal., May 10, 1977; see also Cal. Admin. Code, tit. 18, reg. 17042-17043, subd. (b) (1).) In the present appeal appellant's daughter did not physically occupy appellant's household for the entire

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taxable year. Although respondent's regulations provide for a "temporary absence due to special circumstances," the record in this appeal does not indicate the existence of any special circumstances. Therefore, appellant cannot qualify for head of household status. For these reasons 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,

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 Dora B. Van Westerhuyzen against a proposed assessment of additional personal income tax in the amount of \$158.00 for the year 1974, be and the same is hereby sustained.

Done at Sacramento, California, this 18th day
of October, 1977, by the State Board of Equalization.

William B. Brown, Chairman
Fred Horn, Member
Iris Sankey, Member
Scott Sperry, Member
_____, Member