

Appeal of Chris T. and Irene A. Catalone

The issue presented is whether appellants are entitled to a deduction for moving expenses.

In September of 1974, appellants, who were then unemployed, moved from California to Alaska in search of employment. They obtained employment during the first month (after their arrival in Alaska, and they have continued to reside in that state.

On their 1974 state personal income tax return appellants claimed a moving expense deduction in the amount of \$4,639, reflecting their expenditures for the move. Respondent disallowed the deduction. As a consequence, respondent issued its proposed assessment, and this appeal followed.

Section 17266 of the Revenue and Taxation Code allows a deduction for certain designated moving expenses. Subdivision (d) thereof, however, limits this deduction with respect to interstate moves, by providing in relevant part:

In the case of an individual ... whose former residence was located in this state and his new place of residence is located outside this state, the deduction allowed by this section shall be allowed only if any amount received as payment for or reimbursement of expenses of moving from one residence to another residence is includable in gross income . . . and the amount of deduction shall be limited only to the amount of such payment or reimbursement or the amounts specified in subdivision (b) [of section 17266], whichever amount is the lesser.

Since appellants obviously did not receive any reimbursement from an employer for these moving expenses, this statutory provision does not provide for a deduction. (Appeal of Patrick J. and Brenda L. Harrington, Cal. St. Bd. of Equal., Jan. 11, 1978; Appeal of Norman L. and Penelope A. Sakamoto, Cal. St. Bd. of Equal., May 10, 1977.)

Appellants nevertheless allege that because the expenses were incurred in an attempt to become employed they should be regarded as deductible business expenses. It is settled, however, that such moving expenses are personal, living, or family expenses, and not business expenses. (See Rev. & Tax. Code, § 17282; Int. Rev. Code of 1954, § 262; Commissioner v. Mendel, 351 F.2d

Appeal of Chris T. and Irene A. Catalone

580 (4th Cir. 1965); Commissioner v. Dodd, 410 F.2d 132 (5th Cir. 1969).)

Appellants also claim that the expenses were deductible pursuant to the provisions of the federal income tax law and, therefore, urge that they should be similarly treated under California law. However, section 217 of the Internal Revenue Code, relating to moving expenses, does not contain a provision similar to subdivision (d) of section 17266 of the Revenue and Taxation Code.

For the reasons set out above, 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 Chris T. and Irene A. Catalone against a proposed assessment of additional personal income tax in the amount of \$105.27 for the year 1974, be and the same is hereby sustained.

Done at Sacramento, California, this 29th day of June, 1978, by the State Board of Equalization.

, Chairman
 , Member
 , Member
 , Member
 , Member