

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
PAUL F. KRAMER)

For Appellant: Paul F. Kramer, in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

Paul J. Petrozzi
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 Paul F. Kramer against a proposed assessment of additional personal income tax in the amount of \$206.20 for the year 1975.

Appeal of Paul F. Kramer

The question presented is whether appellant qualified as a head of household for the year 1975.

Appellant's marriage was dissolved by a final decree of dissolution on January 11, 1974. The decree provided that he could claim his four daughters as dependents for income tax purposes. Appellant's daughters lived with their mother but usually spent weekends with him. Appellant paid for their entire support including medical care. Appellant filed his personal income tax return for 1975 as a head of household. He claimed that the qualifying dependent was his daughter Paulette. He also claimed as dependents his other three daughters, Elvira, Denise and Stacy. Subsequently, appellant claimed that his qualifying dependent was his daughter, Elvira.

Respondent disallowed head of household status to appellant on the basis that no qualifying dependent resided with him for the entire year. Respondent, however, did allow appellant a dependency exemption credit for all four daughters. Appellant appeals from respondent's action.

The term "head of 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 household if,, and only if,, such individual is not -married at the cl-ose of the taxable -year, and

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

(1) A ... daughter...of the tax payer

In prior appeals we have held that the statute., which requires that a household be provided for tke "tax-able year,, ! means for the entire taxable year. (Appeal of Henry C. H. Rsiung, Cal. St. Bd. of Equal., Dec. 17, 1974; Appeal of Willard S. Schwabe, Cal. St. Bd. of Equal., Feb. 19, 1974; see also Cal. Aumin. Code, tit. 18, reg. 17042-17043, subd. (b)(1).) In the present appeal none of appellant's -daughters occupied his household for the entire taxable year. Although respondent's regulations

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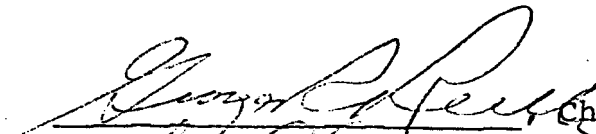
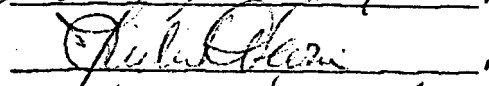

provide for a "temporary absence due to special **circumstances**," there is nothing in this appeal to indicate that such exception is applicable. Therefore, appellant cannot qualify for head of household status. For these reasons we conclude that respondent's action in this matter must be sustained.

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 Paul F. Kramer against a proposed assessment of additional personal income tax in the amount of \$206.20 for **the year** 1975, be and the same is hereby sustained.

Done at Sacramento, California, this 5th day of December , 1978, by the State Board of Equalization:


_____, Chairman

_____, Member

_____, Member
_____, Member
_____, Member