

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
DONNIE O. AND JEAN E. TURNER )

For Appellants: Donnie O. Turner, in pro. per.

For Respondent: Bruce W. Walker  
Chief Counsel

John R. Akin  
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 Donnie O. and Jean E. Turner against proposed assessments of additional personal income tax in the amounts of \$235.20 and \$558.10 for the years 1972 and 1973, respectively.

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The question **for** determination is whether respondent properly disallowed certain deductions for lack of substantiation.

On their 1972 California personal income tax return appellants claimed itemized deductions in the amount of \$11,122 and rental property deductions in the amount of \$9,341. For 1973, appellants claimed itemized deductions in the amount of \$13,275 and rental property deductions in the amount of \$12,627. As the result of an audit, respondent disallowed a portion of appellants' claimed deductions for lack of substantiation as follows:

	<u>Claimed Substantiated Disallowed</u>		
<u>1972</u>			
Itemized deductions	\$11,122	\$ 912	\$10,210
Rental property deductions	9,341	4,199	5,142
<u>1973</u>			
Itemized deductions	\$13,275	\$ 346	\$12,929
Rental property deductions	12,627	4,648	7,979

Since appellants' itemized deductions that were allowed for both years were substantially less than the standard deduction, respondent allowed appellants the standard deduction for each of the years in issue. Respondent's action resulted in the proposed assessments which are the subject of this appeal.

It is well established that deductions are a matter of legislative grace, and the taxpayer has the burden of proving he is entitled to the deductions claimed. (New Colonial Ice co. v. Helvering, 292 U.S. 435 [78 L. Ed. 1348] (1934); Appeal of James M. Denny, Cal. St. Bd. of Equal., May 17, 1962.) Although appellants have been given numerous opportunities to substantiate the claimed deductions, they have failed to do so. On the basis of the record before us, we must conclude that **appellants** have failed to meet their burden of substantiating the claimed deductions. Accordingly, we conclude that respondent's action in this matter should be sustained.




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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 Donnie O. and Jean E. Turner against proposed assessments of additional personal income tax in the amounts of \$235.20 and \$558.10 for the years 1972 and 1973, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 8th day of February, 1979, by the State Board of Equalization.

 Chairman  
 Member  
 Member  
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Member  
Member