

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
NANCY L. VIRCKS)

For Appellant: Nancy L. Vircks, in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

Jacqueline W. Martins
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 Nancy L. Vircks against proposed assessments of additional personal income tax in the amounts of \$203.33 and \$226.00 for the years 1975 and 1976, respectively.

Appeal of Nancy L. Vircks

The sole issue for our determination is whether appellant qualified as a head of household for the years under consideration.

Appellant filed timely California personal income tax returns for the years 1975 and 1976. In those returns she claimed head of household status and computed her tax liability accordingly. She identified the individual qualifying her for such status as her mother, Rosetta Vircks, a resident of Wisconsin.

Appellant contributed approximately \$950.00 and \$500.00 in cash and check payments for the years 1975 and 1976, respectively, toward the **expenses of** Rosetta. Other persons, specifically appellant's seven brothers and sisters, contributed, in total, approximately **\$1,600.00** in each of those two years toward the support of Rosetta. While appellant's mother lived with appellant for short periods of time during **the years** in question, the fair market value of such shelter (see Cal. Admin. Code, tit. 18, reg. 17056, subd. (a)(2)(A)) when added to appellant's other expenditures in support of Rosetta, did not result in appellant's providing more than one-half of her mother's support during the years under consideration.

Even though appellant did not provide over half of Rosetta's support, she was entitled to claim her as a dependent pursuant to a "multiple support **agreement,**" as provided for in section 17058 of the Revenue and Taxation Code.

Respondent disallowed head of household filing status to appellant and recomputed her tax liability on the basis of the tax rates applicable to single persons. This action led to the deficiency assessment now before us.

Appellant contends that in view of the multiple support agreement, she is entitled to head of household status.

The law specifically precludes head of household status where the dependent upon whom the taxpayer relies for the claimed status is a dependent only by reason of a multiple support agreement executed pursuant to section **17058.** (Rev. & Tax. Code, **§ 17044, subd. (c).**)

For this reason, we must sustain respondent's action.

