

Appeal of George Goodwin

-The sole issue for determination is whether appellant **qualified** as head of household for the year 1975.

Appellant filed his 1975 personal income tax return claiming head of household status. He specified the dependent qualifying him for that status as "**Sheryl, Stephanie.**" Respondent requested more detailed information. When appellant failed to respond to this inquiry, respondent issued the proposed assessment in question and imposed a 25 percent penalty for failure to provide requested information pursuant to **Revenue and Taxation Code section 18683.** Thereafter, appellant did provide some of the information and respondent has agreed to abate the penalty.

In response to respondent's request for information, **appellant** indicated that Sheryl and Stephanie were his daughters but that they did not live with him for the entire year of 1975. Based on this information, respondent denied head of household status to appellant on the basis 'that the qualifying dependent did not reside with him for the entire year as required by section 17042 of the Revenue and Taxation Code. Appellant's tax was computed as that of a single person filing separately and he was allowed an exemption credit for each daughter.

Revenue and Taxation Code section 17042 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 close of the 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 section 17042, **which requires** that a household be provided for the "taxable year," means for the **entire** taxable year. (Appeal of Henry C. Hsiung, Cal. St. Bd. of Equal., Dec. 17, 1974; Appeal of Willard S. Schwabe, Cal. St. Bd. of Equal., Feb. 19, 1974; see also Cal. Admin. Code, tit. 18, reg. 17042-17043, **subd. (b) (1) .)** In the present **appeal** appellant's daughters **did not** occupy his household for the entire taxable year. Although respondent's regulations provide for a "temporary absence due to special circumstances," there is no **evidence in the record** to indicate that the absence of appellant's daughters from

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his household was temporary. Therefore, since neither of appellant's daughters lived with him for the entire year, he cannot qualify as head of household.

Appellant also argues that the proposed deficiency for 1975 has been withheld from his wages and paid in full. However, respondent's records indicate that the amount in issue has not been paid. Furthermore, the documents submitted by appellant deal with his liability for 1974 and 1976, not for 1975, the year in question.

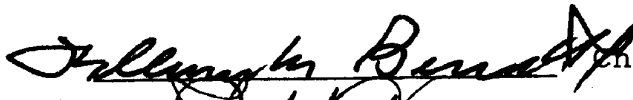
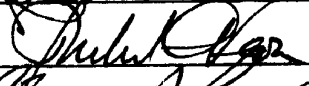

For the reasons set out above, we conclude that respondent's action in this matter must be sustained.

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 George Goodwin against a proposed assessment of additional personal income tax and penalty in the amounts of \$181.00 and \$45.25, respectively, for the year 1975, be modified to reflect the abatement of the \$45.25 penalty. In all other respects, the action of the Franchise Tax Board is sustained.

Done at Sacramento, California, this 7th day of
March, 1979, by the State Board of Equalization.

 Chairman
 , Member
 , Member
_____, Member
_____, Member