



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
RICHARD K. AND ROBERTA C. MYERS)

For Appellants: Richard K. Myers, 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 Richard K. and Roberta C. Myers against a proposed assessment of additional personal income tax in the amount of \$73.25 for the year 1975.

Appeal of **Richard K. and Roberta C. Myers**

The issue to be resolved is whether appellants were **entitled** to a deduction for moving expenses incurred when **they** moved from California to Oregon.

In August of **1975**, appellants moved from California to Oregon, where they resided at the time they filed this appeal. Appellants filed a nonresident California return for 1975, which claimed a deduction for their moving expenses and indicated that none of the expenses had been reimbursed by an employer. Because of the absence of reimbursement, respondent disallowed the claimed moving expense deduction and assessed the additional tax in question.

Subject to a variety of conditions and limitations, Revenue and Taxation Code section 17266 allows a deduction for moving expenses attributable to a taxpayer's commencement of work at a new principal place of work. Among those conditions and limitations are the ones found in section 17266's subdivision (d), which governs a taxpayer's change of residence from California to another state, or vice versa. In the case of such a change, subdivision (d) provides that a moving expense deduction will be allowed only if any amount received by the taxpayer **as** payment for or reimbursement of his moving expenses is **includible** in his gross income, and the deduction is limited to the amount of any such reimbursement or to the amounts specified in subdivision (b) of section 17266, whichever is less. Under subdivision (d), therefore, taxpayers who move from **California to another state, or vice versa, may not deduct** any of their moving expenses unless they receive some payment for or reimbursement of those expenses. (Appeal of Norman L. and Penelope A. Sakamoto, Cal. St. Bd. of Equal., May 10, 1977.) Since appellants **admittedly** didn't receive any such payments or reimbursements, they are not entitled to a moving expense deduction.





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,

Appeal of Richard K. and Roberta C. Myers

'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 Richard K. and Roberta C. Myers against a proposed assessment of additional personal income tax in the amount of \$73.25 for the year 1975, be and the same is hereby sustained.

Done at Sacramento, California, this 28th day of June, 1979, by the State Board of Equalization.


_____, Chairman

_____, Member

_____, Member

_____, Member
_____, Member