

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
CECIL L. AND JIMMIE B. MCLEAN }

Appearances:

For Appellants: Cecil L. McLean, in pro. per.
For Respondent: 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 Cecil L. and Jimmie B. McLean against proposed assessments of additional personal income tax in the amounts of \$294.17, \$336.43, and \$498.27 for the years 1972, 1973, and 1974, respectively.

Appeal of Cecil L. and Jimmie B. McLean

The issue presented is whether respondent properly disallowed appellants' deduction of certain itemized expenses for lack of substantiation.

For the tax years on appeal, appellants filed joint personal income tax returns in which they claimed deductions for medical expenses, interest expenses, taxes, charitable contributions and miscellaneous expenses. As a result of an audit, respondent disallowed part of the claimed deductions because the appellants failed to substantiate them. Respondent's disallowance of a portion of the deductions resulted in the proposed assessments which are the subject of this appeal.

Appellants contend that they have provided sufficient documentation for all of their deductions,, but that respondent has misplaced or discarded their substantiating documents. Respondent states that it retained the few substantiating documents submitted by the appellants and that it allowed all deductions which were substantiated.

It is well settled that the taxpayer bears 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, 1952.). Although appellants have had numerous opportunities, including a hearing before this board, they have failed to substantiate the claimed deductions. Consequently, appellants' assertions constitute the only proof of the claimed expenditures. Obviously appellants' burden cannot be satisfied by mere assertions that corroborative documents have previously been given to respondent. (Appeal of John W. and Verna Jo Banks, Cal. St. Bd. of Equal., Oct. 6, 1976; Appeal of Edwin and Faye Lew, Cal. St. Bd. of Equal., Sept. 17, 1973.) Accordingly, appellants have failed to establish that they are entitled to a deduction larger than that already allowed by respondent.

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 Cecil L. and Jimmie B. McLean

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 Cecil L. and Jimmie B. McLean against proposed assessments of additional personal income tax in the amounts of \$294.17, \$336.43, and \$498.27 for the years 1972, 1973, and 1974, respectively, be and the same is hereby sustained,

Done at Sacramento, California this 16th day of August, 1979, by the State Board of Equalization.

William B. ... Chairman
... .. Member
... .. Member
... .. Member
... .. Member