

Appeal of Silas J. and Laurie Sinton

The question presented is whether respondent correctly calculated the amount of appellants' tax preference income **attributable** to their net farm loss.

Appellants filed a joint 1977 personal income tax return which **reported** a net farm loss of \$124,064. Included in the computation of this net loss were two items of rental income: (1) \$4,600 from the renting of surplus office space at appellants' feed Lot; and (2) **\$68,250** from renting out appellants' farm trucks and drivers. **Respondent** determined that these items of income should-have been excluded from the calculation of net farm loss, since neither activity was sufficiently related to **appellants'** farming operations. This determination led to an increase in the 'amount of appellants' net farm loss tax preference item and, consequently, to an increase in appellants.' preference tax liability.

On appeal, appellants have raised **two** objections to respondent's action. The first one asserts that net **farm loss** should constitute an item of tax preference **only** to the extent of **nonfarm** income. This contention is based on the statutory definition of the net farm loss preference item, which states that it is "[t]he amount of net farm loss in excess of fifteen thousand dollars (\$15,000) which is deducted from **nonfarm income.**" (Rev. & Tax. Code, § 17063, subd. (i).) **Unfortunately** for appellants, this identical argument has been rejected on a number of prior occasions, on the ground that it would permit the taxpayer a double deduction for the amount of his net farm loss in excess of **nonfarm** income. (Appeal of Marcus and Marcia Rudnick, Cal. St. Bd. of Equal., Mar. 3, 1982; Appeal of Dorsey H. and Barbara D. McLaughlin, Cal. St. Bd. of Equal., Oct. 27, 1981.) There is no reason to reach a different conclusion in the present case.

Appellants' second contention is that respondent erroneously excluded office and truck rental income from the **computation** of their net farm loss. The effect of this exclusion was, of course, to increase appellants' preference tax liability by increasing the amount of their net farm loss tax preference item. While it is conceivable that, upon a proper evidentiary showing, some of this income **might** have been sufficiently connected to appellants' **farming** activities to **constitute** farm income, the **proper** showing has not been made. Appellants have no **books or records** for 1977. Consequently, there **is** no proof that any of the alleged rental income **was** related to **appellants'** farming business. **Respondent's**

Appeal of Silas J. and Laurie Sinton

determinations are, of course, presumptively correct (Appeal of Robert C. Sherwood, Deceased, and Irene Sherwood, Cal. St. ad. of Equal., Nov. **30**, 1965), and in the present case it is clear that appellants have failed to prove that respondent erred in its computation of their net farm loss preference item.

For the above reasons, respondent's action in this matter will be sustained.

