



87-SBE-071

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the **Matter** of the Appeals of)  
PAUL E. RABIDEAU ) Nos. **84A-291-DB**  
 ) **84A-749**

For Appellant: Paul E. Rabideau  
in pro per..

For Respondent: Michael R. Kelly  
Counsel

O P I N I O N

18593<sup>1</sup>/ These appeals are made pursuant to section of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protests of Paul E. Rabideau against proposed assessments of additional personal income tax in the amounts of \$424.49 and \$432.00 for the years 1978 and 1979, respectively, and against a proposed assessment of additional personal income tax and penalty in the total amount of \$63.80 for the year **1981**.

1/ Unless otherwise specified, all section references are to sections of the Revenue and Taxation Code as in effect for the years in issue.

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The principal question presented is whether appellant was entitled to a charitable contribution deduction for various payments he made to the Church of Scientology.

Appellant filed timely state income **tax** returns for 1978 and 1979 claiming charitable contribution **deductions** for payments to various affiliates of the Church of Scientology of California. On examining appellant's cancelled checks, respondent learned that the payments had been made to three entities: (1) the Church of Scientology of California Celebrity Center; (2) the Church of Scientology of California Advanced Organization of Los Angeles; and (3) the Church of Scientology of California American Saint Hill Organization. **Subsequently**, respondent disallowed these payments as charitable contributions and issued proposed assessments of additional tax for 1978 and 1979. Respondent also discovered that appellant did not file a return for 1981. Based on information obtained from appellant's employers, respondent calculated his income **for that** year and issued a proposed assessment of tax and penalties for that year. All three assessments were affirmed over appellant's protests, and these appeals followed.

During the years in question, section 17214 allowed as a deduction "contributions or gifts" to certain qualified organizations, including a corporation or trust organized and operated exclusively for religious purposes, if, among other things, no part of the net earnings of the organization inures to the benefit of any private shareholder or individual. Section 17214 is based on and is substantially identical to section 170(c) of the Internal Revenue Code of 1954. Consequently, federal court decisions interpreting the federal statute are entitled to great weight in construing the state statute. (Meanley v. McColgan, 49 Cal.App.2d 203, 209 [121 P.2d 45] (1942); see also Rihn v. Franchise Tax Board, 131 Cal.App.2d 356, 360 [280 P.2d 893] (1955).)

Respondent contends that appellant's payments to the Church of Scientology of California fail to qualify as charitable contributions for two reasons. First, they were not made to a qualified exempt organization, since the United States Tax Court found that this church was operated for a substantial commercial purpose and that its net earnings inured to the personal benefit of a number of Scientology officials, including L. Ron Hubbard, the founder of Scientology. (See Church of Scientology of California v. Commissioner, 83 T.C. 381

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(1984).) Second, respondent relies on a related tax court decision, Graham v. Commissioner, 83 T.C. 575 (1984), which **held that** payments identical to those made by appellant were not "contributions or gifts," because they were not voluntary transfers without consideration, but were made with the expectation of receiving a commensurate benefit in return, in the form of Scientology "auditing" and training.

Appellant has offered no evidence or argument to show that the above-cited cases were either wrongly decided or should not be applied to him. Since we find them to be well reasoned and persuasive, **we believe** they are controlling **and compel** the conclusion that the payments in question do not qualify as deductible charitable contributions.

With respect to the assessment for 1981, appellant has not addressed it on appeal except to claim that he **is** "not a taxpayer and does not owe any tax in this matter." This utterly baseless contention, typical of so-called "tax **protestors**," has been repeatedly and emphatically rejected by this board for years. (See, e.g., Appeals of Fred R. Dauberger, et al., Cal. St. Bd. of Equal., Mar. 31, 1982; Appeals of Alexander S. Aganza, et al., Cal. St. Bd. of Equal., Dec. 7, 1982; Appeals of Jerry L. Baldwin, et al., Cal. St. Bd. of Equal., June 21, 1983.) Indeed, the total **lack of merit in** this argument was well settled and had been frequently publicized long before appellant filed his **1981** appeal on **April** 25, 1984. Under these circumstances, we find that appellant's position in this proceeding is frivolous and groundless, and we hereby impose a penalty **upon** him in the amount of \$500. (**See** Rev. & Tax. Code, **§** 19414.)

For the above reasons, respondent's actions in these appeals will be sustained.

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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 protests of Paul E. Rabideau against proposed assessments of additional personal income tax in the amounts of \$424.49 and \$432.00 for the years 1978 and 1979, respectively, and against a proposed assessment of additional personal income tax and penalty in the total amount of \$63.80 for the year 1981, be and the same is hereby sustained, and that a \$500 frivolous appeal penalty under section 19414 be imposed against the appellant, **and** the Franchise Tax Board shall collect the same.

Done at Sacramento, California, this 6th day of October , 1987, by the State Board of Equalization, with Board **Members** Mr. Collis, Mr. Dronenburg, Mr. Carpenter and Ms. Baker present.

Conway H. Collis \_\_\_\_\_, Chairman  
Ernest J. Dronenburg, Jr. \_\_\_\_\_, Member  
Paul Carsenter \_\_\_\_\_, Member  
Anne Baker\* \_\_\_\_\_, Member  
\_\_\_\_\_, Member

\*For Gray Davis, per Government Code section 7.9