



Appellant estimates that the cost of supporting the children was \$2,478 for each of the years under appeal. He attempts to buttress his estimates with information reported by the Heller Committee for Research in Social Economics at the University of California which produced a budget for a San Francisco Bay area family of four with 1961 earnings of \$6,777.59. Mrs. Brintnall informed respondent that the cost of child support was \$2,492 in 1959, \$3,768 in 1960, and \$5,001 in 1961. During these years she earned a salary of about \$450 to \$500 per month.

During the years in question section 17181 of the Revenue and Taxation Code permitted an exemption of \$600 for each dependent of the taxpayer. A dependent, as defined in section 17182, includes a son or daughter over half of whose support was received from the taxpayer. This definition is substantially the same as found in section 152 of the 1954 Internal Revenue Code..

Appellant has offered no direct evidence regarding the total yearly amounts expended for the support of his children. Information such as that contained in the report of the Heller Committee does not establish the actual cost of their support. (James R. White, T.C. Memo., Dkt. No. 57040, Nov. 30, 1956.)

The case of Theodore Milgroom, 31 T.C. 1256, cited by appellant, is readily distinguishable. There the government had not determined that the taxpayer did not contribute more than half the cost of support. The taxpayer prevailed by establishing, in part by stipulation and in part by undisputed testimony, the actual cost of support for the years immediately preceding the year in question together with the fact that the standard of living of the children was no higher in the year before the court.

Appellant has failed to prove that he supplied more than half of the support of both children and therefore he is not entitled to claim them as dependents. (Bernard C. Rivers, 33 T.C. 935.) Further, assuming that the amounts contributed each year constituted more than half of one child's support, we cannot sustain appellant's contention that he is entitled to claim at least one child as a dependent since he has failed to show that his payments were made for the support of one particular child, to the exclusion of the other. (Ollie J. Kotlowski, 10 T.C. 533.)

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 John S. Brintnall against proposed assessments of additional personal income tax in the amounts of \$36.00, \$42.99 and \$36.00 for the years 1959, 1960 and 1961, respectively, be and the same is hereby sustained.

Done at Pasadena, California, this 28th day of June, 1965, by the State Board of Equalization.

John W. Lynch, Chairman  
Paul R. Drake, Member  
Carl Healy, Member  
Richard Brown, Member  
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ATTEST: J. Freeman, Secretary