



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
JAMES G. EVANS)

For Appellant: James G. Evans, in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

James C. Stewart
Counsel

O P I N I O N

This appeal is made pursuant to section 19059 of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claim of James G. Evans for refund of personal income tax in the amount of \$28.11 for the year 1974.

Appeal of James G. Evans

In 1974 appellant filed a California **personal** income tax return without claiming a moving expense deduction. Thereafter, he filed an amended return claiming a moving expense deduction for his move from a location outside the United States to California, and requested a refund. Respondent denied the claim for refund on the basis that appellant did not report as gross income any reimbursement of or payment for moving expenses. This appeal followed.

Revenue and Taxation Code section 17266 allows a deduction for certain moving expenses of a taxpayer. The deduction is limited by subdivision (d) of that section, however, which provides in relevant part:

In the case of an individual whose former residence was outside this state and his new place of residence is located within this state ... the deduction allowed by this section shall be allowed only if any **amount** received as payment for or reimbursement of expenses of moving from one residence to another residence is includable in gross income as provided by Section 17122.5 and the amount of deduction shall be limited only to the amount of such payment or reimbursement **or the** amounts specified in subdivision (b), whichever amount is the lesser.

Here appellant moved from outside the United States to a new residence in California. The allowable moving expense deduction is, therefore, limited to the lesser of: (1) any amount received as payment or reimbursement for the move; and (2) various other amounts. **(Appeal of Norman L. and Penelope A. Sakamoto, Cal. St. Bd. of Equal., May 10, 1977.)** Since appellant apparently **received no such payments or reimbursement, he is not** entitled to a moving expense deduction under section 17266.

