



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeals of)
SANDRA B. HOILES)

For Appellant: Sandra B. Hoiles,
in pro. per.,
For Respondent: Brian W. Toman
Counsel

O P I N I O N

These appeals are made pursuant to section 18593 of the Revenue and Taxation Code from the actions of the Franchise Tax Board on the protests of Sandra B. Hoiles against proposed assessments of additional personal income tax and penalties in the total amounts of \$90.62, \$188.45 and \$571.39 for the years 1974, 1975 and 1977, respectively.

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The issue presented is whether compensation received by appellant was taxable income to her'.

In-January 1975, appellant apparently took a vow of poverty in her church. She alleges that thereafter she continued her employment with the State of California at the direction of her church elders. Her paychecks were issued to and received by her, but she states that they were endorsed over to her church and deposited in the church's bank account.

Respondent's records indicated that appellant had not filed California personal income tax returns for the years 1974, 1975 and 1977. After unsuccessful requests that appellant file returns or provide information to substantiate her claim that she was not required to file, respondent issued proposed assessments, first for only 1975, but later for 1974 and 1977 as well, and imposed various penalties for each year. The assessments were based on employer information from the California Employment Development Department and duplicates of appellant's W-2 forms. Appellant protested the assessments but provided no additional information; consequently, respondent affirmed its actions'. These timely appeals followed and were consolidated for consideration.

We note first appellant's vociferous objections to respondent's requests for additional information as violations of her constitutional rights and those of her church. Without commenting on the merits of her objections, we point out that they are totally irrelevant to a consideration of her tax liability. Therefore, we will not consider them in this appeal.

Appellant contends that since she was under a vow of poverty and endorsed over her paychecks to her church immediately upon receipt, she had no income, but rather, her compensation was actually income of her church. We must disagree with the contention that she had no taxable income;

It is a basic rule of income tax law that income is taxable to the person who earns it, and the tax cannot "be escaped by anticipatory arrangements and contracts however skillfully devised to prevent the salary when paid from vesting even for a second in the man who earned it." (Lucas v. Earl, 281 U.S. 111, 115 [74 L.Ed. 731] (1930).) Any agreement or arrangement

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appellant may have had with her church by virtue of her vow or otherwise would not, by itself, serve to exempt her compensation from taxation,

It appears, however, that appellant considers herself an agent for her church. When an agent receives income for a principal, the income is that of the principal. (Carl V. McGahan, 76 T.C. No. 41 (March 26, 1981).) It is fundamental, of course, that for the income to be not taxable to the recipient, an agency relationship must exist and the receipt of income must be in the recipient's capacity as agent, rather than as an individual.

Appellant, therefore, must show that she was an agent of her church in receiving her compensation from the State of California. In this regard, she has presented no evidence, only her contentions noted above. Mere unsupported statements are insufficient to overcome the presumptive correctness of respondent's determinations (Appeal of Clyde L. and Josephine Chadwick, Cal. St. Bd. of Equal., Feb. 15, 1972), and since nothing more is presented in this appeal, respondent's actions must be sustained. Similarly, the penalties imposed are not challenged by appellant and, therefore, they are also sustained.

