

Add Section 17042.1 to the Personal Income Tax Law to allow the Board to approve a taxpayer's head of household status when that taxpayer claims as his qualifying dependent a child whose natural parent also lives in the taxpayer's household and qualifies as a dependent of taxpayer.

Source: Honorable Bill Leonard

Existing Law

The Revenue and Taxation Code incorporates numerous federal provisions into California income tax law. One such provision sets forth the requirements for head of household filing status. Revenue and Taxation Code section 17042 defines "head of household" for purposes of California law by reference to Internal Revenue Code section 2(b) and (c).

A taxpayer may qualify for head of household filing status if the taxpayer is unmarried (with some exceptions) and maintains as his/her household for more than one-half of the year the principal place of abode of a qualifying child or dependent. The purpose of the statute is to provide a credit to a taxpayer who provides the sole or majority of support to others in the household. However, head of household status is denied if the dependent is unrelated to taxpayer and the natural parent of such dependent also has the same principal place of abode as taxpayer. The rationale is that the natural parent is obligated to, and therefore is deemed to be, providing support for the unrelated dependent and taxpayer is no longer the sole or majority provider of support. Existing law thus effectively denies head of household status to those taxpayers who provide the sole or majority support to an unrelated dependent and to the natural parent of that dependent.

This Proposal

This proposal will allow head of household filing status to a taxpayer who provides a home and support for an unrelated dependent and the natural parent of such unrelated dependent, but only if the taxpayer is also entitled to claim a dependent exemption for the natural parent of such unrelated dependent. By requiring the natural parent to qualify as taxpayer's dependent, this will insure that taxpayer is providing the sole or majority of support to both the unrelated dependent and the natural parent of such dependent. In effect, this will remedy the inequity that results when a taxpayer comes within the aim of the statute but is denied head of household status.

Section 17042.1 of the Revenue and Taxation Code is added to read:

17042.1. A head of household also includes an individual who maintains as his home a household, which constitutes for more than one-half of the taxable year the principal place of abode of:

(a) a minor who is a qualifying relative under section 152(d)(2)(H) of the Internal Revenue Code and for whom the taxpayer is entitled to a dependent exemption, and

(b) the natural parent of the minor described in subdivision (a), if the taxpayer is entitled to a dependent exemption for such natural parent.