

1 Sheriene Anne Ridenour
Tax Counsel III
2 Board of Equalization, Appeals Division
450 N Street, MIC:85
3 PO Box 942879
Sacramento, CA 95814
4 Tel: (916) 323-3108
Fax: (916) 324-2618
5

6 Attorney for the Appeals Division

7 **BOARD OF EQUALIZATION**

8 **STATE OF CALIFORNIA**

9
10 In the Matter of the Appeal of:) **HEARING SUMMARY**
11) **FRANCHISE AND INCOME TAX APPEAL**¹
12 **MARSHA A. WILKERSON**) Case No. 857552

	<u>Year</u>	<u>Proposed</u> <u>Assessment</u>
	2012	\$1,263

16 Representing the Parties:

17 For Appellant: Marsha A. Wilkerson
18 For Franchise Tax Board: Claudia L. Cross, Senior Legal Analyst

19
20 **QUESTION:** Whether appellant is entitled to the head of household (HOH) filing status for the
21 2012 tax year.

22 ///
23 ///
24 ///

25
26 _____
27 ¹ This appeal was originally scheduled for oral hearing at the Board’s August 25-27, 2015 meeting. Appellant failed to
28 reply to the hearing notice and the appeal was rescheduled for the September 15-17, 2015 nonappearance consent calendar,
but was removed from that calendar by the Appeals Division for further review and development. Subsequently, appellant
requested an oral hearing. Upon the completion of additional briefing, this appeal was rescheduled for oral hearing at the
Board’s April 26-27, 2016 meeting. Appellant then requested a postponement due to a scheduling conflict and this appeal
was rescheduled for oral hearing at the Board’s September 27-29, 2016 meeting.

1 HEARING SUMMARY

2 Background

3 Appellant filed a California income tax return (540 2EZ) for the 2012 tax year, claiming
4 the HOH filing status, one personal senior exemption credit, and a nonrefundable renter's credit.
5 Appellant did not claim a dependent exemption. To verify appellant's HOH filing status, the FTB sent
6 appellant a 2012 Head of Household Audit Questionnaire (Audit Questionnaire), which appellant
7 completed online. On the Audit Questionnaire, appellant stated that her son, Vernon L., qualified her
8 for the HOH filing status. Appellant stated, among other things, that: (1) Vernon was 25-years-old in
9 2012; (2) Vernon lived with appellant for the entire year in 2012; (3) Vernon was not married as of
10 December 31, 2012; and (4) Vernon was not was a citizen of the United States or a resident of the
11 United States, Canada or Mexico. Appellant indicated that she was not married or a registered
12 domestic partner as of December 31, 2012. (Resp. Op. Br., p. 1, Exhibits A and B.)

13 Based on this information, the FTB issued a Notice of Proposed Assessment (NPA) on
14 November 14, 2013, that denied appellant's claim for the HOH filing status. The NPA explained that
15 appellant did not qualify for the HOH filing status because the person appellant claimed as her
16 qualifying person was not a citizen of the United States or a resident of the United States, Canada or
17 Mexico. The NPA revised appellant's filing status to single, allowed appellant one personal senior
18 exemption credit, disallowed the nonrefundable renter's credit, recomputed appellant's tax liability, and
19 proposed additional tax of \$1,263, plus applicable interest. (Resp. Op. Br., p. 1, Exhibit C.)

20 Appellant protested the NPA, contending that she qualified for the HOH filing status.
21 Appellant asserted that, she misread the citizenship question and, therefore, she incorrectly answered
22 the question. Appellant contended that the person appellant claimed as her qualifying person was born
23 in the United States in 1987, and is a citizen of the United States. Appellant requested a hearing if the
24 matter could not be resolved. (Resp. Op. Br., p. 2, Exhibit D.)

25 By letter dated May 27, 2014, the FTB acknowledged the receipt of appellant's protest.
26 The FTB explained that, since appellant provided conflicting information regarding the citizenship of
27 the person she claimed as her qualifying person for the HOH status, appellant would need to provide
28 documentation substantiating the qualifying person's citizenship. Specifically, the FTB requested that

1 appellant provide by June 27, 2014 either the qualifying person's: (1) United States birth certificate;
2 United States naturalization documents, or United States passport; or (2) green card, social security
3 card, or passport. (Resp. Op. Br., p. 2, Exhibit E.)

4 During a telephone conversation in July of 2014, appellant informed the FTB that she
5 would fax a copy of Vernon's birth certificate to the FTB. A copy of the birth certificate was not
6 provided. In a subsequent telephone conversation on August 7, 2014, appellant informed the FTB that
7 she would fax a copy of Vernon's birth certificate to the FTB by the end of the following week. When
8 the FTB did not receive a copy of Vernon's birth certificate, it sent appellant a letter dated September 5,
9 2014, informing appellant that it did not receive the requested documentation. The letter notified
10 appellant that, if the FTB did not receive the requested information by October 5, 2014, that the FTB
11 would affirm the NPA. (Resp. Op. Br., p. 2, Exhibit F.)

12 After not receiving a response from appellant, the FTB issued a Notice of Action on
13 November 10, 2014, affirming the NPA. This timely appeal followed. (Appeal Letter, attachments.)

14 Contentions

15 Appellant's Appeal Letter

16 Appellant contends that she qualifies for the HOH filing status. Appellant asserts that
17 she misread the citizenship question. Appellant contends that, when she answered "no" to the
18 citizenship question, she thought the question asked if the qualifying person was a citizen of Canada or
19 Mexico. Appellant contends that Vernon was born in Los Angeles, California, in August of 1987, and
20 is a citizen of the United States. Appellant asserts that she has not had a hearing, as requested, nor has
21 one been scheduled. (Appeal Letter, attachments.)

22 Respondent's Opening Brief

23 The FTB contends that appellant is not entitled to the HOH filing status. The FTB
24 asserts that Vernon is not an individual who can be appellant's qualifying child or qualifying relative
25 and, therefore, appellant has not met her burden of showing that she had a qualifying person for the
26 2012 tax year. The FTB asserts that, according to Internal Revenue Code (IRC) section 2(b),² to

27
28 ² R&TC section 17042 sets forth the California requirements for the HOH filing status by reference to IRC sections 2(b) and 2(c).

1 qualify for the HOH filing status, an unmarried taxpayer must meet certain legal requirements
2 including: the taxpayer's home must have been the main home of the taxpayer's qualifying person who
3 lived with the taxpayer for more than one-half of the year; the taxpayer's qualifying person must meet
4 the requirements to be a qualifying child or a qualifying relative; and the taxpayer must be entitled to a
5 dependent exemption credit for the qualifying person. The FTB asserts that, while it is not clear why
6 appellant did not claim her son as her dependent on her 2012 tax return, in order to qualify as
7 appellant's dependent, Vernon must meet the requirements to be appellant's qualifying child or
8 qualifying relative. (Resp. Op. Br., pp. 2-3; Exhibit A.)

9 The FTB contends that appellant's son was not a qualifying child because he was not
10 under the age of 24, as of December 31, 2012. In addition, the FTB contends that, while it appears that
11 appellant's son met some of the requirements to be a qualifying relative, he nevertheless cannot qualify
12 appellant for the HOH filing status for the 2012 tax year because appellant has not verified that her son
13 met the citizenship test for a qualifying person. The FTB asserts that, in addition to meeting the
14 requirements of being either a qualifying child or qualifying relative, appellant's qualifying person
15 must also meet the joint tax return test and the citizenship test. The FTB asserts that appellant
16 presented contradictory information regarding Vernon's citizenship. On the Audit Questionnaire,
17 appellant indicated that her son was not a citizen of the United States or a resident of the United States,
18 Canada or Mexico. During the protest and in her appeal letter, appellant contends that she misread the
19 citizenship question and that her son is a United States citizen. Based on this conflicting information,
20 the FTB requested that appellant provide documentation substantiating Vernon's citizenship. The FTB
21 contends that, since appellant has provided no documentation substantiating Vernon's citizenship,
22 appellant has not proven that Vernon meets the citizenship test. (Resp. Op. Br., pp. 2-3; Exhibits B, E,
23 F and H.)

24 In addition, the FTB contends that appellant does not meet the requirement that the
25 taxpayer's home must have been the main home of the taxpayer's qualifying person who lived with the
26 taxpayer for more than one-half of the year. The FTB asserts that, while appellant indicated on the
27 Audit Questionnaire that her son lived with her for the entire 2012 year, according to the FTB's
28 records, it does not appear that Vernon lived with appellant at any time during 2012. The FTB

1 contends that, according to its records, in 2012, appellant was living at her current residence in
2 Los Angeles, and Vernon was living in Palmdale, California. The FTB also contends that, according to
3 the Department of Motor Vehicles (DMV) records, it was not until August of 2014 that appellant's
4 Los Angeles address became Vernon's address of record. (Resp. Op. Br., pp. 3-5; Exhibits B and H.)

5 The FTB asserts that appellant has not met her burden of producing sufficient evidence
6 to show that the FTB's denial of her HOH filing status for 2012 was erroneous. In support, the FTB
7 cites *Todd v. McColgan* (1949) 89 Cal.App.2d 509, among other decisions. (Resp. Op. Br., p. 5.)

8 Appeals Division's Request for Additional Briefing

9 Pursuant to California Code of Regulations, title 18, section 5435, subdivision (a), the
10 Appeals Division (Appeals) staff requested additional briefing from the parties to further develop the
11 issues in this appeal. Among other things, Appeals requested that appellant provide documentation
12 demonstrating Vernon's citizenship and the address(s) he resided at during the 2012 tax year.
13 Respondent was asked to provide the referenced DMV records and to indicate, among other things, its
14 position on whether Vernon is a resident of the United States and whether appellant has met each of the
15 remaining statutory requirements for the HOH filing status.

16 Appellant's Additional Brief

17 Appellant contends that Vernon is a citizen of the United States and that he resided at
18 appellant's residence during the 2012 tax year. Appellant attached the following documentation to her
19 additional brief: (1) a certified abstract of birth for Vernon, which lists Sherry H. as the mother; (2) a
20 copy of what appears to be a printed mailing label with Vernon's name and appellant's address, along
21 with a print-out that states "Your Security Card" (however, a copy of Vernon's security card or social
22 security number was not included); and (3) a declaration by Jacqueline Shankle,³ signed under the
23 penalty of perjury, declaring that Vernon resided at appellant's address during the 2012 tax year. (App.
24 Add'l Br., p. 1, attachments.)

25 Respondent's Reply Brief

26 While the FTB concedes that the certified abstract of birth for Vernon substantiates that
27

28 ³ Ms. Shankle provides an address under her signature, which is located on the same street in Los Angeles as appellant's residence. In her supplemental brief, appellant refers to Ms. Shankle as her neighbor.

1 Vernon is a United States citizen, and therefore he met the citizen test, the FTB contends that appellant
2 is not entitled to the HOH filing status because she has failed to show that Vernon met all of the
3 requirements to be her qualifying person. The FTB asserts that, according IRC section 2(b), to qualify
4 for the HOH filing status, an unmarried taxpayer must meet certain legal requirements including: the
5 taxpayer's home must have been the main home of the taxpayer's qualifying person who lived with the
6 taxpayer for more than one-half of the year; the taxpayer's qualifying person must meet the
7 requirements to be a qualifying child or a qualifying relative; and the taxpayer must be entitled to a
8 dependent exemption credit for the qualifying person. The FTB asserts that appellant did not claim a
9 dependent exemption on her 2012 tax return, and that appellant did not provide sufficient evidence for
10 the FTB to determine if appellant is entitled to a dependent exemption for Vernon. The FTB contends
11 that, even if Vernon qualified appellant for the dependent exemption credit, and the FTB allowed the
12 dependent exemption credit, Vernon does not qualify appellant for the HOH filing status. The FTB
13 asserts that the requirements for the HOH filing status are significantly different from the requirements
14 for the dependent exemption credit. (Resp. Reply Br., pp. 2-4.)

15 The FTB contends that appellant has not demonstrated that Vernon lived with appellant
16 for more than one-half of the 2012 tax year. The FTB asserts that, according to its records, Vernon
17 filed a 2011 tax return on January 18, 2012 listing his address in Palmdale, California. The FTB also
18 contends that, according to DMV records, it was not until August 29, 2014, that appellant's
19 Los Angeles address became Vernon's address of record. The FTB asserts that the print-out stating
20 "Your Security Card," along with a copy of what appears to be a printed mailing label with Vernon's
21 name and appellant's address, is not acceptable as evidence and not does not substantiate that Vernon
22 lived with appellant in the 2012 tax year. With regard to the letter from Ms. Shankle, the FTB contends
23 that, since the letter is not notarized, Ms. Shankle did not clarify how she had personal knowledge that
24 Vernon resided with appellant during the 2012 tax year, and, Ms. Shankle did not specify the periods of
25 time that Vernon lived with appellant, the letter is not sufficient to collaborate appellant's contention
26 that Vernon lived with appellant during the 2012 tax year. (Resp. Reply Br., pp. 1-4; Exhibits 1-3.)

27 The FTB also contends that appellant has not demonstrated that Vernon met the
28 requirements to be appellant's qualifying person for the 2012 tax year. Citing the *Appeal of*

1 *Stephen M. Padwa*, 77-SBE-078, decided by this Board on May 10, 1977, and the *Appeal of*
2 *Priscilla L. Campbell*, 79-SBE-037, decided by this Board on February 8, 1979, the FTB asserts that a
3 qualifying person must be related to the taxpayer either by blood, marriage, or registered domestic
4 partnership (RDP).⁴ The FTB states that the certified abstract of birth for Vernon does not list
5 appellant as his mother. The FTB asserts that the relationship between appellant and Vernon is unclear
6 and that appellant has provided no evidence demonstrating that Vernon is related to appellant by blood,
7 marriage, or RDP. (Resp. Reply Br., pp. 2 and 4.)

8 In order to determine if appellant satisfies the HOH filing status, the FTB requests that
9 appellant provide the following information for the FTB's review and consideration: (1) a written
10 statement signed by appellant under the penalty of perjury declaring the relationship between Vernon
11 and appellant, along with creditable documentation substantiating the relationship, as well as specifying
12 the exact periods of time Vernon lived with appellant during the 2012 tax year; (2) a notarized
13 statement signed under the penalty of perjury from a person who states that they have personal
14 knowledge of the relationship between appellant and Vernon; and (3) a notarized statement signed
15 under the penalty of perjury from a person who states that they have personal knowledge of the facts
16 surrounding the living arrangements of appellant and Vernon, and states the specific periods of time
17 Vernon lived with appellant during the 2012 tax year. (Resp. Reply Br., pp. 5-6.)

18 Appellant's Supplemental Brief

19 Appellant asserts that she was in a domestic relationship with Vernon's father from 1988
20 to 1995, and that, during that time, Vernon, from infancy until he was eight-years-old, lived with the
21 couple. While appellant concedes that she is not Vernon's biological mother or legal guardian,
22 appellant asserts that, after appellant and Vernon's father were no longer in a relationship, Vernon
23 sometimes lived with appellant, while in his early teen years through his young adult life. Appellant
24 contends that, in the 2012 tax year, Vernon lived with appellant and that she was his sole provider.
25 Appellant asserts that Vernon resided with her in 2012 and that she would not be going through this had
26 she marked his citizenship correctly on the Audit Questionnaire. Appellant suggests contacting Vernon
27

28 ⁴ Board of Equalization cases (designated "SBE") may generally be found at: www.boe.ca.gov.

1 and inquiring where he resided, and who provided his support, during the 2012 tax year. (App. Supp.
2 Br., p. 1.)

3 Concerning Ms. Shankle’s letter, appellant contends that Ms. Shankle signed the letter
4 knowing that, if she perjured herself, she could be subject to penalty. With regard to the letter not
5 being notarized, appellant asserts that the additional briefing letter from Appeals staff did not require
6 that the letter be notarized. Concerning a 2012 tax return filed in Vernon’s name, appellant asserts that
7 she has knowledge that Vernon is a victim of identity fraud. (App. Supp. Br., p. 1.)

8 Applicable Law

9 Burden of Proof

10 In resolving an issue on appeal, the FTB’s determination is presumed correct and an
11 appellant has the burden of proving it to be wrong. (*Todd v. McColgan* (1949) 89 Cal.App.2d 509;
12 *Appeal of Richard Byrd*, 84-SBE-167, Dec. 13, 1984.) Unsupported statements are insufficient to carry
13 this burden of proof. (*Appeal of Ismael R. Manriquez*, 79-SBE-077, Apr. 10, 1979.) Self-serving,
14 unsupported assertions are not sufficient to satisfy an appellant’s burden. (See, e.g., *Appeal of*
15 *Ismael R. Manriquez, supra*; and *Appeal of James C. and Monablanché A. Walshe*, 75-SBE-073,
16 Oct. 20, 1975.) A taxpayer’s failure to produce evidence that is within his or her control gives rise to a
17 presumption that such evidence is unfavorable to his/her case. (*Appeal of Don A. Cookston*,
18 83-SBE-048, Jan. 3, 1983.)

19 Dependent Exemption

20 To be eligible for a dependent exemption pursuant to IRC section 151, a taxpayer must
21 show that his or her claimed individual is dependent as defined in IRC section 152. A “dependent” is
22 defined as a “qualifying child” or a “qualifying relative.” (Int.Rev. Code, § 152(a).) In addition, IRC
23 section 152(d)(1)(B) requires that the claimed individual must have gross income for the calendar year
24 less than the federal exemption amount for the tax year at issue. For the 2012 tax year, the federal
25 exemption amount was \$3,800 per person. (See IRS Publication 501 (2012), p. 9.) Furthermore, the
26 taxpayer must also provide over one-half of the claimed individual’s support for the taxable year at
27 issue and the claimed individual may not be a qualifying child of the taxpayer. (Int.Rev. Code,
28 §§ 152(d)(1)(C) and (D).)

1 Head of Household

2 R&TC section 17042 sets forth the California requirements for the HOH filing status by
3 reference to IRC sections 2(b) and 2(c).⁵ If the taxpayer is not married, he or she may be eligible for
4 the HOH filing status pursuant to the following statutes: (1) IRC section 2(b)(1)(A)(i); (2) IRC section
5 2(b)(1)(A)(ii); or (3) IRC section 2(b)(1)(B).⁶

6 Pursuant to IRC section 2(b)(1)(A)(i), a taxpayer who is not married may be eligible for
7 the HOH filing status by maintaining a household for a “qualifying child,” if, among other things, the
8 taxpayer’s household constitutes the principal place of abode of the qualifying child, as a member of
9 the household, for more than one-half of the year.⁷ IRC section 152(c)(3) provides that, be considered
10 a taxpayer’s qualifying child, the individual must be: (1) under 19 years of age; or (2) a full-time
11 student under 24 years of age; or (3) permanently and totally disabled, as defined in IRC section
12 22(e)(3).

13 Pursuant to IRC section 2(b)(1)(A)(ii), a taxpayer who is not married may be eligible for
14 the HOH filing status by maintaining a household for a “dependent” of the taxpayer if the taxpayer is
15 entitled to a dependent exemption for that individual,⁸ and the taxpayer’s household constitutes the
16 principal place of abode of the dependent, as a member of the household, for more than one-half of the
17 year. To be eligible for a dependent exemption pursuant to IRC section 151, a taxpayer must show that
18 his or her claimed individual is a dependent as defined in IRC section 152. A “dependent” is defined as
19 a “qualifying child” or a “qualifying relative.” (Int.Rev. Code, § 152(a).) In addition, IRC section
20 152(d)(1)(B) requires that the claimed individual must have gross income for the calendar year less
21 than the federal exemption amount for the tax year at issue. For the 2012 tax year, the federal
22

23 _____
24 ⁵ IRC section 2(c) sets forth the requirements applicable to taxpayers who are married but are seeking to be treated as not
25 married for HOH purposes.

26 ⁶ IRC section 2(b)(1)(B) sets forth the requirements applicable to taxpayers claiming their mother or father as their
27 qualifying person.

28 ⁷ In addition, IRC section (2)(A)(i) requires that the qualifying child may not be (1) married at the close of the taxpayer’s
taxable year; (2) a married dependent who filed a joint return with his or her spouse (Int.Rev. Code, §152(b)(2)); or (3) an
individual who is not a citizen or national of the United States unless that individual is a resident of the United States,
Canada, or Mexico. (Int.Rev. Code, § 152(b)(3).)

⁸ IRC section 151(c) provides that exemptions are allowed as a deduction for dependents as defined by IRC section 152.

1 exemption amount was \$3,800 per person. (See IRS Publication 501 (2012), p. 1.) Furthermore, the
2 taxpayer must also provide over one-half of the claimed individual's support for the taxable year at
3 issue and the claimed individual may not be a qualifying child of the taxpayer. (Int.Rev. Code,
4 §§ 152(d)(1)(C) and (D).)

5 IRC section 152 defines dependent to include a "qualifying child," which requires that
6 the claimed individual have one of the following relationships to the taxpayer: the taxpayer's child,
7 step child, eligible foster child, brother, sister, half-brother, half-sister, stepbrother, or stepsister or a
8 descendant of any them. (Int.Rev. Code, §§ 152(c), (f)(1) & (f)(4).) IRC section 152 also defines
9 dependent to include a "qualifying relative," which requires, among other requirements, that: (1) the
10 claimed individual not be a "qualifying child" of the taxpayer or any other person; and (2) the claimed
11 individual must have one of the following relationships to the taxpayer: the taxpayer's child, step child,
12 eligible foster child or descendant of any such child; the taxpayer's brother, sister, half-brother, half-
13 sister, stepbrother, or stepsister; the taxpayer's father, mother, grandparent, or other direct ancestor, but
14 not foster parent; the taxpayer's stepfather or stepmother; the son or daughter of the taxpayer's brother,
15 sister, half-brother, or half-sister; the brother or sister of the taxpayer's father or mother; the taxpayer's
16 son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law. (Int.Rev.
17 Code, §§ 152(d)(1)(D) & (d)(2).) To be considered an "eligible foster child," the claimed individual
18 must be placed with the taxpayer by an authorized placement agency or by judgment, decree, or other
19 order of any court of competent jurisdiction. (Int.Rev. Code, § 152(f)(1)(C).)

20 IRC section 152(d)(2)(H) also provides that a "qualifying relative" can include an
21 individual, other than a spouse, who had the same principal place of abode as the taxpayer and was a
22 member of the taxpayer's household for the taxable year. IRC section 2(b), however, precludes from
23 the list of potential qualifying individuals those individuals who qualify as a taxpayer's dependent
24 based solely on having as their principal place of abode the home of the taxpayer and as living as a
25 member of the taxpayer's household. (Int.Rev. Code, § 2(b)(3)(B)(i).) If the taxpayer is unmarried,
26 then the taxpayer must show that the claimed individual meets one of the relationships as discussed
27 above for the claimed individual to be a "qualifying relative." (Int.Rev. Code, § 2(b)(3)(B)(i).)

28 ///

1 STAFF COMMENTS

2 For appellant to claim Vernon as her qualifying person for the HOH filing status,
3 appellant must show, among other requirements, that Vernon is considered a “qualifying child” or a
4 “qualifying relative,” pursuant to IRC section 152. Since Vernon was 25 years of age, as of
5 December 31, 2012, he does not meet the age test to be a qualifying child, as he was neither under
6 19 years of age or a full-time student under 24 years of age. In addition, while appellant refers to
7 Vernon as her son, appellant acknowledges that she is not Vernon’s biological mother or legal
8 guardian; rather, appellant was previously in a domestic relationship with Vernon’s father. Appellant
9 has not asserted, and the record does not indicate, that Vernon is related to appellant by blood,
10 marriage, RDP, or adoption, or that Vernon is appellant’s “eligible foster child.” Therefore, Vernon
11 does not meet the requirements to be appellant’s “qualifying child”.

12 Moreover, based on appellant’s explanation of the relationship between Vernon and
13 appellant, Vernon may not be considered a “qualifying relative” under IRC section 152. As
14 summarized directly above, appellant is not Vernon’s biological mother or legal guardian, and
15 appellant has not asserted, and the record does not indicate, that Vernon is related to appellant by blood,
16 marriage, RDP, or adoption, or that Vernon is appellant’s “eligible foster child.” At the hearing,
17 appellant should be prepared to explain, and to provide evidence to demonstrate, how Vernon meets the
18 legal requirements to be considered a “qualifying relative,” pursuant to IRC section 152, to qualify
19 appellant for the HOH filing status. If the Board concludes that Vernon does not meet the legal
20 requirements to be considered a “qualifying relative,” then Vernon does not qualify appellant for the
21 HOH filing status.

22 If the Board concludes that Vernon meets the legal requirements to be considered a
23 “qualifying relative,” then appellant, to be eligible for the HOH filing status, must also establish that
24 her household constituted the principal place of abode of Vernon, as a member of the household, for
25 more than one-half of the 2012 tax year, and that she is entitled to a dependent exemption for Vernon.
26 At the hearing, the parties should be prepared to discuss whether appellant has established that Vernon
27 resided with appellant for more than one-half of the 2012 tax year. In addition, the parties should be
28 prepared to discuss whether Vernon’s gross income was less \$3,800 for the 2012 tax year, and whether

1 appellant has demonstrated that she provided over one-half of Vernon’s support for the 2012 tax year.
2 Unless appellant meets all of these requirements, she is not entitled to claim the HOH filing status for
3 the 2012 tax year.

4 Pursuant to California Code of Regulations, title 18, section 5523.6, if either party has
5 any additional evidence to present, such as whether Vernon’s gross income for 2012 was less than
6 \$3,800, they should provide their evidence to the Board Proceedings Division at least 14 days prior to
7 the oral hearing.⁹

8 ///

9 ///

10 ///

11 WilkersonM_sar

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

⁹ Evidence exhibits should be sent to: Khaaliq Abd’Allah, Appeals Analyst, Board Proceedings Division, State Board of Equalization, P.O. Box 942879 MIC:80, Sacramento, California 94279-0080.