

Appeal of Robert B. Koehl

Respondent's proposed assessment against appellant is based entirely upon the federal disallowance of the casualty loss claimed for the year 1961.

Section 17206 of the Revenue and Taxation Code allows "as a deduction any loss sustained during the taxable year and not compensated for by insurance or otherwise" including "Losses of property not connected with a trade or business, if such losses arise from fire, storm, shipwreck, or other casualty" However, deduction: are a matter of legislative grace and the burden of proof is upon the taxpayer to show that the deduction is within the terms of the statute. (New Colonial Ice Co. v. Helvering, 292 U.S. 435 [78 L. Ed. 1348].)

No evidence has been offered in support of appellant's claim. In the absence of any evidence on this point, appellant has failed to meet his burden of proof and respondent's action must be sustained.

O R D E R

Pursuant to the view expressed in" the opinion of the board on file in this proceeding, and good cause appearing therefor,

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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 protest of Robert B. Koehl against a proposed assessment of additional personal income tax in the amount of \$30.16 for the year 1961, be and the same is hereby sustained.

Done at Sacramento, California, this 15th day of December, 1966, by the State Board of Equalization.

_____, Chairman
Paul R. Reese, Member
John W. Lynch, Member
Richard H. ..., Member
_____, Member

ATTEST: *[Signature]*, Secretary