



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
JOSEPH REICHMANN }

For Appellant: Joseph Reichmann,
in pro. per.

For Respondent: Crawford H. Thomas
Chief Counsel

John D. Schell
Counsel

O P I N I O N

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Joseph Reichmann against a proposed assessment of additional personal income tax in the amount of \$24.00 for the year 1967.

The question presented is whether appellant Joseph Reichmann was entitled to dependency tax credits for his three children in 1967.

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Appellant and his former wife were separated throughout 1967. During that year the couple's three minor children resided with their mother, and pursuant to a court order appellant provided \$150 per month for the support of each child. On his 1967 California personal income tax return, appellant claimed each child as a dependent and took the \$8 tax credit authorized for each dependent by Revenue and Taxation Code section 17054, subdivision (c). The Franchise Tax Board disallowed the credits, however, on the grounds that appellant had failed to prove that he provided more than one-half of the support of each child.

Subject to certain limitations not here in question, subdivision (c) of section 17054 allows a tax credit for each dependent as defined in section 17056 of the Revenue and Taxation Code: Section 17056 provides that the term "dependent" includes a taxpayer's child "over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer. ..." It is respondent's position that appellant runs afoul of this support test because, although he has shown the amount of support he contributed, he has not shown what the total amount of each child's support was. Consequently, he has failed to prove that he provided more than one-half of that support.

Appellant has the burden of proving that he satisfied the support test contained in section 17056. (Appeal of William C. Fay Cal. St. Bd. of Equal., March 25, 1968.) In order to meet this burden appellant must establish the total amount contributed to the support of each child, as well as the amount he contributed. (Appeal of William C. Fay, supra; Appeal of J. Albert and Augusta F. Hutchinson, Cal. St. Bd. of Equal., Aug. 5, 1968.) Appellant contends that he cannot prove the total amount of each child's support because his former wife refuses to tell him how much support she contributed to the children. In place of specific proof, appellant has offered what he considers a reasonable estimate of each child's total monthly support, and in each case \$150 is more than one-half of the estimate.

Inasmuch as appellant's estimates are totally unsubstantiated, we think they are clearly insufficient to sustain his burden of proof. Regardless of the difficulties

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involved, appellant has an obligation to provide some reasonable factual basis for a determination of total support. (See Appeal of J. Albert and Augusta E. Hutchinson, supra.) This he has not done, even to the extent of giving us some indication of the children's standard of living, their medical expenses, school expenses, etc. Under the circumstances, we cannot determine that he provided more than half of the support of any of his three children. Accordingly, respondent's disallowance of the dependent credits must be sustained.

O R D E R

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

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 Joseph Reichmann against a proposed' assessment of additional personal income tax in the amount of \$24.00 for the' year 1967, be and the same is hereby sustained.

Done at Sacramento', California, this 6th day of June, 1973, by the State Board of Equalization.

St. Vincent for Berglund, Chairman
Joseph W. Lynch, Member
Paul K. ..., Member
_____, Member
_____, Member

ATTEST: W. W. ..., Secretary