

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
PAT M. RAGUSE)

Appearances:

For Appellant: Pat M. Raguse, in pro. per.
For Respondent: Claudia Land
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 Pat M. Raguse against a proposed assessment of additional personal income tax in the amount of \$235.61 for the year 1974.

Appeal of Pat M. Raguse

The issue presented is whether appellant qualified as a head of household for the year 1974.

Appellant filed a timely personal income tax return for 1974, claiming head of household status. Appellant named as her qualifying dependent a friend, Helen Roadarme, for whom appellant provided financial support.

Respondent disallowed appellant's claimed status on the ground that Ms. Roadarme was not a qualifying dependent. However, respondent allowed appellant a dependency exemption credit for Ms. Roadarme, pursuant to Revenue and Taxation Code section 17054, subdivision (c). Appellant's protest against this action was denied and this appeal followed. At the hearing in this appeal, appellant argued that respondent's instructions accompanying Form 540 in 1974 failed to state that a dependent who is claimed for head of household purposes must be related to the taxpayer. Appellant notes that the instructions in question were corrected by respondent in 1975. Although she now understands that the law precludes her from filing as a head of household, appellant contends that she was misled by respondent's instructions and, therefore, her appeal should be upheld.

This appeal is identical to the Appeal of Amy M. Yamachi, decided by this board on June 28, 1977. In Yamachi, we refused to invoke an estoppel against respondent because the taxpayer could not show that she relied to her detriment on respondent's instructions. We further stated:

Respondent's 1974 instructions may have been incomplete in their definition of a head of household, but that does not alter the fact that the law specifically precludes a taxpayer in appellant's circumstances from claiming head of household status. (Rev. & Tax. Code, § 17044, subd. (a); [citations].)

For the reasons stated above, we conclude that the instant appeal is governed by our decision in Yamachi, and respondent's action must be sustained.

