

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
SYLVIA SPIELMAN)

Appearances:

For Appellant: Sylvia Spielman, in pro. per.
For Respondent: Paul J. Petrozzi
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 Sylvia Spielman against proposed assessments of additional personal income tax in the amounts of \$121.00 and \$158.00 for the years 1974 and 1975, respectively.

The sole issue presented is whether appellant was entitled to claim head of household status for the 1974 and 1975 taxable years.

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Appellant filed timely California personal income tax returns claiming head of household status for 1974 and 1975. Appellant identified the individual allegedly qualifying her as head of household as Elizabeth Stella who lived with her and was fully dependent upon appellant for support during the years in issue. Ms. Stella bears no relationship to appellant other than as a friend.,

Respondent disallowed appellant's, claimed head of household status on the ground that Ms. Stella, who was unrelated to appellant by blood or marriage, did not qualify appellant' for head of household status. Appellant protested that action on the basis that the tax return preparation instructions issued by a savings and loan association caused her to believe she qualified for head of household status and that her commercial tax return preparer also agreed that she qualified. Upon review, respondent affirmed its disallowance of appellant's claimed head of household, but allowed her a dependent exemption credit for Ms. Stella Pursuant to section 17054, subdivision (c), of the Revenue and Taxation Code. This appeal followed.

In prior appeals we have held that the taxpayer was not entitled to head of household status based upon his support of an unrelated friend. The decisions in these appeals were based upon section 17044 of the Revenue and Taxation Code, which precludes a taxpayer from being considered a head of **household** when the individual otherwise qualifying him for that status is unrelated by blood or marriage. (See Appeal of Stephen M. Padwa, Cal. St. Rd. of Equal., May 10, 1977; Appeal of Amy M. Yamachi, Cal. St. Bd. of Equal., June 28, 1977.)

We also sustained respondent's action in the Yamachi appeal notwithstanding the taxpayer's argument, in the nature of estoppel, that respondent's instructions were incomplete. After reviewing the matter, we determined that the taxpayer had not relied to her detriment and, consequently, **this** precluded an application of the doctrine of **estoppel**.

The fact that distinguishes this matter from the Yamachi appeal is that here appellant apparently relied **upon** the written instructions of a savings and loan association **and on the** advice of a commercial tax preparer. Obviously the State of California cannot be held responsible for tax advice furnished by savings and loan associations and **commercial** tax preparers. Appellant's tax liability must be determined on basis of the Provisions **of** the Personal Income Tax Law.

Under the circumstances , we must sustain respondent's

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denial of appellant's claimed head of household status for 1974 and 1975.

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 Sylvia Spielman against proposed assessments of additional personal income tax in the amounts of \$121.00 and \$158.00 for the years 1974, and 1975, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 16th day of August , 1979, by the State Board of Equalization.

Chairman
 Member
 Member
 Member
_____, Member