

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
DWAYNE W. AND DOROTHY L. HECKMAN)

For Appellants: Dwayne W. Heckman,
in pro. per.

For Respondent: Mark McEvilly
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Dwayne W. and Dorothy L. Heckman against a proposed assessment of additional personal income tax in the amount of \$37.56 for the year 1975.

Appeal of Dwayne W. and Dorothy L. Heckman

The sole issue for determination is whether State Disability Insurance Fund (SDI) contributions are deductible from gross income for state tax purposes.

The deductibility of SDI contributions has been previously considered by this board in the Appeal of Arnold E. and Mildred H. Galef, decided April 10, 1979. After considering the history of the tax treatment of SDI contributions in the Galef appeal, we concluded that such contributions were not deductible under California law, based on the following rationale.

In 1977 the United States Tax Court considered the issue of SDI contributions under California's unemployment insurance law, and concluded that they were deductible "income taxes" within the meaning of section 164(a)(3) of the Internal Revenue Code of 1954. (Anthony Trujillo, 68 T.C. 670 (1977);) It is the Trujillo case that appellants rely on in this appeal. However, we must conclude in this appeal, as we did in the Galef appeal, that appellant's reliance is misplaced.

Despite the otherwise substantial conformity between the federal and California statutes relating to deductibility of taxes, there is one difference in the California law which precludes the application of the Trujillo result to the instant case. California does not allow a deduction for "[t]axes on or according to or measured by income or profits" (Rev. & Tax. Code, § 17204, subd. (c)(2).) It is for this reason that SDI contributions, which were denominated an income tax in Trujillo, are not deductible for purposes of the California Personal Income Tax Law.

Appellants also argue that if SDI contributions are "income taxes," they are entitled to a refund of these contributions since they are in excess of the "income tax" liability they computed when they filed their 1975 personal income tax return. Appellants' argument is without merit. It is true that SDI contributions are measured by a percentage of a worker's wages (see Cal. Unemp. Ins. Code, §§ 2901, 984 & 985), and to that extent are taxes on income. However, they are not part of a taxpayer's personal income tax liability as computed under California's Personal Income Tax Law, (Rev. & Tax. Code, §§ 17001-19452.)

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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 Dwayne W. and Dorothy L. Heckman against a proposed assessment of additional personal income tax in the amount of \$37.56 for the year 1975, be and the same is hereby sustained.

Done at Sacramento, California, this 31st day of March , 1982, by the State Board of Equalization, with Board Members Mr. Reilly, Mr. Dronenburg and Mr. Nevins present.

_____, Chairman
George R. Reilly _____, Member
Ernest J. Dronenburg, Jr. _____, Member
Richard Nevins _____, Member
_____, Member