*85-SBE-013*12*

BEFORE THE STATE BOARD OF EQUALIZATION

OF THE STAT& OF CALIFORNIA

In the Matter of the Appeal of)
)
GUILD SAVINGS AND LOAN)
ASSOCIATION)

For Appellant: Coopers & Lybrand
Certified Public Accountants

For Respondent: Donald C. McKenzie
Counsel

O P I N I O N

This appeal is made pursuant to section 26075, subdivision (a), of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claim of Guild Savings and Loan Association for refund of franchise tax in the amount of $606 for the income year 1977.

Appeal of Guild Savings and Loan Association

The issue presented on appeal is whether appellant is entitled to an alleged business expense deduction for the income year 1977. In 1979, appellant filed an amended return claiming a deduction for costs associated with obtaining licenses for two new branch savings and loan offices. Respondent denied the claim based on Franchise Tax Board Legal Ruling 309, issued August 25, 1966, which states, ". . . the cost of procuring an initial license in excess of one year must be capitalized as an intangible asset."

It is well settled that income tax deductions are a matter of legislative grace and the bu-rden is on the taxpayer to show bv competent evidence that he is entitled to the deductions claimed. (New Colonial Ice Co. v. Helvering, 292 U.S. 435 [78 L.Ed.1348] (1934); Appeal of Oilwell Materials & Hardware Co., Inc., Cal. St. Bd. of Equal., Nov. 6, 1970; Appeal of National Envelope Corporation, Cal. St. Bd. of Equal,, Nov. 7, 1961.)

Appellant's only description of the claimed costs comes from its appeal letter dated June 20, 1980, which states, "[t]hese branch application fees are the costs associated with the establishment and approval of a branch of an existing savings and loan association and are not transferable to any other- institution," Appellant failed to provide a detailed description of the alleged 'costs or proof that the costs were actually incurred. Appellant's own unsupported assertion that such expenses were incurred in obtaining the approval of licenses for two new branch offices is insufficient to satisfy appellant's burden of proof. (See Appeal of Oilwell Materials & Hardware Co., Inc., supra; Appeal of superior Motor Sales, Inc., Cal. St. Bd. of Equal., Feb. 1, 1956.)

On the record before us, we must conclude appellant has failed to carry its burden of proving that it was entitled to all or any part of the business expense deduction claimed. Accordingly, respondent's action in this matter will be sustained.

Appeal of Guild Savings and Loan Association

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 26077 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claim of Guild Savings and Loan Association for refund of franchise tax in the amount of $606 for the income year 1977, be and the same is hereby sustained.

Done at Sacramento, California, this 5th day of February, 1985, by the State Board of Equalization, with Board Members Mr. Dronenburg, Mr. Bennett, Mr. Nevins and Mr. Harvey present.

Ernest J. Dronenburg, Jr., Chairman

William M. Bennett, Member

Richard Nevins, Member

Walter Harvey*, Member

_____, Member

*For Kenneth Cory, per Government Code section 7.9