

Appeal of Courtanya Ferguson

The question **presented** is whether appellant was entitled to file as a head of household for 1975.

On her 1975 personal income tax return, appellant claimed head of household filing status and named her mother as the qualifying individual. In response to an inquiry from respondent, appellant stated that she and her husband had separated on February 10, 1975, and had been living separate and apart since that time. Since appellant and her husband were still married at the end of the year, respondent denied head of household status to appellant and issued the deficiency assessment now in question.

Revenue and Taxation Code section 17042 provides, in pertinent part:

For purposes of this part, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of his taxable year, and ...

* * *

(b) Maintains a household which constitutes for such taxable year the principal place of abode of the father or mother of the taxpayer, if the taxpayer is entitled to a credit for the taxable year for such father or mother under Section 17054.

The requirements of section 17042 are plain and unambiguous, One who maintains a household for a parent may claim head of household status only if he is not married at the close of his taxable year. Since appellant was still married at the end of 1975, she cannot qualify as a head of household.

For the reasons above, respondent's action in this case will be sustained.

Appeal of Courtanva Ferguson

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 Courtanya Ferguson against a proposed assessment of additional personal income tax in the amount of \$184.00 for the year 1975, be and the same is hereby sustained.

Done at Sacramento, California, this 8th day of February, 1979, by the State Board of Equalization.

William B. Bennett, Chairman
Paul H. ..., Member
John ..., Member
_____, Member
_____, Member