

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
DONALD R. TENSFELDT)

For Appellant: Donald R. Tensfeldt, in pro. per.

For Respondent: Bruce W. Walker
Chief Counsel

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 Donald R. Tensfeldt against a proposed assessment of additional personal income tax in the amount of \$366.54 for the year 1975.

Appeal of Donald R. Tensfeldt

The sole issue presented by this appeal is whether appellant was entitled to file his 1975 return as a head of household.

Appellant was married early in 1975, and he and his spouse lived together as married persons from July, 1975 through the close of that year.


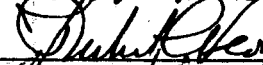

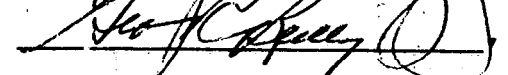

Section 17042 of the Revenue and Taxation Code provides that "an individual shall be considered a head of household if, and only if, such individual is not married at the close of his taxable year." While the law provides for certain exceptions to this rule (Rev. & Tax. Code, § 17173), the record contains no facts which indicate that the exceptions might be applicable in this case. Accordingly, on the basis of the clear language of section 17042, we must conclude that appellant did not qualify to file his 1975 return as a head of household.

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 Donald R. Tensfeldt against a proposed assessment of additional personal income tax in the amount of \$366.54 for the year 1975, be and the same is hereby sustained.

Done at Sacramento, California, this 7th day of March, 1979, by the State Board of Equalization.

 Chairman
 Member
 Member
 Member
 Member