

Appeal of Bennie A. Jefferson

The question presented is whether respondent may assert against appellant all of the tax liability arising from certain adjustments to a joint return which appellant and his former wife filed when they were still married.

Appellant and his former wife Dolores filed joint federal and state income tax returns for 1972. Subsequently, the Internal Revenue Service disallowed a number of itemized deductions claimed on the federal return, and respondent thereafter made similar adjustments to the state return. These adjustments resulted in a proposed assessment which respondent affirmed after appellant and Dolores both protested it, and appellant filed this appeal when respondent indicated that it intended to collect the entire assessment from him. He contends that one-half of the assessment should be collected from Dolores.

Where a husband and wife file a joint return, the liability for the tax on the aggregate income is joint and several. (Rev. & Tax. Code, § 18555.) As we have held on several previous occasions, this means that respondent is entitled to assert the entire tax liability against either spouse, regardless of his or her financial condition. (Appeal of Arthur A. and Dorothy L. Reynolds, Cal. St. Bd. of Equal., March 18, 1975; Appeal of Hilde H. Anders, formerly Hilde H. Lewin, Cal. St. Bd. of Equal., Feb. 26, 1969.) Consequently, although respondent could choose to collect **half (or even all)** of this deficiency from Dolores, it may not be compelled to do so. For this reason, respondent's action in this matter must be sustained.

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,

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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 Bennie A. and Dolores J. Jefferson against a proposed assessment of additional personal income tax in the amount of \$406.23 for the year 1972, be and the same is hereby sustained.

Done at Sacramento, California, this 28th day of June, 1979, by the State Board of Equalization.

William W. Brown Chairman
Dolores J. Jefferson Member
George J. ... Member
... Member
... Member