



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the **Matter** of the Appeals of)
CALVIN A. BRUCE)

Appearances:

For Appellant: Calvin A. **Bruce**, in pro. per.
For Respondent: Jean Harrison **Ogrod**
Counsel

O P I N I O N

These appeals are made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Calvin A. Bruce against proposed assessments of additional personal income tax in the amounts of \$229.86, \$372.23, and \$372.10 for the years 1973, 1974, and 1975, respectively.

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The sole issue presented is whether appellant was entitled to claim head of household status for the years in issue,,

For the appeal years appellant filed his California personal income tax returns as head of household. In those returns he indicated that Verna L. Dunham, who had resided with him and received over **one-**half of her support from him during the entire period, was the individual who qualified him for head of household filing status. Ms. Dunham's only relationship to appellant was that of a friend.

Respondent disallowed appellant's claimed head of household status on the ground that Ms. Dunham, who was unrelated to appellant by blood or marriage, was not a qualifying dependent. (See Rev. & Tax. Code, §§ 17044, **subd.** (a) and 17056, subd. (i).) Respondent did, however, allow appellant an \$8.00 dependent exemption credit for Ms. Dunham pursuant to section 17054, **subdivision (c)**, of the Revenue and Taxation Code. Appellant's protest was denied and this appeal followed.

The facts of this case are substantially similar to those presented in prior appeals to this board. (See, e.g., Appeal of Stephen M. Padwa, Cal. St. Bd. Of Equal., May 10, 1977; Appeal of Amy M. Yamachi, Cal. St. Bd. of Equal., June 28, 1977.)

In the Padwa appeal we sustained the action of respondent and held that the appellant therein was not entitled to head of household status based upon his living arrangement with a dependent female friend. The decision in that case was based upon section 17044 of the Revenue and Taxation Code, which precludes a taxpayer from being considered a head of household when the individual otherwise qualifying as a dependent of the taxpayer is unrelated by blood or marriage.

We also sustained respondent's action in the Yamachi appeal notwithstanding the taxpayer's argument **which was** in the nature of estoppel. In Yamachi the taxpayer argued, as does appellant here, that respondent's instructions were incomplete. After reviewing the nature of **estoppel**, however, we determined that the taxpayer did not rely on respondent's instructions to her detriment in

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selecting her living arrangements. The inability of the taxpayer to establish detrimental reliance precluded an application of the doctrine **of** estoppel.

We believe our decision in the instant appeal must be governed by the same principles set forth in the Padwa and Yamachi opinions and, for the reasons stated therein, we must sustain respondent's **denial** of appellant's claimed head of household status.

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 Calvin A. Bruce against proposed assessments of additional personal income tax in the amounts of \$229.86, \$372.23, and \$372.10 for the years 1973, 1974, and 1975, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 25 day of September , 1979, by the State Board of Equalization.

Stallman W. Bennett, Chairman
Carol Cronk, Member
Philip ..., Member
George ..., Member
..., Member