

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
HAROLD AND JEAN GOLDMAN) No. **84A-906-PD**

For Appellants: Roger B. Fox
Certified Public Accountant

For Respondent: Bill S. Heir
Counsel

O P I N I O N

This appeal is made pursuant to section **18593^{1/}** of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Harold and Jean Goldman against proposed **assessments of** additional personal income tax in the amounts of **\$2,676.57, \$2,298.56, and \$5,333.00** for the years 1978, 1979, and 1981, respectively.

1/ Unless otherwise specified, all section references **are** to sections of the Revenue and Taxation Code as in effect for the years in issue.

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At issue in this case is whether appellants have substantiated several deductions they claimed were incurred in connection with the business of motion picture **syndication** and distribution.

Harold Goldman has had many years of experience in the sales and distribution of feature motion pictures. In 1979, while he was a major shareholder and officer of Vidtronics, Inc., its shareholders sold all their Vidtronics shares to Technicolor, Inc. After the sale, Mr. Goldman was no longer associated with Vidtronics or Technicolor. Instead, he states that he has engaged in marketing, distributing, promoting, or producing motion pictures. He also holds himself out as a consultant in these areas. During the years in question, however, he did not purchase or invest in any motion pictures, or represent a single interest in the motion picture industry. In fact, he did not generate any income from the motion picture industry during the appeal years.

'During the years in question, however, he deducted as business expenses certain amounts allegedly incurred for travel and entertainment. These expenses included payments for airfare, hotel accommodations, and restaurant and liquor purchases. Appellant traveled with his wife and also deducted amounts spent for her travel, lodging and meals. Appellant also claimed as a product procurement expense deduction, amounts for travel to the Cannes Film Festival. Appellant also deducted automobile expenses, but maintained no automobile log or other record. As substantiation for these deductions, appellant provided respondent with canceled checks and with a few letters which vaguely mentioned a business meeting or purpose. With respect to the Cannes Film Festival, -the only substantiation provided was canceled checks to a local travel agency and a letter indicating that **appel-** lants had attended the festival. Respondent concluded that the checks and letters were inadequate to substantiate the claimed deductions but, nevertheless, allowed '40 percent of those claimed deductions.

Appellants also claimed a deduction for the rental expense on his home and also a portion of the insurance and utilities. Since, appellant was unable to substantiate the business use of any portion of the house, respondent disallowed all of these claimed expenses.

Appellant deducted as charitable contributions donations made in response to solicitations at various clubs and bars. Appellant estimated he contributed \$50

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per week. Due to lack of substantiation, respondent allowed only \$10 per week.

Section 17202 allows as a deduction all ordinary and necessary business **expenses**. Deductions from gross income are a matter of legislative grace, **and** the burden is on the taxpayer to show by competent evidence that he is entitled to any deductions claimed. (New Colonial Ice Co. v. Helvering, 292 U.S. 435 [78 L.Ed. 13481 (1934).]) **In the case of travel and entertainment expenses**, this burden of proof may be satisfied by records which establish the business nature of the expenditures; the date, place, and amount of the expenditures; the recipient of the funds expended; and the nature of the product or service received. (Appeal of Oilwell Materials and Hardware Co., Inc., Cal. St. Bd. of Equal., Nov. 6, 1970; Appeal of Bruce D. and Donna G. Varner, Cal. St. Bd. of Equal., July 26, 1978.) It is insufficient to show simply that expenditures were made, without showing their direct relation to a business purpose. (Appeal of Bruce D. and Donna G. Varner, supra; Appeal of Harold J. and Jo Ann Gibson, Cal. St. Bd. of Equal., Oct. 6, 1976.) Since appellants failed to provide the required substantiation for the claimed travel and entertainment expenses, we cannot conclude that respondent erred in allowing only 40 percent of the claimed deductions. We reach a similar conclusion with respect to the product procurement expenses since they were also travel expenses which appellants were unable to adequately substantiate.

With charitable deductions, as with other deductions, the taxpayer bears the burden of proof that he is entitled to the claimed deduction. Once again, since appellants failed to substantiate any of the claimed charitable contributions, we cannot say that respondent was incorrect in its partial disallowance of this deduction.

With respect to the rental, insurance, and utility expenses, section 17299.3(a) provides that, unless used for a business purpose, no deduction **shall be** allowed with respect to the use of a dwelling unit which is being used by the taxpayers **during** the taxable year as a residence. Since appellants used their home as a residence and failed to establish that any portion of it was used for a business purpose, respondent properly disallowed the rental and utility expenses.

In conclusion, as to each of the deductions, appellants have failed to carry their burden of proof

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that they are entitled to the deductions. Therefore, we have no alternative but to sustain respondent's action.

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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 Harold and Jean Goldman against proposed assessments of additional personal income tax in the amounts of **\$2,676.57**, **\$2,298.56**, and **\$5,333.00** for the years 1978, 1979, and 1981, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 3rd day Of December , 1985, by the State Board of **Equalization**, with Board Members Mr. Collis, Mr. Nevins, and Mr. Harvey present.

_____	, Chairman
Conway H. Collis	, Member
Richard Nevins	, Member
Walter Harvey*	, Member
_____	, Member

*For Kenneth Cory, per Government Code section 7.9