

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 420

January 18, 1982

INTERPRETATION OF SECTION 17053.5 RENTER'S CREDIT

Syllabus:

A husband and wife, both residents of California, each maintained a separate place of residence and filed a separate return. One of the spouses qualified for head-of-household status.

Question:

What amount of renters credit is each spouse entitled to receive?

Decision:

A full \$137 credit should be allowed to the head of household spouse, and one-half (\$68.50) the credit for married couples (\$137) to the other spouse.

Discussion:

Section 17053.5 provides for the allowance of a credit for renters in the amount of \$137 for married couples, heads of household and surviving spouses, and \$60 for other individuals. Subdivision (b) provides that in the case of a husband and wife, "if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons . . . ."

Under the provisions of Sections 17042 and 17173, a married person is not considered to be married if such person qualifies as a head of household. As such, if a married person is a head of household, then that person is not considered to be a "married person" for the purpose of the renters credit, and is entitled to claim a renters credit of \$137 as a head of household. If the "other spouse" does not qualify as a head of household, then such spouse is a "married person" and is entitled to claim half the renters credit for married persons, or \$68.50. It should be noted that if each spouse qualifies as a head of household under Sections 17042 and 17173, each will be entitled to claim the head of household renters credit of \$137.