

BEFORE THE STATE BOARD OF EQUALIZATION OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of
ROBERT V. FIKE

No. 86A-1821-KP
OPINION

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Robert V. Fike against proposed assessments of additional personal income tax and penalties in the amounts of \$490.01 and \$449.22 for the years 1983 and 1984, respectively.

The issue presented by this appeal is whether appellant is entitled to charitable deductions for the years at issue for donations allegedly made to the International Headquarters of the Universal Life Church, Inc., Modesto, California (ULC-Modesto).

Appellant and his wife filed joint income tax returns for 1983 and 1984 wherein they claimed deductions for contributions allegedly made to ULC-Modesto. As the Franchise Tax Board (FTB) was aware of the use of the Universal Life Church (ULC) as a tax avoidance scheme, it requested specific verification of the alleged donations. At his protest hearing, appellant presented copies of two cashier's checks through which the donations were allegedly made. Although the 1983 check was made out to the "Universal Life Church," it did not show ULC-Modesto's endorsement. Consequently, the FTB assumed that the "donation" was given to a so-called "charter chapter" of the ULC. A charter chapter is organized and operated by one or several individuals as a tax avoidance scheme, and contributions thereto regularly have been held nondeductible by the federal courts and this board on the basis that the charter chapters do not qualify for tax exempt status. (See, e.g., *Burwell v. Commissioner*, 89 T.C. No. 41, (1987); *Appeal of Jared C. Davis*, Cal. St. Bd. of Equal., May 8, 1980; *Appeal of John R. Sherriff*, Cal. St. Bd. of Equal., Dec. 13, 1983.) The 1984 cashier's check was made out to the "Universal Life Church, Inc.," and showed ULC-Modesto's endorsement.

ULC-Modesto received its tax-exempt status as a religious organization on April 13, 1976. During the following years, however, ULC-Modesto engaged in various activities which called into question whether the church had been organized and operated solely for religious purposes. Among its other activities, ULC-Modesto circulated newsletters emphasizing methods of maximizing the tax benefits of the ULC's "ministers." ULC-Modesto also operated a "receipts and disbursements" fund. This fund allowed a "minister" to send a check to ULC-Modesto, which was deposited and subsequently

distributed per the instructions of the "minister." There was no attempt by ULC-Modesto to insure that the disbursed funds went for qualified expenditures so as to allow their deduction on the "minister's" individual tax return. Rather, the "minister" would take a deduction for his monthly "donation" to ULC-Modesto, and, typically, have ULC-Modesto pay all of the "minister's" monthly expenses, such as housing and transportation expenses that would otherwise not be deductible.

Upon review of this evidence, the FTB determined that appellant did not show the 1983 "contribution" went to a qualified charitable organization, and further determined that appellant failed to prove that he relinquished dominion and control over the funds for either of the years at issue. Consequently, the FTB denied the claimed deductions and issued the present assessments, which included negligence penalties. Appellant's subsequent protest was denied, and this appeal followed.

For tax years beginning on or after January 1, 1983, California conformed, for the most part, its personal income tax laws with regard to deductions to the Internal Revenue Code. (Rev. and Tax. Code, § 17201.) As relates to the case at hand, section 170, subsection (c) of the Internal Revenue Code states that a contribution to an organization will be deductible if the group to which the contribution is given is organized and operated exclusively for religious purposes. To be considered an organization that is operated exclusively for religious purposes, the organization must meet the requirements of the Internal Revenue Code, section 501(c)(3). (See also *Appeals of Clifford A. and Dorothy M. Nelson*, Cal. St. Bd. of Equal., Nov. 14, 1984.) Due to California's conformity to federal law on this point, we find that the determinations of the federal courts construing the controlling federal statutes are highly persuasive. (See *Meanley v. McColgan*, 49 Cal.App.2d 203 [121 P.2d 451 . . (1942)].) Consequently, we adopt the findings of the federal courts on this point.

It is well settled that charter chapters of the ULC do not enjoy tax-exempt status. (See *Burwell v. Commissioner*, supra.) Furthermore, the IRS has revoked the tax-exempt status of ULC-Modesto as of 1984; a revocation the IRS considers to be retroactive. (See *Burwell v. Commissioner*, supra, 89 T.C. at fn. 14.) The IRS revocation has recently been upheld in *Universal Life Church, Inc. v. United States*, 13 S. Ct. 567 (1987), wherein the court determined that ULC-Modesto's activities were such that the ULC did not meet the requirements of Internal Revenue Code, section 501, subsection (c)(3).

As neither "church" in question qualifies as a tax-exempt organization, no taxpayer may deduct any payment to either ULC-Modesto or any charter chapter of the ULC as a charitable contribution. Therefore, appellant is not entitled to either of the deductions in question. Furthermore, appellant has failed to argue or present evidence as to why the penalties in question should not apply. Consequently, we must assume that appellant acquiesces to the imposition of the subject penalties. Accordingly, the action of the Franchise Tax Board in this matter must be sustained.

ORDER

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 Robert V. Fike against proposed assessments of additional personal income tax and penalties in the amounts of \$490.01, and \$449.22 for the years 1983, and 1984, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 1st day of April, 1988, by the State Board of Equalization, with Board Members Mr. Dronenburg, Mr. Collis, and Mr. Davies present.

Ernest J. Dronenburg, Jr., Chariman

Conway H. Hollis, Member

John Davies*, Member

- For Gray Davis, per Government Code section 7.9

