

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
RAJESH SHARMA AND
POONAM GUPTA

) OTA Case No. 19044603
)
) Date Issued: October 10, 2019
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)
)

OPINION

Representing the Parties:

For Appellant: Rajesh Sharma

For Respondent: Rachel Abston, Senior Legal Analyst

J. MARGOLIS, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, Rajesh Sharma and Poonam Gupta (appellants) appeal an action by respondent Franchise Tax Board (FTB) proposing a tax deficiency of \$3,271, plus applicable interest, for tax year 2013.

Appellants waived their right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

Whether appellants have shown error in FTB’s proposed deficiency assessment?

FACTUAL FINDINGS

1. Appellants jointly filed a California Resident Income Tax Return, Form 540, for 2013.
2. On the return, appellants claimed, as a California adjustment, a subtraction of \$74,000 for wages earned while they resided outside of California, and reported a total California tax liability, after credits, of \$154. This generated a refund \$263, which FTB paid.
3. FTB subsequently audited appellants’ 2013 return and disallowed the subtraction. It issued a notice of proposed assessment (NPA) determining a tax deficiency of \$3,271, plus interest.

4. Appellants filed a protest from the NPA with the FTB. In their protest, appellants explained that they had moved from California to North Dakota on June 5, 2013. They provided some supporting documentation substantiating their move, but it was not enough to satisfy FTB that its determination should be revised. FTB issued a Notice of Action (NOA) that affirmed the NPA in full.
5. Appellants filed a timely appeal from the NOA with the Office of Tax Appeals. With their appeal letter, appellants provided additional documentation substantiating their relocation to North Dakota.
6. FTB filed an opening brief in which it accepted appellants' position that they had changed their residence from California to North Dakota on June 5, 2013. FTB recomputed appellants' 2013 tax liability on that basis, and attached a proposed "corrected return," on a Form 540 NR (California Nonresident or Part-Year Resident Income Tax Return), which showed FTB's recomputation of appellants' tax liability. FTB's recomputation reduced the proposed deficiency from \$3,271 to \$562.
7. Appellants did not file a brief in response to FTB's opening brief. They have not claimed, or shown, any errors in FTB's reduction of their tax deficiency from \$3,271 to \$562.

DISCUSSION

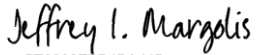
Appellants' position that they changed their residence from California to North Dakota on June 5, 2013 has been accepted by FTB. FTB has reduced appellants' tax liability for 2013 to account for the fact that appellants ceased being California residents on June 5, 2013. Appellants have not shown or alleged any errors in FTB's recomputation of their tax liability. Thus, it does not appear that there is any remaining dispute in this appeal. Accordingly, we sustain FTB's determination, as revised by FTB in its opening brief.

HOLDING

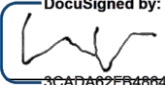
Appellants have established that they changed their residence from California to North Dakota on June 5, 2013. Appellants have not shown that any further adjustments to FTB's determination are appropriate.


DISPOSITION

The \$3,271 tax deficiency determined in the NOA is reduced to \$562, plus interest, as conceded by FTB.

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Jeffrey I. Margolis
Administrative Law Judge

We concur:

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Andrew J. Kwee
Administrative Law Judge

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Elliott Scott Ewing
Administrative Law Judge