

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: ) OTA Case No. 20025812  
Q. ZHOU AND )  
C. YAO )  
\_\_\_\_\_ )

**OPINION**

Representing the Parties:

For Appellants: Q. Zhou and C. Yao

For Respondent: David Gemmingen, Tax Counsel IV

H. LE, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, Q. Zhou and C. Yao (appellants) appeal an action by Franchise Tax Board (respondent) proposing \$2,404 of additional tax, and applicable interest, for the 2015 tax year.

Appellants waived their right to an oral hearing; therefore, we decide the matter based on the written record.

**ISSUE**

Whether appellants have established that they are entitled to an Other State Tax Credit (OSTC) for taxes paid to Indiana.

**FACTUAL FINDINGS**

1. Appellants filed a timely joint 2015 California resident income tax return, claiming an OSTC of \$2,404, which is the same amount of net income taxes paid to Indiana, as reported on their filed joint 2015 Indiana nonresident individual income tax return.
2. After reviewing appellants’ 2015 California return, respondent issued a Notice of Proposed Assessment (NPA) that disallowed appellants’ claimed OSTC of \$2,404 and proposed to assess additional tax in that same amount, plus interest.
3. Appellants protested the NPA. Respondent subsequently issued a Notice of Action, affirming the NPA. This timely appeal followed.

## DISCUSSION

Under R&TC section 17041(a), the entire income of California residents is subject to taxation by this state, regardless of the source. Here, it is undisputed that appellants were California residents for the entire 2015 tax year. Therefore, even though appellants received Indiana-source income in 2015 and paid net income taxes on that income to that state, the income is still subject to California taxation.

To alleviate the possibility of double taxation, R&TC section 18001(a)(1) allows California resident taxpayers to claim an OSTC against their California net taxes for net income taxes paid to another state on income derived from sources within that other state. However, this credit is not allowed if the other state allows California residents a credit against the taxes imposed by that state for taxes paid or payable in California. (R&TC, § 18001(a)(2).) States that allow such a credit for California residents are commonly referred to as “reverse credit states,” which included Indiana for the 2015 tax year.<sup>1</sup> (*Appeal of Morosky*, 2019-OTA-312P; Ind. Code, § 6-3-3-3(b); see also California Form 540, 2015 Instructions for Schedule S [In 2015, Indiana was not listed as a state for which California residents could claim the OSTC].) Thus, because Indiana was a reverse credit state in 2015, the OSTC is unavailable to appellants who paid taxes to Indiana. Rather, to avoid double taxation on their Indiana-sourced income, appellants had to seek recourse from that state by claiming a credit on their joint 2015 Indiana nonresident individual income tax return. Accordingly, even if appellants failed to apply for the credit from Indiana, the OSTC is still unavailable in California. (See *Appeal of Morosky*, *supra*.)

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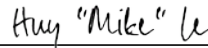
<sup>1</sup> Effective for the 2017 tax year, Indiana is no longer a reverse credit state. Thus, California residents who derive income from sources within Indiana and pay a net income tax to Indiana on income that is also taxed by California may claim the OSTC for California tax purposes. (See California Form 540, 2017 Instructions for Schedule S; Indiana Information Bulletin No. 28, November 2016.)

HOLDING


Appellants are not entitled to the OSTC for taxes paid to Indiana for the 2015 tax year.


DISPOSITION

We sustain respondent’s action in full.

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Huy "Mike" Le  
Administrative Law Judge

We concur:

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Kenneth Gast  
Administrative Law Judge

DocuSigned by:  
  
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Josh Lambert  
Administrative Law Judge

Date Issued: 11/17/2020