



Appeal of John and Catharine Burnham

Franchise Tax Board, 122 Cal, App. 2d 1, the conclusion of a District Court of Appeal of this State on the question was that a credit was allowable. The District Court indicated its belief that the Miller decision was no longer the law in view of State Tax Commission of Utah v. Aldrich, 316 U.S. 174, decided ~~there-~~ after.

The problem thus created was fully considered and discussed in our opinion upon the Scanlon appeals (supra). As we concluded in those appeals, we believe that the Miller decision is still the law. As stated in that opinion, the Attorney General of this State concurs with our conclusion. We, accordingly, hold that the source of the income in question was not in Canada and that a credit is not allowable.

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 19060 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claims of John **Burnham** for refund of personal income tax in the amounts of \$416.61, **\$436.08** and **\$516.84** for the years 1949, 1950 and 1951, respectively, and the claims of **John and Catharine Burnham** for refund of personal income tax in the amounts of **\$509.31** and 8430.95 for the years 1952 and 1953, respectively, be and the same is hereby sustained,

Done at Sacramento, California, this 1st day of November, 1955, by the State Board of Equalization.

J. H. Quinn, Chairman

Paul R. Leake, Member

Robert E. McDavid, Member

Geo. R. Reilly, Member

Robert C. Kirkwood, Member

ATTEST: DIXWELL L. PIERCE, Secretary