



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In, the Matter of the Appeal)
)
 of)
)
 ADA E, WRIGLEY)

Appearances:

For Appellant: Bert A. Lewis and F. Daniel Frost, III,
Attorneys at Law

For Respondent: Burl D. Lack, Chief Counsel

OP IN1 ON

This appeal is made pursuant to Section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protests of Ada E. Wrigley to proposed assessments of additional personal income tax in the amounts of \$39,325.68, \$36,055.79, \$34,828.53, \$35,526.63 and \$38,076.95 for the years 1951, 1952, 1953, 1954 and 1955, respectively. The appeal for the year 1955 was filed separately but has been consolidated with the appeal for the prior years for purposes of this opinion.

Appellant is the widow of William Wrigley, Jr. During and since 1945 she has spent most of her time in California. In December, 1947, she suffered a stroke while living in her home at Pasadena and has remained there in a comatose and paralyzed condition since that time. In 1950, she was declared incompetent by an Illinois court. In a previous appeal by Appellant involving the years 1945 to 1950, inclusive, we decided, on November 17, 1955, that Appellant was a resident of California in so far as the Personal Income Tax Law is concerned. The record in that appeal has been considered in connection with the present appeal. Reference is made to that opinion for a complete statement of the facts.

The issue here, as there, is whether Appellant is a resident of this State. An attempt is made on behalf of Appellant to distinguish our prior holding based upon: (1) a 1951 amendment to Section 17014 (now Section 17015) of the Revenue and Taxation Code, deleting a provision that a person domiciled outside of California is not a California resident if he was incompetent when he entered this State, for other than a temporary or transitory purpose; (2) a 1951

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amendment of Section 17015 (now Section 17016) of the Code, deleting a presumption of residence if a permanent place of abode is maintained in this State; and (3) a contention that during the years here in issue the Appellant was incompetent to form any purpose as to her presence here.

The Franchise Tax Board contends that the holding in the prior appeal is equally applicable to these years, pointing out that the law still provides that there is a presumption that a taxpayer is a resident of this State if present in the State for more than nine months of the taxable year, See Section 17015 (now Section 17016) of the Revenue and Taxation Code.

We found in our prior opinion that Appellant was a resident of California in the years 1945 through 1950, prior to and after she suffered her stroke, and including the year in which she was declared incompetent. She has remained in California continuously since her stroke without change in her condition or the circumstances of her presence here, We conclude, for the reasons stated in our prior opinion, that she remained a resident of this State during the years in question. The changes in the law to which reference is made on behalf of Appellant and her continued incompetence did not in our opinion divest her of her status as a resident during the years in question.

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 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board upon the protests of Ada E. Wrigley to proposed assessments of additional personal income tax in the amounts of \$39,325.68, \$36,055.79, \$34,828.53, \$35,526.63 and \$38,076.95 for the years 1951,

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1952, 1953, 1954 and 1955, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 17th day of July, 1957, by the State Board of Equaiization.

Robert E. McDavid, Chairman

Geo. R. Reilly, Member

Paul R. Leake, Member

J. H. Quinn, Member

_____, Member

ATTEST: Dixwell J. Pierce, Secretary