

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter, of the Appeal
of
MRS. WILLIAM L. PFAU)

Appearances:

For Appellant:: **James M. McRoberts**, Attorney at Law

For Respondent: Burl D. Lack, Chief Counsel*,
John S. Warren, Associate Tax Counsel

O P I N I O N

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 Mrs. William L. Pfau to proposed assessments of additional personal income tax in the amounts of \$320.86, \$287.63 and \$413.69 for the years 1949, 1950 and 1951, respectively.

Appellant is a resident of California. During the years involved in this appeal the major portion of her income was derived from oil and gas produced from properties located in Colorado.. She received additional income in the form of dividends, capital gains, and her 'one-half community share of' her husband's salary. She reported the oil and gas income to the 'Department of Revenue of the State of Colorado. She also reported this income, as well as all other income, to the Franchise Tax Board, since as a resident of California she was liable, under Section 17052 (now Section 17041(a)) of the 'Revenue and Taxation, Code, for taxes on her entire net income, including that. -derived from sources outside the State:-

On the return which Appellant filed with the Franchise Tax Board for each of the years under consideration, she took a credit, under Section 17976 (now Section 18001) of the Revenue and Taxation, Code, in the full amount of the California tax for income taxes paid to Colorado. The Franchise Tax Board recomputed the allowable credits for the years 1949, 1950, and 1951 to be less than the California tax and issued the proposed assessments involved herein.

As in the Appeals of E. B. Bishop and Helen Bishop,
decided this day, the propriety of the proposed assessments

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turns on the **correctness of** the Franchise Tax Board's method of computing the credit allowable under Section 17976 (now Section 18001) of the Code for income taxes **paid**, to another state. For the reasons set forth **in our** Opinion in that matter **we have** concluded 'that' the action of the Franchise Tax Board must **be** reversed;

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** on the protest of Mrs. William L. Pfau to proposed assessments of **additional personal income tax** in the amounts of **\$320.86, \$287.63 and \$413.69** for the years 1949, 1950 and 1951, respectively, **be** and the **same is hereby reversed**.

Done at Sacramento, California, this 7th day of May, 1958, by the State Board of Equalization..'

George R. Reilly, Chairman

-Paul R. Leake, Member

J. H. Quinn, Member

Robert E. McDavid, Member

 , Member

ATTEST: Dixwell L. Pierce, Secretary