



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter-of the Appeal of)
E. L. CORD AND VIRGINIA K. CORD)

Appearances:

For Appellants: Albert L. Burford, Jr., Attorney
at Law

For Respondent: Jack L. Rubin, Assistant 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 protests of E. L. Cord and Virginia K. Cord to proposed assessments of additional personal income tax in the amounts of \$1,724.48 against E. L. and Virginia K. Cord, jointly, for the year 1949; \$13,442.69 and \$2,763.90 against E. L. and Virginia K. Cord, respectively, for the year 1950; and \$3,275.13 against Virginia K. Cord, for the year 1951.

The only issue involved herein is whether the Appellants were residents of California during the years 1949, 1950 and 1951.

Prior to and during the years in question, Appellants maintained places of abode both within and without the State. In 1931 they constructed a house in Beverly Hills at a cost of approximately \$565,000. At that time, Mr. Cord was active in several businesses in the east. He relinquished active control of his eastern interests in 1937 and, with his family, moved to the Beverly Hills home and admittedly established residence in this State at that time.

In 1940 Appellants purchased the Circle L Ranch in Dyer, Nevada, and constructed a \$50,000 house on it. This house was completed and furnished in June, 1941, and has since been occupied at various times by Appellants. Since June, 1941, Appellants have voted in Nevada, registered their airplanes and most of their automobiles there and filed Federal income tax returns there. In 1947 Mr. Cord purchased another house in Reno, Nevada.

Commencing in 1943 and continuing through the period involved herein, Mr. and Mrs. Cord have divided their time between various localities, including California, Nevada, New York and Florida. Appellants filed California nonresident

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tax returns for all periods after June, 1941, but **paid taxes** as residents for the taxable years 1944 through 1948 after the Franchise Tax Board determined that they were residents. Appellants state they accepted the Franchise Tax Board determinations solely because there was not enough money involved to make a protest worthwhile. In 1949, 1950 and **1951, Mr. Cord** was in California 4 months, **6-1/2 months** and 7 months, respectively. He was in Nevada approximately 4 months during each of those years. While there is little specific information as to the activities of Mrs. Cord, it appears that she also spent more time in California than in Nevada.

Although efforts were made to dispose of the Beverly Hills house, the Cords maintained it throughout the period herein involved and staffed it with five or six servants on a year around basis. Their house in Nevada was staffed with servants for only a part of each year but the employees running the ranching operations were, of course, always there.

Mr. Cord has maintained his business office in this State since 1937 when Appellants established their residence here. This office was staffed with approximately 10 employees during the entire period involved in this appeal. Mr. Cord kept most of his business records at this office.

Mr. Cord has had extensive and profitable business interests in this State since 1937. During the years involved herein these interests included the Pan-Pacific Auditorium, land and buildings occupied by a medical clinic, several office buildings, other rental property and the Los Angeles Broadcasting Company. The latter company paid him a salary of \$7,500 a year. Although Mr. Cord had previously invested in various Nevada business enterprises, his only business interest in that State during the years in question was the ranching operation known as Circle L Ranch, consisting of the property at Dyer, Nevada, and branches at **Lovelock** and Jiggs, Nevada. During the same period he had investments in other states and Canada and received a salary from Chicago Electric Manufacturing Company which was located in Chicago, Illinois.

Mr. Cord maintained bank accounts in California, Nevada and other state and foreign banks. During the period involved herein the total of the balances in the Nevada banks was larger than the total of the balances in California banks.

Appellants' children attended schools in the east and in California during the period involved in this appeal. Mr. Cord held a resident membership in the Los Angeles Country Club. There is no indication that he or his wife belonged to any similar clubs in Nevada. It appears that, in general, Appellants enjoyed a more active social life in California than in

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Nevada.

Section 17013 (now Section 17014) of the Revenue and Taxation Code for the years 1949 and 1950 provided:

"Resident" includes:

(a) Every individual who is in this State for other than a temporary or transitory purpose.

(b) Every individual domiciled within this State who is in some other state, territory, or country for a temporary or transitory purpose.

Any individual who is a resident of this State continues to be a resident even though temporarily absent from the **State.**"

In 1951, the phrase "outside the State" was substituted for the phrase "**in** some other state, territory, or country" in subdivision (b).

Regulation 17013-17015(b), Title 18, California Administrative Code, provided:

"Whether or not the purpose for which an individual is in this State will be considered temporary or transitory in character will depend to a large extent upon the facts and circumstances of each particular case

If, however, an individual . . . is here for business purposes which will require a long or indefinite period to accomplish . . . he is in the State for other than temporary or transitory purposes, and, accordingly, is a resident"

Example (2): Until the fall of 1955, Y admitted domicif in California. At that time, however, to avoid the California income tax, Y declared himself to be domiciled in Nevada, where he had a summer home. Y moved his bank accounts to banks in that State, and each year thereafter spent about three or four months in that State. He continued to spend six or seven

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months of each year at his estate in California, which he continued to maintain, and continued his social, club and business connections in California. The months not spent in Nevada or California he spent traveling in other states or countries. Y is a resident of California and is taxable on his entire income, for his sojourns in this State are not for temporary or transitory purposes."

The Franchise Tax Board argues that Appellants' position is substantially similar to that of Y in Example (2). Appellants contend that the facts are not the same and argue, specifically, that they did not become domiciled in Nevada for the purpose of avoiding the California income tax. We agree with Appellants that the facts are not identical but feel that in this appeal, as in the example, it may fairly be concluded that their sojourns in this State were not for temporary or transitory purposes.

As is usually the case in questions of residence the facts do not all point toward residence in one state rather than in another. Mr. Cord spent approximately equal amounts of time in Nevada and California during 1949 but spent substantially more time in California than in Nevada during 1950 and 1951. His business interests were not confined to any one state but, in so far as they may be said to be centered in any state, that state would clearly be California, where they were both more extensive and more productive than in any other place. California is the place where he maintained his business records. It is also where he and his wife enjoyed their most active social life.

Considering all of these facts, it does not appear to us that Appellants were in this State solely for temporary or transitory purposes. Their closest connections were with this State and they were present here for substantial periods, more than in any other state, enjoying the benefit and protection of the laws of this State. Under these circumstances, we believe the Franchise Tax Board was justified in concluding that they were residents.

The facts emphasized by Appellants in their briefs and oral argument, such as voting in Nevada and filing their Federal returns there are **insufficient** to alter the result (see Regulation 17012-17015(f)). They do not, in our opinion, outweigh the many facts **which** have led us to **conclude** that the Appellants were residents of this State.

