



Appeal of George L. Coleman and Elizabeth F. Coleman

Appellants voted in Oklahoma and filed their **Federal** tax returns there. They paid property and income taxes in Oklahoma. The Franchise Tax Board does not dispute that they were domiciled in that State during the years in question.

Mr. Coleman is a man of considerable wealth and during the years in question he was actively engaged in the management of his extensive and varied business interests, among which were a 3,000 acre cattle ranch in Oklahoma, large oil and gas holdings in Oklahoma and Texas and substantial investments in securities. His only office was in Miami, Oklahoma, and all of his business affairs were handled through that office. Sixty percent of his security transactions were made through his Tulsa, Oklahoma, brokerage account, thirty percent through three New York brokerage houses and ten percent through an account with a San Francisco broker.

Mr. Coleman was President and a director of the First National Bank of Miami, Oklahoma. He was also a director and participated in the management of the **Wea Townsite** Corporation, Patterson Manufacturing Company, Tri-State Lumber Company, Northeastern Oklahoma Railroad Company, Miami Broadcasting Corporation, Miami Home Building Corporation and the Miami Chamber of Commerce, all of which organizations are located in or near Miami, Oklahoma. He was one of the five largest stockholders in the First National Bank of Tulsa, a director of the Reconstruction Finance Corporation in Oklahoma and a member of the Advisory Committee of the Oklahoma City Loan Agency of that corporation. He was the sole trustee of one trust and one of the two active trustees of another. Each trust owned property and had substantial business interests in and around Miami, Oklahoma.

To avoid the Oklahoma heat Appellants for some years prior to World War II spent the summer months in California. In 1947 they purchased a house under construction in Pebble Beach, California, the house being completed in June, 1947. This house and its furnishings cost approximately \$200,000. It was staffed with at least one servant at all times, One of their daughters lived there while attending schools in California. Their other two daughters attended schools in the east.

Among other securities, Mr. Coleman owned stock in corporations operating a California radio station and several movie houses. These were his only business interests here. He did not participate in the management of the corporations and details relating to these investments were handled out of the Miami office. He had no office or bank accounts in this State. Appellants had several charge-accounts in this State and were

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attended by physicians here. They also had many charge accounts in Oklahoma, New York, London, Paris and elsewhere, and they were also treated by doctors in Oklahoma, New York and elsewhere.

During the period involved, Appellants spent the summer months in California and shorter periods here during major holidays, such as Christmas. The parties do not agree in their estimate as to the exact time spent here and elsewhere, but it may be fairly stated that Appellants were here for approximately three or four months each year except for the year **1950**, when they were here for a longer period but no more than six months. The time spent in Oklahoma varied each year from a minimum of four months to a maximum of six and one-half months. They traveled considerably and the remainder of their time was divided among various other places.

Section 17013 (now Section 17014) of the Revenue and Taxation Code until the year 1951 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 **"in** some other state, territory, or **country."**

Regulation 17013-17015(b), Title 18, California Administrative Code, considered the meaning of temporary or transitory purpose and 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 ....

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The underlying theory . . . is that the State with which a person has the closest connection during the taxable year is the State of his residence. Consequently, where a person's time

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is equally divided between California and the State of **domicil**, he will not be held to be a resident of **California.**"

The Franchise Tax Board also relies on Section 17015 (now Section **17016**) of the Revenue and Taxation Code, which, until amended in 1951, provided that an individual who maintained a permanent place of abode within this State should be presumed to be a resident. Appellants contend that this presumption was lost for all years when the provision was repealed in 1951. We do not find it necessary to reach this issue, however, because Section 17015 has always provided that the presumptions set forth therein could be overcome by satisfactory evidence that the individual **was in** the State for temporary or transitory purposes. For the reasons given below, we conclude that Appellants have furnished satisfactory evidence that they were in this State solely for temporary or transitory purposes.

The Appellants were domiciled in Oklahoma for many years, Mr. **Coleman's** business interests were centered in Oklahoma and he maintained his only office there. There, the Appellants maintained a home staffed at all times with servants. Although they traveled extensively, they were in Oklahoma for substantial periods each year. It appears indisputable that the State with which they had the closest connection throughout the entire period in question was Oklahoma.

The California home of the Appellants was far from modest but they were obviously well able to afford a luxurious home for vacation purposes. The time which they spent in California was in some **years more** and in others less than in Oklahoma, but was limited to summer and holiday periods. Although one daughter attended school here, their other daughters attended schools in the east. The reasonable conclusion to be drawn from all the facts presented is that Appellants during the years in question visited California for vacations and holidays.

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**,

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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 protests of George L. Coleman and Elizabeth F. Coleman to **proposed** assessments of additional personal income tax in the amounts of, **\$3,667.87, \$619.12, \$71.28, \$507.76 and \$2,244.90** for the years 1947, 1948, 1949, 1950 and 1952, respectively, be and the same is hereby reversed.

Done at Sacramento, California, this 22nd day of July, 1958, by the State Board of Equalization.

Geo. R. Reilly, Chairman

J. H. Quinn, Member

Robert E. McDavid, Member

Paul R. Leake, Member

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ATTEST: Dixwell L. Pierce, Secretary