



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter ~~of the~~ Appeal of)
LEMAN AND PETRONELLA DRUYF)

For Appellants: Garfield, Salomon & Mainzer, and
Eric G. Cohn, Attorneys at Law

For Respondent: Burl D. Lack, Chief Counsel
Israel Rogers, Assistant Counsel

O P I N I O N

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board **on the protest of Leman and Petronella Druyf against a** proposed assessment of additional personal income **tax** in the amount of **\$3,678.92** for the year 1958.

Appellants also appealed, ostensibly from the action of the Franchise Tax Board in denying claims for refund of personal income tax in the amounts of \$32.05 and \$42.17 for the years 1955 and 1956, respectively. These claims, however, were never actually denied and were, in fact, granted after the appeal was filed. The appeal for those years will therefore be dismissed and only the proposed assessment for 1958 will be discussed.

Appellants became residents of California in 1952. During the years 1952 through 1956 appellant Leman Druyf (hereinafter called appellant) earned income from sources in Holland, which was in the form of Dutch guilders. A portion of this income could not be converted into dollars because of currency restrictions in effect at the time. Appellant elected to defer the reporting of the blocked income pursuant to the provisions of Mimeograph 6475, Cumulative Bulletin, 1950-1, page 50, issued by the United States Commissioner of Internal Revenue. The currency restrictions were removed in 1958 **and**

Appeal of Leman and Petronella Druyf

appellant included the unblocked income in his gross income for that year. He **also claimed** against his California tax for 1958 a tax credit for the Dutch **income** taxes paid on the blocked income in the years 1952 through 1956. Respondent disallowed the claim for tax credit and **proposed** an assessment of additional tax.

A credit for net income taxes paid to a foreign country was allowed by section 18001 (formerly 17976) of the Revenue and Taxation Code prior to its amendment in 1957. The issue raised by this appeal is whether the amendment prevents the allowance of the tax credit claimed by **appellant** against his California tax for the year 1958.

Section 18001 previously provided that:

... residents shall be allowed a credit against the taxes imposed by this part for net income taxes imposed by and paid to another state, or country on income taxable under this part.. ..

This was changed in 1957 by the Statutes of 1957, Chapter 215, page- 877, which deleted the words "or country." Section 17034 of the Code states that:

Unless otherwise specifically provided the provisions of any law **effecting** changes in the computation of taxes shall be applied only in the computation of taxes for taxable years beginning after December **31st**, of the year preceding enactment and the remaining provisions of any such law shall **become effective** on the date it becomes law.

The 1957 amendment, by eliminating credits previously allowed. in the reduction of taxes, clearly effected a change in the **computation of** taxes. According to **section 17034** then, the amendment is to be applied in the computation of taxes for years beginning after December 31, 1956, the year preceding the enactment. This being so, it seems incontrovertible that the amendment prevents taking a credit for foreign taxes against **California** taxes for any calendar year after 1956.

Appellant relies upon provisions **contained** in the **previously mentioned** federal **mimeograph**. (Mim. 6475, 1950-1 Cum. Bu11. 50.) He points out that this mimeograph, besides

Appeal of Leman and Petronella Druyf

permitting a taxpayer to defer including blocked currency in income, also permits the taxpayer to defer taking a foreign tax credit. The federal mimeograph, however, cannot have the effect of granting, for state tax purposes, a tax credit which has been eliminated by the amendment of a state statute.

We see no escape from the conclusion that the 1957 amendment of section 18001 precludes appellant from crediting the Dutch income taxes against his California **tax** for 1958, the year 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 on the protest of **Leman and Petronella Druyf** against a proposed **assessment** of additional **personal** income tax in the amount of **\$3,678.92** for **the** year 1958 be **and** the same is **hereby sustained**.

IT IS FURTHER ORDERED, ADJUDGED **AND** DECREED that the appeal of **Leman** and Petronella Druyf **with** respect to claims **for refund of personal income** tax **in the** amounts of \$32.05 and \$42.17 for the years 1955 and 1956 be and the same is hereby **dismissed**.

Done at San Francisco, California, this 17th day
0% March, 1964; by **the** State Board of Equalization.

Paul R. Leake, Chairman
John W. Lynch, Member
Geo. Healy, Member
_____, Member
_____, Member

ATTEST: W. H. ..., Secretary