



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
LOWELL D. AND MARY E. HEAD )

For Appellants: Lowell D. and Mary E. Mead,,  
in pro. per.

For Respondent: Burl D. Lack, Chief 'Counsel';  
A. Ben Jacobson, Associate  
Tax 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 Lowell D. and Mary E. Mead against a proposed assessment of additional personal income tax in the amount of \$2.42 for the year 1961,

The question raised by this appeal concerns the amount of credit which is allowable against California personal income tax for income tax paid by appellants to the State of Wisconsin.

Appellants, husband and wife, filed a joint California resident return for 1961, During that year Mr. Mead was in the United States Coast Guard and was stationed in Wisconsin. Mrs. Mead was employed by Paragon Electric Company, Inc., in Two Rivers, Wisconsin.

During 1961 Mrs. Mead earned \$3,612.51 which was subject to Wisconsin's net income tax, and she paid \$15.75 in tax to that state, Appellants' joint California resident return for 1961 showed a combined adjusted gross income of \$9,705.98,

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and *the* California tax on that amount was \$35.81. Appellants claimed a credit of the full \$15.75 paid to Wisconsin **against** their California personal income tax **liability for** 1961, and they remitted the balance of \$20.06 to respondent.

Respondent determined that the maximum credit allowable to appellants under section 18001, subdivision (c), of the Revenue and Taxation Code was \$13.33, computed as follows:

$$\frac{\$3,613}{\$9,706} \times \$35.81 = \$13.33$$

Respondent's allowance of this amount, rather than the \$15.75 claimed **by appellants**, resulted in a proposed additional assessment of \$2.42, and this appeal has been taken from that action by respondent. From the brief statements made by appellants, it appears that they are unaware of the credit limitation imposed by statute.

Section 18001 of the Revenue and Taxation Code provides:

Subject to the following conditions', residents shall be allowed a credit against the taxes imposed by this part for net income taxes imposed by and paid **to another** state on income taxable under this **part**:

\* \* \*

(c) The credit shall not exceed such proportion of the tax payable under this part as the income subject to tax in the other state and also taxable under this part bears to the taxpayer's **entire** income upon which the tax is imposed by this part.

Expressed as a formula, subdivision (c) would appear as follows:

$$\frac{\text{Income subject to tax in both states}}{\text{Income taxed by California.}} \times \text{California tax} = \text{Maximum credit}$$

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Upon analysis, **it** is apparent that the purpose of subdivision (c) is to limit the credit to that portion of the California tax which is attributable to the income taxed in the other state, preventing the allowance of the credit out of tax payable on other income. Under this limitation, a credit of the entire amount of tax imposed by the other state will occur only when the effective tax rate **there** is equal to or lower than the rate in California. That is not the case here.

In Appeal of John H. and Olivia A. Poole, Cal. St. Bd. of Equal., Oct. 1, 1963, we held that in order to most **equitably achieve** the purpose of section 18001 of the Revenue and Taxation Code, i.e., to avoid double taxation **of** income earned outside of California by residents of this state, the word "income" as it is used in subdivision (c) of **that section**, should be interpreted to mean "adjusted **gross income**." (Rev. & Tax. Code, § 17072.) In computing the maximum tax credit allowable to appellants, respondent accordingly determined the **ratio** of the adjusted gross income subject to tax in both states (\$3,613) **to** the adjusted gross **income subject** to tax in California (\$9,706), and multiplied this amount by the California tax (\$35.81).

Respondent has acted in accordance with the governing statute and we therefore sustain the resulting additional assessment of personal income **tax** which it has proposed,

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**

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action of the Franchise Tax Board on the protest of Lowell D. and Mary E. Mead against a proposed assessment of additional personal income tax in the amount of \$2.42 for the year 1961, **be and** the same is **hereby** sustained.

Done at Sacramento, California, this 18th day of **December**, 1964, by the State **Board of Equalization**.

Paul R. Leake, Chairman  
John W. Lynch, Member  
Franklin G. ..., M e m b e r  
... Henry, Member  
..., Member

**ATTEST:** J. Mead, Secretary