



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
KENNETH S. AND MARGARET S. LIDGATE)

Appearances: '

For Appellants: George P. Tobin
Attorney at Law

For Respondent: Israel Rogers
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 protests of Kenneth S. and Margaret S. Lidgate against proposed assessments of additional personal income tax in the amounts of \$158.79, \$214.49, \$292.34 and \$264.15 for the years 1953, 1959, 1960 and 1961, respectively,

Appellant Kenneth S. Lidgate is the son of Anthony Lidgate, who died in 1921 as a resident of Hawaii. Under the terms of Anthony Lidgate's will, the residue of his estate was left in trust to the Bishop Trust. Company, Limited, a Hawaiian corporation) as trustee, for the benefit of his wife., children and grandchildren. Pertinent portions of the trust provide for payment of the net income of the trust quarterly to those children surviving at the date of each quarterly payment. The trustee was given broad powers of management and control over the trust corpus, including the right to demise, lease, sell or convey any and all property and make investments. The trust has remained subject to the continuing jurisdiction of the probate court of Hawaii and the trustee has made annual accounts to the court for its review and approval.

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Appellant received income from the **Lidgate** trust which had been derived from intangible *personal* property. He paid income tax to Hawaii on the trust income and also reported it on his California personal income tax returns, claiming credits for the tax paid to Hawaii, pursuant to section 18001 of the Revenue and Taxation Code,

Respondent disallowed these credits on the ground that the trust income did **not** meet the requirements of section 18001 in that it was not derived from a source in Hawaii.

In the Appeal of Estate of Douglas C. Alexander, etc., decided this day by us under facts not materially different from those of the present case, we held that income arising from intangibles which were in the possession and control of a Hawaiian trustee was income derived from sources in Hawaii. For the reasons stated in that appeal, we conclude that the income received from the **Lidgate** trust had sources in Hawaii and that appellant is entitled to credit, under section 18001, for the Hawaiian tax paid on that *income*.

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 **protests** of Kenneth S. and **Margaret S. Lidgate** against proposed assessments of additional

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personal income tax in the amounts of \$155.79, \$214.49, \$292.34 and \$264.15 for the years 1958, 1959, 1960 and 1961, respectively, be and the same is hereby reversed.

Done at. Sacramento, California, this 4th day of January, 1966, by the State Board of Equalization.

[Signature], Chairman
[Signature], Member
[Signature], Member
_____, Member
_____, Member

ATTEST: [Signature], Secretary