



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
RINZI AND LILY Y. MANAKA)

For Appellants: Rinzi and Lily Y. Manaka,
in pro. per.
For Respondent: Charlotte A. Meisel
Counsel

O P I N I O N

This appeal is made pursuant to section 19057, subdivision (a), of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claims of Rinzi and Lily Y. Manaka for refund of personal income tax in the amounts of \$510, \$3, and \$1,395 for the years 1977, 1978, and 1979, respectively, and pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Rinzi and Lily Y. Manaka against proposed assessments of additional personal income tax in the amounts of \$599.95, \$1,396.80, and \$2,418.48, for those years.

Appeal of Rinzi and Lily Y. Manaka

The sole issue is whether appellants were California residents during 1977, 1978, and 1979.

During each of the years in question, appellants both spent between seven and nine months in Alaska working at the North Pacific Processors Cannery in Cordova. While there, they lived in an apartment in their employer's cannery complex. The balance of each year was spent in California, where they **lived** in their own house in Garden Grove.

Appellants filed nonresident tax returns with respondent for 1977 and 1978, but filed a resident return for 1979. Respondent then initiated an **examination** of appellants' returns for those years and requested residency information from them. Based upon the **information** received, respondent deemed appellants to have been residents of California during those years and issued notices of proposed deficiency assessments for each **year**. Appellants then filed amended returns for each year, claiming refunds of \$510 for 1977, \$3 for 1978, and **\$1,395** for 1979. Respondent denied those claims by affirming its proposed assessments. This appeal followed.

Respondent has advised us that appellants received a refund of **\$531** for 1977, **\$21** more than the \$510 overpayment appellants later claimed on their amended return for that year, so that should appellants prevail on the question at issue, they still would not **be** entitled to a refund for 1977.

Section 17041 of the Revenue and Taxation Code imposes a personal income tax on the entire taxable income of every resident of this state. Section 17014, subdivision (a), of the Revenue and Taxation Code defines "resident" to include:

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

(2) Every individual domiciled in this state who is outside the state for a temporary or transitory purpose.

Section 17014, subdivision (c), states also that:

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

Appeal of Rinzi and Lily Y. Manaka

In this appeal, appellants argue that their Alaska employment, which generally ran during the fishing season from January through October, was their sole livelihood, so that their stays in Alaska for that purpose could not be considered absences from California for a temporary or transitory purpose.

Respondent's regulations, however, explain that whether a taxpayer's purpose in entering or leaving California is temporary or transitory in character is essentially a question of fact to be determined by examining all the circumstances of each particular case. (Cal. Admin. Code, tit. 18, **reg. 17014-17016(b)**; Appeal of Anthony V. and Beverly Zupanovich, Cal. St. Bd. of Equal., Jan. 6, 1976.) The regulations further explain that the underlying theory of California's definition of "resident" is that the state with which a person has the closest connections is the state of his residence. (Cal. Admin. Code, tit. 18, reg. 17014-17016(b).)

In accordance with these regulations, we have held that the connections which a taxpayer maintains with this and other states are an important indication of whether his presence in or absence from California is temporary or transitory in character. (Appeal of Richards L. and Kathleen K. Hardman, Cal. St. Bd. of Equal., Aug. 19 1975.) Some of the **contacts** we have considered relevant are the maintenance of a family home, bank accounts, business relationships, voting registration, possession of a local driver's license, and ownership of real property. (See, e.g., Appeal of Bernard and Helen Fernandez, Cal. St. Bd. of Equal., June 2, 1971; Appeal of Arthur and Frances E. Horrigan, Cal. St. Bd. of Equal., July 6, 1971; Appeal of Walter W. and Ida J. Jaffee, etc., Cal. St. Bd. of Equal., July 6, 1971.) We have held that so long as an individual had the necessary contacts with California, employment related absences from California, even absences of extended duration, were temporary and transitory in nature. (Appeal of Duane H. Laude, Cal. St. Bd. of Equal., Oct. 6, 1976; Appeal of John Haring, Cal. St. Bd. of Equal., Aug. 19, 1975.) During the years in question, appellants were not **registered** to vote in either California or Alaska, but they maintained their drivers' licenses and car registration in California and conducted the majority of their banking activities here. Their house in Garden Grove had been purchased in 1974, and at least for one year under appeal, appellants claimed a homeowners' property tax exemption on that property. Appellant **filed** nonresident personal income tax returns with Alaska for the years in question. On those returns, they listed their Garden Grove house as their address.

Appeal of Rinzi and Lily Y. Manaka

Other than their Alaskan employment and apartment, appellants have not set forth any other **connections** with Alaska during the years in question. So their closest known connections appear to be with California, and their employment related stays in Alaska must be considered temporary and transitory within the meaning of section 17014 of the Revenue and Taxation Code. Accordingly, we must sustain respondent's action.

Appeal of Rinzi and Lily Y. Manaka

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** 19060 of the Revenue and Taxation Code, that the **action** of the Franchise Tax Board **in** denying the **claims** of Rinzi and Lily **Y.** Manaka for refund of personal income tax in the amounts of \$510, \$3, and **\$1,395** for the years 1977, 1978, and 1979, respectively, and pursuant to section 18595 of the Revenue and Taxation Code that the action of the Franchise Tax Board on the protest of Rinzi and Lily Y. Manaka against proposed assessments of additional personal income tax in the amounts of \$599.95, **\$1,395.80**, and **\$2,418.48**, for those years, be and **the same** is hereby sustained.

Done at Sacramento, California, this 26th day of October , **1983**, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. **Collis**, Mr. **Dronenburg**, Mr. Nevins and Mr. Harvey present.

William M. Bennett _____, Chairman
- Conway H. Collis - - -, Member
- Ernest J. Dronenburg, Jr. _____, Member
- Richard Nevins - _____, Member
Walter Harvey* _____, Member

*For Kenneth Cory, per Government Code section 7.9