

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In' the Matter of the Appeal of }
BILLY R. AND KATHRYN J. JONES)

For Appellants: Billy R. Jones,
in pro. per.

For Respondent: Bruce R. Langston
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 Billy R. and Kathryn J. Jones for refund of personal income tax in the amounts of \$1,203, \$1,062, \$1,576, and \$1,589 for the years 1975, 1976, 1977, and 1978, respectively.

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The issue presented by this appeal is whether appellant Billy R. Jones **was** a **California** resident during the years at issue.

During the years at issue Billy Jones ("appellant") was employed as a merchant seaman and spent most of his time aboard ship outside California. Appellant's wife and two children lived in San Francisco, and appellant stayed with them whenever his ship was in San Francisco. Appellants owned a vacation home in California and an automobile which was registered in this state. During 1975-1978, appellant had a California driver's license and maintained California checking and savings accounts.

Appellants filed joint California personal income tax returns for the years at issue, reporting all of **appellant's** wages as income. In 1980, appellants filed a timely amended return for each of those years, reducing the amount of income originally reported. **Appellant** concedes that one-half of his wages was taxable in California since that amount was his wife's community property and she was a California resident during the appeal years. However, he contends that he was not a California resident during those years and that the portion of his half of his wages which was earned while he was outside California was not taxable by this state. Respondent determined that appellant was a California resident and rejected the claims for refund. This timely appeal followed.

Section 17041 of the Revenue and Taxation Code imposes a personal income tax on the entire taxable income of every resident of California. The term "resident" is defined in section 17014, subdivision (a), of the Revenue and Taxation Code as including:

. (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 that:

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

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Respondent determined that appellant was domiciled in this state and that his absences from California were for a temporary or transitory purpose. Apparently, appellant does not dispute the finding of California domicile, but he claims that his absences from this state were not for a temporary or transitory purpose.

In the Appeal of David J. and Amanda Broadhurst, decided on April 5, 1976, we summarized the regulations and case law interpreting the phrase "temporary or transitory purpose" as follows:

Respondent's regulations indicate that whether a taxpayer's purposes in entering or leaving **California** are temporary or transitory in character is essentially a question of fact, to be determined by examining all the circumstances of each particular case. [Citations.] The regulations also provide that the underlying theory of California's definition of "resident" is that the state where a person has his closest **connections** is the state of his residence. [Citation.] The purpose of this definition is to define the class of individuals who should contribute to the support of the state because they receive substantial benefits and protection from its laws and government. [Citation.] Consistently with these regulations, we have held that the connections which a taxpayer maintains in this and other states are an important indication of whether his presence in or absence from California is temporary or transitory in character. [Citation.] Some of the contacts we have considered relevant are the maintenance of a family home, bank accounts, or business interests; voting registration and the possession of a local driver's license; and ownership of real property. [Citations.] Such connections are important both as a measure of the benefits and protection which the taxpayer has received from the laws and government of California, and also as an objective indication of whether the taxpayer entered or left this state for temporary or transitory purposes. [Citation.]

During the appeal years, appellant maintained several important connections with California. His wife and children lived in California and appellant stayed with them whenever possible. In addition, appellant

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owned property, registered and kept his automobile, and had his savings and checking accounts in California. He also maintained a California driver's license. Appellant had no contacts with any state other than California from 1975 until at least November 1978. Although **appellant** established substantial contacts with the state of Washington sometime after November 1978, we are unable to determine what, if any, contacts were established prior to the end of **1978**.

Since appellant maintained substantial connections with California we find that his absences from California were for temporary or transitory purposes. He was, therefore, a resident of California during the years at issue. This decision is in accord with previous decisions of this 'board in which seamen who had substantial contacts with California were found to be California residents., (Appeal of James H. and Leila P. Pike, Cal. St. Bd. of Equal., Feb. 1, 1983; Appeal of Mike Bosnich, Cal. St. Bd. of Equal., July 29, 1981.)

Appellant cites the Appeal of Richard W. Vohs, decided September 17, 1973, as support for his position. However, the facts in that appeal differed substantially from those in the appeal before us now. Unlike appellant, the taxpayer in Vohs had no substantial contacts with California. **His relationship** with California was characterized by its relative impermanence. Mr. Vohs, who was unmarried and maintained no dependents in California, owned no real property, and maintained no permanent abode in this state. Because of these differences, appellant's reliance upon the Appeal of Richard W. Vohs, supra, is misplaced.

For the reasons stated above, respondent's action must be sustained.

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ORDER

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 Billy R. and Kathryn J. Jones for refund of personal income tax in the amounts of \$1,203, \$1,062, \$1,576, and \$1,589 for the years 1975, 1976, 1977, and 1978, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 13th day of December, 1983, by the State Board of Equalization, with Board Members Mr. Bennett, Mr. Collis, Mr. Dronenburg and Mr. Nevins present.

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