

BEFORE THE STATE BOARD OF EQUALIZATION
 OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
 DAVID L. AND DIANE J. GOODMAN)

For Appellants: David L. Goodman, in pro. per.

For Respondent: Bruce W. Walker
 Chief Counsel

John A. Stilwell, Jr.
 Counsel

OPINION

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 David L. and Diane J. Goodman against a proposed assessment of additional personal income tax in the amount of \$428.84 for the year 1975.

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The **issue** for determination is whether respondent properly **disallowed** a credit claimed by appellants for income taxes paid to Alaska.

In 1975 appellants were residents of California. Mr. Goodman, hereinafter referred to as appellant, is an oil drilling foreman. On his 1975 California personal income tax return, appellant claimed a \$429 credit for income taxes paid to Alaska. Thereafter, respondent requested that appellant send a copy of the return filed with Alaska, substantiation of payment of the tax to Alaska, and a copy of the W-2 form **issued by** his employer. When appellant failed to provide the requested verification, respondent issued the proposed assessment in **issue**. Appellant's protest was denied and this appeal followed.

Section 18001 of the Revenue and Taxation Code provides that, subject to certain conditions, California residents shall be allowed a credit against their California tax liability for taxes imposed by and paid to another state on net income which is also taxed by California. In order to claim the credit, the regulations require the following substantiation:

[N]o credit will be allowed on account of income taxes imposed by another state or country until such taxes are actually paid. Receipts showing the payment of such taxes, and a certified **copy** of the return or returns upon the basis of which such taxes are assessed must be filed with the Franchise Tax Board at or **prior** to the time credit is claimed. (Cal. Admin. Code; tit. 18, reg. 18001, subd. **(a)(2).**)

Appellant stated that he did not file an Alaska income tax return but claimed that he submitted to respondent a copy of his W-2 reflecting Alaska source income of \$12,806 and \$617 as the amount of income tax withheld by Alaska. It is appellant's position that the W-2 form is sufficient evidence of the amount of income tax paid to Alaska. Respondent denied receiving the W-2 form but maintains that even if the W-2 had been received it would have been insufficient evidence to establish appellant's final tax **liability** to Alaska and his total Alaska source income. Since both amounts are necessary to compute the proper amount of the credit, respondent contends **that its** action in denying the **credit was** proper, .

Subdivision (c) of section 18001 limits the maximum credit allowable to a ratio of the income subject to tax in both **states to** the income subject to tax in California times the California tax liability before the credit. Of course,

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if the actual amount of tax paid to the foreign state is less than the maximum credit allowable, the credit is limited to the tax actually paid. In order to determine the maximum credit which may be claimed, appellant must establish the total amount of his Alaska source income as well as his final Alaska tax liability. As stated above, the regulations require that this information be evidenced by a copy of the return filed with the foreign state and a receipt showing that the tax was paid. Since appellant has not supplied this information, or any other information, we have no choice other than to sustain respondent's action in this matter.

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 David L. and Diane J. Goodman against a proposed assessment of additional personal income tax in the amount of \$428.84 for the year 1975, be and the same is hereby sustained.

Done at Sacramento, California, this 28th day of June, 1979, by the State Board of Equalization..

William W. Bennett, Chairman
Wendell Brown, Member
Michael Lee, Member
Robert Reilly, Member
, Member