

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of:  
**A. SPANN**

) OTA Case No. 22029632  
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**OPINION**

Representing the Parties:

For Appellant: A. Spann  
For Respondent: Tristen Thalhuber, Tax Counsel  
Bradley J. Coutinho, Tax Counsel III

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, A. Spann (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$1,141 and applicable interest for the 2017 taxable year.

Office of Tax Appeals (OTA) Administrative Law Judges Teresa A. Stanley, Huy “Mike” Le, and Keith T. Long held an oral hearing for this matter in Sacramento, California, on April 18, 2023. At the conclusion of the hearing, OTA closed the record, and this matter was submitted for an opinion.

**ISSUE**

Has appellant established error in FTB’s proposed assessment of additional tax?

**FACTUAL FINDINGS**

1. Appellant filed a timely 2017 California Resident Income Tax Return reporting wage income of \$56,565 and total tax of \$2,128.
2. Appellant received \$12,500 in settlement income on or about February 9, 2017, before moving to California.

3. Appellant's federal adjusted gross income (AGI) for 2017 totaled \$100,689. Appellant's AGI includes wage income totaling \$88,189<sup>1</sup> and \$12,500 of settlement income.
4. Wage income of \$56,565<sup>2</sup> was earned while appellant was a California resident. The remaining wages were earned while appellant was a non-resident of California.
5. FTB issued a Notice of Proposed Assessment (NPA) to appellant on October 15, 2020. FTB treated appellant as a resident and included \$12,500 of settlement income in appellant's California taxable income,<sup>3</sup> and computed total tax of \$3,269, which resulted in proposed additional tax of \$1,141 after subtracting appellant's original reported tax of \$2,128.
6. On appeal, appellant provided information showing that he was a part-year resident during taxable year 2017. FTB then recomputed appellant's California tax using the California method.
7. Based on appellant's part-year resident status, FTB calculated a California tax rate of 6.56 percent. FTB calculated the allowable ratio of appellant's standard deduction and exemption credits to be 56.18 percent.
8. After calculating appellant's tax rate and ratio of deductions and credits, FTB applied the resulting tax rate to appellant's California taxable income only, resulting in additional tax of \$1,363.
9. FTB did not increase the amount in the NPA. FTB issued a Notice of Action affirming its NPA with the smaller amount of additional tax of \$1,141, and this timely appeal followed.

### DISCUSSION

While California residents are taxed on their entire taxable income regardless of source, part-year residents are taxed on all income earned while residing in California and income from California sources while a nonresident. (R&TC, §§ 17041(a), (b), (i), 17951.) For a nonresident or part-year resident taxpayer, the California tax rate is calculated using the taxpayer's entire

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<sup>1</sup> Appellant's wage income includes \$86,058.00 from the U. S. Department of Transportation and \$2,131.32 from Magnum Management Corp.) and the settlement income of \$12,500.00.

<sup>2</sup> The income earned while appellant resided in California includes \$54,434 from the U. S. Department of Transportation and \$2,131 from Magnum Management Corp.

<sup>3</sup> FTB did not include appellant's out-of-state wages.

taxable income as if the nonresident or part-year resident were a resident of California for the entire year. (R&TC, § 17041(b)(2).)

Calculating the tax for a nonresident or part-year resident taxpayer requires a multi-step process known as the California method. (*Appeal of Williams*, 2023-OTA-041P.) The California method applies formulas to: (1) prorate deductions to determine the amount deductible from the taxpayer's California income; (2) calculate the tax rate applicable to the taxpayer's California taxable income; and (3) prorate credits to determine the amount to offset against the taxpayer's California tax. (*Ibid.*) To calculate the percentage of itemized deductions or the prorated standard deduction allowable, the taxpayer must divide California AGI by total AGI from all sources, then apply the resulting ratio to the itemized deductions or standard deduction to find the prorated allowable amount. (R&TC, § 17304; *Appeal of Williams, supra.*) To calculate the tax rate for California, the taxpayer must divide the tax on the total taxable income (calculated as if the taxpayer were a California resident for the entire year) by the taxpayer's total taxable income; the resulting rate is then applied to the taxpayer's California taxable income. (R&TC, § 17041(b)(2); *Appeal of Williams, supra.*) To calculate the percentage of credits allowed on the taxpayer's California return, the taxpayer must divide the California taxable income by the total taxable income; the resulting ratio is then applied to the total exemption credit amount. (R&TC, § 17055; *Appeal of Williams, supra.*)

Appellant contends that the assessment is unfair, and he does not understand the logic behind it. Appellant asserts that when he appealed, the only thing at issue was whether he resided outside of California when he received the \$12,500 settlement income.<sup>4</sup>

OTA finds that the proper method for calculating appellant's income as a part-year resident is using the California method described above.

#### Step One – Prorated Deductions

To calculate appellant's percentage of the 2017 California standard deduction to apply to his California source income, FTB divided appellant's California AGI (\$56,565) by total AGI from all sources (\$100,689), calculating a prorated standard deduction of 56.18 percent. This results in a prorated deduction of \$2,380 (2017 standard deduction for taxpayers with a filing

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<sup>4</sup> The issue of appellant's 2017 residency was resolved between FTB and appellant resulting in FTB conceding that appellant was not a resident of California when he received the \$12,500 in settlement income.

status of single of  $\$4,236 \times 0.5618$ ). FTB then subtracted the  $\$2,380$  from appellant's California AGI of  $\$56,565$  to compute his California taxable income of  $\$54,185$ .

#### Step Two – California Tax Rate and Resulting California Tax

To establish the tax rate to apply to appellant's California taxable income, FTB first determined that the tax on appellant's total taxable income would be  $\$6,331$  if appellant had been a full-time resident of California in 2017. FTB then divided that tax by appellant's total taxable income ( $\$96,453^5$ ) to compute the California tax rate of 6.56 percent. Next, the tax rate of 6.56 percent was applied only to appellant's California taxable income to compute California tax before exemption credits of  $\$3,555$  (appellant's California taxable income of  $\$54,185 \times 0.0656$ ).

#### Step Three – Prorated Exemption Credits

After determining appellant's California tax before exemption credits, FTB calculated the percentage of exemption credits that appellant could apply by dividing appellant's California taxable income ( $\$54,185$ ) by appellant's total taxable income ( $\$96,453$ ), calculating a prorated exemption credit of 56.18 percent. This results in a prorated exemption credit of  $\$64$  (the exemption credit for taxpayers with a filing status of single of  $\$114 \times 0.5618$ ). The California tax before exemption credits of  $\$3,555$  less prorated exemption credits of  $\$64$ , results in total California tax of  $\$3,491$ . This total California tax minus the tax appellant originally reported on his return ( $\$2,128$ ) results in the additional tax of  $\$1,363$ . In short, FTB properly followed the steps using the California method to calculate appellant's revised California tax of  $\$1,363$  for 2017. (See R&TC, §§ 17041(b), 17304, 17055.) As this exceeds the proposed additional tax of  $\$1,141$  per NPA and Notice of Action, appellant has not shown error in FTB's proposed assessment.

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<sup>5</sup> Appellant's AGI from all sources of  $\$100,689$  minus the standard deduction of  $\$4,236$ .

HOLDING


Based on the foregoing, appellant has not shown error in FTB’s proposed assessment of additional tax.

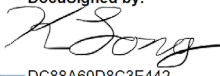
DISPOSITION

FTB’s action is sustained.

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Teresa A. Stanley  
Administrative Law Judge

We concur:

DocuSigned by:  
  
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Huy “Mike” Le  
Administrative Law Judge

DocuSigned by:  
  
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Keith T. Long  
Administrative Law Judge

Date Issued: 7/24/2023