

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 231014614
N. MENON AND)	
P. TYAGI)	
)	
)	

OPINION

Representing the Parties:

For Appellants:	Melissa Cook, Representative
For Respondent:	Josh Ricafort, Attorney
For Office of Tax Appeals:	Rachel H. Glass, Graduate Student Assistant

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19045, N. Menon and P. Tyagi (appellants) appeal an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$2,295, and applicable interest, for the 2018 tax year.

Appellants waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellants have shown error in FTB's proposed assessment of additional tax.

FACTUAL FINDINGS

1. It is undisputed that appellant N. Menon was a nonresident of California and appellant P. Tyagi was a part-year California resident for the 2018 tax year.
2. Appellants timely filed a 2018 California Nonresident or Part-Year Resident Income Tax Return (Form 540NR) using a filing status of married filing jointly. On Schedule CA (540NR), appellants subtracted \$116,312 of appellant N. Menon's wages from their total taxable income from all sources, which resulted in a total tax of \$1,004.
3. FTB issued a Notice of Proposed Assessment (NPA) reflecting the addition of the

\$116,312 to appellants' total taxable income, which increased appellants' computed California tax rate applicable to California taxable income and resulted in a proposed additional tax of \$2,295, plus interest.

4. Appellants protested the NPA, stating the income earned by appellant N. Menon was not taxable in California since he was a nonresident. Appellants included a copy of the originally filed return and stated it was correct.
5. FTB issued a Notice of Action affirming the NPA and this timely appeal followed.

DISCUSSION

FTB's determinations of fact are presumed correct, and taxpayers have the burden of proving such determinations are erroneous. (*Appeal of Head and Feliciano*, 2020-OTA-127P.) California residents are taxed on their entire taxable income (regardless of source), while nonresidents pay taxes on taxable income derived from California sources only. (R&TC, §§ 17041(a), (b), & (i), 17951.) The tax rate imposed on a nonresident under R&TC section 17041(b) is part of a multistep process known as the "California Method." Under the California Method, the rate of tax applied to the income of a nonresident of California that is subject to California tax is determined by taking into account the taxpayer's worldwide income for the entire tax year. (See *Appeal of Williams*, 2023-OTA-041P.) The California Method does not tax non-California source income earned while a taxpayer is a nonresident of California, but merely considers a taxpayer's "entire taxable income" for the year, including from non-California sources, in determining the applicable tax rate. (R&TC, § 17041(b)(2).) Use of the California Method preserves the progressive nature of California's tax system, such that taxpayers with similar incomes from all sources are taxed equally. (*Appeal of Williams*, *supra*.)

Appellants' position on appeal is that only appellant P. Tyagi's wages are taxable in California since she lived and earned those wages in California for part of the 2018 tax year. Appellants argue that appellant N. Menon never lived in California, so community property rules do not apply and his wages are not taxable by California.

FTB agrees that appellants' out-of-state income is not California source income and is therefore not taxable by California. On appeal, FTB provides appellants with a detailed explanation of the computation of the California Method as it applies to their 2018 income. Importantly, FTB's computation clearly shows appellant N. Menon's income was only included for purposes of computing the appropriate California tax rate that was applied to California taxable income. Appellants' California taxable income does not include appellant N. Menon's

income. As such, contrary to appellants' argument, appellant N. Menon's income is not being taxed by California.¹

The calculation FTB used to compute appellants' proposed assessment of additional tax is consistent with the California Method and the proposed assessment does not include appellant N. Menon's income of \$116,312 in California taxable income. Appellants have not shown error in FTB's proposed assessment of additional tax.

HOLDING

Appellants have not shown error in FTB's proposed assessment of additional tax.

DISPOSITION

FTB's action is sustained.

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Erica Parker

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Erica Parker
Hearing Officer

We concur:

DocuSigned by:

Sara A. Hosey

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Sara A. Hosey
Administrative Law Judge

DocuSigned by:

Amanda Vassigh

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Amanda Vassigh
Administrative Law Judge

Date Issued: 12/5/2024

¹ Since appellant N. Menon's income is not included in California taxable income, appellants' argument regarding community property law need not be addressed by OTA.