

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
D. JONES) OTA Case No. 240516085
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OPINION

Representing the Parties:

For Appellant: D. Jones
For Respondent: Noel Garcia-Rosenblum, Attorney

J. LAMBERT, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, D. Jones¹ (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing an assessment of additional tax of \$2,761, plus interest, for the 2019 tax year.

Appellant 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 appellant established error in FTB’s denial of the other state tax credit (OSTC).

FACTUAL FINDINGS

1. Appellant timely filed a 2019 California Resident Income Tax Return. On Schedule CA, appellant subtracted North Carolina wages of \$65,676. The return claimed an overpayment of \$2,763, which FTB refunded.
2. On September 28, 2023, FTB issued a Notice of Proposed Assessment (NPA) disallowing the Schedule CA wage subtraction. The NPA proposed an assessment of additional tax of \$6,053, plus interest.
3. Appellant timely protested the NPA and filed an amended California Nonresident or

¹Although appellant and his spouse filed a joint return for the 2019 tax year, appellant’s spouse did not sign the appeal letter. Accordingly, this appeal is in appellant’s name only.

Part-Year Income Tax Return on November 8, 2023, which excluded the North Carolina wages from California taxable income and claimed an OSTC of \$3,326, resulting in an overpayment of \$3,328. Because \$2,763 was previously refunded, appellant claimed an additional refund of \$565.

4. FTB accepted the amended return as filed, except that it disallowed the claimed OSTC.
5. On March 26, 2024, FTB issued a Notice of Action disallowing the OSTC and reducing the tax reported on the amended return by previously paid tax, resulting in a proposed additional tax assessment of \$2,761, plus interest.
6. This timely appeal followed.

DISCUSSION

FTB's determinations are presumed correct, and the taxpayer bears the burden of proving that the determinations are erroneous. (*Appeal of Morosky*, 2019-OTA-312P.) Tax credits are a matter of legislative grace, and the taxpayer bears the burden of proving they are entitled to claimed tax credits. (*Appeals of Swat-Fame, Inc., et al.*, 2020-OTA-046P.) Unsupported assertions cannot satisfy the taxpayer's burden of proof. (*Ibid.*)

The OSTC is a tax credit allowed against the net tax of California-resident or nonresident taxpayers for taxes paid to another state on income derived from sources within that other state, pursuant to R&TC sections 18001 and 18002. To qualify for the OSTC, a California resident or nonresident must demonstrate that the same income was taxed by both California and another state, and that the tax was actually paid to the other state. (R&TC, §§ 18001, 18002.)

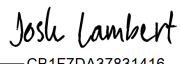
FTB accepted appellant's amended return which reported he was a part-year resident. As a result, appellant's North Carolina wages were not subject to California tax but merely taken into account in computing the applicable tax rate. (*Appeal of Williams*, 2023-OTA-041P [discussing California method of taxation of nonresidents and part-year residents].) Appellant's North Carolina wages were not taxed by California. As a result, the OSTC does not apply, and appellant has not met his burden to show error in FTB's determination.

HOLDING


Appellant has not established error in FTB’s denial of the OSTC.

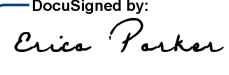
DISPOSITION

FTB’s action is sustained.

Signed by:

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Josh Lambert
Administrative Law Judge

We concur:

DocuSigned by:

8CC6C6ACCC6A44D...
Teresa A. Stanley
Administrative Law Judge

DocuSigned by:

6654E0AAC34B4F6...
Erica Parker
Hearing Officer

Date Issued: 12/9/2025