OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **S. SHARMA AND** **A. UPADHYAY**	OTA Case No. 241017884

OPINION

Representing the Parties:

For Appellants: S. Sharma

For Respondent: Eric R. Brown, Attorney

For Office of Tax Appeals: Tom Hudson, Attorney

S. KIM, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, S. Sharma and A. Upadhyay (appellants) appeal an action by respondent Franchise Tax Board (FTB) proposing additional tax of $4,326 and applicable interest for the 2019 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 the proposed assessment.

FACTUAL FINDINGS

1. Appellants timely filed a California Resident Income Tax Return for the 2019 tax year with the filing status of married filing jointly. Appellants reported federal adjusted gross income (AGI) of $177,992, subtracted California adjustments of $69,717, and claimed a standard deduction of $9,074, resulting in reported taxable income of $99,201 and total tax of $3,532. After claiming withholdings of $7,532, appellants claimed an overpayment of $4,000, which FTB refunded to appellants.

2. Subsequently, FTB issued appellants a Notice of Proposed Assessment (NPA) increasing appellants' California taxable income by $69,717 and proposing additional tax of $6,270 plus applicable interest.
3. Appellants protested the NPA asserting that appellant Sharma earned wages of $69,717 in Texas while residing in Texas.
4. FTB conceded that appellant Sharma was a non-resident of California during 2019, but found that her spouse, appellant Upadhyay, was a resident of California. FTB determined that, due to community property laws, 50 percent of the wages earned in Texas were considered taxable income in California. FTB revised its proposed assessment,[1] computing a California AGI of $142,629 and proposing additional tax of $4,326.
5. FTB issued a Notice of Action affirming the revised proposed assessment.
6. Appellants timely filed this appeal.

DISCUSSION

Generally, FTB's determinations are presumed correct, and taxpayers bear the burden of proving the determinations are erroneous. (*Appeal of Head and Feliciano*, 2020-OTA-127P.) In the absence of credible, competent, and relevant evidence showing that FTB's determinations are incorrect, they must be upheld. (*Appeal of Chen and Chi*, 2020-OTA-021P.)

California residents are taxed on their entire taxable income, regardless of source. (R&TC, § 17041(a)(1).) Nonresidents are only taxed on income from California sources. (R&TC, §§ 17041(b), (i), 17951.) California and Texas are both community property states. (Cal. Fam. Code, § 760; Tex. Fam. Code, §§ 3.002; 3.003.) For a California resident married to an individual who is a domiciliary of another community property state, the California resident is attributed one-half of the nonresident spouse's wages as a community property interest. (*Appeal of Acosta and Castro*, 2022-OTA-235P.)

Here, it is undisputed that appellant Sharma was a Texas domiciliary and appellant Upadhyay was a California resident during 2019. It is also undisputed that appellants were married during 2019. Because appellant Upadhyay was a California resident throughout 2019, all of his income, including his one-half community property interest in appellant Sharma's Texas source wages, is subject to California income tax source. (See *Appeal of Acosta and Castro*, *supra*.) Appellant Sharma's one-half community property interest in her Texas source

[1] Appellants filed a joint federal income tax return (FITR) for the 2019 tax year. Because appellants filed a joint 2019 FITR and appellant Sharma was a nonresident of California during 2019, appellants were required to file a joint nonresident California return. (R&TC, § 18521(a)(3).)

wages are not subject to California income tax because she was a nonresident of California during 2019. (*Ibid*.)

HOLDING

Appellants have not shown error in the proposed assessment.

DISPOSITION

FTB's action is sustained.

DocuSigned by:
Steven Kim
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Steven Kim
Administrative Law Judge

We concur:

DocuSigned by:
Sheriene Anne Ridenour
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Sheriene Anne Ridenour
Administrative Law Judge

DocuSigned by:
John O Johnson
873D9797B9E64E1...
John O. Johnson
Administrative Law Judge

Date Issued: 4/29/2026