

Respondent assessed personal income to Appellant and his wife for the year 1948 on the ground that both were residents of California during 1948, as defined in Section 17013 of the Revenue and Taxation Code. Appellant denies this and claims domicile in Washington. His wife did not protest the proposed assessment,

Section 17013 of the Revenue and Taxation Code, as it read during the year in question, defined "resident" as including:

"(a) Every individual who is in this State for other than a temporary or transitory purpose,

"(b) Every individual domiciled within this State who is in some other State, Territory, or country for a temporary or transitory purpose.

"Any individual who is a resident of this State continues to be a resident even though temporarily absent from the State."

Respondent argues that Appellant was domiciled in California in 1948, and so was a "resident."

The usual rules of domicile, requiring physical presence and an intent to remain permanently or indefinitely at a particular location are obviously difficult to apply to seamen, and cases applying to them are comparatively few. However, a seaman is usually considered to have his domicile where his family resides. (Matter of Scott, 1 Daly (N.Y.) 534; Matter of Bye, 2 Daly (N.Y.) 525.) The Restatement of Conflicts, Section 17, states that a person living on a vessel acquires domicile in the place where the vessel regularly remains for a considerable portion of the year, and for a longer time than it remains in any other place. These rules are at least persuasive that Appellant was a resident of this State in 1948, Furthermore, Regulation, 17013-17015(b), Title 18, California Administrative Code, applying to the year in question, states that the underlying theory of Section 17013 is that the State with which a person has the closest connection during the taxable year is the State of his residence. That Appellant had a closer connection with this State than any other seems clear. His wife and children were located here, he spent more time in port here than in any other State, most of his catches were sold here, and here he had a substantial home to which he at least had the opportunity to return when off duty. His only connection with Washington was the fact that the boats in which he had shares were registered there. Considering all the facts we conclude that Appellant was a resident of California for the year in question.

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 Olav Valderhaug to a proposed assessment of additional personal income tax in the amount of \$177.29 for the year 1948 be and the same is hereby sustained.

Done at Sacramento, California, this 18th day of February, 1954, by the State Board of Equalization.

Geo. R. Reilly, Chairman

Wm. G. Bonelli, Member

J. H. Quinn, Member

_____, Member

_____, Member

ATTEST: Dixwell L. Pierce, Secretary