81-SBE-077

BEFORE THE STATE BOARD OF EQUALIZATION

OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
MUNSON E. AND DOROTHY MOSER)

ORDER DENYING PETITION FOR REHEARING
AND MODIFYING OPINION

Upon consideration of the petition filed January 7, 1981, by the Franchise Tax Board for rehearing of the appeal of Munson E. and Dorothy Moser, we are of the opinion that none of the grounds set forth in the petition consitute cause for the granting thereof and, accordingly, it is hereby ordered that the petition be and the same is hereby denied.

Good cause appearing therefor, it is also hereby ordered that our opinion of December 9, 1980, be and the same is hereby modified as follows:

The last three paragraphs on the fourth page of the opinion and the first two paragraphs on the fifth page of the opinion are deleted and replaced with:

> We considered and rejected this argument in the Appeal of John J. and Virginia Baustian, decided March 7, 1979. In that appeal, we held that retirement income paid to a nonresident constituted income derived from sources within this state where such income was directly attributable to personal services performed by the taxpayer in this state. We went on to hold that section 17596 does not require treatment of income attributable to sources within this state as income derived from sources without this state.

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The taxability of California source income is unaffected by section 17596, since under section 17041, such income is taxable by California regardless of the residency status of the recipient.

Done at Sacramento, California, this 23rd day of June , 1981, by the State Board of Equalization, with Board Members Mr. Dronenburg, Mr. Reilly, Mr. Bennett and Mr. Nevins present.

Ernest J. Dronenburg, Jr. , Chairman

George R. Reilly , Member

William M. Bennett , Member

Richard Nevins , Member

, Member

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