



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
CLIFFORD AND VIOLET P. SPITZER)

Appearances':

For Appellants: John C. Ricksen
Attorney at Law

For Respondent: Israel Rogers
Associate Tax Counsel

O P I N I O N

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protests of Clifford, and Violet P. Spitzer, against proposed assessments of additional personal income tax in the amounts of \$100.14, \$310.27, \$40.76 and \$226.91 for the years 1958, 1959, 1960 and 1961, respectively,

While residing in Honolulu, Hawaii, Clifford Spitzer created an active, irrevocable trust, naming his wife, Violet, as life income beneficiary and the Cooke Trust Company, Ltd., of Hawaii, as trustee. Under the trust, the trustee was granted full control, possession and powers of management over the trust corpus which consisted of certain depreciable property and the stock of a Hawaiian corporation.

Appellants subsequently became California residents. The trust distributed income to Mrs. Spitzer on which she reported and paid an income tax to Hawaii. She also reported the trust income on her California personal income tax returns, claiming credits for the tax paid to Hawaii, pursuant to section 18001 of the Revenue and Taxation Code;

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Respondent disallowed these credits, to the extent that they were attributable to taxes on income derived from intangible personal property, on the ground that such income did not meet the requirements of section 18001 in that it was not derived from a source in Hawaii.

In the Appeal of Estate of Douglas C. Alexander, ~~etc.~~ decided this day by us under ~~facts not materially different~~ from those of the present case, we held that income arising from intangibles which were in the possession and control of a Hawaiian trustee was income derived from sources in Hawaii,, For the reasons stated in that appeal, we conclude that all of the trust income received by Mrs. Spitzer had sources in Hawaii and that she is entitled to credit, under section 18001, for the Hawaiian tax paid on that income.,

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 protests of Clifford and Violet P. Spitzer against proposed assessments of additional

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personal income tax in the amounts of \$100.14, \$310.27, \$40.76 and \$226.91 for the years 1958, 1959, 1960 and 1961, respectively, be and the same is hereby reversed.

Done at Sacramento, California, this 4th day of January, 1966, by the State Board of Equalization.

Clifford Keily, Chairman
John W. ..., Member
Richard ..., Member
_____, Member
_____, Member

ATTEST: [Signature], Secretary