



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
FRED W. AND CONSTANCE CROCKETT)

For Appellants: Jerome Paley
Certified Public Accountant .

For Respondent: Burl D. Lack, Chief Counsel
Peter S. Pierson, 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 Fred W. and Constance Crockett against proposed assessments of additional personal income tax against Fred W. and Constance Crockett, jointly, in the amounts of \$71.94, \$554.36 and \$296.34 for the years 1959, 1960 and 1961, respectively, against Fred W. Crockett, individually, in the amount of \$209.85 for the year 1962, and against Constance Crockett, individually, in the amount of \$209.85 for the year 1962.

During the years 1949 through 1953 appellants, husband and wife, resided in Arizona. In 1955 they became California residents. Thereafter federal income tax deficiencies were assessed against appellants, based upon income derived prior to the time they moved to California.

Appellants are cash basis taxpayers. In their joint California resident returns for the years 1959, 1960 and 1961, and in their separate resident returns for 1962, appellants deducted interest paid in those years on the above mentioned federal deficiencies as follows:

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<u>Year</u>	<u>Interest Deduction Claimed</u>
1959	\$ 3,644.72
1960	17,256.04
1961	16,408.34
1962	8,638.74 (Mr. Crockett)
1962	8,638.74 (Mrs. Crockett)

Respondent disallowed these interest deductions on the ground that they constituted expenses which were allocable to non-taxable income, i.e., income derived from non-California sources prior to the time appellants became residents of California.

At the hearing before respondent, after issuance of the proposed additional assessments, appellants advised respondent that the following portions of the interest deductions claimed were **never**, in fact, paid:

<u>Year</u>	<u>Interest Never Paid</u>
1960	\$11,010.34
1961	2,826.39
1962	2,727.32 (Mr. Crockett)
1962	2,727.32 (Mrs. Crockett)

Appellants conceded that these unpaid amounts had thus been improperly deducted. For purposes of this appeal, therefore, only the remaining portions of the disallowed interest deductions are in issue.

Section 17203 of the Revenue and Taxation Code prohibits the deduction of interest connected with income which is not subject to California's personal income tax. In several earlier opinions we have held that this section precluded the deduction of interest paid upon a federal income tax based on income that was not taxable by California. (Appeal of Bernard B. and Corothy Koward, Cal. St. Bd. of Equal., March 7, 1961; Appeal of William S. and Betty V. Jack, Cal. St. Bd. of Equal., May 17, 1962; Appeal of David E. and Dolly Bright, Cal. St. Bd. of Equal., June 28, 1965.)

This conclusion is supported by federal cases in which deductions for taxes on income have been denied because

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the income was not subject to the federal, income tax, (James F. Curtis, 3 T.C. 648; George W. P. Heffelfinger, 5 T.C. 985; Mary A. Marsman, 18 T. C. I, aff'd on this issue, rev'd and remanded on others, 205 F.2d 335, 216 F.2d 77, cert. denied, 348 U.S. 943 [99 L. Ed. 738].)

On the basis of the statute and the authorities cited, we conclude that respondent correctly determined that the interest in question was nondeductible as being connected with income not taxable by California.

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 Fred W. and Constance Crockett against proposed assessments of additional personal income tax against Fred W. and Constance Crockett, jointly, in the amounts of \$71.94, \$554.36 and \$296.34 for the years 1959, 1960 and 1961, respectively, against Fred W. Crockett, individually, in the amount of \$209.85 for the year 1962, and against Constance Crockett, individually, in the amount of \$209.85 for the year 1962, be and the same is hereby sustained,

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

Robert Keckley, Chairman
John W. Linnell, Member
Paul R. Leake, Member
Richard Clevin, Member
_____, Member

ATTEST: [Signature], Secretary