



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
RALPH J. AND BETTY M. BECKER)

For Appellants: Ralph J. Becker, in pro. per.

For Respondent: Crawford H. Thomas
Chief Counsel

Benjamin F. Miller
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 protest of Ralph J. and Betty M. Becker against a proposed assessment of additional personal income tax in the amount of \$79.34 for the year 1966.

Appellants resided in San Mateo, California, until October 12, 1966, at which time they were transferred to Denver, Colorado, by Mr. Becker's employer. Appellants were still living in Colorado at the time of this appeal.

In their California income tax return for 1966, taxpayers reported adjusted gross income in the amount of \$28,802.57 and claimed personal and dependent exemptions totaling \$4,200.00. Appellants reported on their California return that they had reported \$51,441.75 in adjusted gross income on their federal return. The \$51,441.75 allegedly included a large unspecified reimbursement for moving expense to Colorado.

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Respondent determined that the appellants were nonresidents of California after October 12, 1966, and, therefore, they were required to proportion the personal and dependent exemptions. Accordingly, in October of 1970 respondent issued a timely notice of proposed assessment based upon its determination that appellants were entitled to only 56 percent ($\$28,803.00 \div \$51,442.00$) of their claimed itemized deductions and personal and dependent exemptions. Upon appellants' protest of the assessment, respondent conceded that the taxpayers were entitled to the full amount of the itemized deductions claimed. To the extent that the protest concerned the proration of the personal and dependent exemptions, however, it was denied. That partial denial resulted in this appeal.

The facts clearly indicate that appellants were nonresidents of California after October 12, 1966. Because appellants were residents of California for only a portion of 1966, the amount of the personal and dependent exemptions which they may deduct from their California taxable income is determined by-reference to section 17181.5 of the Revenue and Taxation Code. In 1966 subdivision (a) of that section read:

Any individual who is a nonresident for all or any portion of the taxable year shall deduct the minimum standard deduction provided by Section 17171 and the deductions set forth in this article, in the proportion that such individual's adjusted gross income from California sources bears to his adjusted gross income, from all sources.

The parties agree that appellants' adjusted California income totaled \$28,802.57. The amount of taxpayers' adjusted gross income from all sources, however, is disputed. Respondent contends that appellants' federal adjusted gross income of \$51,441.75 is the proper figure to be used in the computation. Appellants assert, on the other hand, that the unspecified reimbursement-which they received for moving expenses should be subtracted from the \$51,441.75. Appellants argue that moving expenses are deductible in California,, and that by including the amount reimbursed in the computation, appellants are, in effect, being taxed on reimbursed moving expenses.

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We do not agree with taxpayers' contentions. Section 17266 of the California Revenue and Taxation Code allows a deduction of moving expenses from gross income only in a case where a taxpayer's old and new residences are located within the state. Because appellants incurred their moving expenses en route to a new residence outside the state, they do not meet the requirement in section 17266(c)(1)(C). Based upon the only information submitted by appellants, we agree with respondent that appellants' adjusted gross income shown on their federal return is the appropriate figure to be used in the computation of the relevant percentage factor.

ORDER

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 Ralph J. and Betty M. Becker against a proposed assessment of additional personal income tax in the amount of \$79.34 for the year 1966, be and the same is hereby sustained.

Done at Sacramento, California, this 13th day of December, 1971, by the State Board of Equalization.

Rudolph H. ..., Chairman
John W. ..., Member
Good ..., Member
William ..., Member
_____, Member

ATTEST: *H. M. Bell*, Acting Secretary