



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
WILLIAM F. AND JUNE A. MASSY)

Appearances:

For Appellants: Junius Cary
Certified Public Accountant

For Respondent: Jack E. Cordon
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 William F. and June A, Massy against proposed assessments of additional personal income tax in the amounts of \$331.64 and \$1,669.70 for the years 1966 and 1967, respectively.

Appellant William F. Massy accepted an untenured teaching position at Stanford University and became a California resident in 1962. In March 1966 he accepted a visiting professor position at Carnegie Institute of Technology in Pittsburgh, Pennsylvania for the 1966-1967 academic year. At that time appellant understood that a permanent position at Carnegie was available if he desired it. Appellant obtained a leave of absence from Stanford and appellants and their children left California in August of 1966. Mrs. Massy and the children returned to California in June of 1967 and appellant returned the following month. Since that time appellant has again been employed as a professor at Stanford University.

In income tax returns filed with respondent Franchise Tax Board for the years 1966 and 1967, appellants excluded the salary received from Carnegie institute

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of Technology and private consulting fees received while outside California on the premise that they were non-residents. Respondent concluded that appellants' stay in Pennsylvania was for a temporary or transitory purpose and, accordingly, that they were residents of California during the years in question and therefore taxable on their entire income regardless of source.

Section 17014 of the Revenue and Taxation Code provides:

"Resident" includes:

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

(b) Every individual domiciled in this State who is outside the State 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.

The determination of whether a taxpayer is outside the state for a temporary or transitory purpose depends to a large extent upon the facts and circumstances of each particular case. (Cal. Admin. Code, tit. 18, reg. 17014-17016(b).)

At the hearing before this board appellant offered oral testimony in support of his contention of nonresidency. On basis of the evidence presented by appellant, we conclude that he and his family were outside California for other than a temporary or transitory purpose and, consequently, they were non-residents of this state during portions of 1966 and 1967 while in Pennsylvania.

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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 William F. and June A. Massy against proposed assessments of additional personal income tax in the amounts of \$331.64 and \$1,669.70 for the years 1966 and 1967, respectively, be and the same is hereby reversed.

Done at Sacramento, California, this 26th day of April , 1972, by the State Board of Equalization,

John W. Lynch, Chairman
William B. ..., Member
..., Member
..., Member
..., Member

ATTEST: W. W. ..., Secretary