

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 325

February 28, 1968

TAX CREDIT: COMPUTATION OF CREDIT FOR TAXES PAID TO ANOTHER STATE

Syllabus:

A California resident taxpayer paid net income taxes to another state on: (1) Intangible income which, under California law, has a source only in California, and (2) other income having a source within the other state. An example is as follows:

	<u>California Return</u>	<u>Income derived from other state sources and taxable in both states</u>	<u>Other state Return</u>
Interest	\$ 4,000	\$ -0-	\$ 4,000
Rent	6,000	6,000	6,000
Other Income	<u>90,000</u>	<u>-0-</u>	<u>-0-</u>
Adjusted Gross Income	\$100,000	\$6,000	\$10,000
Tax	\$5,000		\$400

Where California residents are concerned, the right to claim a tax credit for net income taxes paid to a sister state is governed by Section 18001 of the Revenue and Taxation Code. In part, this section reads as follows:

" . . . (a tax) credit shall be allowed only for taxes paid to the other state on income derived from sources within that state which is taxable under its laws irrespective of the residence or domicile of the recipient . . ." (Italics added).

Under well established California case law, income derived from intangible personal property has a tax source in the state in which the taxpayer resides unless the intangible property has acquired a business situs elsewhere. Miller v. McColgan, 17 Cal.2d 432, 110 Pac.2d 419 (1941). Accordingly, where a California resident pays net income taxes to a sister state on income which has a source only in California (as defined by California law) a tax credit as to the taxes paid attributable to such income is not allowable. Appeal of Hallie Bills, Cal. St. Bd. of Equal., April 5, 1965, CCH P202-854, P-H 58,373.

Under these facts, the amount of tax credit allowable is \$240 which is the amount representing the smaller of two computations:

1. (A) \$6,000 / (B) \$100,000 X (C) \$5,000=(D) \$300

2. (A) \$6,000 / (E) \$10,000 X (F) \$400=(G) \$240

(A) Income derived from sources within the other state and also taxable by California.

(B) Total adjusted California gross income.

(C) California tax.

(D) Maximum tax credit available under Section 18001(c).

(E) Total income taxed by other state.

(F) Other state's tax.

(G) Tax attributable to income having a source within other state and also taxable by California.