

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 083

June 17, 1958

RESIDENCE: MILITARY PERSONNEL

Syllabus:

The U.S. Supreme Court decision in Dameron v Brodhead, 345 U.S. 322 does not affect the Franchise Tax Board's treatment of residence of military personnel.

Advice is requested whether the decision of the U.S. Supreme Court in Dameron v Brodhead, 345 U.S. 322 affects the Franchise Tax Board's treatment of residence of military personnel.

Generally, military personnel who were previously nonresidents and who are stationed in California are not considered to have changed their residence. However, because Section 514, Soliders and Sailors Relief Act, use the word "solely" (stating that the old residence or domicile will not be deemed to have been lost or a new one acquired solely by reason of absence from his original residence or domicile in compliance with military orders) a new residence or domicile may be considered to have been acquired if there are acts, other than presence "solely" because of military orders, which will support a finding of residence. At the present time (July 17, 1953) the only exception to the general rule is in the case of servicemen who purchase a home in California and claim a property tax exemption as a resident; this is treated as prima facie evidence of residence in California.

The Dameron decision (supra) dealt with a personal property tax and the language of the decision can only be inferentially applied to an income tax; therefore, without a clearer indication that the language applies to an income tax, the Franchise Tax Board should not alter its present procedure regarding residence of military personnel.