CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 118

May 12, 1958

TAX CREDIT: TERRITORY OF HAWAII

Syllabus:

Taxes paid under the Hawaii Income Tax Law are allowable as a credit subject to the conditions set forth in Section 18001 of the Personal Income Tax Law. Amounts withheld under the Hawaii Compensation and Dividend Tax Law are allowable as deductions to the extent of 25% of the amounts withheld on shares owned by the taxpayer or paid on shares owned by the trust of which he is a beneficiary.

Advice is requested as to the extent a deduction or credit is allowable to a California resident who receives dividend income from which the 2% Hawaii Compensation and Dividend tax has been withheld and who has filed a return under the provisions of the Hawaii Income Tax Law. The Hawaii Income Tax Law allows 75% of the taxes withheld from compensation and dividends to be used as a credit against the tax assessed on the income tax return.

The tax assessed and paid on the return filed under the Hawaii Income Tax Law is a net income tax and is allowable as a credit subject to the conditions stated in Section 18001 of the Personal Income Tax Law. The amounts withheld from dividends or compensation under the Hawaii Compensation and Dividend Tax Law constitute a gross receipts tax and are allowable as a deduction to the extent that they are not usable as a credit against the tax assessed on the Hawaii income tax return, i.e., to the extent of 25% of the amounts withheld.

When a taxpayer receives both dividends from Hawaii corporations and distributions from Hawaii trusts, he would be entitled to a credit only for the Hawaii income tax on income from the trusts since the dividends are from sources within California under the mobilia rule and Miller v. McColgan, 17 Cal. 2d 432. In addition he would be entitled to a deduction to the extent of 25% of the tax withheld on dividends paid on shares owned by him and on shares owned by the trusts of which he was a beneficiary.