

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 191

December 5, 1958

TAXES PAID OTHER COUNTRIES: DEDUCTION FOR JAPANESE TAX WITHHELD ON RENTAL INCOME

Syllabus:

Japanese income tax withheld on rental income owed to a California resident is deductible in computing California income tax.

Taxpayers received income from the rental of various motion pictures in Japan. Article 1, paragraph 2(6) of the Japanese Internal Revenue Code imposes a tax on the income derived from projection rights to movie films. Article 41 provides that 20 per cent of the gross amount of such income to the taxpayer and shall be paid over to the government. While Japanese residents earning such income are entitled to deduct their necessary expenses under the authority of Article 9, there is no provision in the Japanese law for nonresidents to file an income tax return on which such deductions could be taken. Therefore, as to nonresidents the tax is, in essence, a gross receipts tax and the tax here involved is essentially the same type of tax as the Canadian tax on rentals received from Canadian real estate which was involved in the Appeal of Edward and Freida Meltzer, State Board of Equalization, April 1, 1953. Such taxes are taxes on gross income for which no tax credit can be allowed but which can be deducted under the authority of Section 17204.