

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 157

December 6, 1957

TAX CREDITS: INCOME TAX OF A FOREIGN COUNTRY

Syllabus:

Taxes imposed upon income from personal services by foreign countries under a statute, which is generally a tax on net income, may be taken as a tax credit regardless of the fact that the provisions pertaining to income derived from personal services are similar to a gross income tax.

Taxpayer, a resident of California, is employed in a foreign country. He paid income taxes to the government of the country in which he was employed. Taxpayer claims a tax credit for these taxes under Section 17976 (Section 18001 of the 1955 Personal Income Tax Law). Advice is requested whether the tax imposed is a net income tax within the meaning of the section.

The tax levied by the foreign country on income from personal services allows little or no deductions of expenses attributable to earning wages. The tax is levied only on income derived within the country. The tax statute of the country does allow various deductions to be taken into account in other fields of income producing activities and, except for the provisions relating to income from personal services, is clearly a net income tax law. The general scope of the law is to tax individual's net gains. In determining the nature of a particular tax, consideration must be given to the general nature of the entire statute under which the tax is levied rather than its application as to one specific type of income. Consequently, since the broad impact of the tax levied is directed toward taxation of net income or profits, it qualifies as a net income tax.

Section 18001 (formerly Section 17976) as amended in 1957 deletes foreign countries from its provisions. For taxable years beginning after December 31, 1956, only income taxes paid to other states may be claimed as a tax credit.