

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 322

May 3, 1967

RETIREMENT INCOME CREDIT

Syllabus:

Advice has been requested as to the interpretation to be given Section 17053(i) of the Revenue and Taxation Code. Section 17053(i) provides: "No [retirement income] credit shall be allowed under subsection (a) to any nonresident."

Section 17053(i) was copied from Section 37(h) of the Internal Revenue Code. For Federal purposes, "An individual who is a nonresident alien at any time during the year is not eligible for the retirement income credit for such taxable year." Treasury Regulation 1.37-2(b). The construction given to Section 37(h) must be applied to Section 17053(i). Meanley v. McColgan, 49 Cal.App.2d 313, 317 (1942); Appeal of First Federal Savings and Loan Association of San Diego, Cal. St. Bd. of Equal., February 18, 1964, CCH P202-406. Therefore, for California purposes, an individual who is a nonresident of California at any time during the year is not eligible for the retirement income credit for such taxable year.