



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
J. S. GARNETT COMPANY )

Appearances:

For Appellant: J. S. Garnett and Murdo MacKenzie

For Respondent: Albert A. Manship, Franchise Tax  
Commissioner

O P I N I O N

This is an appeal under Section 25 of the Bank and Corporation Franchise Tax Act (Statutes of 1929, Chapter 13) from the action of the Franchise Tax Commissioner in proposing an additional tax in the amount \$556.76 based upon the net income of J. S. Garnett Company for the year ended December 31, 1928. It is claimed that the Commissioner erred in refusing to allow the taxpayer to allocate a portion of its income to business outside of California under Section 10 of the Act.

The facts are not disputed. J. S. Garnett Company is a California corporation engaged in sheep and wool ranching in Glenn County with its business office in San Francisco. In the notice of appeal the taxpayer stated that, owing to market conditions for sheep and wool in California, it is necessary to sell a major portion of its product outside of the state. However, at the oral hearing, Mr. J. S. Garnett, President of the corporation; testified that all of the produce was actually sold in San Francisco, in most instances to firms maintaining their principal offices in the middle west and shipping the lambs to Chicago and other out of state points. No intrastate sales were made in other states nor did the taxpayer ship lambs out of California in interstate commerce.

In denying the allocation of any of the net income to business outside of California the Commissioner assigned as his reason that "a corporation which maintains an office or place of business within the state and not elsewhere is taxable on all of its net income as defined in the Franchise Tax Act."

We do not believe this is a correct statement of the law. If the Appellant had actually sold its sheep in Chicago, we think that it would be manifestly inaccurate to say that its entire business was done in this state. The maintenance of an office is not essential for the transaction of business at a particular locality. No one would contend seriously that a natural person could not do business in a state unless he established an office there. We see no reason why an artificial

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person, such as a corporation, could not do business through the medium of its agents without the necessity of maintaining an office.

In the present case, however, there is no proof that any business was actually done by the Appellant outside of California. The sheep were delivered here and the fact that they were shipped to the middle west by the purchasers cannot make the transactions out-of-state sales.

The taxpayer directs our attention to the heavy burden which the application of the four per cent tax to its entire net income produces. It also reminds us of the substantial real **property taxes** which it pays in Glenn County and which it is permitted to offset against the four per cent of the net to the extent of only ten per cent of the property taxes. These arguments are directed toward the policy of the law. **As administrative officers** we cannot revise the definite requirements of the statute, no matter how much we may be impressed with the cogency of such arguments.

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED,-that the **action** of Reynold E. Blight, Franchise Tax Commissioner, in overruling the protest of J. S. Garnett Company, a corporation, against a proposed assessment of an additional tax of **\$556.76** under **Chapter 13, Statutes of 1929**, based upon the net income of said corporation for the year ended December 31, **1928**, be and the same is hereby sustained.

Done at Sacramento, California, this 24th day of February, 1931, by the State Board of Equalization.

Jno. C. Corbett, Chairman  
Fred. E. Stewart, Member  
H. G. **Cattell**, Member  
R. E. Collins, Member

ATTEST: Dixwell L. Pierce, Secretary