



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
ASSOCIATED PIPE LINE COMPANY)

Appearances:

For Appellant: Mr. D. W. Hone, Attorney, and C. F. Gilmore
Tax Accountant
For Respondent: A. A. Manship, Franchise Tax Commissioner

O P I N I O N

This is an appeal pursuant to Section 25 of the California Bank and Corporation Franchise Tax Act (Chapter 13 Statutes 1929) from the action of the Franchise Tax Commissioner in overruling the protest of Associated Pipe Line Company against a proposed assessment of an additional tax in the amount of \$2,437.59 based upon its return for the year ended December 31, 1928.

The point involved on appeal is whether or not the pipe line company is entitled to the full amount of the deduction claimed by it as depreciation based upon the revaluation Of its facilities as of January 1, 1928 under the provisions of Section 8 and 19 of the Act. The effect of these sections is to allow the taxpayer a deduction from "gross income" in computing "net income" based upon the "fair market value" of the property.

In the brief of the Commissioner explaining his position in the matter, it is stated that he disallowed the claim for depreciation amounting to \$215,634.36 because of "lack of satisfactory evidence of fair market value as of January 1, 1928." There is no dispute that the Appellant is entitled to depreciation under the conditions prescribed in sections of the Act mentioned, and the question to be determined on appeal is confined to the adequacy of the proof of "fair market value" offered by the taxpayer,

At the hearing on appeal the facts concerning the organization of Associated Pipe Line Company, the ownership of its capital stock and the acquisition by it of the properties in question were reviewed at some length. It is unnecessary to retrace these matters here for the reason that the Commissioner then conceded that the claim for depreciation was justified, explaining to the Board that he had not been afforded previously all the data then made available.

In the evidence submitted, it appeared that the valuation of the properties as shown on the books of the company as of December 31, 1927 represents the original cost of the properties

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plus appreciation set up in 1921 at the time when Pacific Oil Company acquired a one-third interest in the stock of the **Appel-^{Oil}lant**. It was upon the basis of such valuation that Pacific **Oil Company** paid ~~\$6,409,666.29~~ for its one-third interest in the pipe line **company**. This valuation is not questioned by the Commissioner, who also concedes that the additional **depreciation** of **\$215,634.36** in excess of the amount claimed as depreciation in the federal income tax return is allowable in view of the January 1, 1928 basic date, for which provision is made in the act. Therefore, we conclude that the depreciation claimed by the company should have been allowed in conformity with Section; 8 and 19 of the Act.

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 the Franchise Tax Commissioner in overruling the protest of Associated Pipe Line Company, a corporation, against a proposed assessment of an additional tax in the amount of **\$2,437.50** based upon the return of said corporation for the year ended December **31, 1928**, under Chapter **13**, Statutes of 1929, be and the same is hereby reversed and the correct amount of the tax of said corporation is hereby determined as the amount, disclosed by said return as originally filed.

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

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

ATTEST: Dixwell **L.** Pierce, Secretary