

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA



In the Matter of the Appeal of )  
ALAMITOS LAND CO., HOLLY DEVELOPMENT )  
COMPANY, BOLSA LAND CO. and RICE )  
RANCH OIL COMPANY )

Appearances:

For Appellant: Claude I. Parker and George Foster,  
Attorneys  
For Respondent: Chas. J. McColgan, Franchise Tax Commis-  
sioner

O P I N I O N

These are appeals pursuant to Section 25 of the Bank and Corporation Franchise Tax Act (Chap. 13, Stats. 1929, as amended from the action of the Franchise Tax Commissioner *in overruling* the protests of Alamitos Land Co., Holly Development Company, Bolsa Land Co. and Rice Ranch Oil Company, against his proposed assessment of additional taxes for the year 1931, based upon the net income of the above companies for the taxable year ended December 31, 1930. The assessment of additional taxes was proposed due to the fact that the Commissioner did not allow as a deduction from income for the year ended December 31, 1930 depletion allowance for oil and gas wells computed upon the basis of January 1, 1928 values. As the problems involved in all of these appeals are practically identical, and as the Appellants are represented by the same counsel, the Board has considered the proceedings as a consolidated appeal.

The issue involved in these appeals is substantially the same as that involved in the Appeal of United States Oil & Royalties Company decided by us on this date, namely whether, in computing income for the year ended December 31, 1930, depletion allowance in the case of oil and gas wells may be computed on the basis of January 1, 1928 values. In that appeal, we held that, by virtue of an amendment to Section 8(g) of the Act, effective February 27, 1931, the computation of depletion allowance in the case of oil and gas wells on the basis of January 1, 1928 values was prohibited; that said amendment, as applied to the computation of income for the year ended December 31, 1930, should not be regarded as retroactive; and that said amendment, although of questionable constitutionality, nevertheless, in view of our general policy not to consider attacks on the constitutionality of legislation, should be regarded by us as constitutional.

Consequently, in accordance with our decision in the above appeal, and our views therein expressed, we are of the opinion that the action of the Commissioner occasioning the instant

Appeal of Alamos Land Co., Holly Development Company,  
Bolsa Land Co. and Rice Ranch Oil Company

appeals must be sustained.

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 Charles **J. McColgan**, Franchise Tax Commissioner, in overruling the protest of Alamos Land Co., Holly Development Company, Bolsa Land Co. and Rice Ranch Oil Company, against proposed assessments of additional taxes under Chapter **13**, Statutes of 1929, as amended, be and the same is **hereby sus-**  
tained.

**Done** at Sacramento California, this 11th day of May, 1932, by the State Board of Equalization.

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

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