



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
HOWARD AUTOMOBILE COMPANY)
OF LOS ANGELES)

Appearances:

For Appellant: Mr. Orville R. Vaughn, Attorney,
of San Francisco

For Respondent: **Honorable A. A. Manship**, Franchise
Tax Commissioner

O P I N I O N

This is an appeal pursuant to Section 25 of the Bank and Corporation Franchise Tax Act (Statutes 1929, Chapter 13, as amended) from the action of the Franchise Tax Commissioner in overruling the protest of Howard Automobile Company of Los Angeles, a corporation, to a proposed assessment of an additional tax of **\$3,141.32** for the year 1930 based on its return for the year ended December 31, 1929.

The problems involved in this appeal are whether the Commissioner erred in considering as income to be used as the measure of the tax provided for in the Act, the following items:

1. Interest received from obligations and instrumentalities of the United States in the sum of **\$77,334.20**.
2. Net income allocated to the State of Nevada by the appellant on the basis of gross sales alleged to have been made there in the sum of **\$1,198.94**.

These problems are substantially the same as the problems involved in a prior appeal of Howard Automobile Company of Los Angeles decided by us on **May 15, 1931**. We there held that the commissioner acted properly in including interest from obligations and instrumentalities of the United States in computing appellant's net income for the year 1928. A similar decision was rendered by us in the Appeal of Homestake Mining Company, decided by us on **May 10, 1932**. We also held that certain sales alleged by the appellant to have been made in Nevada were in fact made in Nevada, and that consequently, the net income from the sales should be allocated to Nevada. All the material facts and **circumstances** with respect to the sales involved in the instant appeal are in the prior appeal. We think our decision in the former appeal controls our decision in the instant appeal.

Howard Automobile Company of Los Angeles

O R D E R

Pursuant to the views expressed in the opinion of the Board of Equalization 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 Howard Automobile Company of Los Angeles, a corporation, against a proposed assessment of an additional tax of ~~\$3,141.32~~ for the year **1930**, based upon its return for the year ended December **31, 1929**, be and the same is hereby modified. Said Commissioner is hereby directed to permit the allocation to the State of Nevada of the net income of **\$1,198.94** and to compute the tax accordingly, sending the taxpayer a revised notice in conformity with the views of the Board.

Done at Sacramento, California, this 25th day of October, 1932, by the State Board of Equalization.

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

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