



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
THE INSURANCE FINANCE CORPORATION)

Appearances:

For Appellant: C. M. Hawkins, Attorney at Law

For Respondent: Chas. J. McColgan,
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 (Chapter 13, Statutes of 1929, as amended) from the action of the Franchise Tax Commissioner in overruling the protest of The Insurance Finance Corporation, to a proposed assessment of an additional tax in the amount of \$255.93, based upon the return of the above corporation for the taxable year ended July 31, 1930.

It appears that Appellant, a corporation organized under the laws of the State of California, engaged in business both within and without the State of California during the taxable year ended July 31, 1930, and in its return for said year, allocated to California only a portion of its entire net income. In this connection, it should be noted that Section 10 of the Act provides:

"Sec. 10. If the entire business of the bank or corporation is done within this State, the tax shall be according to or measured by its entire net income; and if the entire business of such bank or corporation is not done within this state, the tax shall be according to or measured by that portion thereof which is derived from business done within this state.* * * *"

Apparently acting on the belief that Appellant had not established that any portion of its income for the taxable year ended July 31, 1930 was derived from business done outside this state, the Commissioner proceeded to allocate 100 per cent of Appellant's income for said year to California and accordingly proposed the additional assessment in question.

Thus, it would seem that the sole question involved in this appeal relates to the determination of what portion, if any, of Appellant's income for the taxable year ended July 31, 1930 was derived from business done outside this state.

At a hearing duly held before us in this matter, the Appel-

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lant **established** to our satisfaction that during the taxable year ended July 31, 1930, it was engaged in business both within and without the limits of this state, and that a considerable portion of its net income for said year was derived from activities conducted wholly within the State of Colorado. Furthermore, Appellant has submitted evidence which we think can reasonably be considered as supporting its contention that the allocation of its net income made in its return for the year ended July 31, 1930 was substantially correct. Consequently, we must hold that the Commissioner erred in allocating 100 per cent of Appellant's net income to business done within this State and in proposing the additional assessment in question.

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 The Insurance Finance Corporation, against a proposed additional assessment based upon the return of said corporation for the year ended July 31, 1930, under Chapter 13, Statutes of 1929, be and the same is hereby reversed. Said ruling is hereby set aside and said Commissioner is hereby directed to proceed in conformity with this order.

Done at Sacramento, California, this 25th day of May, 1933, 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