



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
REDWOOD THEATRES, INCORPORATED)

Appearances:

For Appellant: M. C. Souza, Treasurer and Auditor of
Appellant Corporation
For Respondent: Charles J. McColgan, Franchise Tax Commis-
sioner

O P I N I O N

This is an appeal pursuant to Section 25 of the Bank and Corporation Franchise Tax Act (Stats, 1929, Chapter 13, as amended) from the action of the Franchise Tax Commissioner in overruling its protest to a proposed assessment of an additional tax in the amount of \$684.45 for the year 1932 based upon its return for the calendar year ended December 31, 1931.

The additional assessment in question was proposed due to the Commissioner's action in disallowing, for **offset purposes**, certain real and personal property taxes which had accrued during the year 1931 but which had not actually been paid during that year. Thus, the question at issue is whether local real or personal property taxes accrued but not paid during the taxable year may be considered for offset purposes under the Act.

In this connection, it is to be noted that Section 26 of the Act provides that

"A corporation subject to the tax herein. **provided for** shall receive an offset against said tax, subject to the limitations provided in section 4 hereof, for real and personal property taxes paid **upon its** property to any county, city and county, city, town or other political subdivision of the state during the taxable **year.**"

In view of this section, it would seem that although the Act permits taxpayers to keep books, either on a cash receipts and disbursements or on an accrual basis, taxpayers are allowed an offset against the tax imposed by the Act only for those local real and **personal** property taxes which are actually paid **during the** taxable year. Hence, it would seem that the **Commissioner's** action in overruling Appellant's protest must be sustained; insofar as the proposed additional assessment was based on disallowing an offset for local real and personal property taxes accrued but not paid during the year 1931.

Appeal of Redwood Theatres, Incorporated

However, it appears that the proposed additional assessment was computed on the assumption that Appellant had paid during the year ~~1931~~ local real property taxes only in the amount of \$4,480.80, whereas it appears that the Appellant actually paid local real property taxes in the amount of \$4,560.18. This discrepancy of \$77.38 in the amount of real property taxes paid and the amount of such taxes ~~considered~~ for offset purposes requires that the Commissioner's action in overruling Appellant's protest be modified.

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 Redwood Theatres, Inc. against a proposed assessment of an additional tax in the amount of \$684.45 based upon the net income of said corporation for the period ended December 31, 1931, be and the same is hereby modified. Said action is reversed insofar as the Commissioner failed to consider for offset purposes all local real property taxes actually paid by the Redwood Theatres, Inc. during the calendar year ~~1931~~. In all other respect said action is sustained. The correct amount of the tax to be ~~assessed~~ to the Redwood Theatres, Inc. is hereby determined as the amount produced by means of a computation which will include the consideration for offset purposes of \$4,560.18 local real property taxes in the calculation thereof. The Commissioner is hereby directed to proceed in conformity with this order and to send the Redwood Theatres, Inc. a notice of the assessment revised in accordance therewith.

Done at Sacramento, California, this 16th day of February, 1934, 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