



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
OAKLAND BUILDING & MORTGAGE COMPANY)

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 Appellant to his proposed assessment of an additional tax in the amount of \$15.86, based upon its return for the period ended February 28, 1934. The appeal was set for oral hearing before the Board on Wednesday, March 13, 1935. Although notice of the time and place of the hearing was duly given to Appellant, there were no representatives of Appellant present at the hearing.

It appears that the only question involved in the appeal is whether Appellant was entitled to increase the rate of depreciation allowance on a certain building erected by it for use as a Federal postoffice in Oakland. The building was leased to the Federal government for a period of ten years, beginning June 15, 1924, and ending June 14, 1934. The Federal government was given the option of either purchasing the property or of renewing the lease for a further ten year period.

Apparently, in 1927 the Appellant determined that depreciation should be computed at the rate of 4% per year. This determination was made on the assumption that the property would be leased by the Federal government for twenty years. By the time the Appellant made its return for the period ended February 28, 1934, a short while before the ten-year lease expired, the Federal government had, however, neither purchased the property nor exercised its option to renew the lease. Furthermore, it appeared at that time that the property had decreased in value to such an extent that it was impossible to sell it without sustaining a substantial loss.

On its return for the year ended February 28, 1934, Appellant claimed a deduction for depreciation on the building computed at the rate of 7% per year. The Commissioner allowed a deduction computed at the rate of 4%, but disallowed the balance of the deduction claimed, and, accordingly, proposed the additional assessment in question.

The Appellant has submitted no information respecting the probable physical or useful life of the building, nor has it called to our attention any facts or circumstances which would permit us to conclude that the probable life of the building has been shortened since it was determined to compute depreciation at the rate of 4%. Inasmuch as the rate to be used in computing depreciation upon property depends entirely upon the probable life of the property, we are obviously not in a position

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to hold that Appellant was entitled to increase the depreciation rate.

In its appeal, Appellant calls attention to the fact that the Commissioner did not allow a deduction for certain real estate taxes which became due during the year ended February 28, 1934, but which were not paid during that year. Since Appellant's books are kept on a cash receipts and disbursements basis, it is clear that the taxes in question are deductible only in the year in which paid.

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 Oakland Building & Mortgage Company, a corporation, against a proposed assessment of an additional tax in the amount of \$15.86, based upon the return of said corporation for the period ended February 28, 1934, pursuant to Chapter 13, Statutes of 1929, as amended, be and the same is hereby sustained.

Done at Sacramento, California, this 25th day of October, 1935, by the State Board of Equalization.

R. E. Collins, Chairman
John C. Corbett, Member
Fred Stewart, Member
Orfa Jean Shontz, Member
Ray Riley, Member

ATTEST: Dixwell L. Pierce, Secretary