



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
VICTOR BELTING & RUBBER COMPANY, IMC.)

Appearances:

For Appellant: D. C. Sheridan, its Secretary

For Respondent: Chas. J. McColgan, Franchise Tax Commis-
sioner; John O. Palstine, Deputy Attorney
General

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 Victor Belting & Rubber Company, Inc., to his proposed assessment of an additional tax in the amount of \$40.78 based upon its return of income for the year ended December 31, 1934.

In its return of income for the year ended December 31, 1934, Appellant deducted the sum of \$2,008.03 as bad debts. The Commissioner disallowed the deduction of debts amounting to \$1,074.26 on the ground that the debts were not properly deductible for the year 1934. Following the consideration of the Appellant's protest to the proposed assessment of additional tax, the Commissioner reduced the amount of debts disallowed to \$1,008.14. The validity of the action of the Commissioner in disallowing the deduction for bad debts in this amount is the sole question presented by this appeal.

Section 8(e) of the Bank and Corporation Franchise Tax Act sets forth two conditions precedent to the deduction of bad debts for a given year: (1) an ascertainment within that year that the debts are worthless, and (2) a charge-off of the debt within that year. No question has been raised in this appeal concerning the failure of the Appellant to charge-off of the debt in question during the year 1934 and the only matter to be considered is, accordingly, whether the Appellant reasonably ascertained that the debts were worthless during that year.

The bad debts for which a deduction was disallowed appear to involve eleven accounts of the Appellant. These accounts, with one exception, represent sales made in 1930, 1931 and 1932. Three of the accounts are in amounts of \$2.00 or less and only three of the remaining accounts involved amounts in excess of \$100. In each case it appears from the appeal and the testimony introduced in support thereof that the Appellant had employed all reasonable means under the circumstances for the collection

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of the accounts, that the accounts were worthless and that the Appellant had acted in good faith and not unreasonably in determining or ascertaining the worthlessness of the accounts during the year 1934.

We are, accordingly, of the opinion that the accounts involved herein were **properly deductible** as bad debts by the Appellant upon its return of income for the year ended December 31, 1934, and that the action of the Commissioner in disallowing the deduction thereof and in overruling the protest of the Appellant to his proposed assessment of an additional tax based upon the disallowance of the deduction thereof was not in accordance with law.

ORDER

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 Chas. J. McColgan, Franchise Tax Commissioner, in overruling the protest of the Victor Belting and Rubber Company, Inc. to his proposed assessment of additional tax in the amount of \$40.78 based upon the return of income of said company for the year ended December 31, 1934, be and the same is hereby reversed. Said ruling is hereby set aside and the said Commissioner is hereby directed to proceed in conformity with this order.

Done at Sacramento, California, this 16th day of December, 1936, by the State Board of Equalization.

R. E. Collins, Chairman
Ray L. Riley, Member
Ray Edgar, Member

ATTEST: Dixwell L. Pierce, Secretary