



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
EMPORIUM CAPWELL CORPORATION)

Appearances:

For Appellant: Richard L. Sloss, Attorney at Law

For Respondent: W. M. Walsh, Assistant Franchise Tax Commissioner; Harrison Harkins, Assistant Franchise Tax Counsel

O P I N I O N

This appeal is made pursuant to Section 27 of the Bank and Corporation Franchise Tax Act (Chapter 13, Statutes of 1929, as amended) from the action of the Franchise Tax Commissioner in denying the claim of the Emporium Capwell Corporation for a refund of tax in the amount of \$1,328.47 for the taxable year ended January 31, 1936,

The Appellant contends that it was a holding company and, therefore, exempt from the tax measured by net income under subdivision 4 of Section 4 of the Act, which reads as follows:

"Any corporation organized to hold the stock or bonds of any other corporation or corporations, and not trading in such stock or bonds or other securities held, and engaging in no other activities than the receipt and disbursement of dividends from such stock or interest from such bonds, shall not be considered a corporation doing business in this State for the purposes of this act." (Under-scoring added.)

It appears, however, that the Appellant, in addition to owning shares in subsidiary corporations during the fiscal year in question, made loans to its subsidiaries, earning interest thereon in the amount of \$310,713.07, made loans to its employee operated a country club for the benefit of its employees and those of its subsidiaries, and derived income from the retirement of its bonds and those of its subsidiaries. Since Appellant thus engaged in activities other than the receipt and disbursement of dividends and bond interest, it is not within the purview of this provision of the Act.

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,

Appeal of Emporium Capwell Corporation

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the action of Chas. J. **McColgan**, Franchise Tax Commissioner, in denying the claim of Emporium **Capwell** Corporation for a refund of tax in the amount of **\$1,328.47** paid by said corporation for the year ended January 31, 1936, based on its income for the year ended January 31, 1935, be and the same is hereby sustained.

Done at Sacramento, California, this 16th day of **June**, 1942, by the State Board of Equalization.

R. E. **Collins**, Chairman
Wm. G. **Bonelli**, Member
George R. **Reilly**, Member
Harry B. **Riley**, Member

ATTEST: Dixwell L. Pierce, Secretary