



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
DOLORES DEL RIO GIBBONS)

Appearances:

For Appellant: H. D. Emerson

For Respondent: W. M. Walsh, Assistant Franchise Tax
Commissioner

O P I N I O N

This appeal is made pursuant to Section 19 of the Personal Income Tax Act (Statutes of 1935, p. 1090, as amended) from the action of the Franchise Tax Commissioner in overruling the protest of Dolores Del Rio Gibbons to his proposed assessment of additional tax for the year ended December 31, 1935, in the amount of \$1,648.91.

The appeal concerns the Appellant's right to deduct from her gross income the sum of \$20,208.33 paid by her in 1935 in satisfaction of a judgment which became final in that year, when it was affirmed by an appellate court. The judgment was for legal services performed for Appellant in 1929 and prior years in connection with her occupation as a motion picture actress. The Respondent contends that the judgment represented an obligation incurred at the time the judgment was rendered, which was prior to 1935, so that under the provisions of Article 36-1 of the Regulations Relating to the Personal Income Tax Act of 1935 it is not an allowable deduction. He also contends that the deduction of the judgment is precluded by Section 9(a) of the Act, which provides as follows:

"In computing net income no deduction shall in any case be allowed in respect of --

')(5) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this act."

The issue raised by the latter contention appears to be essentially similar to that presented in the Appeal of Zoe Akins Rumbold, November 15, 1939, where we held that under the above provision obligations for agents' fees incurred by an authoress and playwright prior to 1935 were not allowable deductions for the years in which they were paid, on the ground that they were allocable to a class of income wholly exempt from the tax,

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namely? income received prior to January 1, 1935. On the authority of that decision the action taken by the Respondent herein must be sustained. It is, accordingly, unnecessary to discuss the other ground advanced by the Respondent.

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 Chas. J. **McColgan**, Franchise Tax Commissioner, in overruling the protest of Dolores Del Rio Gibbons to a proposed assessment of additional tax-in the amount of **\$1,648.91** for the year ended December, 31, 1935, pursuant to Statutes of 1935, p. 1090, as amended, 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: Dizwell L. Pierce, Secretary