



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
W. C. REORDAN)

Appearances:

For Appellant: Prentiss Moore and Morris C. Schragar,
Attorneys at Law.
For Respondent: W. M. Walsh, Assistant Franchise Tax Commis-
sioner; James J. Arditto, Franchise Tax Coun-
sel; Hebard P. Smith, Assistant Tax Counsel.

O P I N I O N

This appeal is made pursuant to Section 19 of the Personal Income Tax Act (Chapter 329, Statutes of 1935, as amended) from the action of the Franchise Tax Commissioner in overruling the protest of W. C. Reordan to a proposed assessment of additional tax in the amount of \$87.79 for the taxable year ended December 31, 1936.

The only question presented by this appeal is the propriety of the action of the Commissioner in disallowing a deduction in the Appellant's return of income for 1936 in the amount of \$7,400.63 as a bad debt. The obligation was represented by a series of notes executed by the Appellant's sister and brother-in-law, Mr. and Mrs. J. W. Hatherly, during the years 1929 to 1931, the notes originally not containing due dates, but the words "on demand" being inserted thereon in 1932 by agreement of the parties.

The loans were made to enable Mr. and Mrs. Hatherly to meet interest payments and taxes due with respect to a ranch they were purchasing. The ranch was lost by them through foreclosure proceedings in 1932, however, and it is the contention of the Commissioner that in view of their lack of financial resources from that year until 1936 the debt must be regarded as having become worthless prior to 1936.

It is true that Mr. and Mrs. Hatherly were unable to satisfy the indebtedness from 1932 to 1935 inclusive. Mr. Reordan testified, however, that during those years Mr. Hatherly had hoped to receive some money from a brother, that he (Mr. Hatherly) had assured him that the brother was a man of some means, that upon the death of the brother in 1935 Mr. Hatherly expected to receive a portion of the estate, but that in 1936 he was informed that he

Appeal of W. C. Reordan

would not receive anything. As it then appeared that Mr. and Mrs. Hatherly would have very little or no chance of satisfying their obligation, the Appellant ascertained that it had become worthless and deducted it as a bad debt in his return of income for that year.

We are unable to conclude that under these circumstances, the Appellant acted unreasonably in continuing to regard the obligation as possessing value through 1935 and in ascertaining that it became worthless in 1936. It follows, therefore, that the action of the Commissioner must be reversed. Commissioner v. Burdette, 69 Fed. (2d) 410; Sabath v. Commissioner, 100 Fed. (2d) 569. See also San Joaquin Brick Co. v. Commissioner, 130 Fed. (2d) 220.

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 W. C. Reordan to a proposed assessment of additional tax in the amount of \$87.79 for the taxable year ended December 31, 1936, be and the same is hereby reversed. Said ruling is hereby set aside and the Commissioner is hereby directed to proceed in conformity with this order.

Done at Sacramento, California, this 2nd day of December, 1942, by the State Board of Equalization,

R. E. Collins, Chairman
Wm. G. Bonelli, Member
George R. Reilly, Member

ATTEST: Dixwell L. Pierce, Secretary