



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of Appeal of)
STANDARD FLOUR COMPANY)

Appearances:

For Appellant: R. L. Beezer and E. J. O'Laughlin.

For Respondent: W.M. Walsh, Assistant Franchise Tax Commissioner; James J. Arditto, Franchise Tax Counsel, Hebard P. Smith, Assistant Tax Counsel.

O P I N I O N

This appeal is made 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 **Standard Flour** Company to a proposed assessment of additional tax in the amount of **\$136.05** for the taxable year ended December 31, 1938, based upon the income of the company for the year ended December 31, 1937.

Section 8(c) of the Bank and Corporation Franchise Tax Act authorizes the deduction from gross income of taxes paid or accrued during the income year "...other than taxes on or according to or measured by income or profits paid or accrued within the income year imposed by the authority of (1) the Government of the United States..."

This appeal arises from the disallowance by the Commissioner of a deduction from gross income claimed by the Appellant for taxes paid under the "windfall" tax provisions of Section 501(a) of Title III of the Revenue Act of 1936. The language of Section 501(a) imposes a tax upon "net income" arising from specified sources. See I. T. 3025, XV-2 C. B. 82. Such tax, therefore, is not deductible under the express provisions of Section 8(c) of the Bank and Corporation Franchise Tax 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,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the action

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of Chas. J. **McColgan**, Franchise Tax Commissioner, in overruling the protest of Standard Flour Company to a proposed assessment of \$136.05 for the taxable year ended December 31, 1938, based upon the income of said corporation for the year ended December 31, 1937, be and the same is hereby sustained.

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

Ivan C. Sperbeck, Member
Wm. G. Bonelli, Member
George R. Reilly, Member

ATTEST: **Dixwell L. Pierce**, Secretary