



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
WESTLECTRIC CASTINGS, (INC.)

Appearances:

For Appellant: M. Franklin Ewing; Auditor; Alex Ross, Office
Manager.
For Respondent: W. M. Walsh, Assistant Franchise Tax Commis-
sioner; James J. Arditto, Franchise 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 Westlectric Castings, Inc. to a proposed assessment of an additional tax in the amount of \$400 for the taxable year ended December 31, 1938.

On June 14, 1937 the two officers of Appellant were voted salaries of \$1500 each per month for the year 1937. The salaries were not paid by Appellant to the officers but were credited to accrued expenses on its books and a deduction in the amount thereof was taken by Appellant in its franchise tax return for the income year 1937. On the same day Appellant's directors voted to accept a donation of \$5000 from each officer, \$10,000 being credited to surplus and the officers' salary accounts each being debited \$5000. The Commissioner regarded the \$10,000 as income to Appellant for 1937 under the provisions of Section 8(o) of the Bank and Corporation Franchise Tax Act and levied his proposed assessment accordingly. The Appellant contends, however, that the amount constituted not income but a donation by the officers to capital.

The issue involved in this appeal is, accordingly, identical with that involved in the Appeal this day decided by us of Sun Lighting Fixture Company. Upon the basis of our decision in that Appeal and particularly in reliance upon the Attorney General's Opinion NS 4649 of December 18, 1942, quoted in part therein, we must hold that the Commissioner acted correctly in proposing the additional assessment in question.

Appeal of Westlectric Castings, Inc.

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 Westlectric Castings, Inc. to a proposed assessment of additional **tax in** the amount of \$400 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 20th day of January, 1943, by the State Board of Equalization.

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

ATTEST: Dixwell L. Pierce, Secretary