



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
PEARL M. KRUGER )

Appearances:

For Appellant: Pearl M. Kruger, in propria persona

For Respondent: James J. Arditto, Franchise Tax Counsel.

O P I N I O N

This appeal is made pursuant to Section 19 of the Personal Income Tax Act (Stats. of 1935, page 1090, as amended) from the action of the Franchise Tax Commissioner in overruling the protest of Pearl M. Kruger to his proposed assessment of additional tax for the year ended December 31, 1937, in the amount of \$12.14.

The proposed assessment resulted from the disallowance by the Respondent of a deduction claimed by Appellant in the amount of \$1,214.00 on account of stock in the Western Oil and Refining Company purchased in 1925 and 1926 for the above amount and alleged to have become worthless in 1937. The deduction was disallowed by the Respondent on the ground that the stock actually became worthless prior to 1937 so that the loss was not "sustained during the taxable year" as required by Section 8(d) of the Personal Income Tax Act.

A taxpayer claiming a deduction on account of worthless stock, as a loss "sustained during the taxable year" has the burden of establishing that the stock actually became worthless during the year for which the deduction is claimed, rather than in a previous year, and a failure to sustain this burden requires that the deduction be denied. Squier v. Commissioner, 68 Fed. 2d 25; Eagleton v. Commissioner, 97 Fed. 2d 62; Real Estate Trust Co. v. United States, 20 Fed. Supp. 20; Appeal of Mrs. Bertine T. Johnson, State Board of Equalization, June 16, 1942.

On April 4, 1931, a receiver was appointed for the corporation and on March 11, 1936, the court ordered the company to be liquidated. Final liquidation was not completed until January 21, 1937, at which time the receivership and liquidation proceedings were terminated. To show that her stock still possessed value subsequent to the year 1936, Appellant merely states that there was always the possibility, even under the conditions that prevailed with the company, that an improvement in the general oil industry could have greatly enhanced the assets of the company. It does not appear what assets of the company had been liquidated between March 11, 1936, and December 31, 1936. It is quite probable that most of the properties had been

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sold and that an improvement in the general oil industry after December 31, 1936, would have had little, if any, effect upon the value of the stock. In any event, the statement of Appellant falls far short of proof that the stock had any value at the beginning of 1937.

On the basis of these facts we must hold that the Appellant has failed to sustain the burden of establishing that the loss represented by her investment in the shares of the Western Oil & Refining Co. was actually sustained in the year 1937.

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 Pearl M. Kruger to a proposed assessment of additional tax in the amount of \$12.14 for the year ended December 31, 1937, be and the same is hereby sustained.

Done at Sacramento, California, this 15th day of July, 1943, by the State Board of Equalization.

R. E. Collins, Chairman  
J. H. Quinn, Member  
Geo. R. Reilly, Member

ATTEST: Dixwell L. Pierce, Secretary