



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the **Appeal** of)
HARRIET E. KOEBERLE)

Appearances:

For Appellant: George T. Pltman, Attorney at Law.

For Respondent: W. M. Walsh, **Assistant Franchise Tax**
Commissioner; Harrison **Harkins**, Associate
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 Harriet E. Koeberle to a proposed assessment of additional tax in the amount of **\$337.74** for the taxable year ended December 31, **1935**.

The Appellant herein is the wife of the Appellant in the Appeal of J. E. Koeberle, this day decided by us. For the purpose of protecting himself against the expiration of the statute of limitations', the Franchise Tax Commissioner made a proposed assessment of additional tax against Mrs. Koeberle on the basis that the amount received by her husband in 1935, **following** the termination in his favor in that year of litigation instituted by him to recover a sum due him under a contract executed in **1921**, was community property. As we have held in the Appeal of J. E. Koeberle that the amount received by Mr. Koeberle was his separate property, the action of the **Commissioner** in the instant matter must be reversed.

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 Harriet E. Koeberle to a proposed assessment of additional tax in the amount of **46337.74** for the taxable year ended December **31, 1935**, pursuant to Chapter **329**, Statutes of **1935**, as amended-, be and the same is hereby reversed. Said ruling is hereby set aside and the said Commissioner is hereby directed to **proceed** in conformity with this order.

Appeal of Harriet E. Koeberle

Done at Los Angeles, California, this 14th day of November,
1944, by the State Board of Equalization.

Wm. G. Bonelli, Member
J. H. Quinn, Member
Geo. R. Reilly, Member

ATTEST: F. S. Wahrhaftig, Acting Secretary