

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA



In the Matter of the Appeal of )

ANNA I. JOHNSON

Appearances :

For Appellant: H. Edwin Nowell, Certified  
Public Accountant

For Respondent: W. M. Walsh, Assistant Franchise Tax  
Commissioner; Mark Scholtz, Associate  
Tax Counsel

O P I N I O N

This appeal is made pursuant to Section 18593 of the Revenue and Taxation Code (formerly Section 19 of the Personal Income Tax Act) from the action of the Franchise Tax Commissioner on the protest of Anna I. Johnson to a proposed assessment of additional personal income tax in the amount of \$110.19 for the year 1940.

The proposed assessment is attributable to the Commissioner's disallowance of a deduction from gross income for an asserted loss on the sale of residential property in the amount of \$2,875 (Appellant's one-half share of a community loss of \$5,750), and the Commissioner's addition to the Appellant's income of \$1,800, representing the difference between 100% and 40% on one-half of a community gain of \$6,000 from the sale of a patent owned by the Appellant and her husband and held over five years and less than ten years.

The issue on the loss from the sale of the residential property has been abandoned by the Appellant. The remaining issue is identical with that involved in the appeal, this day decided, of L. A. Johnson. For the reasons set forth in our opinion in that matter, the position thereon of the Appellant must be upheld.

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, pursuant to Section 18595 of the Revenue and Taxation Code, that the action of Charles J. McColgan, Franchise Tax Commissioner, on the protest of Anna I. Johnson to a proposed assessment of additional personal income tax in the amount of \$110.19 for the year 1940 be and the same is hereby modified; said action is hereby reversed in so far as the Commissioner determined that the income from the sale of a patent was ordinary income rather than income from the sale of

Appeal of Anna I. Johnson

a capital asset; in all other respects said action of the Commissioner is hereby sustained.

Done at Sacramento, California, this 17th day of November, 1948, by the State Board of Equalization.

Wm. G. Bonelli, Chairman  
J. H. Quinn, Member  
J. L. Seawell, Member  
Geo. I?. Reilly, Member

ATTEST: Dixwell L. Pierce, Secretary