

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA



In the Matter of the Appeal of)
)
ROBERT E. CAMPBELL, EXECUTOR)
OF THE LAST WILL AND TESTAMENT)
OF REGINALD E. CAMPBELL, DECEASED)

Appearances:

For Appellant: Clifford E. Royston,
Attorney at Law
For Respondent: Burl D. Lack, Chief Counsel;
Mark Scholtz, Associate
Tax Counsel

O P I N I O N

This appeal is made pursuant to Section 19059 of the Revenue and Taxation Code from the action of the Franchise Tax Commissioner (now succeeded by the Franchise Tax Board) in denying the claim of Robert E. Campbell, Executor of the Last Will and Testament of Reginald E. Campbell, Deceased, for a refund of personal income tax assessed against said Reginald E. Campbell in the amount of \$171.53 for the year 1943.

Most of the facts pertinent here have been set forth in our opinion of this date in Appeal of Robert E. Campbell, Executor of the Last Will and Testament of Reginald E. Campbell, Deceased, relating to a proposed assessment of additional personal income tax in the amount of \$3,840.28, the tax having been reassessed in the amount of \$828.35, on the income of Caroline S. Campbell for the year 1942. It need only be added that after the notice of proposed assessment therein mentioned, dated April 13, 1948, was received by Reginald E. Campbell, the amount thereof was reduced from \$1,291.86 to \$171.53 on November 24, 1948, although the proposed assessment had not been protested, and on December 28, 1943, the tax as so reduced, together with interest, was paid by Appellant and a claim for refund filed at the same time.

Appellant does not deny that the decedent was originally liable for a tax in the amount finally determined to be due. Appellant rests his case solely on the ground that the tax was invalid because of the Commissioner's failure to set forth the details of the assessment in the notice in accordance with Section 18584 of the Revenue and Taxation Code.

A similar argument was made in the companion appeal above mentioned and our reasons given for holding against the Appellant therein are equally applicable here. Furthermore, the grounds and authorities set forth in our opinion in the Appeal of Edison California Stores, Inc., decided May 18, 1950,

Appeal of Robert E.
Campbell, Executor etc.

require the rejection of the Appellant's position that it is entitled to a refund on the basis of the invalidity of an unprotested proposed assessment to which it now presents technical objections without establishing an actual overpayment of tax.

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 19060 of the Revenue and Taxation Code, that the action of the Franchise Tax Commissioner (now succeeded by the Franchise Tax Board) in denying the claim of Robert E. Campbell, Executor of the Last Will and Testament of Reginald E. Campbell, Deceased, for a refund of personal income tax assessed against said Reginald E. Campbell in the amount of \$171.53 for the year 1943 be and the same is hereby sustained.

Done at Sacramento, California, this 20th day of June, 1950, by the State Board of Equalization.

George R. Reilly, Chairman
J. H. Quinn, Member
J. L. Seawell, Member
Wm. G. Bonelli, Member

ATTEST: Dixwell L. Pierce, Secretary