



BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
ASSETS RECONSTRUCTION CORPORATION, LTD. )

Appearances:

For Appellant: Leland S. Bower, Attorney at Law

For Respondent: Burl D. Lack, Chief Counsel;  
Crawford H. Thomas, Associate  
Tax Counsel

O P I N I O N

This appeal is made pursuant to Section 25667 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Assets Reconstruction Corporation, Ltd., to a proposed assessment of additional franchise tax in the amount of \$143.60 for the income year 1945.

The Appellant, apparently engaged in the business of holding real estate and contracting, keeps its books and files its returns on a cash basis. On December 3, 1948, Appellant filed an amended return for the year 1945 on which it claimed, for the first time, a bad debt loss of \$7,260, representing a certain promissory note in the sum of \$5,500, plus accrued interest thereon of \$1,760. The claimed deduction was disallowed in view of Appellant's failure to substantiate a debtor-creditor relationship and to establish that the debt became worthless during the income year in which it was deducted, and, as respects the accrued interest, for the additional reason that as Appellant was on the cash basis such interest had not been included in its income. The amended return also claimed as an operating expense the item, "Notes and accounts-special . . . \$304.30." The deduction of this amount was disallowed on the ground that it was unsubstantiated as an ordinary and necessary expense of doing business, Appellant asserts that this sum represents a loss sustained by it as a guarantor of the payment of a debt.

'The correctness of the Franchise Tax Board's disallowance of the bad debt deduction in the amount of the accrued interest on the alleged worthless note is now conceded. With respect to the principal sum of the note, Appellant has alleged that the loss "was taken in the year 1945, upon determination by payee that said note was uncollectible.\*\* None of the facts forming the basis of that determination has been presented to us. The claimed loss in the amount of \$304.30 is similarly unsupported.

It is well established that the burden of proof to establish a deductible loss is upon the taxpayer. Burnet v. Houston, 283 U. S. 223; Jones v. Commissioner, 103 Fed. 2d 681. Failure of proof, accordingly, leaves the taxpayer with an unenforceable claim. Burnet v. Houston, supra. Although it has had ample opportunity so, the Appellant has not furnished to the Franchise Tax Board or to this Board any factual information in support of the asserted deductions. Under these circumstances, the action of the Franchise Tax Board 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 25667 of the Revenue and Taxation Code that the action of the Franchise Tax Board on the protest of Assets Reconstruction Corporation, Ltd., to a proposed assessment of additional franchise tax in the amount of \$143.60 for the year 1945 be and the same is hereby sustained.

Done at Sacramento, California, this 22d day of July, 1952, by the State Board of Equalization.

