



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

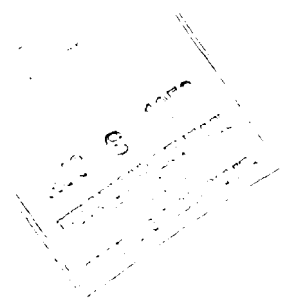
In the Matter of the Appeals of

UNION CARBIDE CORPORATION
(FORMERLY UNION CARBIDE AND CARBON CORPORATION)

and

UNION CARBIDE CORPORATION
(FORMERLY UNION CARBIDE AND CARBON CORPORATION):

AS SUCCESSOR IN INTEREST TO:
BAKELITE CORPORATION
CARBIDE AND CARBON CHEMICALS CORPORATION
ELECTRO METALLURGICAL SALES CORPORATION
HAYNES STELLITE COMPANY
THE LINDE AIR PRODUCTS COMPANY
NATIONAL CARBON COMPANY, INC.
THE PREST-O-LITE COMPANY, INC.
OXWELD ACETYLENE COMPANY
THE OXWELD RAILROAD SERVICE COMPANY
UNITED STATES VANADIUM CORPORATION



OPINION ON PETITION FOR REHEARING

Appellant has filed a petition for rehearing in this matter requesting that the following action be taken:

- (1) "The Board should reconsider its determination with respect to the tax proposed to be assessed under Notice No. 53560 and should find that respondent is outlawed from assessing or collecting the additional tax for both equitable and statutory reasons."
- (2) "Petitioner requests that this Board reconsider its determination that certain income, referred to as government project fees, was income of the unitary business . . ."
- (3) "Unless this Board determines that government fees constitute nonapportionable income, then petitioner must be permitted to include in the denominator of the salary and wage factor of the allocation formula the salaries and wages paid to all petitioner's employees, including those working at government projects."
- (4) "Petitioner requests that this Board reconsider its determination that petitioner was engaged in a unitary business . . ."

Appeals of Union Carbide Corporation

With respect to its first point, Appellant has, in the course of elaborating on its position, brought to our attention a typographical error on page 8 of our original opinion. The reference to "**Section 25660**" on that page should read "**Section 25666.**"

Since the filing of this petition for rehearing, the Franchise Tax Board has conceded that the payroll factor of the formula used to allocate the unitary income should be adjusted by the inclusion of wages paid to employees on government projects as contended by Appellant in its third point. As thus adjusted, the Franchise Tax Board concedes that the taxes should be reduced by the following amounts:

Income year 1945	\$ 1,926.56
Income year 1946	4,462.00
Income year 1947	3,106.74
Income year 1948	5,296.04
Income year 1949	<u>4,828.19</u>
Total	\$20,619.53

We have thoroughly deliberated upon the arguments presented in the petition for rehearing and in a memorandum supplemental thereto and have concluded that, as modified by the concession of the Franchise Tax Board referred to above, our original order should be upheld.

ORDER ON PETITION FOR REHEARING

Upon consideration of the petition for rehearing under Section 25667 of the Revenue and Taxation Code filed by Union Carbide Corporation (formerly Union Carbide and Carbon Corporation) for itself and as successor in interest to its subsidiaries from the action of the Franchise Tax Board on its protests to proposed assessments of additional franchise tax in the total amount of \$280,745.66 for the income years 1940 through 1949, it is ordered, for the reasons set forth in the Opinion on file in this proceeding, that the order of the Board of August 19, 1957, be and the same is hereby modified by reducing the tax by the total sum of \$20,619.53; in all other respects the order of the Board of August 19, 1957, is hereby affirmed.

Appeals of Union Carbide Corporation

Done at Sacramento, California, this 22nd day of July,
1958, by the State Board of Equalization.

Geo. R. Reilly _____, Chairman

J. H. Quinn _____, Member

Robert E. McDavid _____, Member

Paul R. Leake _____, Member

_____, Member

ATTEST: Dixwell L. Pierce _____, Secretary