



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
ABERDEEN PLYWOOD CORPORATION)

Appearances:

For Appellant: Emmett G. Lenihan, Attorney at Law;
Jack A. Carlson, Auditor
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 protests of the Aberdeen Plywood Corporation to proposed assessments of additional franchise tax in the amounts of \$531.76, \$531.76 and \$416.37 for the taxable years ended March 31, 1953, 1954 and 1955, respectively.

Appellant is a Washington corporation engaged in the manufacture of plywood. During the years in question, it owned a plywood mill in Aberdeen, Washington, a peeler plant in Tillamook, Oregon, and tracts of timber in Washington, Oregon and California. When Appellant cut its California timber, the logs suitable for plywood were shipped to its plant in Washington and unsuitable logs were sold to local California buyers.

Appellant kept separate accounting records for its operations in each state and computed its California franchise tax liability for the taxable years ended March 31, 1953, 1954 and 1955, using this separate accounting method. The Franchise Tax Board determined that Appellant was conducting a unitary business and recomputed the income attributable to this State by using the standard three-factor allocation formula of property, payroll and sales.

Appellant concedes that its California operation was part of a unitary business and that allocation of its unitary net income should be made by an apportionment formula. However, Appellant argues that the formula applied by the Franchise Tax Board reached an unreasonable, unfair result. Specifically, Appellant contends that the method used to value its timber unfairly distorted the property factor used in the formula.

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Appellant objects to the use of book value, that is, historical cost less depreciation, rather than fair market value. Appellant points out that its largest timber holding is in Oregon and was acquired in 1943 at an average price of \$.93 per thousand board feet. The California tracts were purchased in 1953 and 1954 at a cost of about \$9.90 per thousand board feet. Appellant argues that in order to prevent giving unfair weight to the timber in California, the Oregon timber should have been valued at its market value, which Appellant contends was \$21.25 per thousand board feet.

This question was answered in the Appeal of Sudden & Christenson, Inc., Cal. St. Bd. of Equal., January 5, 1961 (3 CCH State Tax Rep., Cal., Par. 201-680), (2 P-H, State and Loc. Tax Serv., Cal., Par. 13,243):

It would be impossible to annually ascertain the fair market value of all property used by enterprises doing business in California; the use of book values is a good practical substitute for fair market values in the formula. (See Altman & Keesling, Allocation of Income in State Taxation, Section Edition, 1950, pp. 114, 115.) Furthermore, the courts have repeatedly held that "rough approximation rather than precision" in formula allocation is sufficient (Illinois Central Railroad Co. v. Minnesota, 309 U. S. 157, 161; International Harvester Co. v. Evatt, 329 U. S. 416; El Dorado Oil Works v. McColgan, 34 Cal. 2d 731).

Appellant attempts to avoid the above objection by showing that reliable, annual market values for timber are readily available. This argument is not persuasive. Unless we are to permit valuing some assets at cost less depreciation and others at market, there still remains the difficulty of valuing Appellant's other assets. Assuming that it would be theoretically best to use current market values, a system whereby only selected assets are valued at market is nevertheless wholly indefensible.

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

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of the Franchise Tax Board on the protests of Aberdeen Plywood Corporation to proposed assessments of additional franchise tax in the amounts of \$531.76, \$531.76 and \$416.37 for the taxable years ended March 31, 1953, 1954 and 1955, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 2nd day of May, 1961,
by the State Board of Equalization.

John W. Lynch, Chairman

George R. Reilly, Member

Paul R. Leake Member

_____, Member

_____, Member

ATTEST: Dixwell L. Pierce, Secretary