

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
B. & C. MOTORS, INC. (George and)
Despina Peterson, Assumers)

For Appellant: Paul Friedman, 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 George Peterson and Despina Peterson against proposed assessments of additional franchise taxes against B. & C. Motors, Inc., in the amounts of \$1,493.30, \$1,493.30 and \$383.46 for the taxable years ended August 31, 1955, 1956 and 1957, respectively.

Appellant George Peterson on February 23, 1956, purchased 7,500 shares of B. & C. Motors, Inc., common stock, and on or about February 28, 1957, he became the sole stockholder by purchasing the remaining shares outstanding, which he retained until at least June 16, 1958. on or about that date he decided to dissolve the corporation and continue the business as a sole proprietor. In pursuance with this plan, George and Despina Peterson, the wife of George Peterson, through their attorneys requested of Respondent a certificate that all taxes of the corporation had been paid or secured. This certificate is required to be filed with the Secretary of State as a part of dissolution proceedings. (Rev. & Tax. Code, § 23334; Corp. Code § 5201.)

Accompanying the request was an "Assumption of Tax Liability" executed before a notary public by George and Despina Peterson wherein they "... do hereby agree to pay in full, without reservation or restriction, all accrued or accruing franchise taxes and delinquent charges thereon of B. & C. Motors, inc. ..." In addition, the attorneys of the Petersons in their forwarding letter dated June 18, 1958, stated "Please find enclosed an Assumption of Tax Liability, signed by George Peterson and Despina Peterson, guaranteeing payment of any franchise taxes of B. & C. Motors, Inc., which may be found to be due on audit or otherwise...." The attorneys also requested that the matter be expedited as they desired to dissolve the corporation on June 30, 1958.

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Accordingly, a Tax Clearance Certificate was issued by Respondent on June 20, 1958, and the corporation was dissolved on June 30, 1958. Thereafter, Respondent audited the returns of the corporation and issued the proposed assessments in question.

The Petersons now contend that they cannot be held personally responsible for taxes for the corporation disclosed after they assumed liability, nor for taxes for periods prior to the time they became stockholders. They have not, however, cited authority for their position. In the absence thereof and in the presence of the foregoing categorical assumption of liability made in consideration of Respondent issuing its clearance certificate, we must conclude that the position of the Petersons is without merit.

Appellants also contend that the proposed assessments are in error because Respondent erred in (1) following the provisions of Section 23222 of the Revenue and Taxation Code in determining the tax of the corporation *for* the first two years it did business, and (2) including in income amounts retained in a dealer's reserve. Again, however, no authority is cited. As error on the part of Respondent is not discernible from the record, we must conclude that these contentions are also without merit.

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 2566'7 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of George and Despina Peterson against proposed assessments of additional franchise taxes against **B. & C. Motors, Inc.**, in the amounts of **\$1,493.30**, **\$1,493.30** and \$383.46 for the taxable years ended August 31, 1955, 1956 and 1957, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 27th day of August, 1962, by the State Board of Equalization.

<u>George R. Reilly</u>	, Chairman
<u>Paul R. Leake</u>	, Member
<u>Richard Nevins</u>	, Member
<u>John W. Lynch</u>	, Member
<u>Alan Cranston</u>	, Member

ATTEST: Dixwell L. Pierce, Secretary