

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
CONSUMERS' COOPERATIVE SOCIETY)
OF PALO ALTO, INC.)

Appearances:

For Appellant: Charles J. Heyler
Attorney at Law

For Respondent: Peter S. Pierson
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 "Consumers" Cooperative Society of Palo Alto, Inc., against proposed assessments of additional franchise tax in the amounts of \$370.72, \$596.73, \$1,470.20 and \$649.21 for the income years ended January 31, 1957, 1958, '1959 and 1960, respectively.

Appellant is a cooperative corporation' operating a supermarket, supplemented by the following additional facilities: drug-variety, gas station, cleaning plant, freezer lockers, insurance service and- a credit union. The market is appellant's principal source of income.

Prior to 1955, appellant was entitled to a deduction for all income arising from business activities for or with its members. (Rev. & Tax. Code, § 24405, formerly § 24121n.) This provision was amended in that year so as to except therefrom cooperatives whose income is principally derived from the sale of tangible personal property other than "agricultural products." (Stats. 1955, p. 2232.)

Appeal of Consumers' Cooperative Society of Palo Alto, Inc.

The instant assessments are based upon respondent's determination that appellant's income is not principally derived from the sale of "agricultural products." In the Appeal of Consumers Cooperative of Berkeley, Inc., decided this day, we approved respondent's interpretation of the term "agricultural products." We are unable to determine **definitely from the record** before us, however, whether or not appellant **qualifies** under that interpretation. Accordingly, we shall sustain the action of the Franchise Tax Board with the understanding that appellant may submit, on petition for rehearing, the data necessary to establish that its income is principally derived from the sale of "agricultural products" under respondent's interpretation **of the term**.

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 Consumers'-Cooperative Society of Palo Alto, Inc., against proposed assessments of- additional franchise tax in the amounts of \$370.72, \$596.73, \$1,470.20 and \$649.21 for the income years ended January 31, 1957, 1958, 1959 and 1960, respectively, be and the same is hereby **sustained**.

Done at Sacramento, California, this 3d day of August, 1965, by the State Board of Equalization.

John W. Lynch, Chairman
Paul R. Leake, Member
Michael D. Lewis, Member
Bob Perry, Member
_____, Member

ATTEST: [Signature], Secretary