



Appeal of Leslie & anti Jean B. Glaze

The issue presented is whether labor charges paid by lessees for installation of a leased pinspotter on leased premises should be capitalized or whether they are deductible as an expense in the year of installation.

Section 17202 of the Revenue and Taxation Code allows the deduction of "all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business." Section 17223, on the other hand, prohibits the deduction of "any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate."

Federal cases interpreting statutes substantially the same as those which concern us here have held that the following costs were capital expenditures to be deducted ratably over the extended periods to which they related rather than entirely in the years the costs were incurred: a lessee's cost of improving leased premises (Duffy v. Central Railroad Co., 268 U.S. 55 [69 L. Ed. 846]); the cost of installing an improvement on the property of another person which resulted in an economic benefit to the taxpayer's business beyond the taxable year (Fall River Gas Appliance Co., 42 T.C. 850, aff'd, 349 F.2d 515); and the cost of a lease or license to use patented machinery over a period of years (H. Fendrich, Inc., 3B.T.A. 77).

Whether the cost to appellants of installing the pinspotter machine is regarded as the cost of improving leased premises or as the cost of obtaining the use of the pinspotter machine, it resulted in a benefit to the taxpayer's business which extended over a period of several years. Based on the facts before us, we believe respondent properly considered the cost as a capital expenditure to be deducted over the extended period to which it related.

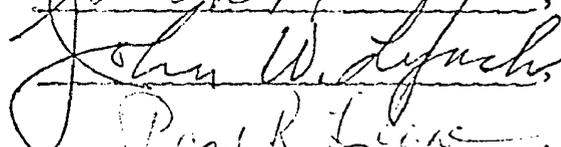
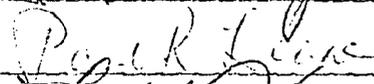
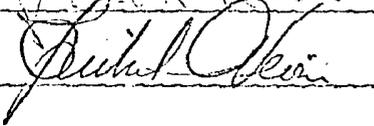
O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

Appeal of Leslie R. and Jean B. Glaze

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Leslie R. and Jean B. Glaze against a proposed assessment of additional personal income tax in the amount of \$248.20 for the year 1961 be and the same is hereby sustained.

Done at Sacramento, California, this 6th day of October, 1966, by the State Board of Equalization.

 \_\_\_\_\_, Chairman  
 \_\_\_\_\_, Member  
 \_\_\_\_\_, Member  
 \_\_\_\_\_, Member  
\_\_\_\_\_, Member

ATTEST:

 \_\_\_\_\_, Secretary