



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
WILLIAM H. AND DONNALIE W. McPHERSON.)

Appearances:

For Appellants: William H. McPherson, in pro. per.
For Respondent: Peter S. Pierson, Counsel .

O P I N I O N

This appeal is made pursuant to section 18594 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of William H. and Donnalie W. McPherson against proposed assessments of additional personal income tax in the amounts of \$230.84 and \$136.75 for the years 1961 and 1962, respectively.

In 1960 appellants purchased a \$40,000 one-sixth interest in certain real estate located in the center of the City of Vallejo. The entire property, including the above one-sixth interest, was then producing gross annual rental income of approximately \$30,000. At the time of the purchase the city issued a notification that the buildings would possibly be condemned within five years and, as a result, their demolition would be required.

Appellants allocated one-half (\$20,000) of the cost of their interest to the improvements and depreciated them over a four-year period. At the hearing of this matter appellants called as a witness Mr. Jack Keeler, a realtor and appraiser with considerable experience in appraising downtown Vallejo property during the years in question. Mr. Keeler testified that in his opinion from 40 to 60 percent of the value of appellants' Vallejo property should be allocated, to the improvements. He also stated that land values in this area had been relatively stable since 1960.

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The Solano County Assessor, using an assessment ratio of 25 percent of fair market value, determined that the assessed value of the entire property in 1960 was \$61,800. He allocated \$48,950 of this value to the land and \$12,850 to the improvements. In 1965, after the buildings had been vacated and condemned by the city, appellants and others purchased an additional 50 percent interest in the entire property for \$60,000.

Respondent adjusted the bases of the land and improvements of the above property interest so that they were proportionate to the assessor's allocations of value between land and improvements. The adjustment reduced the allowable depreciation. Whether this adjustment was correct is the sole issue of this case.

The taxpayer has the burden of establishing by clear and convincing evidence that the depreciation basis of property is greater than respondent's determination. (Appeal of Kung Wo Co., Inc., Cal. St. Bd. of Equal., May 5, 1953.)

Appellants have introduced testimony of an experienced appraiser who stated that from 40 to 60 percent of the value of the Vallejo property should be allocated to the improvements. (See Appeal of St. Francis Hotel Corp., Cal. St. Bd. of Equal., Feb. 5, 1963, Aug. 7, 1963.)

Appellants contend that the 1965 sale price of a portion of the property is significant evidence of the land value then and in 1960, and consequently of a proper allocation between land and depreciable improvements. We must agree with this contention. The 1965 sale involved a one-half interest in the property. Since the buildings had been vacated and were awaiting demolition, it is reasonable to conclude that the \$60,000 sale price was payment only for land. Doubling this amount yields \$120,000, the approximate value of all the land in 1965. Accepting appellants' appraiser's testimony that the value of the land remained relatively constant, this \$120,000 amount is evidence of the value of the land in 1960. When this approximate land value is subtracted from the county assessor's 1960 value for the entire property, \$247,200 (adjusted for the assessment ratio), the resulting difference, \$127,200, is the approximate value of the depreciable improvements in 1960. This latter figure indicates that approximately 50 percent of the entire value of the property should be allocated to the buildings.

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Appellants have stated that the Vallejo property produced gross annual rental-income of approximately \$30,000. This amount would seem to indicate an improvement value considerably higher than \$51,400, the county assessor's determination.

We conclude that appellants have carried their burden of establishing that 50 percent of the value of the Vallejo property was allocable to the improvements, Respondent's proposed assessment also includes a similar adjustment to the depreciation basis of certain improved real estate in the City of Fairfield. Appellants have not submitted any evidence in this regard, and therefore respondent's adjustment-with respect to the Fairfield property must be upheld. (Appeal of Kung Wo Co., Inc., supra, Cal. St. Bd. of Equal., May 5, 1953.)

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 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of William H. and Donnalie W. McPherson against proposed assessments of additional personal income tax in the amounts of \$230.84 and \$136.75 for the years 1961 and 1962, respectively, be modified in that the \$40,000 cost basis of the Vallejo property be allocated equally between land and improvements. In all other respects the action of the Franchise Tax Board is sustained.

Done at Sacramento, California, this 9th day of May, 1968, by the State Board of Equalization.

_____, Chairman
John W. Lynch, Member
Robert ..., Member
Paul R. ..., Member
_____, Member

ATTEST: *[Signature]*, Secretary