

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
CALIFORNIA ELEMENTARY SCHOOL)
ADMINISTRATORS' **ASSOCIATION**)

For Appellant: Edward P. Clark
Certified Public Accountant

For Respondent: Crawford H. Thomas
Chief Counsel

John D. **Schell**
Counsel

O P I N I O N

This appeal is made pursuant to section 26077 of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claims of California Elementary School Administrators' Association for refund of franchise tax in the amounts of \$100.00 for each of its income years ended May 31, 1961, 1962, 1963 and 1964.

The sole question for decision is whether the above mentioned claims for refund were barred by the statute of limitations.

Appellant, a California corporation, was organized in 1928 and has its main office in **Burlingame**, California. It is exempt from tax under sections 23701 et seq. of the Revenue and Taxation Code.

Anneal of California Elementary School Administrators' Association

On November 14, 1966, the Internal Revenue Service determined that appellant had received **taxable** unrelated business income from exhibits at trade fairs during its 'income year ended May 31, 1961, and all subsequent years. By letter dated March 9, 1967, respondent notified appellant that since the state and federal laws in this area were identical, it would be required to file unrelated business income tax returns for state tax purposes for income years ending May 31, **1961, through** May 31, 1966. On May 19, 1967, the requested returns **were filed** and the minimum franchise tax of \$100.00 was paid for each of those years.

On April 14, 1967, the Internal Revenue Service issued Technical Information Release No. 899, which indicated that it would soon issue a ruling withdrawing its previous contention that **income** from trade shows was taxable as unrelated business income **to an** otherwise exempt trade association. Technical Information Release No. 913, dated June 23, 1967, set forth the text of the ruling containing this change of position, and announced that it would be issued on July **10**, 1967. (See Rev. **Rul.** 67-219, 1967-2 Cum. Bull. 210.)

On September 10, 1968, appellant **filed** refund claims for all years for which state taxes had been paid, based upon the above Internal Revenue Service publication. Respondent denied the claims for the years here on appeal on the ground that those claims were barred by the statute of limitations. That action gave rise to this appeal.

For the reasons expressed in the Anneal of California Association of School Administrators, Cal. St. Bd. of Equal., decided this date, in which the identical issue was presented and the same arguments made, we conclude that the claims for refund here in question were barred by the statute of limitations. That limitation period expired on August **15**, 1968, under the provisions of Section 26873 of the Revenue and Taxation Code, and the instant claims were not filed until September 10, 1968.

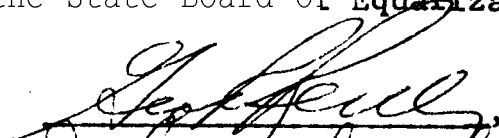
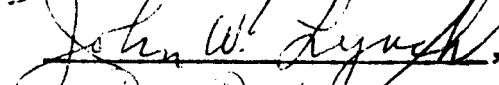

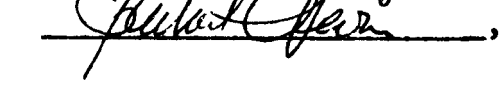
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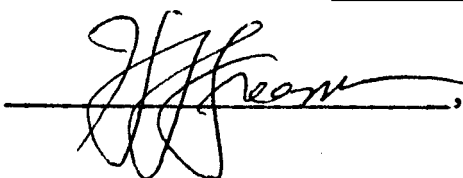
O R D E R

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 26077 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claims of California Elementary School Administrators' Association for refund of franchise tax in the amount of \$100.00 for each of its income years ended May **31**, 1961, 1962, 1963 and 1964, be and the same **is** hereby sustained.

Done at Sacramento, California, this 6th day of November, 1970, by the State Board of **Equalization**.


_____, Chairman

_____, Member

_____, Member

_____, Member
_____, Member

ATTEST:  _____, Secretary

