

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
THE **AMWALT** GROUP, INC.)

For Appellant: Jeffrey A. Walter
Attorney at Law

For Respondent: Karl F. Munz
Counsel

O P I N I O N

This appeal was made pursuant to section **25666^{1/}** of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of The **Amwalt** Group, Inc., against a proposed assessment of additional franchise tax in the amount of \$30,054 for the income year ended November 30, 1977. Subsequent to the filing of this appeal, appellant paid the proposed assessment in full. Accordingly, pursuant to section 26078, this appeal is treated as an appeal from the denial of a claim for refund.

1/ Unless otherwise specified, all section references **are** to sections of the Revenue and Taxation Code as in effect for the income year in issue.

Appeal of The Amwalt Group, Inc.

Two questions are presented by this appeal: (1) whether appellant and its subsidiary were engaged in a single unitary business during the income year ended November 30, 1977, and (2) whether income from a condominium in Hawaii owned by appellant was properly classified by respondent as nonbusiness income.

These same two questions were before us in appellant's previous appeal, Appeal of The Amwalt Group, Inc., formerly Allen M. Walter and Associates, Inc. (Amwalt I), decided by this board on July 28, 1983. Amwalt I involved the two income years immediately preceding the one presently on appeal. In Amwalt I, we held adversely to appellant on both questions raised.

In the present appeal, appellant incorporates, by reference its **briefs** and arguments presented in Amwalt I. ~~The~~ only factual differences between Amwalt I and the present appeal ~~are that~~, in December 1976, the employees of Key **Lease Corporation** (KL), a subsidiary of appellant, were included in appellant's profit-sharing plan, and the profit-sharing plan participation requirements were modified to increase benefits for two of **KL's** employees.

We are in complete agreement with the position of the Franchise Tax Board that the decision in the present appeal is controlled by that in Amwalt I. The modifications made involving the profit-sharing plan do not change the basic lack of operational integration which existed during all the years involved both in Amwalt I and the present appeal.

As we have already decided the issues raised here, there is no need to engage in prolonged discussion in the present appeal. We refer appellant to the decision in Amwalt I, which we hereby incorporate by reference.

The action of the Franchise Tax Board will be sustained.

Appeal of The **Amwalt** Group, Inc.

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- claim of The **Amwalt** Group, Inc.,. for refund of franchise tax in the amount of \$30,054 for the income year ended November 30, **1977, be** and the same is hereby sustained.

Done at Sacramento, California, this 25th day of June , 1985, by the State Board of Equalization, with Board Members Mr. Dronenburg, Mr. Collis, Mr. Bennett and Mr. Nevins present.

<u>Ernest J. Dronenburg, Jr.</u>	, Chairman
<u>Conway H. Collis</u>	, Member
<u>William M. Bennett,</u>	, Member
<u>Richard Nevins</u>	, Member
<u></u>	, Member