



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
KILLEFER MANUFACTURING COMPANY }

Appearances:

For Appellant: Loyd Wright, Attorney at Law

For Respondent: Chas. J. McColgan, Franchise Tax Commissioner

O P I N I O N

This is an appeal under Section 25 of the Bank and Corporation Franchise Tax Act (Stats. 1929, Chap. 13, as amended) from the action of the Franchise Tax Commissioner in overruling the protest of Killefer Manufacturing Company against a proposed assessment of an additional tax in the amount of \$588.39, based on Appellant's return for the taxable period ended December 31, 1930.

The Appellant, Killefer Manufacturing Company; the sole assets of which consisted of stock in the Killefer Manufacturing Corporation, Ltd., filed a return for the taxable period ended December 31, 1930, showing receipt of dividends from the Killefer Manufacturing Corporation, Ltd., in the sum of \$62,460. None of this amount was returned as subject to tax. However, the Appellant paid the minimum tax of \$25.

Acting on the theory that the Appellant was doing business in the state and all dividends received by it from Killefer Manufacturing Corporation, Ltd., except dividends received on account of business done within the state, should be included in Appellant's income for the purpose of measuring the tax under the Bank and Corporation Franchise Tax Act, the Commissioner proposed an additional tax of \$588.39.

The Appellant in its appeal, contends that it is merely a family holding corporation and simply serves as a connecting link between the Killefer family and the Killefer Manufacturing Corporation, Ltd., and therefore was not doing business in the state. Consequently, it argues that it should not have been subjected to tax in any amount in excess of the minimum tax.

The point involved in this case is substantially the same as that in the Appeal of the Union Oil Associates decided by us on this date.

In accordance with our views therein expressed, we hold that the Appellant is to be considered, under the terms of the Bank and Corporation Franchise Tax Act as a business corporation

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doing business in this State, and, consequently, dividends received by it from the Killefer Manufacturing Corporation, Ltd., except dividends received on account of business done within the state, should be included in the income of the Appellant by which the tax provided for in the Act is measured.

It might be remarked that the Appellant is very inconsistent in claiming that it should not be subject to tax on any of the dividends received from the Killefer Manufacturing Corporation, Ltd., while at the same time it admits that it is subject to a minimum tax of \$25. If the corporation is not doing business in the state, then no tax whatever should be assessed. If, however, the corporation is doing business within the state, it is obvious that it is subject not only to the minimum tax, but also to a tax on the dividends received from the Killefer Manufacturing Corporation, Ltd., on account of business done outside the state.

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, that the action of Chas, J. McColgan, Franchise Tax Commissioner, in overruling the protest of Killefer Manufacturing Company, a corporation, against a proposed assessment of an additional tax of \$588.39, with interest, under Chapter 13, Statutes of 1929, be and the same is hereby sustained.

Done at Sacramento, California, this 10th day of October, 1932, by the State Board of Equalization.

R. E. Collins, Chairman
Fred E. Stewart, Member
Jno. C. Corbett, Member
H. G. Cattell, Member

ATTEST: Dixwell L. Pierce, Secretary