



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeals of)
CHARLES E. HAMMOND and DARLENE T. HAMMOND)

OPINION ON PETITION FOR REHEARING

The above appeals were decided in favor of the Appellants on June 16, 1942, as a result of our ruling that the income in question had accrued prior to January 1, 1935, and therefore, under Section 36 of the Personal Income Tax Act as construed in Article 36 of the Commissioner's Regulations, was not subject to the provisions of the Act. A petition for rehearing has been filed by the Franchise Tax Commissioner urging that the Provident Fund of the Combined Petroleum Companies constituted an employees trust within the purview of Section 12(f) of the Act and that as a result, under the provisions of that section, the income received by the Appellants from the Fund during the year ended December 31, 1935, was subject to the tax.

Section 12 of the Act deals exclusively with the taxation of income from estates and trusts. Subdivision (f) thereof provides a special method for the tax treatment of income received from certain types of trusts created by employers for the benefit of their employees. Comparison of the provisions of Section 12 with those of Section 36 suggests no reason for concluding that it was the legislative intent to make the latter section inapplicable with respect to income included within the purview of the Subdivision mentioned. It is unnecessary, accordingly, to consider whether Section 12(f) would otherwise apply to the Provident Fund of the Combined Petroleum Companies.

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 petition for rehearing filed by Charles J. McColgan, Franchise Tax Commissioner, in the matter of the Appeals of Charles E. Hammond and Darlene T. Hammond be and the same is hereby denied.

Done at Sacramento, California this 4th day of August, 1942, by the State Board of Equalization,

R. E. Collins, Chairman
Wm. G. Bonell, Member
George R. Reilly, Member

ATTEST: Dixwell L. Pierce, Secretary