



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
DOMESTIC LAUNDRY SERVICE CORPORATION)

Appearances:

For Appellant: Robert L. Jordan.

For Respondent: W. M. Walsh, Assistant Franchise Tax Commissioner; Hebard P. Smith, Assistant Tax Counsel.

O P I N I O N

This appeal is made pursuant to Section 27 of the Bank and Corporation Franchise Tax Act (Chapter 13, Statutes of 1929, as amended) from the action of the Franchise Tax Commissioner in denying the claim of Domestic Laundry Service Corporation for a refund of tax in the amount of \$331.53 for the taxable year ended December 31, 1938.

The question presented for determination in this appeal concerns the propriety of the action of the Commissioner in disallowing in part the deduction claimed by the Appellant in its return of income for 1937 for salaries paid to its officers for that year. The amounts of salary claimed and allowed are as follows:

<u>Officer</u>	<u>Amount Claimed</u>	<u>Amount Allowed</u>
President and Treasurer	\$9,875	\$6,500
Secretary	5,335	3,640
Vice-President	1,500	--

In support of its position that the salaries constituted reasonable compensation for the services rendered by the officers, Appellant stated in its appeal that it is purely a service company, its profits depending entirely on its volume of business, that the volume is obtained through the personal efforts of individual soliciting and that it was developed purely through the efforts of these officers and that it was deemed fair and reasonable that remuneration of the officers be based on the volume of the business brought to it through their efforts.

In a memorandum filed in support of his position the Commissioner contended, on the other hand, that the amounts allowed by him as deductions for the salaries of the officers represented reasonable compensation for the services actually rendered by

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them. 'He pointed out that over a period of years Appellant had paid to the three officers, who were its sole stockholders, approximately 98% of its net earnings before allowance for the salary and that no dividends have ever been paid **on** Appellant's stock though it has invested capital of about \$45,000 and total assets of between \$75,000 and \$80,000. The amounts allowed by the Commissioner for the two officers are the amounts claimed and allowed for the two income years prior to the one in question and the Commissioner states that nothing is shown in the record that the officers devoted any more time or attention in the performance of the corporation's business or that their services were more valuable to the Corporation during 1937 than during the two prior years. Furthermore, the Commissioner points out that the excess over the \$10,140 which was the amount paid to the officers during 1935 and 1936 and the amount allowed by the Commissioner for 1937 was distributed to the three officers in almost direct proportion to their stock ownership in the Corporation. The President and Treasurer, who owned 50% of the stock, received 50.3% of that excess and the Secretary and Vice-President, each of whom owned 25% of the stock, received 25.4% and 24.3% respectively, of that excess.

The Appellant did not take advantage of the opportunity afforded it to reply to the Commissioner and did not appear before the Board at the time set for the hearing of this appeal. As the burden of proof rests on Appellant to establish the correctness of its position and it has offered no evidence whatever in support of that position, the action of the Commissioner in denying the Appellant's claim for refund must be sustained.

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** denying the claim of Domestic Laundry Service Corporation for a refund of tax in the amount of \$331.53 for the taxable year ended December 31, 1938, pursuant to Chapter 13, Statutes of 1929, as amended, be and the same is hereby sustained.

Done at Sacramento, California, this 9th day of May, 1945, by the State Board of Equalization.

R. E. Collins, Chairman
Wm. G. Bonelli, Member
Geo. R. Reilly, Member
J. H. Quinn, Member

ATTEST: Dixwell L. Pierce, Secretary