



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
UNION OIL COMPANY OF CALIFORNIA }

For Appellant: Donald P. Krainess
Senior Tax Attorney

For Respondent: Crawford H. Thomas
Chief Counsel

Wilbur F. Lavelle
Associate Tax Counsel

O P I N I O N

This appeal is made pursuant to section 26080.1 of the Revenue and Taxation Code from the action Of the Franchise Tax Board in disallowing interest in the amount of \$10,002.94 on a claim by Union Oil Company of California for refund of franchise tax in the amount of \$226,774.80 for the income year 1964.

The question presented in this appeal is whether the amount refunded to appellant constitutes an "overpayment in respect of any tax" within the meaning of section 26080 of the Revenue and Taxation Code so as to entitle appellant to interest thereon.

Appellant Union Oil Company of California and its twenty-nine subsidiary companies are engaged in a unitary business of exploration for and development of oil producing lands, the production of oil and other hydrocarbon and petrochemical substances, the refining of such substances, and the distribution and marketing of refined petroleum and petrochemicals. The due date for filing their franchise tax returns for the income year 1964 was March 15, 1965. On the latter date, appellant and its subsidiaries requested and were granted extensions to September 15, 1965, for the filing of their tax returns. However, the due date for payment of their respective taxes remained

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March 15, 1965, since there is no provision in the law for extending this date. **Accordingly**, appellant enclosed with the extension requests a check for \$1,400,000 covering payment of the franchise tax liabilities of appellant and its subsidiaries. The \$1,400,000 payment was a good faith estimate of their franchise tax liabilities based upon the data and information then available.

On September 15, 1965, appellant and each of the subsidiary companies filed with respondent their respective tax returns for the income year 1964. Appellant's return disclosed a franchise tax liability of \$904,385.61 and the returns filed by its subsidiaries disclosed liabilities aggregating \$268,839.59. Appellant's return claimed an overpayment in the amount of \$226,774.80. Respondent approved and paid appellant's claim but denied interest on the amount refunded.

Appellant urges that its remittance on March 15, 1965, constituted a bona fide and orderly discharge of an actual liability or a liability reasonably assumed to be imposed by law, and that interest is therefore allowable on the overpayment.

The question presented here is the same as that decided this day' in the Appeals of MCA inc., and MCA Artists, Ltd. We do not find any material differences between the facts in the two cases. Accordingly, we conclude that Union Oil Company of California is entitled to interest under section 26080 of the Revenue and Taxation Code on its \$226,774.80 overpayment.

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 26080.1 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in disallowing interest in the amount of \$10,002.94 on the claim by Union Oil Company of California for refund of franchise tax in the amount of \$226,774.80 for the income year 1964 be and the same is hereby reversed.

Done at Sacramento, California, this 7th day of March, 1967, by the State Board of Equalization.

Paul R. Leake, Chairman
John W. Lynch, Member
Richard A. ..., Member
..., Member
..., Member

Attest [Signature], Secretary