



BEFORE THE STATE BOARD OF EQUALIZATION
.OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
CHAMBERLAIN CO. }

Appearances:

For Appellant: Ernst & Ernst, Accountants and Auditors

For Respondent: Reynold E. Blight, Franchise Tax Commis-
sioner

O P I N I O N

This is an appeal pursuant to Section 25 of the California Bank and Corporation Franchise Tax Act (Chapter 13, Statutes of: 1929) from the action of the Franchise Tax Commissioner in over: ruling the protest of Chamberlain Co. against the proposed assessment of an additional tax in the amount of \$89.67 based upon its return for the year ended December 31, 1928.

The issue presented by the appeal is whether or not the Commissioner was warranted in disallowing additional depreciation in the sum of \$8,006.23 based upon the increased value of the assets of the taxpayer as of January 1, 1928. This additional depreciation was claimed under the provisions of Section: 8 and 19 of the Act which afford the taxpayer the privilege of using January 1, 1928, as the basic date for depreciation allow-
ances.

Because values at the beginning of 1928 thus become the basis for depreciation in addition to that allowed by the Federal government in the calculation of net income under the Revenue Act of 1928, it becomes important that the taxpayer establish, by convincing proof, the value claimed as of that date. From the record before us it appears that the Appellant' submitted to the Commissioner an appraisal made by a company specializing in such work as of December 15, 1924. This figure was increased by the taxpayer through "additions at cost" and after the deduction of depreciation since the 1924 appraisal a sound value of January 1, 1928, is said to be shown by the books of the company at \$104,819.08. A second appraisal appear: to have been made at February 28, 1929, in which the value of the property in question was fixed at \$207,316.73 so that for the purposes of comparison the Appellant has continued its pro-
jection of the 1924 appraisal by showing further additions at cost from January 1, 1928; to February 28, 1929, and deprecia-
tion during this interval, revealing a sound value according to its books as of February 28, 1929, of \$108,512.68. There is, of course, a large difference between the sound value so determined and the sound value as fixed in the 1929 appraisal but the Appellant states that this merely tends to demonstrate that insufficient appreciation appeared upon its books as of

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the basic date.

There is no explanation of the bases upon which these appraisals were made nor have we been enlightened as to any of the circumstances surrounding the condition of the property in question. The item of depreciation claimed is a deduction from gross income and we believe that if the Appellant seeks to have us set aside the conclusions reached by the Commissioner, the burden of proof rests upon it to establish the facts upon which its claim must rest. We do not believe that the Appellant has met this burden. While the schedules of figures submitted in the appeal disclose the contentions of the Appellant to be substantially as we have stated them, the appeal is entirely devoid of any detailed information concerning the property. Although the matter was set for oral hearing at which the Appellant would have been afforded an opportunity to supplement these schedules with documentary evidence or oral testimony, there was no appearance in support of the appeal and we were advised by its representatives that oral hearing would be waived. Under such circumstances we conclude that the Appellant has shown no good cause why the action of the Franchise Tax Commissioner was not proper.

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 Reynold E. Blight, Franchise Tax Commissioner, in overruling the protest of Chamberlain Co., a corporation, against a tax based upon its net income for the year 1928, pursuant to Chapter 13, Statutes of 1929, be and the same is hereby sustained.

Done at Sacramento, California, this 1st day of December, 1931, by the State Board of Equalization.

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

ATTEST: Dixwell L. Pierce, Secretary