



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
STANLEY HILLER, LTD.)

Appearances:

For Appellant: Stanley Hiller, president of corporation;
William Denman, its Attorney
For Respondent: Albert A. Manship, Franchise Tax
Commissioner

O P I N I O N

The petitioner, pursuant to Section 25 of the Bank and Corporation Franchise Tax Act, (Stats. 1929, Chapter 13, as amended) appeals from the action of the Franchise Tax Commissioner in overruling petitioner's protest against a proposed assessment of an additional tax in the amount of \$412.92.

The assessment of an additional tax was proposed due to the fact that the Commissioner disallowed as deductions from Appellant's income for the fiscal year ended June 30, 1930, a debt of Baranof Packing Company in the amount of \$9,356.46, and a debt of Barclay Fish Products Company in the amount of \$954.30 alleged by the Appellant to have become worthless during the fiscal year ended June 30, 1930, and hence deductible from its net income for such year.

It appears that the above debts were acquired by Appellant during the year 1925. The Commissioner did not, nor do we deem it proper to question that said debts became worthless during the fiscal year ended June 30, 1930. His action in disallowing the deduction of the debts in question was based on the grounds that there was "no evidence of value as of January 1, 1928."

Section 8e of the Act authorizes the deduction from net income of debts ascertained to be worthless and charged off in the taxable year, but provides that:

"In the case of a debt existing on the date fixed by section 19 hereof for the ascertainment of a gain or loss on the part of the taxpayer, no more than its fair market value on that date shall be deducted."

Section 19 of the Act referred to in that part of Section 8e above quoted provides, insofar as is relevant, that:

"For the purpose of ascertaining the gain derived or loss sustained from the sale

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or other disposition of property, real, personal or mixed, * * * in the case of property acquired prior to January 1, 1928, and disposed of thereafter, the basis shall be the fair market value thereof as of said date."

In view of the above quoted provisions, it is apparent that in the case of debts existing on January 1, 1928, the amount of deduction, when such debts are ascertained to be worthless, shall not exceed the fair market value of such debts on January 1, 1928.

The debts involved in this appeal were in existence on January 1, 1928. Hence, it becomes necessary for us to determine the fair market value of these debts on said date. As evidence of the value of the debts involved in this appeal on January 1, 1928, the following verified statements of the Applicant's president, Mr. Stanley Hiller, were submitted:

"That the Baranof Packing Co., * * * was a corporation of the State of Washington, engaged in business activities in the Territory of Alaska; that said corporation was solvent on January 1st, 1928, and said debt owing by it to the taxpayer was collectible in full,

"That said Barclay Fish Products Co. was engaged in business in the Province of British Columbia, Dominion of Canada, and was on January 1st, 1928, solvent, and said debt owing by it to taxpayer was collectible in full."

There was also submitted a financial statement of the Baranof Packing Company which showed that said company was solvent on December 21, 1927. In view of the above evidence, we are of the opinion that we are warranted in holding that the debt of the Baranof Packing Company in the amount of \$19,356.46 and the debt of the Barclay Fish Products Company in the amount of \$954.32 should be deducted from petitioner's income for the fiscal year ended June 30, 1930.

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 Albert A. Manship, Franchise Tax Commissioner, in overruling the protest of Stanley Hiller, Ltd., a corporation, against a proposed assessment of an additional tax of \$412.42, with interest, under Chapter 13, Statutes of 1929, be and the same is hereby reversed.

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Done at Sacramento, California, this 20th day of April,
1932, by the State Board of Equalization.

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

ATTEST: Dixwell L. Pierce, Secretary