



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
HARRY FULLER }

Appearances:

For Appellant: Harry Fuller

For Respondent: W. M. Walsh, Assistant Franchise Tax Commissioner.

O P I N I O N

This appeal is made pursuant to Section 19 of the Personal Income Tax Act (Chapter 329, Statutes of 1935, as amended) from the action of the Franchise Tax Commissioner in overruling the protest of Harry Fuller to a proposed assessment of additional tax in the amount of \$43.13 for the year ended December 31, 1936.

The appeal involves the taxability in 1936 of interest received by the taxpayer in that year upon his retirement from the Shell Oil Company. The interest was earned on the taxpayer's contributions to the Provident Fund of the Combined Petroleum Companies, the benefits of which are available to employees of the Shell Oil Company.

The only issue involved in the appeal is whether that portion of the interest received in 1936 which had been credited to the account of the taxpayer prior to January 1, 1935, accrued prior to the effective date of the Act. If it did so accrue, it should be excluded from gross income under Section 36 of the Personal Income Tax Act of 1935 and Article 36-1 of the Franchise Tax Commissioner's Regulations Relating to that Act. The Commissioner contends, however, that it did not accrue prior to January 1, 1935.

This issue is identical with that involved in the Appeal of Charles E. Hammond decided by this Board on June 16, 1942, rehearing denied August 4, 1942. For the reasons set forth in our opinions in that matter, we hold that the Commissioner acted improperly in overruling the taxpayer's protest to the proposed assessment of additional tax.

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

Appeal' of Harry Fuller

Chas. J. McColgan, Franchise Tax Commissioner, in overruling the protest of Harry Fuller to a proposed assessment of additional tax in the amount of \$43.13 for the year ended December 31, 1936, pursuant to Chapter 329, Statutes of 1935, as amended, be and the same is hereby reversed. Said ruling is hereby set aside and the said Commissioner is hereby directed to proceed in conformity with this order.

Done at Sacramento, California, this 9th day of March, 1944, 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