



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
ENNO LION)

Appearances:

For Appellant: Enno Lion

For Respondent: W. M. Walsh, Assistant Franchise Tax
Commissioner; Gerald Wallace, Associate
Tax Counsel

O P I N I O N

This appeal is made pursuant to Section 20 of the Personal Income Tax Act (Chapter 329, Statutes of 1935, as amended) from the action of the Franchise Tax Commissioner in denying in part the claim of Enno Lion for refund of tax in the amount of \$139.61 for the year 1935. The claim was allowed in the amount of \$47.10 and denied in the amount of \$92.51.

Purely a factual question is presented for decision. Appellant purchased certain United States Treasury Bonds in the face amount of \$115,000.00 on July 10, 1935, and sold them on August 27, 1935, for \$125,601.36. The Commissioner was of the belief that the purchase price of the Bonds to Appellant was \$118,329.01, but conceded that if the purchase price was \$128,380.73, as contended by Appellant, he would be entitled to a refund of \$92.51, together with interest as provided by law.

No evidence was introduced by the Commissioner. The Appellant testified without contradiction that the purchase price of the Bonds was \$128,380.73 and that he purchased them at the market price of \$110 14/32 plus interest accrued to the date of purchase. His testimony as to the purchase price was corroborated by a memorandum of sale and his testimony as to the market value on July 10, 1935, was corroborated by a published statement, dated July 10, 1935, listing the prices of the United States Bonds, Treasury Certificates and Notes as of that date. The position of the Appellant must, accordingly, be upheld.

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 in

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part the claim of Enno Lion for a refund of tax in the amount of \$139.61 for the year 1935, said claim having been denied in the amount of \$92.51, pursuant to Chapter 329, Statutes of 1935, as amended,, be and the same is hereby reversed. The Commissioner is hereby directed to credit said amount of \$92.51 against any taxes due from said Enno Lion under said Act, to refund the balance to him and otherwise to proceed in conformity with this order.

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