



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
SAMUEL HAMBURG)

Appearances:

For Appellant: Samuel Hamburg (by brief)

For Respondent: W. M. Walsh, Assistant Franchise Tax
Commissioner; James J. Arditto, Franchise
Tax Counsel

O P I N I O N

This appeal is made pursuant to Section 18593 of the Revenue and Taxation Code (formerly Section 19 of the Personal Income Tax Act) from the action of the Franchise Tax Commissioner in overruling the protest of Samuel Hamburg to a proposed assessment of additional tax in the amount of \$14.20 for the taxable year ended December 31, 1936. There being no appearance by the Appellant at the time set for the hearing of the matter, it was stipulated by the Commissioner that the appeal might be submitted for decision upon the memoranda previously filed and without oral hearing.'

Appellant's return of income for the taxable year 1936 was filed on April 12, 1937. A notice of assessment proposing an additional tax in the amount of \$14.20 was mailed to him on January 23, 1941, the liability being based upon the disallowance of deductions claimed for losses resulting from the worthlessness of twenty-five shares of the stock of Central Pacific Service Corporation in the amount of \$1,320 and of ten shares of Sunset Pacific Oil Company in the amount of \$100. The Commissioner determined that the securities had become worthless prior to 1935.

The Appellant contends that the Commissioner failed to examine the return and to determine the correct amount of tax as soon as practicable after the return was filed as required by Section 19 of the Personal Income Tax Act (now Section 18582 of the Revenue and Taxation Code) and argues that this is evidenced by the delay between the filing of the return and the mailing of the delinquency notice. This argument does not take into account the volume of work before the Commissioner and certainly does not in itself establish any lack of diligence on the part-of the Commissioner in issuing that notice.

At the time of the issuance of the notice of proposed deficiency tax, Section 19 provided a four-year limitation period for the mailing of the notice. Although the period of

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limitation was three years at the time the taxes herein accrued, a 1939 amendment to Section 19 (Stats. 1939, p. 2558) increased to four years the period within which notice of a proposed deficiency tax might be mailed. For the reasons set forth in our opinion in the Appeal of C. L. Duncan (March 9, 1944), this extension applies to any return on which action was not barred by the former provisions. It is clear that the notice here in question was mailed within the time required by law.

The Appellant also contends that the securities became worthless in 1936. He has failed, however, to present any evidence to disprove the determination of the Commissioner that the shares of stock became worthless prior to 1935.

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 18595 of the Revenue and Taxation Code, that the action of Chas. J. McColgan, Franchise Tax Commissioner, in overruling the protest of Samuel Hamburg to a proposed assessment of additional tax in the amount of \$14.20 for the taxable year ended December 31, 1936, be and the same is hereby sustained.

Done at Sacramento, California, this 22nd day of August, 1946, by the State Board of Equalization.

George R. Reilly, Member
Wm. G. Bonelli, Member
J. H. Quinn, Member

ATTEST: Dixwell L. Pierce, Secretary