



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal)
)
 of)
)
 CRISLER CORPORATION)

Appearances:

For Appellant: George A. Lazar, Jr., Attorney at Law
For Respondent: Burl D. Lack, Chief Counsel;
Crawford H. Thomas, Associate Tax Counsel

OPINION

This appeal is made pursuant to Section 25667 of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the protests of Crisler Corporation to proposed assessments of additional franchise taxes in the amounts of \$40.68 and \$180.18 for the taxable years 1948 and 1949, respectively.

The point in issue is the valuation of Appellant's closing inventory for the income year 1948.

Appellant, a California corporation, commenced doing business here as a seller of new and used automobiles on September 1, 1947. It filed its returns upon the calendar year and accrual basis. Having done business for less than twelve months in its first taxable year, Appellant's tax for its second taxable year (1948) and the prepayment of tax for its third taxable year (1949) were, under Section 13(c) of the Bank and Corporation Franchise Tax Act, each measured by income of the income year 1948.

Appellant valued its inventory of used cars at "cost or market, whichever is lower," a method of inventory valuation sanctioned by both the Federal and State taxing authorities, Market value for the cars on hand was established at wholesale "Blue Book" quotations... (\$59,395.60) less the cost of reconditioning the cars (\$13,187.00) as estimated by its shop foreman, As so computed Appellant determined the market value of its inventory to be \$46,208.60, which was lower than its cost of \$67,566.66. The actual cost of reconditioning the cars

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ultimately amounted to \$3,127.03. All of the cars were sold in 1949 for \$65,829.10. The "Blue Book" is a publication commonly used in the automobile trade in valuing cars. It calls for a deduction from the wholesale price quotations for reconditioning.

The Franchise Tax Board states that it was able to determine actual market value for several cars purchased immediately prior to the close of the income year 1948 and that these cars were entered on the closing inventory at approximately 10% below actual market value. On the assumption that all inventoried cars were similarly undervalued, the Franchise Tax Board increased the valuation of the entire closing inventory by 10%. By so doing it decreased Appellant's cost of goods sold during the income year 1948 and increased its net income for that year in an equivalent amount.

The applicable statute was Section 17(1) of the Bank and Corporation Franchise Tax Act (now Section 24701 of the Revenue and Taxation Code), which read:

"Whenever, in the opinion of the commissioner, the use of inventories is necessary clearly to determine the income of any taxpayer, inventory shall be taken by such taxpayer upon such basis as the commissioner may prescribe, conforming as nearly as may be to the best accounting practice and most clearly reflecting the income."

The market value of Appellant's inventory of cars on December 31, 1948, is a question of fact. Assuming the accuracy of the "Blue Book" it is nevertheless incumbent upon Appellant to establish that its deduction from "Blue Book" prices of the estimated cost of reconditioning was not excessive, as would seem apparent from the wide discrepancy between the amount of the estimate and the actual cost of reconditioning,

Appellant attempts to explain this discrepancy by stating that proceeds from sales of the cars were less than they would have been had the reconditioning been done. It has not, however, furnished us with information or evidence of any specific car being sold in worse than average condition for a reduced price. In the absence of some evidence to support its contention Appellant has failed to meet its burden of proof and the Franchise Tax Board must be sustained,

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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 25667 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Crisler Corporation to proposed assessments of additional franchise taxes in the amounts of \$40.68 and \$180.18 for the taxable years 1948 and 1949, respectively, be and the same is hereby sustained.

Done at Sacramento, California, this 21st day of November, 1957, by the State Board of Equalization.

Robert E. McDavid, Chairman

J. H. Quinn, Member

Geo. R. Reilly, Member

Paul R. Leake, Member

Robert C. Kirkwood, Member

ATTEST: Dixwell L. Pierce, Secretary