



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of }
PIIONEER DEVELOPMENT CO., INC. }

Appearances:

For Appellant: Robert M. Himrod, Attorney at Law
For Respondent: Burl D. Lack, Chief Counsel;
 Crawford H. Thomas, Associate Tax Counsel

O P I N I O N

This appeal is made pursuant to Section 25667 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Pioneer Development Co., Inc., to a proposed assessment of additional franchise tax in the amount of \$1,423.50 for the taxable year ended June 30, 1958.

Appellant's principal business activity was the construction and sale of residences. It elected to report the gain from the sale of certain houses by use of the installment method. As of June 30, 1957, Appellant held installment contracts which, if fully paid, would have resulted in income of \$35,587.66. During the fiscal year ended June 30, 1958, Appellant distributed the installment contracts to the shareholders together with the rest of its assets and dissolved,

In reliance upon Section 24672 of the Revenue and Taxation Code, the Franchise Tax Board has included in Appellant's income for the income year ended June 30, 1957, the sum of \$35,587.66 as "unreported income" from installment contracts. The position of the Franchise Tax Board is that "unreported income" means the entire income from installment obligations that would be reported if they were ultimately paid in full and if the corporate taxpayer remained in existence long enough to collect the payments.

Appellant contends that Section 24672 must be read in conjunction with Section 24670 of the Revenue and Taxation Code, with the result that only the difference between the basis and the fair market value of the obligations should be included in income. It states, that the fair market value of the obligations here involved was less than 80 percent of their face value, reflecting a discount exceeding the sum of \$35,587.66. It thus concludes that it is not liable for additional tax. The Franchise Tax Board does not question the fair market value assigned to the obligations by Appellant.

Appeal of Pioneer Development Co., Inc.

The issue presented in this appeal is identical with that presented in the Appeal of Contractors Investment Co., Inc., this day decided by us. Upon the basis of our decision in that matter, we hold that "unreported income" referred to in Section 24672 should be computed in accordance with Section 24670. Since in arriving at the fair market value of the obligations, their face value must be discounted by a sum exceeding the income which would be returnable were the obligations satisfied in full, there was no "unreported income" which could be included in the measure of the tax for the taxable year involved.

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 Pioneer Development Co., Inc., to a proposed assessment of additional franchise tax in the amount of \$1,423.50 for the taxable year ended June 30, 1958, be and the same is hereby reversed.

Done at Sacramento, California, this 5th day of January, 1961, by the State Board of Equalization.

John W. Lynch, Chairman

Geo. R. Reilly, Member

Alan Cranston, Member

Paul R. Leake, Member

Richard Nevins, Member

ATTEST: Ronald B. Welch, Acting Secretary