

Appeal of The Grab Bag, Inc.

Appellant, a California corporation engaged in retail sales, **was** incorporated on June 10, 1968, adopting a fiscal year from July 1 to June 30. Appellant did not file a return and **pay** the minimum franchise tax for the period June 10 to June **30, 1968**. The corporation was suspended August 3, 1970 for nonpayment of tax but was revived on November 3, **1975** after paying its delinquent taxes, including the tax for the income year ended June **30, 1968**.

Appellant filed a claim for refund of the short period tax on **the** grounds that no business activity took place during that time and therefore, appellant should not be liable for any tax. Respondent disallowed the claim for refund, and this appeal followed.

Revenue and Taxation Code section 23153 provides, in relevant part:

(a) Every corporation not otherwise taxed under this Chapter and not expressly exempted by the provisions of this part or the Constitution of this state shall pay annually ~~...~~ a tax of one hundred dollars **...**

*** * ***

Every such domestic corporation taxable under this section shall be subject to the said tax from the date of incorporation until the effective date of dissolution **....**

The tax provided for in section 23153 is imposed for the privilege of ~~exercising the corporate franchise in California, and is not~~ contingent upon the corporation doing business. (Appeal of Mission Valley East, Cal. St. Bd. of Equal., October 7, 1971, A.) Thus, the fact that appellant did not conduct any **business during** the short period in question does not relieve it from liability for the minimum franchise tax,

For the reasons stated above, respondent's action in this matter must be sustained.

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,

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IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 26077 of the Revenue and Taxation Code, that the action of the Franchise Tax Board in denying the claim of The Grab Bag, Inc. for refund of franchise tax in the amount of \$196.50 for the income year ended June 30, 1968, be and the same is hereby sustained.

Done at Sacramento, California, this 16th day of August, 1979, by the State Board of Equalization.

Stella B. Burns, Chairman

Paul A. Herin, Member

Geoffrey, Member

_____, Member

_____, Member