

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 143

June 26, 1958

UNITARY BUSINESS: ELIMINATION OF IDLE PROPERTY FROM PROPERTY FACTOR OF ALLOCATION FORMULA AND DISALLOWANCE OF ITS MAINTENANCE EXPENSE

Syllabus:

Idle property of a unitary business may not be included in the property factor of the allocation formula if the property is not available for use in the unitary business during the period of idleness and the maintenance of such idle property may not be deducted from unitary income.

Taxpayer conducts a unitary business and reports to California on an allocation formula basis. One of its out of state plants was required to remain idle for seventeen months by reason of an order of the War Production Board. During the shutdown, taxpayer sustained substantial maintenance expense for this plant. Advice is requested as to whether (1) the value of the plant is to be eliminated from the property factor of the formula for any of the period it was idle and (2) may the taxpayer deduct the maintenance costs from unitary income for any period.

The State Board of Equalization in the Appeals of E. K. Wood Lumber Company, July 15, 1943 and Art Rattan Works, August 24, 1944, decided that the value of such property could not be eliminated from the property factor of the formula, even though idle, if it is available for use at all times. As a result of these decisions that portion of the Bank and Corporation Tax Regulation 24301 with respect to the elimination of idle properties is applicable only in those cases where the property in question is available for use in the unitary operations. Where the property could not be used because of a governmental order, there is no availability for use, and the value of the property must be eliminated from the formula.

Expenses attributable to nonunitary functions are not includible in the income from the unitary business. Appeal of E. K. Wood Lumber Company (supra); Appeal of Ford Motor Company, State Board of Equalization, April 20, 1948. Since the plant in question is considered nonunitary during the period of enforced idleness, the maintenance expenses incident thereto may not be deducted from unitary income.