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*Container Corp v. Franchise Tax Board Case Brief*

Facts:

Appellant is a paperboard packaging manufacturer as a Delaware corporation, headquartered in Illinois, and doing business in California and elsewhere. Appellant omitted all subsidiary payroll, property, and sales in applying the three-factor formula. California contended that all overseas subsidiaries should have been treated as its unitary business, not a passive investment. Appellant brought action for a refund in CA superior court.

Law:

California employs a unitary business principle and formula apportionment to apply corporate franchise tax geared to income.

Analysis:

The taxpayer has the burden of proof in demonstrating “clear and convincing evidence” that extraterritorial values were being tax. Such evidence would need to demonstrate that the foreign subsidiaries in question did not constitute a unitary business.

Conclusion:

California’s use of the three-factor to apportionment is fair and applies to the appellant overseas income in determining the proper apportionment. The fact that the accounting records of the company did not make such differentiations in income sourcing is irrelevant to the argument.