CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 060

June 27, 1958

RETURNS: FILING REQUIREMENTS: GROSS INCOME

Syllabus:

In determining whether the gross income of an individual requires the filing of a return under section 18401 of the Personal Income Tax Law:

(1) Only the cost of goods sold may be deducted from gross sales to determine gross income.

(2) The gross income of a professional gambler is determined by his gross winnings without deducting his losses.

(3) A casual gambler must report his gross winnings and then deduct his losses on the return. The reporting of net winnings is not acceptable.

Advice is requested as to the determination of gross income for the purpose of filing Personal Income Tax Law returns in the following:

(1) What adjustments may be made to the gross sales of an individual engaged in a merchandising business to determine whether he must file a return?

(2) Is the filing liability of a person engaged in the business of bookmaking determined by gross winnings or by winnings less losses?

(3) Must a casual gambler report his gross winnings and deduct his losses on the return or may he merely report his net winnings as "other income"?

(1) The distinction between gross income and gross receipts makes it clear that cost of goods sold must be deducted from gross sales to determine gross income. If the resulting amount is$5,000 or over, there is a sufficient gross income to require the filing of a return under section 18401 (c)

(2) For an individual engaged in a bookmaking business, there is no deduction from gross receipts comparable to the cost of goods sold in a merchandising business. Gross income for purposes of filing liability is gross winnings. The only justifiable adjustment to gross receipts in determining gross income would be the subtraction of amounts returned to bettors by reason of called-off bets, scratches, and "lay-off" bets, for these amounts are not properly receipts of the taxpayers in the sense of contributing to gains, profits, and income.

The proper manner for deducting wagering losses of casual gamblers, i.e. those not engaged in gambling as a business, is that such losses are to be deducted from adjusted gross income in determining net income rather than from gross income. In other words, the losses are a below the line deduction for casual gamblers, however, the amount of losses may only be deducted to the extent of wagering gains.