

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 065

June 27, 1958

COMMUNITY PROPERTY: PROPERTY HELD IN JOINT TENANCY

Syllabus:

The Franchise Tax Board will accept evidence to show that property, the title to which is held in joint tenancy, is in fact community property.

Decedent and taxpayer, his wife, held certain property as joint tenants. The Inheritance Tax Appraiser found that the property was actually community property. The question now arises as to how this property is to be treated in the matter of the taxpayer's basis for income tax purposes. Advice is requested whether evidence should be accepted which refutes the title registration and shows property registered in joint tenancy to be community property.

California Supreme Court cases clearly establish that evidence is admissible to show that a husband and wife who took property as joint tenants actually intended it to be community property. There is no basis upon which application of this rule in income tax cases could be opposed. Therefore, it should be accepted and evidence should be received which refutes joint tenancy title registration and establishes community ownership. A probate decree which decides the question should be accepted as conclusive.