

## CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 086

June 17, 1958

### ALIMONY: INSURANCE PREMIUMS

#### Syllabus:

Insurance premiums on an insurance policy to secure the payment of monthly support payments to the wife are not deductible by the husband as alimony.

As an incident to a divorce decree, subject taxpayers entered into a property settlement agreement. The agreement provided among other things that, (a) the wife would receive monthly support payments of \$275.00, and (b) that the wife would remain as the irrevocable beneficiary of a life insurance policy on the husband. If the wife predeceased the husband, the policy would revert to the husband. At maturity date, the proceeds would be paid to the husband, unless the latter was still obligated by court order to support the wife. If so obligated the monthly retirements payments payable under the policy would be used to satisfy this support obligation.

Federal cases on this subject have established the general principle that if a life insurance policy has been irrevocably assigned to the wife, and the husband is obligated to pay the premiums on the policy for his entire life, the payments are deductible as alimony. Stewart, 9 TC 195, Carmichel, 14 TC 1356. Where, however, the wife is made an irrevocable beneficiary for a limited time to secure the husband's obligation to support the wife, the premiums are not solely for her benefit and thus are not deductible. Ellsworth Baker v Comm., 17 TC 1610, affm'd 205 F2d 369.

Clearly under these decisions, the premiums in the subject case are not deductible. If the wife predeceases the husband her entire interest in the policy is lost and it reverts to the husband. So also, if at maturity date the husband has no longer any obligation to support the wife, the retirement income from the policy is payable to the husband. Under the circumstances it would appear that the specific purpose of these provisions was to secure to the wife the monthly support payments provided in the divorce decree, rather than vest any permanent ownership of the policy in the wife.

Accordingly, the premiums paid by the husband are not deductible as alimony nor taxable income to the wife.