

## CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 130

June 20, 1958

### BASIS: PROPERTY ACQUIRED BY INVOLUNTARY CONVERSION

#### Syllabus:

The involuntary conversion sections of the Bank and Corporation Tax Law do not apply to conversions occurring during a period when the taxpayer was not subject to the Bank and Corporation Tax Law.

Taxpayer, a corporation, reported under the Corporation Income Tax Law for the years 1937 through 1941. From 1942 through 1945 it had no activity in California and accordingly filed no returns. During 1942 and 1943 taxpayer lost several vessels at sea. In 1945 a vessel was requisitioned and sold to the War Shipping Administration. Under the provisions of the Federal law taxpayer treated the transactions as involuntary conversions and established a replacement fund of the sale and insurance proceeds. In 1946 and 1947 the replacement fund was utilized for the acquisition of vessels to replace the original vessels. On taxpayer's franchise tax returns for 1946 and subsequent years the replacement cost of the new vessels was used as the State basis for computing depreciation and gain and loss. Advice is requested whether the involuntary conversion sections of our law apply to conversions occurring during a period when taxpayer was not subject to the law.

Section 24902 provides for the taxation of gain or loss on the sale of assets. Section 24943 provides that gain realized on a transaction designated as an involuntary conversion may be tax free if the taxpayer elects to follow certain conditions. Since the provisions of section 24902 can only be applied if the taxpayer is doing business or has activity within this State, it necessarily follows that section 24943 is equally inapplicable even though the taxpayer has performed the required Federal condition. The lack of jurisdiction to apply the taxable provisions of the law if the conditions are not met points out unmistakably the lack of jurisdiction to apply the nontaxable provisions of the law. Since the basic provisions of section 24947 are completely dependent upon the application of section 24943, our inability to require an election under that section compels the conclusion that cost, as provided in section 24912, is the proper basis for the vessels.