

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 139

June 26, 1958

DEFICIENCY: DEFINITION

Syllabus:

The word "deficiency" conveys its ordinary meaning, therefore, it comes into existence when the tax becomes overdue.

Advice is requested as to the definition of the word "deficiency" as it is used in the Personal Income Tax Law and whether a "deficiency" only arises out of a proposed assessment.

Since the statute does not define the word, it is presumed to convey its ordinary meaning. Webster defines "deficiency" as a state of being deficient, a shortage, a deficit. The Internal Revenue Code contains a concise definition of "deficiency" but the statute only explains the ordinary meaning of the word. Therefore, it may be presumed that the term conveys the same meaning for State and Federal purposes. Federal cases permit "deficiency" penalties where no return has been filed (First Trust and Savings Bank, 206 F2d 97) and where amended returns are filed (Middleton v Comm., 200 F2d 94) and Federal Cases are entitled to great weight in construing the State law. Therefore, it is apparent that a deficiency comes into existence when the tax becomes overdue.