

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 169

October 29, 1957

FOREIGN TRUSTS: TAXABILITY OF ACCUMULATED INCOME

Syllabus:

That portion of a foreign trust's income accumulated by the trustee for California beneficiaries is subject to taxation in the year accumulated under the Personal Income Tax Law whether the interest is vested or contingent.

Advice is requested whether the taxable income of a foreign trust of which the primary beneficiary is a California resident, the trustee and fiduciary are nonresidents, is subject to taxation under the Personal Income Tax Law. Further, if the trust is taxable, is the beneficiary's residence at the time income is accumulated or the time of distribution determinative?

In Appeal of Estate of William A. Slater, (May 31, 1944), a tax on the taxable income of a foreign trust in proportion to the beneficial interest held by California residents was held to be constitutional by the Board of Equalization.

Section 18102 and Section 18104 of the Personal Income Tax Law make no distinction between vested and contingent interests. Regulation 18101-06(a)(4) provides for the taxing of that portion of the taxable income of the trust which shall eventually be distributed to residents of California. It makes no distinction between vested and contingent interest. Regulation 18101-06(c) provides for taxation of the beneficiary when the tax due from the trust has not been paid. The tax for which the beneficiary may be liable is not determined by amounts distributed but by the amount accumulated while the beneficiary was a resident of this State. Therefore, it is concluded that a trust is subject to tax on those portions of income which the trustee accumulates for later distribution to beneficiaries who are residents of California in the year of accumulation whether their interests are vested or contingent.