

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 215

June 24, 1958

INSTALLMENT SALES: REAL PROPERTY

Syllabus:

Installment method of accounting may not be used for a sale of real property if no payment is received in the year of sale.

Taxpayer sold certain real property for which he received no initial payment in the year of sale. Taxpayer was to receive the purchase price in installments over a period of several years, advice is requested whether the taxpayer may use the installment method of accounting on the gain from the sale.

Section 17532 of the 1953 Personal Income Tax Law provides for the installment method of accounting. Regulations 17531-17532(b) issued pursuant to that section specifically provides that the installment method may not be used for a sale of real property if no initial payment is received in the year of sale. The ruling of Gilbert v Comm., 241 F2d 491 does not apply inasmuch as it applied only to sales of personal property and the regulations pertaining to personal property do not contain the specific requirement for payment in the year of sale.

For those income years subsequent to the effective date of section 17578 of the 1955 Personal Income Tax Law there is no need for payment in the year of sale as this requirement was abolished.