

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 243

October 29, 1959

ESTATES: COMMUNITY – PORTION OF COMMUNITY PROPERTY PROPERLY  
SUBJECT TO ADMINISTRATION IN WIFE'S ESTATE

Syllabus:

Within the context of the language of Regulation 18101-18106(a)(6) only the securities and the automobile issued in the name of the deceased wife alone constitute the part of her one-half of the community property subject to administration in her estate.

H and W were husband and wife and were residents of California. W died intestate, H was appointed administrator of W's estate.

In the inheritance tax affidavit required to be filed by the State of California, H claimed that all of the decedent's property was community property. Included among the assets of the decedent's estate, however, were United States savings bonds issued in the name of the decedent only, and an automobile registered in her name alone.

The Probate Court made a finding that all of W's estate was community property and that H, as the surviving husband, was entitled thereto.

Section 17731(a)(3) (formerly Section 18101(c)-1951), provides that the taxes imposed by the Personal Income Tax Law on individuals shall apply to the taxable income of estates including "Income received by estates of deceased persons during the period of administration or settlement of the estate".

Regulation 18101-06(a)(6) provides that "On the death of the wife, the income from that part of her one-half of the community property that is properly subject to administration is taxable to her estate".

Normally in the absence of testamentary disposition by the deceased wife of her community one-half or if it becomes unnecessary to establish proper title or community status probate administration is not required by statute.

Inasmuch as United States savings bonds and an automobile titled in her name only were included in her one-half of the community property administration was made necessary as to that part of her community one-half in order to establish proper title or community status.