

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 338

July 7, 1969

TAXABILITY OF SUPPLEMENTAL RAILROAD RETIREMENT ANNUITIES

Syllabus:

Payments received from supplemental railroad retirement annuities are not subject to California Personal Income Tax.

Section 12 of the Railroad Retirement Act of 1937 (45 U.S.C. Section 228 1) provides that annuity or pension payments received under the Act shall not be subject to any tax by the United States or any state, territory, or the District of Columbia.

A modification of this general exemption from taxation was enacted in 1966 by the passage of P. L. 89-699, approved October 30, 1966. This legislation provided for the payment of supplemental annuities and declared these supplemental payments would be subject to federal income tax. (45 U.S.C. Section 228c(j)(4))

However, since only federal taxation of the supplemental annuity payments is authorized by the law, the states are still precluded from taxing such payments by the general rule set forth in Section 12 of the Act.

Accordingly, under Section 17137 of the California Revenue and Taxation Code, supplemental railroad retirement annuity payments are not subject to taxation by California.