

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 039

June 24, 1958

ALIMONY: DEDUCTION

Syllabus:

If alimony to a former spouse is paid out of community income, the husband and wife can each deduct one-half thereof on their separate returns. If it is paid out of the husband's separate property, he should take the entire deduction on his separate return.

Advice is requested as to whether alimony paid to a former wife is deductible one-half by the husband and one-half by his present wife or entirely by the husband.

Since a husband's antenuptial debts can be satisfied out of community income (excepting therefrom the wife's wages), the deduction is available one-half to each spouse if each reports one-half of the community income. If the husband actually pays the alimony out of his separate income, then he must take the entire deduction. There is no legal requirement, however, that the husband apply his separate income before community income in satisfaction of his personal obligations. The control granted to the husband over community property implies no such restrictions.