

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 116

May 12, 1958

REVOCAION OF EXEMPT STATUS: COMPUTATION ON THE FIRST TAXABLE YEAR

Syllabus:

A corporation upon the loss of its exempt status shall be treated as a commencing corporation for franchise tax purposes.

Y Foundation, an exempt organization, was incorporated in California in September 1948. The exemption was revoked effective with the close of Y Foundation's fiscal year in April 1951. The corporation's first return after the loss of the exemption covers its fiscal year ending in April 1952. Advice is requested whether this return should be treated as the first return of a commencing corporation.

In defining the term "corporation" for purposes of the Franchise Tax Law, section 23038 expressly excludes exempt corporations. Since Y Foundation was exempt until May 1951, it did not become a "corporation" until that date and should be treated as a commencing corporation. Since Y Foundation was not subject to franchise tax prior to May 1951, that date marks the beginning of its first taxable year. As the corporation is a commencing corporation, the tax should be computed under section 23222, using the income of the year ended April 30, 1952, as the measure of the tax for the taxable years ending April 30, 1952 and April 30, 1953.