

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 175

October 17, 1957

PENSIONS: TAXABILITY: TEACHERS AND COUNTY EMPLOYEES

Syllabus:

Pensions or retirement allowances of teachers and state and county employees are taxable under the Personal Income Tax Law.

Advice is sought regarding the taxability of pension and retirement allowances paid to teachers and state and county employees.

Section 14278 of the Education Code, and Sections 21200.5 and 31452 of the Government Code provide that pension and retirement allowances "are exempt from taxation, including any inheritance tax".

Prior to 1955, Section 31452 of Government Code merely provided that retirement payments to county employees were "exempt from taxation". The California Supreme Court in Estate of Simpson, 43 Cal 2d 594, interpreted the section to refer to state property taxes only. In the 1955 Legislative session, Section 31452 was amended to include the reference to inheritance tax. In view of the Simpson case and the subsequent amendment it seems clear that Section 31452 only grants an exemption for property and inheritance taxes. Section 14278 of the Education Code and 2100.5 of the Government Code read exactly the same as Section 31452 of the Government Code. It is therefore concluded that such pensions and retirement allowances are taxable under the Personal Income Tax Law.