

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 210

November 22, 1957

HEAD OF HOUSEHOLD: PRINCIPAL PLACE OF ABODE

Syllabus:

A person's principal place of abode is the permanent home to which he intends to return after a temporary absence and which is his principal place of residence for the entire taxable year except for temporary absences due to special circumstances.

Taxpayer, an unmarried woman, maintained a home in Long Beach for which she paid the entire cost of maintenance. Taxpayer's daughter who opened a small business in Los Angeles is unable to commute daily and has rented a room in Los Angeles. The daughter returns to taxpayer's home on weekends. Taxpayer claims a head of household exemption in filing her return. Advice is requested whether taxpayer's home is the daughter's principle place of abode.

Proposed Regulation 17042-17043 provides the household must actually constitute the home of the taxpayer and the principle place of abode of the qualifying individual for the entire taxable year. The Regulation further provides a nonpermanent failure to occupy the common abode, because of illness, education, vacation or military service, shall be considered a temporary absence due to special circumstances and will not prevent the taxpayer from qualifying as head of household if (1) it is reasonable to assume that the taxpayer or other person will return to the household, and (2) the taxpayer continues to maintain such household in anticipation of such return.

In this case the absence of the daughter is of a permanent nature of indefinite duration caused by her business. Although she may have an indefinite future intention to return to her mother's home if her business is not successful, viewed objectively her absence is not of a temporary nature. Consequently, since she does not reside in the taxpayer's home the entire taxable year and her absence is not of temporary nature due to special circumstances, taxpayer is not entitled to the head of household exemption.