

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 330

July 30, 1968

BASIS: COMMUNITY PROPERTY PASSING TO SURVIVING SPOUSE

Syllabus:

Joint tenancy property which has its source in community property of the marriage is not included in determining the value of a decedent's estate under the Inheritance Tax Law. Accordingly, under Section 18045(g) of the Revenue and Taxation Code, the basis of such property is its original cost.

Section 18045(g) of the Revenue and Taxation Code provides that the decedent's portion of joint tenancy property acquires a stepped-up basis only if by reason of the decedent's death the property is required to be included in determining the value of the decedent's estate under the Inheritance Tax Law. Property held by a husband and wife in joint tenancy which had its source in community property of the marriage is treated as community property for inheritance tax purposes under Section 13671.5 of the Inheritance Tax Law. However, Section 13551 provides that upon the death of one spouse none of the community property passing to the surviving spouse is subject to the Inheritance Tax Law.

Accordingly, upon the death of one spouse the decedent's portion of joint tenancy property which had its source in the community property of the marriage would not be included in determining the value of the decedent's estate under the Inheritance Tax Law, and, therefore, the basis of that portion would be its original cost.