

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 043

June 27, 1958

COMPENSATION: SERVICES RENDERED FOR A PERIOD OF 36 MONTHS OR MORE

Syllabus:

An individual who worked over a 67 month period in selling a business is entitled to the benefits of section 18241.

In June, 1945, an individual taxpayer was appointed by X, Inc. to act as its representative in negotiating a sale of the business. In December, 1950 a sale of all of the X, Inc. stock to Y Corp. was effected and the taxpayer was paid his commission. Advice is requested as to whether the taxpayer may allocate the commission received over the 67 month period pursuant to section 18241.

In the instant case the date of taxpayer's first contact with the ultimate buyer is not known, and it may be that at least 36 months elapsed between that date and the date of sale. In that event, there can be no doubt that he is entitled to the benefits of section 18241. But in any event, it is clear that the entire period over which he worked to effect a sale was 67 months. On the authority of Commissioner v Gordon, 172 F2d 864 and Guy C. Myers, 11 TC 447, the allocation of the commission over 67 months should be allowed.

The argument that in determining whether the services have been performed over the required 36 month period the only period which should be considered is that between the first contact with the ultimate buyer and the consummation of the sale was rejected by these cases.