

# CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 082

June 17, 1958

## STATUTE OF LIMITATIONS: FIDUCIARIES

### Syllabus:

Section 18586.1 authorizes assessment or action against a fiduciary after the expiration of the 18-month period in Section 19266(a) if the requisite conditions are present. However, Section 18586.2 and Section 18587 do not authorize an assessment or action after the expiration of the 18-month period.

Advice is requested as to the extent the 18-month limitation period for fiduciaries provided by Section 19266(a), formerly Section 18205(a), is affected by the provisions for extending the statute of limitations upon omission from gross income (Section 18586.1); failure to report Federal changes, (Section 18586.2); and where a Federal waiver is made (Section 18587).

Section 19266(a) provides a special 18-month limitation period in favor of fiduciaries. Section 18586.1 provides for an extended limitation period where a taxpayer has failed to report an amount in excess of 25% of gross income stated in the return. In Foster's Estate v Comm., 131 F2d 405, in construing Federal provisions which are substantially the same as Sections 19266(a) and 18586.1, it was held that the extended period was applicable against a fiduciary who failed to report such an amount, notwithstanding the 18-month period.

The application of Sections 18582.5 and 18587 must be determined by applying established principles of statutory construction. Thus, where a general limitation law applicable to numerous classes of cases conflicts with the law applicable only to a particular class, the latter is controlling. Since there is no judicial authority to the contrary, the special provisions for fiduciaries in Section 19266(a) prevails over the limitation provisions applicable to taxpayers in general, as stated in Sections 18582.2 and 18587. Consequently, the 18-month period cannot be extended in those instances.