

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 094

June 25, 1958

RETURNS: SUFFICIENCY

Syllabus:

A return which does not contain information as to the various items of income, deductions, and credits with such definiteness as to permit computation and assessment of the tax is not a proper return under the Bank and Corporation Tax Law.

In March 1948, taxpayer submitted a Franchise Tax return for 1947 which was completely devoid of information concerning the amount of its income. In all other respects the form was properly completed. A short note was attached to the return which read:

"Inasmuch as this company is a foreign corporation with offices in . . . engaged exclusively in interstate commerce, making no sales in the State of California, but which corporation operates a remanufacturing plant within the State, return is filed indicating a minimum tax of \$25.00, check in payment is attached hereto".

Advice is requested as to whether this return was a sufficient return under the Bank and Corporation Tax Law to start the running of the statute of limitations.

Before an income tax return will start the running of the statute of limitations it must meet three basic tests. It must be shown that (1) it was filed in good faith, (2) it covers the entire period involved, and (3) it contains information as to the various items of income, deductions, and credits with such definiteness as to permit computation of the tax. The return in question fails to meet the third requirement, since under no circumstances could the Franchise Tax Board compute a tax from the information supplied. Although the attached statement would put the Franchise Tax Board on notice that the taxpayer was subject to the tax, from the information submitted the Franchise Tax Board was in no position to know that a tax in excess of the minimum was due. The courts have held that there is no obligation upon the taxing agency to make such an investigation. Further, the courts have held that without the income details a return has not been filed. Therefore, taxpayer's return is not a proper return, and does not state the running of the limitation period in which an assessment may be made.