

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 206

October 21, 1957

REFUNDS: INTEREST: BEGINNING DATE OF COMPUTATION

Syllabus:

The beginning date for computation of interest on refunded overpayment of advance payment of taxes is the due date of the taxpayer's return except that on overpayments of installments paid prior to the installment due date, it shall be computed from the date of payment.

Advice is requested regarding the proper beginning date in computing interest on refunds when the overpayment being refunded was paid prior to the date it was due.

The provisions of Sections 19062 and 26080 which are substantially the same as the provisions of the 1939 Internal Revenue Code provide that interest shall be allowed from the "date of overpayment". The Internal Revenue Service and this Board interpret this provision to mean the interest shall be computed from the date the taxpayer's return was due in cases where the tax was paid prior to the due date. The statute of limitations for filing a claim for refund does not begin to run until the due date of the return, consequently interest should not start accruing against the state until that time. Section 6513(a) and 6611(d) of the 1954 Internal Revenue Code now specifically provide that for the purposes of computing interest, payment shall be considered made on the date payment was due in cases where the tax was paid prior to the due date. These sections are consistent with the interpretation of the 1939 Internal Revenue Code and the Board's interpretation of Sections 19065 and 26080. Consequently, interest on a refund where the overpayment was made prior to the time the return was due should be computed from the due date of the return.

Both the Personal Income Tax Law and Bank and Corporation Tax Law have provisions for the payment of taxes in installment, however, the due date for filing a return is not changed and the statute of limitations on filing a claim for refund begins to run at the time the return is due. Consequently, on installments paid prior to the time payment is due but subsequent to the due date of the return, interest on a refund of overpayment of that installment should be computed from the date of overpayment. The date of overpayment of tax withheld at the source shall be deemed to be the due date of the taxpayer's return for the year in which the income was earned.