

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 342

April 12, 1970

REVENUE AND TAXATION CODE SECTION 25934.2

Syllabus:

The penalty provided by Section 25934.2 does not apply to underpayments ultimately determined after an extension of time for filing has been granted and the extension request was accompanied by full payment of the expected tax.

Advice has been requested as to the applicability of the penalty imposed by Section 25934.2 for the failure to make timely payment of corporate taxes to the situation where the taxpayer has been granted an extension of time and has paid the full amount of its expected tax with its extension request.

Section 25934.2 was enacted August 13, 1969 by Assembly Bill 1136. The bill as originally enacted contained no reference to payments made with extension requests. It was subsequently amended by the Assembly to provide that no penalty would be assessed if the payment accompanying an extension request proved to be at least 80 percent of the tax shown on the return subsequently filed. This provision was amended out of the bill by the Senate and, as enacted, the section contains no reference to extension request situations.

It is therefore clear that the Legislature did not intend to exempt taxpayers filing under extensions from the penalty.

However, Section 25934.2 does provide that the penalty will not be imposed where the underpayment is due to reasonable cause and not willful neglect. Since, under Section 25402, extensions are only granted for good cause, it seems likely that when an extension is granted reasonable cause would exist for any underpayment which may occur.

Accordingly, it is held that no penalty will be imposed under Section 25934.2 where an extension has been granted and the extension request is accompanied by full payment of the taxpayer's expected tax, computed in good faith considering all existing facts and circumstances.