

FTB NOTICE

California Franchise Tax Board - Legal Division



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FTB NOTICE 93-3

March 10, 1993

**Subject: 1992 LEGISLATIVE CHANGES; STATUTE OF LIMITATIONS ON ASSESSMENTS
RUNS FROM ACTUAL RETURN FILING DATE - CORRECTION TO FTB NOTICE 93-2**

This Notice amplifies and corrects FTB Notice 93-2, February 23, 1993.

FTB Notice 93-2 stated that recent statutory amendments clarify that the Franchise Tax Board may not issue refunds or make assessments more than four years after the original due date of the return without regard to extensions. However, the statutory changes made by Senate Bill 1684, Stats. 1992, Ch. 1295, to Revenue and Taxation Code sections 18588 and 25663(b) (when return deemed filed) did not change the basic rule that a notice of additional tax proposed to be assessed shall be mailed to the taxpayer within four years after the return was filed, nor did they change the statutory provisions relating to waivers of the statute of limitations for assessments (§§18589, 25663b) or refunds (§§19053.3(a), 26073.2), or where a federal waiver is in effect (§§18587, 19053.3(b), 25663a, 26073.2).

The limited effect of the recent statutory change is that a return filed after the original due date, but before the extended due date, is no longer "deemed to be filed" on the extended due date. The statute of limitations on assessments runs from the later of the due date of the return (determined without regard to any extension of time for filing the return) or the actual filing date. (Revenue and Taxation Code §§18586, 25633(a).)

Notice 92-3 correctly called attention to the fact that the general statute of limitations for filing claims for refund now runs from the later of four years from the original due date of the return or one year from the overpayment date, regardless of when the return was actually filed or whether an extension was granted.

DRAFTING INFORMATION

The principal author of this notice is Bruce R. Langston of the Franchise Tax Board Legal Division. For further information regarding this notice, contact Mr. Langston at the Franchise Tax Board Legal Division, P.O. Box 1468, Sacramento, CA 95812-1468.

NOTE: ((---)) = Indicates obsolete information.

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