

Section 19322 is amended to read:

§ 19322. Refund Claim Form

(a) Manner of filing. Each claim for refund must be in writing and filed in the form and manner as prescribed by the Franchise Tax Board. The writing may be in an electronic format. Each claim for refund must be signed by the taxpayer or the taxpayer's representative. Each claim must be clearly identified as a claim for refund and include the taxpayer's name, mailing address, identifying number, tax year(s), amounts claimed and the specific grounds upon which the claim is based. Claims based on a change to income, deductions, credits, filing status, or any other item required to be shown on a return should be filed using the prescribed amended return form for each tax year.

(b) Timeliness of claim. No refund or credit will be allowed after the expiration of the statutory period of limitations applicable to the filing of a claim for refund therefor except upon one or more of the grounds set forth in a claim filed before the expiration of such period. (See sections 19306–19314 19316 of the Revenue and Taxation Code.)

~~(c) (a) Grounds set forth in claim for refund. No refund or credit will be allowed after the expiration of the statutory period of limitations applicable to the filing of a claim therefor except upon one or more of the grounds set forth in a claim filed before the expiration of such period. (See sections 19306–19314 of the Revenue and Taxation Code.)~~ Each claim for refund must set forth in detail each ground upon which the refund or credit is claimed, together with facts relied on to support the claim for refund sufficient to apprise the Franchise Tax Board of the exact basis thereof of the claim for refund. Each claim for refund must set forth each ground upon which the claim for refund is based and be sufficiently detailed so that the Franchise Tax Board can compute and determine the amount to be allowed and should include all supporting documentation, including calculations, forms, schedules, and source documents necessary to verify the grounds of the claim for refund. If the taxpayer has claimed a refund from the Internal Revenue Service on the same grounds, the claim for refund filed with the Franchise Tax Board should include the applicable federal amended return form. If a claim for refund is based on a final federal determination, the claim for refund should include a complete federal report. The claim should be filed on Form 540X with all supporting documentation attached. A separate form should be used for each taxable year or period.

~~(d)(b) Offset. Taxpayers A taxpayer may not on their own initiative, offset a tax liability an overpayment for one tax year or in one installment against taxes due for another year, or in another installment by an anticipated overpayment based on a pending claim for refund for another tax year. The full amount of the tax liability or any installment thereof for each tax year must be paid notwithstanding that an overpayment may have been made, unless the taxpayer has filed a claim for refund of the overpayment and has been notified that the overpayment has been credited on the tax or installment due. Franchise Tax Board has notified the taxpayer that an overpayment from one or more other tax years has/have been applied to the tax liability. See sections 19107–19110 19107, 19108, and 19110 of the Revenue and Taxation Code.~~

~~(e)(e) Fiduciaries. If a claim for refund refund claim is filed by a legal representative, i.e., executor, administrator, or other fiduciary of a deceased individual, certified copies of~~

documentation appointing the representative ~~the letters testamentary, letters of administration, or other similar evidence must be attached annexed to the claim to show the authority of the executor, administrator, or other fiduciary legal representative by whom the claim is filed. If an executor, administrator, guardian, trustee, receiver, or other fiduciary a legal representative files a return and thereafter a claim for refund refund claim is filed by the same fiduciary legal representative, documentary evidence to establish the legal authority of the fiduciary legal representative may be requested but need not accompany the claim, provided a statement is made in the claim showing that the return was filed by the fiduciary legal representative and that the identical representative latter is still acting. In such cases, if a refund or interest is to be paid, appropriate documentation letters testamentary, letters of administration, or other evidence may be required, but should be submitted only upon the receipt of a specific request by the Franchise Tax Board therefor. If a claim for refund refund claim is filed by a fiduciary legal representative other than the legal representative who filed one by whom the return was filed, the necessary documentary evidence noted above must should accompany the claim.~~

~~(f)(d) Hearings. Upon the taxpayer's written request, and at the Franchise Tax Board's discretion, Although the law does not specifically provide for oral hearings before the Franchise Tax Board acts on claims for refund, the Franchise Tax Board may hold a hearing on a claim for refund arranged at such time and place as the Franchise Tax Board may determine if requested by the taxpayer.~~

(g) Specific examples. The following specific examples apply to the following categories of claims for refund.

Examples

(1) Claim filed to adjust income or expense items:

- A. Income Adjustment. File on Form 540X, 100X, or other amended return form, as applicable, with a statement that the return is being amended to increase salaries and wages in the amount of \$XXXX. As substantiation of the adjustment, enclose a copy of any original or amended Form W-2, or schedules of income, and a copy of the federal amended return.
- B. Expense Adjustment. File on Form 540X or 100X, or other amended return form, as applicable, with a statement that the return is being amended to include expenses totaling \$XXXX that were omitted from the original return. Attach (1) schedule that describes the nature and amount of each expense and (2) the related invoices and receipts for these items.

(2) Claim filed to increase a tax credit(s):

- A. File on 540X or 100X, or other amended return form, as applicable. Clearly identify the amount and type of credit(s) being revised. Include all forms required to report the credit and supporting schedules

showing how the credit was calculated. For example, a taxpayer claiming or increasing an "Other State Tax Credit" would include Schedule S, a copy of the other state tax return and a copy of the canceled check or other documentation showing taxes paid to the other state.

(3) Claim filed when the original return was based on estimated income and/or expenses:

- A. File on Form 540X or 100X, as applicable, with a statement describing the accounting methodology used to estimate the income and expense items reported in the original return. Include a schedule of the changes per line item, including:
 - i. Income/Expense description and line item number
 - ii. Estimated amount reported on original return
 - iii. Actual amount reported on amended return
 - iv. Difference between original and amended amounts

(4) Claim filed because the entity is no longer doing business in California or no longer has nexus with California:

- A. State whether the taxpayer is no longer doing business within California or no longer has nexus with California.
- B. Identify the tax year and the date within the tax year when the taxpayer ceased doing business in California or no longer had nexus with California.
- C. Provide the following, as appropriate and relevant, to explain the basis for the taxpayer's claim:
 - i. An explanation of the taxpayer's business activities in California. Include any supporting documentation and information.
 - ii. An explanation of what business operations the taxpayer had been conducting in California and what changes occurred in its business that supports the taxpayer's position that it was no longer doing business in California or no longer had nexus with California. Include supporting documentation and information.
 - iii. Documentation filed with the California Secretary of State reflecting the taxpayer's termination of its business or operations in California.
 - iv. If the taxpayer was a member of a combined reporting group in California, provide the foregoing information for each taxpayer-member of the taxpayer's combined reporting group.

(5) Claim based on revised apportionment factor(s):

- A. File on Form 100X to include the name, California corporate number, the federal identification number and, if applicable, that the taxpayer is acting on behalf of a combined reporting group for which it is the key corporation for the year(s) in issue.
- B. State whether the apportionment factor is revised by a change in the sales factor, property factor or payroll factor.
- C. Provide details of the following for the taxpayer and, if the taxpayer is a member of a combined reporting group, for each taxpayer-member of the combined reporting group:
 - i. Factor(s) as previously reported
 - ii. Factor(s) as amended
 - iii. Change in factor(s)
 - iv. Detailed description of the reason(s), factual and legal, for each of the changes to the taxpayer's apportionment factor(s)
 - v. Apportionment workpapers for both original return and claim/amended return.

(6) Other claim:

- A. For any claim not covered by examples (1) – (5), e.g., a claim for refund of interest, penalties, or additions to tax caused by certain Franchise Tax Board errors, delay, or certain erroneous written advice from Franchise Tax Board, or a claim for refund of a penalty or addition to tax due to reasonable cause or other reason allowed by law, submit a letter claiming a refund or submit pursuant to any form prescribed by the Franchise Tax Board. State the tax year(s) to which the claim applies. Clearly and completely state the legal basis for the refund. Include supporting documentation and information.

AUTHORITY:

Note: Authority cited: Section ~~19053~~ 19503, Revenue and Taxation Code. Reference: Section 19322, Revenue and Taxation Code.

HISTORY:

1. Change without regulatory effect renumbering former section 19055 to new section 19322, including amendment of subsections (a) and (b) and Note filed 7-2-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 27).

2. Change without regulatory effect adding new subchapter 6 (articles 1 through 6), article 1 (sections 19322 through 19363) and relocating section 19322 from chapter 2.5, subchapter 21 to chapter 2.6, subchapter 6 filed 11-23-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 48).