

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 101

December 1, 1953

APPLICATION OF SECTIONS 18586.2 AND 18586.3

Syllabus:

Advice is requested as to the following:

(1) Does Section 18586.2 in conjunction with Section 18451 extend the statute of limitations for proposing deficiency assessments if the final determination of the Federal liability occurs after the statute of limitations has expired under the various statutory provisions set forth in Sections 18586, 18586.1 and 18587?

(2) Same question as regards to Section 18586.3 where taxpayer has complied with Section 18451.

(1) Sections 18451 and 18586.2 have no application unless the State statute of limitations was open on September 22, 1951, and the final determination of Federal taxes occurred after that date. Accordingly, where the State statute was open on September 22, 1951, either by reason of a Federal waiver or under any statutory provision in the State law, and a "final determination" of Federal taxes occurs after that date, the taxpayer must notify the Franchise Tax Board of such changes within ninety days. If such notice is not given, Section 18586.2 provides for an additional four year period within which to assess a deficiency resulting from such changes.

(2) If the taxpayer sends the Franchise Tax Board the notice required by Section 18451 within the prescribed ninety-day period, the right to assess the taxes represented by such changes between the period September 22, 1951 and April 7, 1953, depends upon whether the State statute was open on the date that notice of the changes was received. There was no statutory authority during this period to make an assessment unless the statute was otherwise open. On April 8, 1953, however, Section 18586.3 became effective, and thereafter there is authority to make an assessment within six months after the receipt of notice irrespective of whether the State statute is otherwise open, as long as the State statute was open on April 8, 1953. Since the operation of this statute is dependent upon notice from the taxpayer, it can only apply to notice received on or after its operative date, April 8, 1953.