

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 384

March 17, 1975

MATHEMATICAL ERRORS: ESTIMATED TAX

Syllabus:

Underpayment of estimated tax and exceptions to penalty imposition for underpayment are based on "the tax shown on the return."

Question:

Is the "tax shown on the return" the tax pursuant to a mathematical error assessment?

Decision:

Yes.

Discussion:

(1) Personal Income Tax

Section 18685.8(a)(2) uses the phrase "tax shown on the return for the taxable year" when concerned with the determination of the amount of underpayment of estimated tax.

Section 18685.8(c)(1) uses the phrase "tax shown on the return for the preceding taxable year" when concerned with the determination of an exception to penalty imposition for underpayment of estimated tax.

In reference thereto, Section 18685.8(e) provides:

For purposes of subdivisions (a) and (c), the term "tax" means the tax imposed by this part reduced by the credits against tax allowed by this part, other than the credit against tax provided by Section 18551.1 (relating to tax withheld on wages).

The "tax" imposed by this part (Part 10, Division II of the Revenue and Taxation Code) means the mathematically correct amount of personal income tax paid or payable by a taxpayer for the preceding or current taxable year.

Underpayment of estimated tax or exceptions to penalties for such underpayment are, therefore, based upon the tax as statutorily required and not

upon a figure inclusive of a mathematical error in favor of the taxpayer.

## (2) Corporations

Section 25952 uses the phrase "tax shown on the return for the income year" when concerned with the determination of underpayment of estimated tax. Cal. Admin. Code, tit. 18, § 25951-25957(a)(1)(C) states:

. . . the term "tax" means the tax imposed by Section 23151, 23153, 23181, or 23183 of the Bank and Corporation Tax Law, whichever is applicable.

Section 25954 uses the phrase "tax shown on the return of the taxpayer for the preceding income year" when concerned with the determination of an exception to penalty imposition for underpayment of estimated tax.

Cal. Admin. Code, tit. 18, § 25951-25957(c)(2), for the purpose of the penalty exceptions, states:

. . . the term "tax" means the tax imposed by Section 23151, 23153, 23181, or 23183 of the Bank and Corporation Tax Law, whichever is applicable.

The tax that is required to be shown on a return for the current or prior year, therefore, is that amount imposed by and correctly computed under the aforementioned sections.

As a mathematical error in favor of the taxpayer does not provide for the statutory amount of tax as required, the taxpayer's figure can not be accepted as the proper basis for determining underpayment of estimated tax or for an exception to penalty imposition.

Accordingly, the "tax shown on the return" is that liability which originally was required to be reported and is considered as reported by way of mathematical assessment.