



STATE OF CALIFORNIA
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FTB NOTICE 2003-1

SUBJECT: EFFECTIVE DATES – OVERPAYMENTS ON PRIOR YEAR RETURNS LEGAL RULING 94-4 WITHDRAWN

Legal Ruling 94-4, September 30, 1994, held that the effective date of a credit for a taxable year from an overpayment shown on a timely-filed return for a prior taxable year was the due date for first estimated tax payment for that subsequent year, and the effective date of a credit from an overpayment shown on a delinquent return for a prior taxable year was the filing date of the delinquent return. The State Board of Equalization came to the same conclusion in *Appeal of Capitol Architectural Products Co.*, 96-SBE-021, December 4, 1996. These holdings were based on Rev. Rul. 88-97, 1988-1 C.B. 355, and Rev. Rul. 88-98, 1988-2 C.B. 356, and *Avon Products, Inc. v. United States* (2d Cir. 1978) 588 F.2d 342.

After Legal Ruling 94-4 was issued, the Internal Revenue Service modified its position on credits for overpayments, modifying Rev. Rul. 88-98 with Rev. Rul. 99-40, 1999-2 C.B. 441, and Internal Revenue Manual 20.2.4.3 (03-01-2002), Availability Dates for Overpayments, which indicate that credits from overpayments for a prior taxable year are deemed paid as of the original due date of the return for the taxable year credited, whether the returns for the crediting or credited years are timely filed or not. See also Revenue and Taxation Code section 19363.

Revenue and Taxation Code section 19306 provides the general four-year statute of limitations for refunds or credits. Therefore, where a return for a prior year showing an overpayment to be credited to a subsequent year is filed after the original or extended due date, but before the expiration of the statute of limitations for claiming a credit or refund, FTB will treat the credit as a prepayment of estimated tax for the subsequent year under Revenue and Taxation Code section 19363. The credit amount is deemed paid on the original due date of the subsequent year's return.

Legal Ruling 94-4 is hereby withdrawn.

Taxpayers who filed delinquent returns showing an overpayment to be credited to the subsequent taxable year may be entitled to refunds of penalty amounts paid. Taxpayers should review their records and file refund claims for any open years.

The principal author of this notice is Dennis Haase of the Franchise Tax Board, Legal Branch. For further information regarding this notice, contact Mr. Haase at the Franchise Tax Board, Legal Branch, P. O. Box 1720, Rancho Cordova, CA 95741-1720.