



STATE OF CALIFORNIA
FRANCHISE TAX BOARD - Legal Branch
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Chair

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Member

Date: May 6, 2003

FTB NOTICE 2003 – 5

SUBJECT: 2001 Legislative Changes - Informal Refund Claims

Revenue and Taxation Code section 19322.1 (added by Stats. 2001, ch. 920, §25), provides that a claim for refund of tax that is otherwise valid, but is made before full payment of the disputed tax has been made, shall be sufficient to toll (delay the expiration of) the statute of limitations. This "informal" claim for refund will be "perfected" and deemed filed on the date that full payment of tax is made. This perfection date will be the date that the informal claim becomes a formal refund claim for purposes of the administrative claims process. The six-month "deemed denial" period of sections 19324 and 19385 will also begin on the date the claim is perfected.

However, no credit or refund may be made or allowed for any payment made more than seven years before the date of full payment of tax (including penalties and interest as explained below). The new provision applies to claims for refund filed on or after January 1, 2002.

The amount of payment needed to perfect a claim will depend on whether any outstanding amounts are due and payable, or are deficiency amounts that have not yet become final at the time payment is made.

For due and payable (billable) amounts, all amounts due, including tax, penalty and interest, must be paid to perfect the claim. Under Internal Revenue Code section 6665(a)(2), incorporated by reference into California law by Revenue and Taxation Code section 19164(e), penalties, additions to tax and additional amounts (but not interest) are included in the term "tax." Under Revenue and Taxation Code section 19101(c)(1), effective January 1, 2001, any reference to "tax" shall be deemed also to refer to interest imposed on that tax, except for references relating to deficiency assessments.

For deficiency amounts that have not become final under Revenue and Taxation Code section 19049, the informal refund claim provisions of section 19322.1 do not apply. See Revenue and Taxation Code section 19335.

This new informal claim procedure does not affect requests for interest abatement due to a ministerial or managerial act, which can continue to be made before payment under section 19104(a). See FTB Form 3701.

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Taxpayers desiring to file informal claims should write "Informal Claim" in red on the top of the first page of the amended return or refund claim, and mail the claim to:

ATTN: Informal Claims Unit. M/S F-228
Franchise Tax Board
P.O. Box 1468
Sacramento, CA 95812-1468.

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