

Appeal of Edward L. Martin

The sole issue for determination is whether respondent's proposed assessments are barred by the statute of limitations.

Appellant was audited by the Internal Revenue Service for the appeal years. Based upon the initial federal action respondent issued notices of proposed assessment for the years 1968, 1969, and 1971 on October 2, 1975, and for the years 1972, 1973, and 1974 on April 21, 1977. The timeliness of these **notices** are not contested by appellant. However, appellant did protest respondent's determination and requested further action be deferred until his **final** federal income tax liabilities for the appeal years were determined. Respondent acceded to appellant's request. In January 1979, appellant advised respondent of the final federal action. **Thereafter**, respondent revised, its original determinations to conform with the final federal audit adjustments and issued notices of action for all of **the appeal** years on March 12, 1980. This appeal followed.

Appellant does not contest the **amounts** of the assessments of additional tax. Appellant does contend, however, that the notices of action were not timely issued and are barred by the statute of limitations. **Appellant's** position is based, primarily, on the fact that respondent's notices of action were not issued within six months after receiving notification of the final federal determination.

The basic statute of limitations for personal income tax deficiency assessments is contained in section 18586 of the Revenue and Taxation Code, which provides:

Except in case of a fraudulent return and except as otherwise expressly provided in this part, every notice of a proposed deficiency assessment shall be mailed to **the taxpayer within four** years after the return was filed. No deficiency shall be assessed or collected with respect to the year for which the return was filed unless the notice is mailed within the four-year period or the period otherwise fixed. (Emphasis **added.**)

One modification of the time **period** set out above is provided in section 18586.3, which allows the issuance of a notice of proposed deficiency assessment

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based upon federal audit adjustments within six months from the date the taxpayer advised respondent of such adjustments.

The statutes of limitation discussed above are concerned solely with when notices of proposed assessment are issued, not when notices of action are issued. However, appellant's argument focuses solely on when the notices of action were issued. In fact, appellant does not even contend that the notices of proposed assessment were untimely. Where notices of proposed assessment are timely issued, the fact that notices of action are not issued within the same statutory period is irrelevant. (Appeal of King and Dorothy Crosno, Cal. St. Bd. of Equal., Jan. 9, 1979, cf. Appeal of e l - Davidson Optical Company, Cal. St. Bd. of Equal., May 19, 1981.) **Accordingly,** appellant's argument must be rejected.

For the reasons discussed above, it is our determination that respondent's action must be sustained.

