

1 early purchase price (including sales tax) based on the original cash price disclosed in the rental
2 purchase agreement.

3 Claimant filed two claims for refund on March 25, 2009, one for tax of \$61,120.31 paid on
4 returns for the period October 1, 2004, through March 31, 2005, and the second for tax of \$625,329.60
5 paid on returns for the period April 1, 2005, through December 31, 2006. The Sales and Use Tax
6 Department (Department) found that the second claim was timely for the year 2006, but that the claims
7 were not timely filed for periods before 2006.

8 Claimant contends that the refund claims are not barred by the statute of limitations, for several
9 reasons. First, claimant argues that the second claim was timely for the entire period because claimant
10 had filed a separate refund claim on July 28, 2008, which covered the period April 1, 2005, through
11 June 30, 2008. Claimant asserts that the separate claim tolled the statute of limitations with respect to
12 those periods for the purposes of the instant claim. Claimant also contends that the statute of
13 limitations was tolled until January 20, 2009, when the California Attorney General agreed to accept
14 payment, based on the doctrine of equitable tolling and on a rule of discovery. Finally, claimant
15 contends that principles of due process allow the Board to grant a refund and provide fundamental
16 fairness, notwithstanding the statute of limitations.

17 The claims for refund filed March 23, 2009, were not timely filed for the period October 1,
18 2004, through December 31, 2005, because they were not filed within three years of the dates the
19 returns were due or within six months of any of the alleged payments of tax. (Rev. & Tax. Code, §
20 6902, subd. (a)(1).) With respect to claimant's specific arguments, we first note that the grounds of the
21 July 28, 2008 claim involve facts and transactions entirely different from the grounds of the claims at
22 issue. We find that the July 28, 2008 claim was limited to the issues addressed therein and did not
23 extend the statute of limitations for the claim for refund filed in March 2009 for the period beginning
24 April 1, 2005. Also, we reject claimant's contentions that the Board should extend the statute of
25 limitations based on equity because the Board lacks such authority. Further, we find that *Irwin v. Dept*
26 *of Veterans Affairs* (1990) 498 U.S.89, cited by claimant, is inapplicable here and would not alter our
27 conclusion even if it were on point.

