

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of:  
**R. SIDEROPOULOS**

) OTA Case No. 220811037  
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**OPINION**

Representing the Parties:

For Appellant:

R. Sideropoulos

For Respondent:

Christopher T. Tuttle, Attorney  
Danielle Pegan, Graduate Legal Assistant

S. BROWN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, R. Sideropoulos (appellant)<sup>1</sup> appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$3,609.00, an accuracy-related penalty of \$721.80, and interest for the 2006 tax year. On appeal, FTB agrees to delete the accuracy-related penalty, and to abate interest for the period April 11, 2014, to July 5, 2022. Thus, the items in dispute are the additional tax of \$3,609.00 and the remaining accrued interest for the periods April 15, 2007, through August 19, 2013, and November 20, 2013, through April 10, 2014.

Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

**ISSUE**

Whether FTB’s proposed assessment is barred by the statute of limitations.

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<sup>1</sup> R. Sideropoulos and H. Sideropoulos filed their 2006 California income tax return using a filing status of married filing jointly, and appellant’s Request for Appeal Before the Office of Tax Appeals lists both individuals as the taxpayers. However, because the request is signed by R. Sideropoulos only, this appeal identifies her as the sole appellant.

### FACTUAL FINDINGS

1. On October 4, 2007, appellant and her husband timely filed their joint California Resident Income Tax Return for the 2006 tax year.
2. Appellant's IRS Account Transcript indicates that on July 30, 2012, and April 8, 2013, the IRS imposed "additional tax assessed by examination," although the amount listed next to each of those dates is zero dollars.
3. FTB issued to appellant a Notice of Proposed Assessment (NPA) dated November 5, 2013, proposing to increase California taxable income for the 2006 year by \$38,805.
4. On January 6, 2014, FTB received appellant's timely protest of the NPA. FTB acknowledged this protest in correspondence dated January 14, 2014.
5. On July 13, 2015, the IRS issued a final federal determination for the 2006 tax year, assessing additional federal income tax of \$5,100, a federal accuracy-related penalty of \$1,020, and accrued interest.
6. On July 6, 2022, FTB issued a Notice of Action affirming the NPA in its entirety.
7. This timely appeal followed.
8. In its brief dated December 8, 2022, FTB agreed to delete the accuracy-related penalty, and also agreed to abate interest for the period April 11, 2014, to July 5, 2022.

### DISCUSSION

While FTB generally has four years from the date a return is filed to issue a proposed assessment (R&TC, § 19057(a)), this limitation period may be extended when a federal adjustment is involved. (*Ordlock v. Franchise Tax Bd.* (2006) 38 Cal.4th 897, 910.) Taxpayers are required to report federal changes or corrections to FTB within six months after the date of the final federal determination. (R&TC, § 18622(a).) If there are adjustments to a taxpayer's federal account and the taxpayer or the IRS notifies FTB within six months of the date that the federal changes become final, then FTB may issue a proposed assessment within two years of the date of notification, or within the general four-year statute of limitations period, whichever expires later. (R&TC, § 19059.)

FTB contends that in 2013, it received information from the IRS that the IRS audited appellant's 2006 federal income tax return and increased the adjusted gross income, and that the

IRS made those adjustments on July 30, 2012, and April 8, 2013. However, FTB acknowledges that it “no longer has historical snapshots of appellant’s federal information as shown on those adjustment dates,” and states that it no longer has federal documentation showing an increase to appellant’s income effective as of the date of the NPA. Thus, the evidence does not establish that the IRS notified FTB of a federal adjustment prior to FTB’s issuance of the NPA. While FTB points to appellant’s IRS Account Transcript, which reflects that on July 30, 2012, and April 8, 2013, the IRS imposed “additional tax assessed by examination,” the amount listed next to each of those dates is zero dollars. Similarly, while appellant’s IRS Individual Master File (IMF) reflects entries on July 30, 2012, and April 8, 2013, the IMF does not establish any federal adjustment on those dates, but shows that the IRS’s assessment of additional federal income tax and a federal accuracy-related penalty occurred on July 13, 2015.

Therefore, given the lack of documentation establishing a final federal determination prior to FTB’s issuance of the NPA, the evidence fails to establish that the NPA was based on a final federal determination. Accordingly, because FTB did not issue the November 5, 2013 NPA within four years after appellant filed her return, the NPA was not timely issued under the statute of limitations. (R&TC, § 19057.)

HOLDING

FTB’s proposed assessment is barred by the statute of limitations.

DISPOSITION

FTB’s action is reversed.

DocuSigned by:

*Suzanne B. Brown*

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Suzanne B. Brown  
Administrative Law Judge

We concur:

DocuSigned by:

*Andrea L.H. Long*

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Andrea L.H. Long  
Administrative Law Judge

DocuSigned by:

*Amanda Vassigh*

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Amanda Vassigh  
Administrative Law Judge

Date Issued: 9/15/2023