

As the claim for refund was filed more than three years after the return was filed, the statute prohibits the entertaining of the refund claim, no matter how meritorious the underlying refund claim. Statutes of Limitation are unquestionably harsh and unfair as applied in some instances. This is particularly the case when the refund claim is filed so close to the expiration of the Statute of Limitations (approximately two months). Unfortunately, the Board does not have the statutory authority to consider the equitable interests of the parties and vary from this rule.

Petitioners' appeal of the Respondent's Notice of Determination is DENIED and therefore the Notice of Determination is AFFIRMED.

SO ORDERED, this 10th day of October, 1997.

John H. Conroy

Regina C. Wuelzick

[Signature]

Arthur H. Jorman