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*SUSPENSION OF INTEREST ON PIT AMENDED RETURNS*

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**PURPOSE OF BULLETIN** To advise staff that the Franchise Tax Board will follow IRS Revenue Ruling 2005-4 and allow suspension of interest on amended returns filed by personal income taxpayers who meet the necessary requirements.

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**BACKGROUND** In 1998, Revenue and Taxation Code section 19116 was enacted to provide that if a notice setting forth the taxpayer's liability was not issued to a personal income taxpayer within eighteen months of a timely filed return, interest was to be suspended (not charged) from the end of the eighteen month period until a date which is fifteen days after the notice is issued to the taxpayer. Section 19116 conformed to a similar federal provision.

Section 19116 further provides that interest is not suspended on amounts reported on the return. When first implemented, the FTB (and the IRS) determined that interest would be suspended on notices of proposed assessment of additional tax (NPAs), but not on amounts reported on original or amended returns.

The IRS recently issued Revenue Ruling 2005-4, which held that interest in fact should be suspended on an amended return reporting additional tax. The amended return is considered the "notice".

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**EFFECTIVE DATE** This determination is effective for tax years ending after October 10, 1999, for which the statute of limitations was open as of January 7, 2005 (the effective date of the federal Revenue Ruling 2005-4), irrespective of whether the tax has been paid.

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**REQUIREMENTS FOR INTEREST TO BE SUSPENDED ON AN AMENDED RETURN** Under section 19116, the following must occur before interest suspension will arise on an amended return:

- Taxpayer is an individual.
- Taxpayer filed a timely original 1999 or later year return.
- The taxpayer files an amended return, increasing the taxpayer's liability.
- The taxpayer files an amended return more than eighteen months after the filing of the original return.

REQUIREMENTS FOR INTEREST TO BE SUSPENDED ON AN AMENDED RETURN (contd)

If these requirements are met, interest will be suspended beginning eighteen months from the original return filing date, to fifteen days after the amended return is filed.

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TAX SHELTER EXCEPTION

Interest suspension does not apply to an amended return filed by a taxpayer reporting additional tax as the result of the use of a potentially abusive tax shelter where the taxpayer:

- Was contacted by the FTB about the use of a potentially abusive tax shelter.
- Has taxable income greater than \$200,000.
- Files the amended return on or after January 1, 2004.

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EXTENDED PERIOD OF TIME FOR AMENDED RETURNS REPORTING FEDERAL ADJUSTMENTS

Section 19116 provides an extended time period for the FTB to provide a notice of liability to a taxpayer, where the liability results from a final federal determination. For taxpayers who report federal adjustments on an amended return within six months of the final federal determination, FTB has one year from the date the notice of the federal adjustments are filed with the FTB in which to issue a notice before interest suspension will arise.

Taxpayers who report federal adjustments on an amended return after six months from the date of the final federal determination, FTB has two years from the date the notice of the federal adjustments are filed with the FTB in which to issue a notice before interest suspension will arise.

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TAXPAYER INQUIRIES

If taxpayers inquire about the applicability of Revenue Ruling 2005-4 to their account, advise taxpayers that the FTB will be reviewing the taxpayer's account to determine if Revenue Ruling 2005-4 applies, and will abate/refund interest charges that are entitled to suspension.

Inform taxpayers that the department will be taking action to abate/refund interest on those accounts that it identifies as meeting the requirements of the Revenue Ruling within the next six months. It is not necessary for the taxpayer to write in separately or to file an amended return.

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