

State of California

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Legislative Change No.

00-19

Bill Number: AB 1016

Author: Briggs

Chapter Number: 00-438

Laws Affecting Franchise Tax Board:

Revenue and Taxation Code Section 21028.

Date Filed with the Secretary of the State: 09/14/2000

SUBJECT: Confidentiality/Taxpayer Communications

Assembly Bill 1016 (Briggs), as enacted on month September 14, 2000, made the following changes to California law:

Section 21028 is added to the Revenue and Taxation Code.

This act generally conforms to federal law. It entitles a taxpayer to the same confidentiality privilege for communications between a taxpayer and a federally authorized tax practitioner with respect to the tax advice as exists for communications between a client and an attorney. Tax advice is defined to include advice with respect to a state tax matter, including federal tax advice if it relates to the state tax matter. Federal tax advice is defined to include advice given by an individual within the scope of his or her authority to practice before the IRS on noncriminal tax matters.

A federally authorized practitioner is any individual who is authorized under federal law to practice before the IRS (i.e., attorneys, certified public accountants and enrolled agents).

The privilege applies only in any noncriminal tax matter before FTB, but does not apply to claim for refund actions filed in Superior Court. The privilege also does not apply to a written communication regarding a corporation's involvement in or promotion of tax shelters. Tax shelter means a partnership or other entity, any investment plan or arrangement, or any other plan or arrangement if a significant purpose of the partnership, entity, plan or arrangement is the avoidance or evasion of federal income tax.

This act includes a limitation on the privilege and a sunset date that is not included in the federal law. This act limits the privilege so that it does not apply in any proceeding to revoke or otherwise discipline any license or right to practice by any governmental agency. The privilege sunsets on January 1, 2005, unless subsequent legislation deletes or extends the sunset date.

This act is effective January 1, 2001, and will be repealed January 1, 2005. It applies to communications made on or after January 1, 2001.

This act will not require any reports by the department to the Legislature.

Bureau Director

Johnnie Lou Rosas

Date

October 18, 2000