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Federal, state e-file and e-services workshops

The Franchise Tax Board, Internal Revenue Service, Employment Development Department, and the Board of Equalization are holding their free, annual e-file workshops and exhibits to bring you the latest information and assistance.

These sponsoring agencies will bring you information about:

- Individual and business e-file programs.
- e-Services for tax professionals and taxpayers.
- California's mandatory e-file compliance efforts.

You'll also have the opportunity to:

- Get help enrolling in the e-file programs.
- Talk directly to e-services representatives from numerous governmental agencies.
- Test-drive the latest e-file software.
- Earn continuing education (CE) credits.

Note: You must be present for the entire workshop to receive credit. No partial credit will be given.

Workshop checklist: Bring the following for CE credits, and to join our e-file programs:

- **CPAs:** Bring a copy of your CPA license.
- **Enrolled agents:** Bring a copy of your enrolled agent enrollment card.
- **California tax preparers:** Bring your CTEC number and the name of your surety bonding company.
- If you are **incorporated**, please have your corporation number available.

IRS staff will be available to provide free fingerprinting for those joining the program.

Register online today!

Click on the date or location of your choice, and complete the online registration form.
Southern California seminars will be held in early August, so register soon.

For maps to seminar locations, enter "driving directions" in your favorite search engine.

Los Angeles territory - seminar schedule

September 18, 2007

9:00 a.m. - 3:00 p.m.
Holiday Inn Burbank
150 E. Angeleno Ave
Burbank CA 91502

September 19, 2007

9:00 a.m. - 3:00 p.m.
Hilton LAX
5711 West Century Blvd
Los Angeles CA 90045

September 20, 2007

9:00 a.m. - 3:00 p.m.
Doubletree Guest Suites
2085 South Harbor Blvd
Anaheim CA 92802

Southern California territory - seminar schedule

August 8, 2007

Register soon!

9:00 a.m. - 3:00 p.m.
Clarion Hotel
295 North E Street
San Bernardino CA 92401

August 9, 2007

Register soon!

9:00 a.m. - 3:00 p.m.
Lake San Marcos Resort
1025 La Bonita Drive
Lake San Marcos CA 92078

August 10, 2007

Register soon!

9:00 a.m. - 3:00 p.m.
Handlery Hotel
950 Hotel Circle North
San Diego CA 92108

Northern-Central California territory - seminar schedule

August 28, 2007

9:00 a.m. - 3:00 p.m.
Doubletree Hotel
2001 Point West Way
Sacramento CA 95815

September 5, 2007

9:00 a.m. - 3:00 p.m.
Radisson Hotel
2233 Ventura Street
Fresno CA 93721

September 7, 2007

9:00 a.m. - 3:00 p.m.
Holiday Inn
1900 Hilltop Drive
Redding CA 96002

San Jose-Oakland-San Francisco territory - seminar schedule

August 29, 2007

9:00 a.m. - 3:00 p.m.
Hiram W. Johnson State Bldg
Milton Marks Conference Center
Lower Level, Auditorium
San Diego Rooms
455 Golden Gate Ave
San Francisco CA 94102

August 30, 2007

9:00 a.m. - 3:00 p.m.
Cathedral of Faith
2315 Canoas Garden Avenue
San Jose CA

New adjusted interest rate

The adjusted interest rate has been determined for the period January 1, 2008, to June 30, 2008, and will remain at eight percent. The interest rate (Section 19521, formerly 19269, of the Revenue and Taxation Code) is compounded daily, and accrues for personal income, corporate income, and franchise taxes.

The rate for corporation tax overpayments for the period will remain at five percent.

You can find current and former [adjusted interest rates](#) on our [Website](#).

Did your client fail to report a reportable transaction, or a listed transaction?

If any of your clients participated in a reportable transaction or listed transaction, they are required to file Internal Revenue Service (IRS) Form 8886, "*Reportable Transaction Disclosure Statement*," with FTB. They must complete Form 8886 in its entirety according to the form instructions and Treasury Regulation 1.6011-4(d), and attach it to the original or amended return for each taxable year that they participated in a reportable transaction or listed transaction.¹ Additionally, for any disclosure statement filed for the first time, your clients are required to mail a copy of Form 8886 to our Abusive Tax Shelter Unit (ATSU) at the following address:

US mail:

ATSU 398 MS: F385
FRANCHISE TAX BOARD
PO BOX 1673
SACRAMENTO CA 95812-9900

Courier service delivery, or private courier mail:

ATSU 398 MS: F385
FRANCHISE TAX BOARD
9646 BUTTERFIELD WAY
SACRAMENTO CA 95827-9900

If your client fails to file IRS Form 8886 with their California return, fails to file a complete Form 8886, and/or fails to file a separate Form 8886 for the first time, they will be subject to the Failure to Disclose Reportable and Listed Transaction Penalty under Revenue and Taxation Code (R&TC) Section 19772. The penalty for each failure to provide a disclosure statement, or to file a complete Form 8886 is \$15,000 for reportable transactions, and \$30,000 for listed transactions. Submitting a Form 8886 containing a statement that "information will be provided upon request" is not considered a complete disclosure statement, and will be deemed an incomplete filing.

However, FTB Notice [2007-3](#), released July 31, 2007, states that taxpayers have 60 calendar days from the Notice date to file complete disclosure statements for any transaction that should have been disclosed on or before July 31, 2007. If a client that is required to file a disclosure statement does not complete Form 8886 on or before the conclusion of the 60-day period, we will assess penalties as provided under R&TC section 19772.

¹ R&TC Section 18407 incorporates by reference Internal Revenue Code (IRC) Section 6011 and the regulations thereunder.

Visit our Website for more information:

- General information on [registration and reporting requirements](#).
 - Tax shelter [penalties](#).
-

Common errors in rental loss reporting

Generally, Schedule E rental losses are considered passive activity losses. These losses are deductible only against income from passive activities. Nondeductible passive activity losses (losses that exceed the income from the passive activity) for the year are “suspended passive activity losses”. Suspended losses can be carried forward indefinitely and used in subsequent years against passive activity income. They are allowed in full upon a taxable disposition of the activity, i.e., when the property is sold.

Although the general rule seems straightforward, federal and state differences, along with special rules, can create opportunities for errors. The following are three common errors related to the Schedule E, page 1, pertaining to rental real estate losses found on both self-prepared and tax practitioner-prepared returns.

1. Passive vs. non-passive for rental real estate activities

For both Federal and California tax returns, a **passive** activity includes any trade or business in which the taxpayer does not materially participate, and any rental activity regardless of participation. Beginning in 1994, and for federal purposes only, rental real estate activities performed by qualified real estate professionals are not automatically treated as passive activities. California does not conform to this provision. Therefore, for California purposes **all** rental activities are considered passive activities.

2. Special allowance for passive real estate rental activities

California conforms to the Federal special allowance rules for those taxpayers who actively participate in rental real estate activities. Under this rule, up to \$25,000 of passive rental real estate losses may be used to offset non-passive income. This \$25,000 limitation is reduced when an individual's modified adjusted gross income (MAGI) is more than \$100,000. Once MAGI exceed \$150,000, the \$25,000 is reduced to zero. Refer to [Federal form 8582](#) and [California form 3801](#) for instructions on how to correctly calculate the limitation phase-out and allowable loss.

3. 1031 Exchanges and suspended passive losses

For both Federal and California purposes, current and suspended passive losses are fully deductible on the disposition of a passive activity; when a taxpayer sells his or her entire interest in a rental property, for instance. However, three criteria must be met before losses are deductible against non-passive income:

- It requires that the taxpayer dispose of an entire interest in a fully taxable transaction to an unrelated party.
- All gain realized must be recognized.
- Therefore, in an exchange of the taxpayer's interest, such as a 1031 exchange in which no gain or loss is recognized, suspended passive losses are not deductible.

For more information on how to correctly calculate and report rental real estate deductions, consult:

- California R&TC Section 17561
- Internal Revenue Code Section 469.
- [IRS Publication 925](#).

Interested parties meeting: Proposed withholding at source changes

FTB will hold an interested parties meeting on **August 13** to get public input on the withholding at source program. The meeting will specifically seek input on proposed [draft regulation language](#) and [draft forms and instructions](#).

[Topics](#) will include:

- Overview and history of California withholding at source.
- Modernization, conformity, and compliance goals.
- Specific changes proposed for 2008.

Interested in attending?

Space is limited. Contact Colleen Berwick at (916) 845-3306, or Colleen.Berwick@ftb.ca.gov, and RSVP by **August 6**.

Where:

Franchise Tax Board
Golden State Conference Rooms A/B
9646 Butterfield Way
Sacramento CA 95827
(Near north lobby entrance)

When:

August 13, 10:00 a.m.

[Visitors parking map](#)

Can't attend, but want to participate?

You can phone in to hear the discussion, and ask questions or offer comments. Call

877-923-2897, and use pass code 2775220.

We also encourage you to submit written comments in advance:

Email: wscs.regulations@ftb.ca.gov

Mail: Legal Department MS A260
Franchise Tax Board
PO Box 1720
Rancho Cordova CA 95741-1720

Interested parties meeting: Updating existing airline transportation regulations

The interested parties meeting originally scheduled for July 25, at 1:00 p.m. to discuss airline transportation regulations is rescheduled to **September 6, at 1:00 p.m.**

We are seeking public comment on modifications to existing formula apportionment rules for the airline industry. At this interested parties meeting we will discuss updating existing airline transportation regulations (Regulation Section 25137-7) to:

- Provide an industry-wide, uniform apportionment formula.
- Clarify factor representation for airfreight activities.

Where:

Franchise Tax Board
9646 Butterfield Way
Sacramento, CA 95827
Golden State Conference Room A
(Near north lobby entrance)

When:

September 6, 1:00 p.m.

[Visitors parking map](#)

Want more information?

- [Topics list](#)
- **Relevant links**
 - [Assessor's Handbook Section 570](#)
 - [Title 18](#) California Code of Regulations Section 25137-7
 - Revenue and Taxation Code [Section 25101.3](#)
- **Contact:** Kathryn Harker

Email: Kathryn.Harker@ftb.ca.gov

Mail: Legal Department MS A260
Franchise Tax Board
PO Box 1720
Rancho Cordova CA 95741-1720

2007 Homeowner and Renter Assistance program underway

This year, FTB is providing Homeowner and Renter Assistance (HRA) instructions in Chinese, Korean, Russian, Spanish, and Vietnamese, as well as English. Translated copies of [Form 9000/9000R](#) are available only online.

In mid-June, we began mailing HRA Program claim booklets (Form 9000) to prior year recipients. We urge you to let your clients know that they may be among the more than 600,000 eligible taxpayers to take advantage of assistance payments from the HRA Program.

Payments are based on the amount of property taxes paid directly by homeowners, and indirectly paid by renters.

- Eligible homeowners can receive a payment of up to \$472.50.
- Renters can receive up to \$347.50.

How to qualify

- **Homeowners** must have owned and lived in their home at the end of 2006 and have household income of \$42,770, or less.
- **Renters** must have paid \$50 or more in rent per month, and meet the same income limits.
 - Renters living in tax-exempt housing do **not** qualify.
- **All claimants** must:
 - Have been blind, disabled, or at least 62 years old on December 31, 2006.
 - Be a U.S. citizen, designated alien, or qualified alien when the claim is filed.

We administer the program from July 2 through October 15, although claims can be filed as late as June 30, 2008. To avoid payment-processing delays, we strongly advise claimants to file by the October 15 deadline. We will authorize payments once the state budget is signed.

The state offers free [assistance](#) for completing the [claim forms](#) that eligible individuals need to file to receive their checks.

To find help, visit our Website at www.ftb.ca.gov, call your local Senior Citizens Information and Referral Service, or call your state legislator's office.

Another program your clients may qualify for is the [Property Tax Postponement Program](#). Available through the State Controller's Office, this program allows eligible homeowners to postpone payment of their property taxes on their principal place of residence. For more information regarding this program, visit the State Controller's Website at www.sco.ca.gov.

FTB's Tax Gap Strategic Plan wins award

Our Tax Gap Strategic Plan was recognized with the Silver Award in the State Information Officers Council's ([SiOC](#)) annual awards competition held May 10.

Members of FTB's Tax Gap Action Committee collaborated with academics, taxpayer groups, tax professionals, business representatives, legislative staff, and others to develop the strategic approach to reducing California's \$6.5 billion annual tax gap.

The [Tax Gap Plan](#) follows a simple, well-organized design, and can be viewed on our Website at www.ftb.ca.gov. The Plan builds on a foundation of current, successful enforcement and customer service programs. Since 2004, the Voluntary Compliance Initiative (VCI) for abusive tax shelter participants and Tax Amnesty have brought in more than \$6 billion for California.

The SiOC is a not-for-profit organization that provides support, education, and other opportunities to the public information, and publication professionals in California state service.

Former FTB executive Will Bush to head Department of General Services

Governor Schwarzenegger has appointed Will Bush the new director of the Department of General Services (DGS). Bush has served as the interim director for DGS since January 2007, and undersecretary for the State and Consumer Services Agency (SCSA) since 2006. From 1975 to 2006, Bush served in a number of different positions at FTB including chief deputy, assistant executive officer of operations and enterprise technology, director of taxpayer information systems, director of communications and public affairs, and tax auditor/administrator. Bush left FTB in 2006, after serving as the interim executive officer.

Bush, 55, of Elk Grove, earned a Bachelor of Science degree in business administration from California State University, Sacramento. The position of director of DGS requires Senate confirmation.

DGS is the state's business agent and performs a broad array of services for the public and its government customers. Some of its diverse functions include e-commerce and telecommunications, management of state-owned and leased properties, and architectural approval of local schools and other state buildings. DGS provides most of the state's printing

needs, manages the vehicle fleet, and oversees the state's procurement of supplies needed by other state agencies.

Notes from the tax practitioner liaison

Public Service Bulletins

We provide bulletins to our customer service staff to help them respond to taxpayer contacts caused by law changes, system problems/changes, or other issues. As part of our commitment to transparency, we post redacted versions of these public service bulletins on our Website.

The bulletins are prepared exclusively for internal staff use and should not be confused with regulations, FTB Notices, or Legal Rulings, which constitute official FTB public notices. Increasingly, however, we are seeing these bulletins reprinted in other media with a suggestion that they can be relied upon as official public guidance. This confusion seems to arise partly from the document's name. To clarify that these bulletins are internal communications, we will be moving them from the Tax Professional/Practitioner Services area on our Website, and grouping them with Policies and Procedures, where we currently keep other internal information such as internal procedure manuals. They will continue to be accessible to the public; however, we hope that this change will help underscore that while posted on the Internet for informational purposes, these bulletins are internal guidance for use by FTB employees.

Conformity

Have you ever wondered how a federal legislative change affects your California tax return, or how it might change the California tax planning advice you give to your clients? You're not alone! Unfortunately, conformity is very complex and it can take hours, if not days or weeks to unravel federal legislation as it relates to the California code. As the tax practitioner liaison, I continually receive questions on whether or not California conforms to recent federal legislation.

Something we hope will help is the updated and improved [conformity Webpage](#) on the FTB Website. It will provide information on recently enacted federal bills, and pending California legislation. There will be answers to frequently asked questions, as well as a link to a conformity email address where you can submit questions. And soon you will be able to sign up for an email subscription service that will allow us to email you new conformity-related information. I will keep you posted on when it will be available.

Phone number correction

Last month we gave the practitioner hotline phone number as (916) 845-6377. This is actually the hotline's fax number.

The correct practitioner hotline phone number is **(916) 845-7057**.

Inside FTB

Expanded subscription service now available

Our new, expanded [subscription services](#) became available on July 20, and we hope you agree that it was worth the wait. We're sorry for the delay, and appreciate your patience.

FTB announces executive appointments

Geoff Way became the new FTB Chief Counsel on August 2, upon the retirement of Chief Counsel John Davies.

Way, most recently the director of the Administrative Services Division, has been with FTB since 1992. In addition to his experience in private law practice, Way's previous positions with the department include assistant director of the Legislative Services Bureau, and several years as a Tax Counsel at FTB.

Ben Miller of the FTB Legal Department is appointed to CEA V (Career Executive Assignment), the highest civil service classification. Miller will continue in his role as Counsel, Multistate Tax Affairs. He is widely considered one of the national pioneers in the unitary method for taxing corporations.

Bill Jones is the new chief of the Accounts Receivable Management (ARM) Division, which administers the tax collection programs. Jones has worked in the ARM Division for 11 years, as director of the Field & Complex Account Collection Bureau, the Revenue Recovery Services Bureau, and the Special Programs Bureau. Lisa Crowe, former director of the ARM Division, replaced Way as the director of the Administrative Services Division.

"Usability" of FTB's Website gets recognition

Our investment in emphasizing usability is paying off. We wrote of our emphasis on usability in our November/December 2005 issue (page 8 "[Watch for FTB's new and improved Website](#)"). We introduced you to our two, new certified usability analysts – the first two certified in state government.

Human Factors International, a software usability company, recently recognized FTB analyst Donna Freeman as "certified usability analyst of the month." Freeman has been an advocate for improved usability, serving as the usability sub-group lead for IOUCA, (the state's Information Organization, Usability, Currency, and Accessibility working group), playing a key role in developing usability standards for all California State Websites. Freeman has also represented FTB in a collaboration with the state's Board of Equalization, which processes sales and use tax, and the Employment Development Department, which administers employment taxes. These three agencies are represented on the [California Tax Service Center](#) Website, providing a variety of state and federal information. FTB's new Website won a 2006 Gold Award at California's annual State Information Officers Council ([SiOC](#)) event, evidence of our continuing commitment to give you a simplified, "user friendly" experience on our Website, and with our services.

Criminal Corner

We are committed to closing California's \$6.5 billion tax gap, defined as the difference between tax that is owed, and tax that is paid. Our special agents work cooperatively with law enforcement agencies throughout California to uncover illegal behaviors that contribute to the tax gap. These include underreporting income, overstating deductions, failing to file returns, failing to pay taxes due, and making illegal cash payments to employees.

Tax fraud is not a victimless crime. You can report suspected tax fraud by calling FTB at (800) 540-3453.

Tax charges, prison sentence for Santa Fe Springs man

On July 2, a Santa Fe Springs man was sentenced to five years in state prison on felony charges of failing to file state income tax returns, and insurance fraud.

Willie J. Cleveland, 51, occupation unknown, failed to claim more than \$1 million from fraudulent insurance claims he received on his 1999, 2000, 2002, and 2003 state income tax returns. According to court documents, during those years, Cleveland created and filed fraudulent insurance claims with two insurance companies concerning pre-existing medical injuries. The insurance companies subsequently paid these false claims, and Cleveland deposited the funds into his personal checking account.

All income is taxable, including income from illegal sources. Cleveland was remanded into custody, and ordered to pay restitution of more than \$1.4 million to the victims, including more than \$202,000 to the FTB, representing the unpaid tax, penalties, and interest.

This was a joint case with the Los Angeles County District Attorney, the Department of Insurance, and the FTB.

Embezzlement and tax evasion results in state prison

Los Angeles man was sentenced to three years in state prison July 5, on numerous felony counts including three counts of filing false state income tax returns.

Ronald Sargeant, 49, was employed as a production biller for a West Hollywood advertising company. According to court documents, Sargeant abused his position of trust by writing checks during 2003-2005 for more than \$300,000 from his employer's account to a phony company he created, "Metalstorm," for services never rendered. Sargeant also created a bank account where he deposited the embezzled funds. In addition, Sargeant also failed to claim the embezzled funds on his state income tax returns.

Sargeant, who has been in custody since November, was ordered to pay restitution to the advertising company and to the FTB more than \$28,000 in unpaid tax, penalties, interest, and the cost of the investigation.

This was a joint case with the Los Angeles County District Attorney's Major Fraud Unit and the FTB.

Double trouble for real estate couple

A Downey couple, arrested last October on charges related to a real estate scam they operated, was arrested July 16, as they were leaving civil court on an unrelated matter. They now face charges of filing fraudulent state income tax returns.

Department of Justice special investigators arrested Jesus D. Aguayo, 52, a licensed real estate broker, and his wife, Sofia Aguayo, 52, a licensed real estate salesperson, as they left civil court on an unrelated matter. The Aguayos were originally arrested in October 2006 on charges in connection with a "squatter" scam in which they victimized elderly and other homeowners by unlawfully taking possession of roughly 100 houses, and subsequently renting out the property and keeping the income for themselves. The Aguayos allegedly collected \$1,000 a month in rent on the nearly 100 rental properties involved in the scam. The couple failed to claim this money on their 2003-2005 state income tax returns. They owe the state more than \$81,000 in unpaid tax, penalties, interest, and investigation costs.

This is a joint investigation between the California Office of the Attorney General and the FTB.

Chula Vista stockbroker dealt state prison term

On July 18, a Chula Vista man pleaded guilty to three counts of grand theft, and one felony count of failing to file a state income tax return.

Lloyd C. Alcones, 39, represented himself as a stockbroker specializing in foreign investments. According to court documents, Alcones solicited unsophisticated investors from among his friends and members of his church by promising lucrative profits from nonexistent investments. He defrauded investors out of more than \$258,000 during 2001-2002. Alcones deposited the funds into his personal bank accounts, and used the funds for personal expenses such as utility bills and housing payments. In addition, he failed to file his California state income tax return claiming his income.

Alcones' sentencing of three years and four months in state prison is scheduled for September 10 in San Diego County Superior Court. Restitution to his victims will be determined at that hearing. Alcones owes the FTB more than \$46,000 in unpaid tax, penalties, interest, and investigation costs.

This was a joint case with the San Diego County District Attorney's Office and the FTB.

Orange County jury finds Brea attorney guilty of tax evasion

A Brea attorney will be sentenced September 14, after he was found guilty on five counts of felony state income tax evasion.

Harpreet S. Brar, 35, operated a law office in Brea and a limited liability partnership in Long Beach. According to court documents, Brar failed to file 1999 state personal income tax returns, and received two counts related to his law corporation's failure to file its 1999 corporate return. In addition, Brar failed to file his 2002 returns for personal income tax, and for the limited liability partnership.

Brar did file a 1999 personal income tax return after the FTB executed a search warrant in late 2004. However, Brar failed to claim the more than \$1.5 million he received from the sale of securities. He owes the FTB more than \$138,000 in additional tax for the 1999 tax year.

The total amount of restitution, including the business tax, penalties, interest, and investigation costs, will be determined at Brar's sentencing.

Mr. Brar represented himself.

The buzz on big business

This feature will return next month.
