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Tax relief for Southern California fire victims

Taxpayers affected by the wildfires in any of the federally declared disaster areas will be given special tax relief.

California will match the postponement periods announced by the IRS, giving taxpayers affected by the disaster who have tax returns, payments, or other time-sensitive tax obligations due on or after October 21, 2007, through January 31, 2008, an automatic postponement through January 31, 2008. This includes the estimated tax payment for the fourth quarter, normally due on January 15. For complete details regarding tax deadline postponements, refer to the IRS News Release [IR-2007-178](#).

The counties in the declared state and federal disaster area are Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura.

Other special tax rules apply to disaster losses. Your clients who are affected can claim a disaster loss in the tax year the disaster occurred (on the 2007 tax return that taxpayers will file next spring) or in the year before the disaster occurred (by amending the 2006 tax return filed earlier this year). The advantage of claiming a disaster loss in the prior year is that we can quickly issue a refund.

The Board of Equalization has also granted relief to affected taxpayers. Please refer to their [news release](#) at www.boe.ca.gov.

If your clients are affected by the fires and need copies of state tax returns to replace lost or damaged ones, they should complete [Form FTB 3516, Request for Copy of Tax Return](#). Print "**Southern California Wildfires 2007**" in red at the top of the request. Disaster victims receive free copies of tax returns. For more disaster loss information, refer to publication [FTB 1034, Disaster Loss](#) or [IRS 547, Casualties, Disasters, and Thefts](#)

Check our Website at www.ftb.ca.gov for updates as conditions unfold. Your clients who have questions about their accounts can call FTB toll free at (800) 852-5711 Monday through Friday from 7 a.m. to 6 p.m.

See "Inside FTB" in this issue for more information about steps we have taken relating to the California fires.

Like-kind exchange of TIC interest

We are seeing a trend in audit that is causing many tax adjustments, related to deferring gains on transactions under IRC Section 1031.

Tenancy-in-Common (TIC) interest is considered like-kind property for purposes of an IRC Section 1031 exchange. A partnership interest, however, is not treated as such under IRC Section 1031 (a)(2), to which California conforms. We are examining transactions involving exchanges of TIC interests due to findings of noncompliance in this area.

We have identified a number of cases where the property interest exchanged is more closely aligned with a partnership interest than a TIC. If a property interest is found, in substance, to be a partnership interest, then the property is not considered like-kind property, and deferring gain is not allowed.

Taxpayers are relying on Revenue Procedure 2002-22 (relating to rental real property) to support their position that they hold a TIC interest and are entitled to gain deferral. We will consider this revenue procedure, but will continue to make determinations based on existing law, and the facts and circumstances of each case. The essential question is whether the parties intended to, and did in fact join together for an undertaking or enterprise. Therefore, the substance of the transaction will ultimately determine the type of property interest involved.

Following are some of the factors considered in determining the type of property interest involved. No single factor is determinative:

- The agreement of the parties, and their conduct in executing its terms.
- The contributions, if any, that each party makes to the venture.
- Control over income and capital, and the right of each party to make withdrawals.
- Whether the parties are co-proprietors who share in net profits and have an obligation to share losses.
- Whether business was conducted in the joint names of the parties.
- Whether the parties held themselves out as joint ventures.
- Whether separate books of account were maintained for the venture.

We consider the conditions in Revenue Procedure 2002-22 as a minimum requirement for determining existence of a TIC interest in cases dealing with rental real property. At audit, we will request substantiation that those conditions are satisfied in order to make a thorough determination. Although we will look at private letter rulings for guidance, private letter rulings are binding only on the taxpayer to whom it was issued.

Calculating the Limited Liability Company fee after AB 198

Governor Schwarzenegger signed AB 198 into law on October 11. This bill, which takes effect immediately, revises terms used in the statute (California Revenue and Taxation Code (CR&TC) Section 17942). It changes the fee calculation for all Limited Liability Companies (LLCs) doing business within and outside of the state for taxable years beginning on or after January 1, 2007. Specifically, it modifies the fee imposed on LLCs by basing it on total income derived from or attributable to California by utilizing the sales factor numerator assignment rules contained in CR&TC Sections 25135 and 25136 (as modified by the regulations under CR&TC Section 25137, if applicable). The regulations under CR&TC Section 25137 that exclude receipts from the sales factor entirely are not applied in any case. This change does not modify the amount used as total income for businesses wholly within California.

In three cases under current litigation, the taxpayers contend that the LLC fee is unconstitutionally applied because out-of-state income is used to calculate the fee. Before AB 198 was enacted, the annual LLC fee was based on the LLC's total income from all sources reportable to the state. Total income was defined as gross income from whatever source derived, plus cost of goods sold.

AB 198 also adds CR&TC Section 19394 to allow the fee to be recomputed for a taxpayer that files, or has filed, a timely claim for refund due to pending litigation, if the fee is finally adjudged as discriminatory or unfairly apportioned. In that event, we may find it necessary to request further information to determine the total income derived from, or attributable to California by utilizing the sales factor numerator assignment rules. We will not make such a request until there has been a final resolution of the court cases.

The LLC fee will be computed in the same manner as before except that total income, defined as gross income plus cost of goods sold, will include only income from sources derived from or attributable to California. Thus, an LLC that does business inside and outside California will determine its total California income for purposes of calculating its fee using the rules for assigning sales.

Information about these rules will be available in the 2007 568 booklet, *LLC Income Worksheet Instructions*, which will be available on our Website on December 17, 2007. Before then, you may contact our Tax Practitioner Hotline at (916) 845-7057 for further information.

EZ does it - Enterprise zone tax incentive program is changing

Out with the old and in with the new

The Enterprise Zone tax incentive program was created in 1986 to help local businesses, and encourage outside businesses to locate in economically depressed areas. The Enterprise Zone (EZ) credit is available to taxpayers engaged in a trade or business within a designated enterprise zone.

The EZ designation is effective for 15 years after an EZ is approved and established. There are currently 42 approved enterprise zones located throughout California. The incentive has been around for quite some time, but recent changes to the Enterprise Zone program could positively affect your clients' businesses, and are described below.

Who's in charge?

The California Department of Housing and Community Development (HCD) is responsible for administering the enterprise zones. The HCD has recently issued new regulations on administrative issues related to enterprise zones, and is the key contact for zone boundaries and voucher issues. FTB is responsible for determining the accuracy of EZ credits claimed on individual and corporate tax returns.

Expiration of enterprise zones

Many of the originally designated zones that were created in the mid-80s have either expired in 2006 or will be expiring in 2007. Once expired, a zone can choose to apply again for a zone designation by following the rules and procedures as determined by HCD. On November 3, 2006, the Governor, in coordination with HCD, announced the conditional designation of 23 enterprise zones. Four of these 23 zones are designated as “brand new” zones (the county of Fresno, and the cities of Santa Clarita, Arvin, and Compton). These new zones include geographic areas that have never been an enterprise zone before and are now eligible for enterprise zone incentives for the first time, once they receive final designation from HCD.

The remaining 19 enterprise zones are “conditionally designated” zones until HCD grants them their final designation. These conditionally designated enterprise zones are zones that include both a geographic area that was previously in an enterprise zone, as well as geographic areas that were not previously in an enterprise zone.

“Conditionally designated” vs. “brand new” enterprise zones

One of the questions that business owners may ask is “What is the difference between a conditionally designated zone and a brand new zone that has received final designation?” As mentioned above, communities with an expired enterprise zone that wish to apply for a new designation, or that want to apply for an enterprise zone for the first time, must submit an application with HCD. After HCD scores and ranks the applications, it will select the most qualified applications based on the number of enterprise zone designations available. For example, in 2006, there were 23 designations available. After HCD awards a designation, HCD will issue a letter of conditional designation to the community, indicating the conditions that must be met before the enterprise zone receives its final designation.

Conditionally designated zones

Taxpayers located in a conditionally designated enterprise zone can claim the zone incentives while the HCD completes the designation process. As noted, these “conditionally designated” enterprise zones are zones that may include both a geographic area that was previously in an enterprise zone, as well as additional geographic areas that weren't previously in an enterprise zone. Current statutory language allows taxpayers that operate within these conditionally designated zones to claim the enterprise zone incentives from the date that HCD awards the conditional enterprise zone.

Once HCD grants the enterprise zone its final designation, the effective date for the new zone is the expiration date for the previous zone. For example, the city of Fresno’s enterprise zone expired on October 14, 2006. However, this community applied for a new designation, and HCD conditionally designated this community in November 2006. HCD will ultimately grant a final designation date to the city of Fresno enterprise zone, and this date will be considered the start date for the new enterprise zone. Conditionally designated enterprise zones will ultimately receive a final designation date, which for purposes of the tax incentives has little meaning when compared to a new zone. Only in the situation where a final designation date is not granted will it have meaning in relation to the tax incentives. If final designation is not granted, then the tax incentives will cease from this point forward.

Brand new zones

A zone designated for the first time with no geographic areas in a previous enterprise zone is a brand new zone. Taxpayers operating in such a zone are not eligible to claim enterprise zone incentives until after HCD provides a final letter of designation with the designation date noted. Once this final designation date is known, qualifying events occurring after this date – such as hiring employees or acquiring assets – then qualify the taxpayers operating in these zones to claim enterprise zone incentives.

Reporting requirements

With the expiration of old enterprise zones, designation of new zones, and conditional designation of zones, there may be new reporting requirements for tax purposes.

- Taxpayers operating in an expired zone (where no geographic area was included within a new zone) should continue to file a 3805Z (*Enterprise Zone Deduction and Credit Summary*) claiming carryover amounts and continuing to incur the hiring credit (up to five years) for employees hired before zone expiration.
- Taxpayers operating in a brand new zone (where no geographic area was previously included in a prior enterprise zone) will file Form 3805Z and begin claiming tax incentives once final designation is noted for all qualifying activities engaged in, on or after the date of final designation.
- Taxpayers operating in a conditionally designated zone (where a geographic area - all or a portion of - was included in a now expired enterprise zone) need to file two Forms 3805Z. The first 3805Z is to report the incentives from the expired zone including carryover amounts and continuing to incur the hiring credit (up to five years) for employees hired before zone expiration. The second 3805Z is to report the tax incentives attributed to the conditionally designated zone for all qualifying activities engaged in on or after the date of conditional designation.

For more information on the EZ Credit, please visit our Website at www.ftb.ca.gov. For questions relating to enterprise zone vouchers, zone boundaries, and newly designated zones, please visit the Housing and Community Development Agency's Website at www.hcd.ca.gov.

FTB follows IRS Chief Counsel Advice for IRC Section 409A

California's Revenue and Taxation Code (R&TC) Sections 17501 and 24601 allow IRC Section 409A to apply to California taxpayers.

In February 2007, the Internal Revenue Service (IRS) created a Compliance Resolution Program ([Announcement 2007-18](#)) that permitted employers to pay their rank-and-file employees' additional taxes arising under Internal Revenue Code (IRC) Section 409A. After the IRS established its Compliance Resolution Program, FTB issued [FTB Notice 2007-1](#), *California's Compliance Resolution Program for Employers Participating, or Intending to*

Participate, in the IRS Compliance Resolution Program Regarding Internal Revenue Code Section 409A.

The FTB 409A Compliance Program paralleled the IRS Compliance Resolution Program. Employers were required to file a notice of intent with FTB by March 15, 2007, in order to participate in the FTB 409A Compliance Program, and submit payment to FTB by June 30, 2007.

On July 13, 2007, the IRS released Chief Counsel Advice (CCA) 200728042 (available [online](#)), which relates to the application of IRC Section 409A to certain backdated stock options. Due to California's conformity with IRC Section 409A, FTB is following CCA 200728042.

We are accepting further submissions from employers who believe that, pursuant to CCA 200728042, some employees included in their original submission to the FTB 409A Compliance Program should have been excluded. The purpose of the further submission is for the employer to make a refund claim for amounts submitted to FTB on behalf of employees that were not subject to 409A as described in CCA 200728042.

For employers that participated in both the IRS 409A Compliance Resolution Program, described in IRS Announcement 2007-18, and the FTB 409A Compliance Program, described in FTB Notice 2007-1, a further submission requesting a refund must include:

- A copy of the corresponding federal submission.
- Any IRS response.
- Information and documentation to establish that the amounts reported as part of the
- FTB 409A Compliance Program do not violate IRC Section 409A, pursuant to CCA 200728042.

For employers that did not participate in the IRS 409A Compliance Program, but did participate in the FTB 409A Compliance Program, a further submission requesting a refund must include all information and documentation to establish that the amounts reported as part of the FTB 409A Compliance Program do not violate IRC Section 409A, pursuant to CCA 200728042.

Please fax and mail any submissions for refund. The fax number is (916) 845-9398. The mailing address for any submission for refund is:

State of California
Franchise Tax Board
409A Compliance Program
Attn: Deirdre O'Connor @ MS F350
PO Box 1779
Rancho Cordova CA 95741-1779

For further information, please contact Deirdre O'Connor at (916) 845-7335.

Backdated stock options

California's self-compliance program for employers regarding IRC Section 162 (m)

We are conducting a self-compliance program for employers who may have issued discounted stock options and/or stock appreciation rights (stock rights) to their employees. If this describes any of your clients, they may be contacted with a self-compliance letter.

California Revenue and Taxation Code (CR&TC) Section 24343 conforms to Internal Revenue Code (IRC) Section 162(m) for taxable years starting on or after January 1, 2002. IRC Section 162(m) limits the deduction for compensation paid to CEOs, as well as the next four highest compensated officers. The deduction is limited to \$1 million dollars per individual.

In general, stock options provide the right to purchase company stock on a future date at a set price (the exercise or strike price), and this right is normally exercised when the stock share value is above the exercise price. Typically, when options are granted, the exercise price is set at the market value of the stock on the grant date so that the option holder will profit from exercising the option only if the stock price increases after the grant date. Stock appreciation rights (SARs) are similar to stock options in that they are granted at a set price, and they generally have a vesting period and an expiration date. Once a SAR vests, an employee can exercise it at any time before it expires.

A discounted stock right provides the holder with a built-in gain on the option at the time of grant, which can have an adverse consequence for the corporation issuing the option. Treasury Regulation Section 1.162-27(e)(2)(vi) provides a "qualified performance-based compensation" exception to the \$1 million deduction limit for compensation attributable to the exercise of an option if the exercise price of the option equals or exceeds the share value on the grant date, and certain other requirements are met. However, if the exception is not met, the compensation resulting from exercise of the stock right may be subject to the \$1 million deduction limit.

We are including instructions in the October letter on how to resolve the non-compliance, for corporations for which the \$1 million dollar limitation is applicable. Taxpayers who receive the letter will be given 30 days to complete and return the worksheet included with the letter.

Nonresident withholding at source

Requesting reduced withholding

Beginning January 1, 2008, we will implement a variety of changes to the Withhold at Source program for nonresident taxpayers. We discussed changes to forms and regulations in a [September Tax News article](#). Our overall goal is to streamline processes, increase compliance, and bring consistency to the program. The processing changes for requesting reduced withholding will have a significant effect on nonresident entertainers, speakers, and their withholding agents.

Current law requires a withholding agent (booking agent, promoter, or venue) to withhold

seven percent on the gross California (CA) source payment. In some circumstances seven percent of the gross California source payment may result in over withholding for the tax year. Since our purpose at FTB is, in part, to "collect the proper amount of tax revenue..." we are changing the way we process requests for reduced withholding to increase compliance and reduce the possibility of future over-withholding.

Beginning January 2008, withholding agents are instructed to withhold seven percent on all gross California source payments to nonresident payees, including entertainers, unless they receive a letter from us confirming a reduced withholding amount. The nonresident payee initiates a request for reduced withholding by completing new Form 589, *Nonresident Reduced Withholding Request*, before receiving payment for services. The payee must:

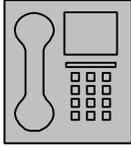
- Complete Form 589 based on expenses, costs, or other special circumstances that would justify a reduced withholding amount.
- Calculate the proposed reduced withholding amount as seven percent of the *net* California source payment, which is the gross payment minus expenses or costs identified on Form 589.
- Certify under penalty of perjury that the expenses and resulting reduced withholding calculations are true and correct.

After we analyze Form 589, we issue a letter to the payee and the withholding agent notifying them of our determination, and the amount to be withheld. Receiving Form 589 at least 10 business days before the withholding agent pays the nonresident payee will help us meet requests as quickly as possible.

In addition to the new Form 589, we will initiate the following activities in 2008:

- **Outreach workshops** – In early spring 2008, we will conduct education workshops specific to entertainment industry customers. The workshops will be held at our California Field Offices. In December 2007, go to our Website at www.ftb.ca.gov and search for **entertainment** for more information.
 - **Proactive reminder letters** – We will issue 'soft' reminder letters to withholding agents that have scheduled performances with nonresident entertainers, athletes, or speakers. The letter reminds the withholding agent to withhold seven percent from the gross California payment, unless we approve a Form 589 submitted by the payee.
 - **Compliance audits** – We will conduct compliance audits to educate withholding agents about the changes to our Withhold at Source program. Our goal is to increase compliance with withholding laws, and assist withholding agents understand changes that we will implement in 2008. Since these audits are directed toward educating our customer, we do not expect to issue penalties related to the new forms during the first year.
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IRS phone forum for unenrolled tax practitioners



Calling all California IRS Tax Practitioners

IRS Stakeholder Liaison Presents:

Unenrolled Tax Preparers in California

Responsibilities with IRS, CTEC, and California FTB

A Special PHONE FORUM for Tax Practitioners

November 27, 2007

9:00 a.m. – 11:00 a.m. (PDT)

Learn about unenrolled tax preparers in California and:

- CTEC - Registration, education, and bonding requirements.
- FTB - Enforcement Program for CTEC.
- IRS - POAs and the CAF Unit.
- IRS - Professional responsibilities for unenrolled tax preparers.

Who Should Attend?

- **Any** individual in California that prepares Federal or State taxes for a fee and is not an attorney, certified public accountant (CPA), or enrolled agent (EA).

Earn Continuing Professional Education credit:

- Enrolled agents receive one CPE credit for a minimum 50-minute participation.
- Other tax professionals may receive credit if they qualify per their organization.

- You need to register individually and use your PIN to receive credit.
- Call in on a separate line to verify attendance.



A question and answer period will follow the presentation. No recording is permitted.



Sign up now! Here's how:

- **Select the time that works best for you:**

Conference

Access Code

382734

Eastern

12:00 p.m.

Central

11:00 a.m.

Mountain

10:00 a.m.

Pacific

9:00 a.m.

- Register at: www.attevent.com.
- You will be assigned a Personal Identification Number (PIN) that **must be used** to join the conference.
- If you have never registered with AT&T for a prior phone forum, you will need to click on "create a profile" first.

Register by November 20, 2007. We will email materials for the class on November 23, 2007. **If you do not receive this email by noon on November 24** email us at: phoneforum@irs.gov to request the presentation materials.

Reservations are limited so register early. Please let us know if you registered and will not be able to attend the forum as there is a fee charged to the IRS for each unused line.

Dial in on November 27, 2007

Toll free: 1-866-216-6835

- Dial in three-five minutes early.
- Enter your access code then the pound (#) sign.
- Enter your Personal Identification Number (PIN), then the pound (#) sign.

- Your line will be placed on hold until the conference begins.

Questions? Email phoneforum@irs.gov

The IRS sponsors seminars conferences, phone forums, and other practitioner events throughout the year. Many are free and may qualify for CPE credit. **Upcoming events include Electronic IRS seminars held around the nation running through December.** For more information on your state's events, visit [Practitioner Local Liaison Meetings, Phone Forums and Seminars](#).

The SSA/IRS Reporter

The SSA/IRS Reporter is a joint effort between Social Security Administration (SSA) and IRS. It communicates messages to businesses with employees that support trust fund, employment tax, and business tax compliance, with an emphasis on educating and encouraging these stakeholders to file their taxes electronically.

The Reporter carries general information about best payroll and employment tax practices and SSA products and services, such as changes in forms for reporting employee wages, W-2 Online, SSA filing procedures, and Business Services Online.

The SSA/IRS newsletter also includes timely information from the Department of Labor, Department of Justice, Health and Human Services, and other government agencies.

Past issues, including the fall 2007 issue, are posted on IRS.gov in English and Spanish. Check out the fall issue to read about:

- Federal minimum wage increases.
- Closing the tax gap - a priority for all.
- Employer responsibilities when hiring foreign workers.
- DOL introduces new tool for calculating overtime pay.
- DOJ's business connection initiative helps businesses understand ADA.
- Recommend *Electronic IRS* for your employees' tax needs.

To learn about the availability of the latest issue of the SSA/IRS Reporter and other IRS products and services, subscribe to IRS's e-News for Small Businesses. To see a representative sample and to start your free [subscription](#) to e-News at IRS.gov, just type in your email address and submit.

Notes from the Tax Practitioner Stakeholder Specialist

Disclosure reporting requirements

FTB issued Notice [2007-4](#) on October 18, 2007, to provide an additional 45 days from the October 1, 2007 due date for taxpayers to file complete IRS Forms 8886, disclosing their participation in reportable transactions.

We extended the due date because of some confusion over whether or not taxpayers were required to file Form 8886 with respect to certain categories of reportable transactions - in particular, the Transactions with Contractual Protection category of reportable transactions. To help dispel any confusion, and insure that taxpayers are able to file the proper disclosures, we are extending the original filing deadline to November 15, 2007.

If you have questions about your clients' filing requirements, or if you need additional information, please see FTB Notice [2007-4](#) posted on our Website at www.ftb.ca.gov.

Legislative update

The Governor has made decisions on several key tax bills recently:

Signed by the Governor

SB 105: *Taxation of Registered Domestic Partners:* Among other things, this bill makes technical changes regarding how RDPs calculate joint federal AGI for state tax purposes to be consistent with the calculation of joint federal AGI for married persons.

AB 198: *Limited Liability Companies: Apportionment:* Provides for recomputation of the tax, should the original be found invalid or discriminatory.

Vetoed by the Governor

AB 1618: This was an interest offset bill, which would have repealed a section of the Corporate Tax Law held unconstitutional by the US Supreme Court.

Inside FTB

Steps we're taking to help the SoCal fire victims

The October wildfires destroyed many homes and properties in Southern California. We are focusing our efforts on assisting those who have been devastated by these wildfires.

- We have suspended tax billings and notices to the affected areas for at least two weeks until residents have either returned to their homes, or made other arrangements. We will work with victims experiencing hardships to provide added tax relief on a case-by-case basis.

- We conform to federal tax code sections that provide for disaster tax relief. Most importantly, taxpayers experiencing disaster losses that are not compensated for by insurance, or otherwise, can deduct those losses on their prior year tax return (by amending their 2006 return, filed earlier this year) and get a quick refund for taxes paid.

We will continue to post educational material on our Website to assist victims with disaster tax-related matters.

“My FTB Account” coming in January

Our goal is to help you and your clients by providing more of their account information in one place. You can already use our online [“View Payments and Balance Due”](#) application to see estimated payments and balance due amounts. Beginning in 2008, you and your clients will be able to view even more information about their FTB tax accounts than ever before. Because of this expansion in services, we are changing the name of the application to “My FTB Account.”

The original “View Payments and Balance Due” application allows taxpayers to look up:

- Estimated tax payments received.
- Multiple tax years’ balance due amounts.
- Other payments received.

“My FTB Account” will add:

- California wage and withholding information.
- FTB issued 1099-G and 1099-INT information.

Spend less time searching for account information, and have more time to serve your clients!

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.

San Diego tax preparer arrested on tax charge

On October 10, a self-employed tax preparer was arrested on one felony count of filing fraudulent state income tax returns.

Roosevelt Kyle, 62, of San Diego, allegedly filed fraudulent amended state income tax returns on behalf of nearly a dozen clients. According to FTB investigators, Kyle inflated the itemized deductions, such as cash contributions, non-cash contributions, business expenses, and work-related clothing in order to obtain a larger tax refund for each client. He then inflated the fees he charged his clients for his services.

If found guilty, Kyle faces a maximum term of three years in state prison, plus restitution to the FTB of the more than \$10,000 in fraudulent refunds plus penalties, interest, and the cost of the investigation.

The fraud was detected by FTB's internal fraud detection procedures.

Kyle was booked into the San Diego Central Jail, with bail set at \$150,000.

The buzz on big business

Enterprise zone hiring credit update – Appeal of Jessica McClintock

An employer who meets certain requirements may claim an enterprise zone hiring credit. (See R&TC Sections 17053.74 and 23622.7.) One of these requirements is that the employer hires a "qualified employee." An individual who is eligible for the Job Training Partnership Act (JTPA) public assistance program may be considered a "qualified employee" for purposes of the enterprise zone hiring credit. The JTPA, which expired June 30, 2000, provided training and job placement assistance for qualified individuals who faced significant barriers to employment and suffered an economic disadvantage. The JTPA program also provided that 10 percent of its funds could be used to enroll individuals into the JTPA program if they suffered a barrier to employment but had no corresponding economic disadvantage.

On August 14, 2007, the Board of Equalization held in an unpublished decision, *Appeal of Jessica McClintock*, that individuals who had a documented barrier as defined under the JTPA 10 percent exception category could be considered qualified employees for purposes of the enterprise zone hiring credit. Accordingly, vouchers issued for employees hired on or before June 30, 2000, under this eligibility category with a documented employment barrier will be accepted as valid vouchers.

The following barriers to employment were recognized under the JTPA Program.

- Addict.
- Alcoholic.
- Basic skills deficient.
- Cash welfare recipient.
- Disabled individuals.
- Displaced homemaker.

- Homeless.
- Limited English language proficiency.
- Offender.
- Older worker.
- Pregnant/parenting youth.
- School dropout.
- Veteran.

The requirements of each of these barriers are set forth within the JTPA statutes and regulations including common documentation used to verify these barriers.
