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## Registered Warrants Can Pay Your State Income Tax Bill

We accept California registered warrants (IOUs) as payment of current and past due personal and corporate tax obligations.

To pay a tax liability with an IOU, the taxpayer endorses the IOU on the reverse side with the phrase "Pay to the order of Franchise Tax Board" and the taxpayer's signature, then mail it with the tax bill or estimated tax voucher. By law, we cannot deposit the IOU until it is payable, but we will credit the taxpayer's account on the date the IOU is received to stop the accrual of interest. If the IOU is not sufficient to pay the outstanding balance, the taxpayer should send an additional payment for the difference. Otherwise, the taxpayer will receive a bill reflecting the new balance due.

On October 2, 2009, we will redeem the IOUs we receive with the Treasurer. If a taxpayer submits an IOU after October 2, we will deposit it and then credit the account with the face value of the warrant plus applicable interest.

Taxpayers who want to receive the accrued interest from their IOUs must hold them until October 2, 2009, the date IOUs are redeemable.

A registered warrant is a "promise to pay," with interest, that is issued by the State when there is not enough cash to meet all of the State's payment obligations. If there is sufficient cash available, registered warrants will be paid by the State Treasurer on October 2, 2009. For more information, see the Treasurer's website [STO Registered Warrant Information](#) or the Controller's website [California State Controller's Office: Frequently Asked Questions about Registered Warrants \(IOUs\)](#).

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## State's New Home Tax Credit Gone

We stopped accepting applications for the new home tax credit at midnight, Thursday, July 2, 2009.

New tax law allocated \$100 million of tax credits made available to approximately 10,000 qualified buyers who on or after March 1, 2009, and before March 1, 2010 purchased a qualified principal residence that had never been occupied. This credit is equal to the lesser of five percent of the purchase price or \$10,000. The buyer must reside in the new home for at least two years immediately following the purchase date.

To ensure that enough valid applications were received to properly allocate the full \$100 million available for this tax credit, FTB accepted 12,000 applications. However, we only issued approved credit certificates until the \$100 million was exhausted. The credit was allocated on a first-come, first-served basis.

The application, Form 3528-A, *Application for New Home Credit*, is no longer available on our website. However, the instructions for buyers to claim the New Home Credit, Publication 3528, on their tax return will be available no later than December 31, 2009.

Taxpayers can visit [ftb.ca.gov](http://ftb.ca.gov) and search for **new home credit**, call us at 888.792.4900, or 916.845.4900 (not toll-free), Monday through Friday, 8 a.m. to 5 p.m.

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## **FTB Provides Guidance for California Treatment of the Revised Texas Franchise Tax**

On July 20, 2009, we responded to the request for taxpayer guidance to determine the general eligibility for the Other State Tax Credit (OSTC) and the deductibility of the Revised Texas Franchise Tax (RTFT). In FTB Notice 2009-6, we describe the mechanics of the RTFT and set forth the relevant California case law and rules that taxpayers must analyze in light of their individual circumstances in order to determine whether the RTFT is a gross receipts tax, a gross income tax, or a net income tax. We outline methods and include a chart that summarizes which type of tax is eligible for the OSTC or deductible for California income and franchise tax purposes.

Due to the different types of taxpayers subject to the RTFT and the various types of "total revenue" (as defined by Texas law) subject to this tax, we cannot provide a definitive characterization of the different methods of the RTFT that applies to each and every taxpayer.

For more detailed information about your clients' eligibility and RTFT deductibility, go to [ftb.ca.gov](http://ftb.ca.gov) and search for [FTB Notice 2009-06](#).

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## **Did You Know We Are Working Together?**

We came together with the Board of Equalization, Employment Development Department, and the IRS in a cooperative partnership called the Joint Tax Agency Communications Committee. The mission of the committee is to "speak with one voice" where feasible with regards to tax issues and to enhance our education and outreach efforts by leveraging resources.

The committee recently met to discuss a variety of outreach and media issues aimed at making taxpayer interactions with our respective programs more seamless and improving our education materials across program lines. Discussion at the meeting included the development of a new resource guide for new immigrants entering the country and to develop an information fact sheet for online auction houses, the development of a joint news page on the California Tax Service Center Website at [taxes.ca.gov](http://taxes.ca.gov) and several joint education projects.

## 15<sup>th</sup> Annual Tax Practitioner/IRS Town Hall Meetings

In September, we will be working with the IRS and other state agencies at the 15<sup>th</sup> Annual Tax Practitioner/IRS Town Hall Meetings.

You have 3 dates and location in Northern California locations to choose from:

- Tuesday, September 22, 2009, at the Holiday Inn Capitol Plaza, Sacramento.
- Wednesday, September 23, 2009, at the Radisson Hotel, Dublin.
- Thursday, September 24, 2009, at the Holiday Inn Fresno Airport, Fresno.

Let subject matter experts from IRS, us, and other government agencies clarify issues, hot topics of importance to you and your tax practice, and earn up to 7 hours of CPE.

Get the latest information on the following topics:

- Tax aspects of foreclosures – Personal vs. rental, shorts sales.
- Taxpayer advocate service – How we can work together to help your clients?
- Tax panel – Discussion and Q&A session on a variety of topics that are determined by you.
- Hot off the press – Updates on all the tax changes, stimulus packages, etc.

For more information about the specific sites:

| Location   | Contact             | Phone        | Email  |
|------------|---------------------|--------------|--|
| Sacramento | Mary Phillisen, EA  | 916.863.7767 | <a href="mailto:taxmary@bntax.com">taxmary@bntax.com</a>     |
| Dublin     | Ravi Sundarraaj, EA | 925.984.1219 | <a href="mailto:ravisun@concast.net">ravisun@concast.net</a> |
| Fresno     | Vickie Strohl, EA   | 559.229.4800 | <a href="mailto:vtrohl@hotmail.com">vtrohl@hotmail.com</a>   |

Check out other locations at [IRS.gov](http://IRS.gov) and search for [California Practitioner Liaison Meetings and Seminars](#). Register by downloading the [Official Flyer/Registration Form](#) and following the instructions on the form.

## Are You a Tax Professional Interested in Saving? Learn More About Doing Your Tax Stuff Online!



Save  
time



Save  
hassle



Save  
trees

Register and attend one of our joint statewide workshops\* to learn about the latest in e-services.

### What you will get:

- Continuing Professional Education (CPE) credits.
- Opportunity to talk directly to e-services.
- Updates on e-file programs.
- Information on how e-services can benefit you and your business.
- e-file and e-service program enrollment assistance.

### Register today:

Go to [ftb.ca.gov](http://ftb.ca.gov) and search for **e-services workshops**.

### Locations:

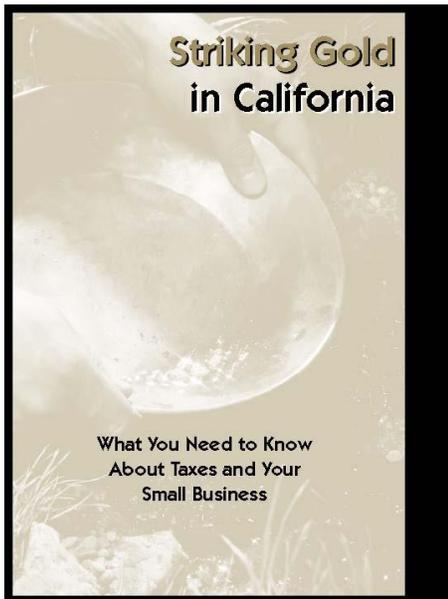
#### Northern California

|               |           |
|---------------|-----------|
| Oakland       | August 24 |
| San Francisco | August 25 |
| Cupertino     | August 27 |
| Sacramento    | August 28 |

#### Southern California

|              |              |
|--------------|--------------|
| Ontario      | September 8  |
| San Diego    | September 9  |
| Garden Grove | September 15 |
| Burbank      | September 16 |
| Los Angeles  | September 17 |

\*Workshops sponsored by Board of Equalization, Employment Development Department, Franchise Tax Board, and Internal Revenue Service.



## Striking Gold in California

Striking Gold in California is an educational tool for small business owners that provide basic tax information from the Internal Revenue Service and the three California tax agencies, all in one place.

The Striking Gold in California booklet provides easy-to-use information on income, sales and use, and employment taxes in an easy-to-read format.

You can use this booklet to inform your clients with small businesses about the various types of taxes they may incur and the resources available to them.

Striking Gold is available online in [English](#) and [Spanish](#) at [www.boe.ca.gov](http://www.boe.ca.gov). The California Tax Service Center at [taxes.ca.gov](http://taxes.ca.gov) also offers additional information about starting and running a small business.

## Small Business

### Converting a California LLC to an S-Corporation

Does your client want to convert their limited liability company (LLC) to an S-Corporation and continue to have the profits and losses flow through to its members? Did you know that you can convert an LLC into an S-corporation for tax purposes by making an election?

An LLC can elect to be classified as an association taxable as a corporation. An association can be taxed as a corporation by election under the default rules in Internal Revenue Code (IRC) Section 301.7701-2a.

If an LLC elects to be classified as an association, it is deemed that it contributes all of its assets and liabilities to the association in exchange for stock in the association. Immediately thereafter, the partnership liquidates by distributing the stock of the association to its partners.

To become an LLC taxed as an S-corporation, the eligible LLC can use the [IRS Form 2553](#), *Election by a Small Business Corporation*, to elect to be treated as an S corporation. The LLC must meet certain tests to be eligible to be treated as an S corporation. It does not need to file Form 8832, *Entity Classification Election* (see article

in last month's *Tax News*). The federal election automatically applies for state tax purposes once it has been accepted by IRS. The classification must be the same for both state and federal tax purposes.

An eligible entity must meet all of the following tests to elect to be treated as an S Corporation:

1. It is a domestic corporation or a domestic entity eligible to elect to be treated as a corporation, that timely files Form 2553 and meets all the other tests.
2. It has no more than 100 shareholders.
3. Its only shareholders are individuals, estates, exempt organizations described in IRC Section 401(a) or 501(c)(3), or certain trusts described in IRC Section 1361(c)(2)(A).
4. It has no nonresident alien shareholders.
5. It has only one class of stock. See Regulations Section 1.1361-1(l) for details.
6. It is not one of the following ineligible corporations.
  - a. A bank or thrift institution that uses the reserve method of accounting for bad debts under Section 585.
  - b. An insurance company subject to tax under subchapter L of the Code.
  - c. A corporation that has elected to be treated as a possessions corporation under Section 936.
  - d. A domestic international sales corporation (DISC) or former DISC.
7. It has or will adopt or change to one of the following tax years.
  - a. A tax year ending December 31.
  - b. A natural business year.
  - c. An ownership tax year.
  - d. A tax year elected under section 444.
  - e. A 52-53-week tax year ending with reference to a year listed above.
  - f. Any other tax year (including a 52-53-week tax year) for which the corporation establishes a business purpose.
8. Each shareholder consents as explained in the instructions for column K.

For more details on the eligibility tests see the [IRS Instructions for Form 2553](#), *Election by a Small Business Corporation*.

An LLC that is classified as an S-corporations must file California Form 100S.

Note: There may be tax and legal consequences in electing to be treated as an S-corporation. Taxpayers may wish to seek further advice from an expert before making an election.

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## Ask the Advocate



### Systemic Issue Management System (SIMS) at Work

This month, I share the efforts we are taking by discussing an issue that was submitted to us and our response:

*FTB receives 1099 information about IRA distributions for individuals, but if a **rollover contribution** is timely made there is no such equally offsetting information received by the FTB. The result is phantom and supposed taxable income to the taxpayer resulting in false information that then causes replies that are required and very burdensome, confusing, and expensive in both time and money for most retired seniors inside and outside California.*

After researching this issue with our filing division, we found that our Integrated Nonfiler Compliance (INC) system has measures in place to determine the taxability of a 1099R. If the reporting institution inputs the correct code for box 7; in this case it would be **G** - (non taxable) Direct Rollover to an IRA or **H** - (non taxable) Direct Rollover to another qualified plan; the income is excluded with the account. INC is always at the mercy of reporting institutions and agencies as to the accuracy of the documents or information provided.

I will continue to post the progress and changes your suggestions and comments have given us. If you would like to report a systemic issue, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **systemic**. Thank you for your support.

**Steve Sims, EA**  
**FTB Advocate**

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## Inside FTB

### Tax Practitioner Hotline

Did you know that we have a call center dedicated to serving tax practitioners? By calling the Tax Practitioner Hotline, you can work with staff who specialize in answering pre-filing tax questions or resolving issues related to your clients' accounts.

The Tax Practitioner Hotline can be reached at 916.845.7057, and is open Monday through Friday, 8 a.m. to 5 p.m. You can also fax your question to 916.845.6377 (24/7).

Tax professionals may also access personal income tax account information at [ftb.ca.gov](http://ftb.ca.gov) and search for **MyFTB Account**. You need the taxpayer's social Security number and customer service number (Go to [ftb.ca.gov](http://ftb.ca.gov) and search for **get CSN**.) to access the service. It is available 24/7 and offers the following taxpayer information:

- Estimated tax payments.
- Recent payments applied to a balance due.
- Total current balance due.
- Summary of each balance due tax year.
- California wage and withholding information.
- FTB-issued 1099-G and 1099-INT information.

If the information needed is not available on the website or if transcript information is needed, please call the Hotline at 916.845.7057. If the transcript information is needed in writing, then you must fax your request to 916.845.6377.

To better assist us in processing your transcript request, please be specific on the information you are requesting. Also, please include a current Power of Attorney if we do not already have one on file.

We look forward to assisting you with all your tax practitioner needs.

**All FTB call centers are now open:**

Monday through Friday  
8 a.m. to 5 p.m.

## Criminal Corner

### **San Diego Used Auto Dealer Arrested on Additional State Income Tax Charges**

On June 30, 2009, a San Diego used automobile dealer was arrested on one felony count of state income tax evasion and two felony counts of state income tax fraud.

Yousef Hoodneh, 60, was arrested at his home by investigators from the San Diego County District Attorney's Office as they and our special agents served search warrants on Hoodneh's home. Hoodneh is a corporate officer of Flamingo Motors, Inc. He is also the alleged corporate officer of Flamingo Car Group, Inc. and Flamingo Automotive, Inc. He allegedly placed ownership of these two businesses in the names of relatives.

According to our agents, Hoodneh allegedly filed fraudulent 2003 and 2004 corporate income tax returns by understating Flamingo Motor's income by nearly \$6.5 million and failed to file the corporation's 2005 return claiming more than \$74,000 income. Hoodneh's businesses owe the state more than \$1.5 million in unpaid tax. Interest, penalties, and the cost of the investigation will be added to this figure.

Each tax count carries a maximum term of three years in state prison. Additional tax charges may be filed based upon evidence seized during the search warrant.

The failure to file tax returns is part of the \$6.5 billion tax gap California faces each year. The tax gap is defined as the difference between the tax that is owed and the tax that is paid.

Flamingo Car Group, Inc. is Number 14 on the Board of Equalization's (BOE) list of Largest Sales and Use Tax Delinquencies. In a pending case, Hoodneh had a July 20 jury trial on seven additional felony charges of filing fraudulent state sales tax returns and two counts of aiding in the filing of false state sales tax returns.

Hoodneh was booked into the San Diego Central Jail and his bail was set at \$1.5 million. He was arraigned on Thursday, June 4, at 1:30 p.m. in San Diego County Superior Court, Downtown.

This is a joint investigation between the San Diego County District Attorney's Office, the BOE, and us.

## Big Business

### Disclosing Deferred Intercompany Stock Account (DISA) Balances

FTB issued Notice 2009-5 on July 17, 2009, to extend the due date until October 15, 2009, for taxpayers to file a completed FTB Form 3726, *Deferred Intercompany Stock Account (DISA) and Capital Gains Information*.

Subsequent to issuing FTB Notice 2009-01, many taxpayers contacted the FTB stating that they wouldn't be able to satisfy the May 31, 2009 deadline. With that in mind, the deadline for filing a completed FTB Form 3726 to satisfy the DISA reporting requirement for tax years beginning prior to January 1, 2008, has been extended to October 15, 2009.

If there are any questions regarding satisfying the disclosure requirements or if you need additional information, please see the related [Tax News article](#) in the March 2009 edition and FTB Notices [2009-1](#) and [2009-5](#). You may also contact Michael Halahan at **714.567.7109**.