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## **No Longer Mailing Tax Booklets**

We will no longer mass-mail tax booklets to taxpayers.

Taxpayers expecting a tax booklet this year will instead receive a letter informing them of the change and information on e-filing or how to obtain a tax booklet.

As of early November, 75 percent of all returns received, more than 11 million, were e-filed. For paper returns, most taxpayers using this method printed forms either from commercial tax preparation software products or from our website, [ftb.ca.gov](http://ftb.ca.gov). Fewer than 550,000 taxpayers used forms provided in the tax booklets.

All 2010 tax forms and instructions will be available on our website. Taxpayers who want a traditional tax booklet can call the automated telephone service, 800.338.0505, to order tax forms. The most commonly used forms will also be available at many local libraries and post offices.

For the past several years, we reduced the number of mailed booklets as more and more taxpayers turn to e-filing. Last year, we discontinued mailing the 540NR tax booklet due to its decreased use.

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## **Election Results**

The November election had several key propositions on the ballot related to taxes. Those measures and their outcomes are as follows:

| <b>Proposition</b>   | <b>Description</b>                                      | <b>Result</b> |
|--|---|---------------|
| <b>Proposition 19</b>  | <b>Legalize Marijuana</b>                               | <b>No</b>     |
| This proposition failed.   |   |               |
| <b>Proposition 24</b>  | <b>Repeal Allowance of Lower Business Tax Liability</b> | <b>No</b>     |
| This proposition failed. Business tax provisions that were recently changed will not be affected. As a result of maintaining current law:<br>(1) A business will be able to deduct losses in one year against income in more situations.<br>(2) Most multistate businesses can choose to have their California income determined based only on a single sales factor.<br>(3) A business will be able to share its tax credits with related businesses. |   |               |

|   |  |            |
|---|--|------------|
| <b>Proposition 25</b>   | <b>Simple Majority Vote to Pass Budget</b> | <b>Yes</b> |
| <p>This proposition passed meaning the Legislature's vote requirement to send the annual budget bill to the Governor is lowered from two-thirds to a majority of each house of the Legislature. However, it retains the two-thirds vote requirement for taxes.</p>  |  |            |
| <b>Proposition 26</b>   | <b>2/3 Vote for Some State/Local Fees</b>  | <b>Yes</b> |
| <p>This proposition passed increasing the legislative vote requirement to two-thirds for state levies and charges. The definition of taxes is broadened to include many payments currently considered to be fees or charges. As a result, more state and local proposals to increase revenues will require approval by two-thirds of each house of the Legislature or by local voters.</p> <p>Proposition 26 also contains this language:</p> <p style="padding-left: 40px;">Any tax adopted after January 1, 2010, but prior to the effective date of this act, that was not adopted in compliance with the requirements of this section is void 12 months after the effective date of this act unless the tax is reenacted by the Legislature and signed into law by the Governor in compliance with the requirements of this section.</p> <p>The FTB is assessing the impact that Proposition 26 may have on recently-passed tax legislation, in particular the federal conformity bill (SB 401, Ch. 14 of the Statutes of 2010). Updated information regarding SB401 will be posted on our website. Go to <a href="http://ftb.ca.gov">ftb.ca.gov</a> and search for conformity.</p> |  |            |

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## **California Conformity**

On April 12, 2010, SB 401, the Conformity Act of 2010 was enacted. The Act changes California's conformity date to the Internal Revenue Code from January 1, 2005, to January 1, 2009, for taxable years beginning on or after January 1, 2010.

### **Conformity provisions**

The following is a list of the most important areas of conformity provisions.

#### **Extension of Exclusion of Income from Discharge of Qualified Principal Residence**

The Act allows taxpayers that had all or part of the loan balance on their principal residence forgiven by their lender to exclude the forgiven debt from gross income. The new law applies to discharges of qualified principal residence indebtedness on or after January 1, 2009, and before January 1, 2013.

- The new law limits the amount of qualified principal residence indebtedness to \$800,000 for taxpayers who file as married/registered domestic partners (RDP) filing jointly, single, head of household, or widow/widower, and to \$400,000 for taxpayers who file as married/RDP filing separately.
- Limits debt relief to \$500,000 for taxpayers who file as married/RDP filing jointly, single, head of household, or widow/widower, and to \$250,000 for taxpayers who file as married/RDP filing separately.

### **Income Exclusion of Federal Energy Grants**

Federal energy grants provided in lieu of federal energy credits are excluded from California gross income and alternative minimum taxable income of individuals and business. The income exclusion is retroactive and applies to any taxable year.

### **Allow Surviving Spouse to Exclude Gain from Sale of Residence**

The new law allows a surviving spouse to exclude from gross income up to \$500,000 of the gain from the sale or exchange of a principal residence owned jointly with a deceased spouse if the sale or exchange occurs within two years of the death of the spouse.

### **Increase in Age of Minor Children Whose Unearned Income is Taxed as if Parents' Income**

For taxable years beginning on or after January 1, 2010, California conforms to the provision in the Small Business and Work Opportunity Tax Act of 2007 that increased the age of minor children whose unearned income is taxed as if it were the parents' income to apply to children who are either:

- Under age 18.
- Full-time students who over age 18, but under age 24.

### **Early Distributions Not Subject to Additional Tax**

California now conforms to the exceptions from the penalty on early withdrawals from retirement plans for qualified distributions made after September 11, 2001, to reservists while serving on active duty for at least 179 days and for qualified distributions made after August 17, 2006, to public safety employees after separation from service after reaching age 50. If you received one or more of these distributions and were assessed a penalty you may amend your returns to claim a refund. If the normal statute of limitations for claiming a refund would otherwise prevent the allowance of a refund, you may still file a claim for refund by December 31, 2011.

### **New Reporting Requirements for Small Tax-Exempt Organizations**

Starting January 1, 2011, California requires small tax-exempt organizations with normal gross receipts of \$25,000 or less, to electronically file an annual informational notice, FTB Form 199N, Annual Electronic Filing Requirement for Small Tax-Exempt Organizations (California e-postcard). This filing requirement applies to account periods beginning on or after January 1, 2010, and does not include churches and church-

related organizations. The due date for filing Form FTB 199N is the 15th day of the 5th month **after** an organization's tax year ends.

## **Penalties**

### **Impose a Penalty for Failure to File S Corporation Returns**

For S corporation returns required to be filed on or after January 1, 2011, a failure to file penalty will be assessed in addition to the existing failure to file a timely return penalty. The amount of the penalty for each month, or part of a month (for a maximum of 12 months) that the failure continues, is \$18 multiplied by the total number of shareholders in the S corporation during any part of the taxable year for which the return is due.

### **Increased Penalty for Failure to File Partnership or an LLC Returns**

For returns required to be filed after January 1, 2011, the penalty for failure to file a partnership return or an LLC return is increased from \$10 to \$18 multiplied by the number of partners or members for each month (or fraction of the month) that the failure continues. Under the new law, the maximum number of months is changed from five months to 12 months.

### **Increase in Penalty for Bad Checks and Money Orders**

For all payments received after January 1, 2011, we impose a penalty if your financial institution does not honor a payment you make to us by your check, money order, or electronic funds transfer. For a payment of \$1,250 or more, the penalty is two percent of the payment amount. For a payment less than \$1,250, the penalty is \$25 or the payment amount, whichever is less.

### **Increase in Minimum Penalty on Failure to File a Return of Tax**

An individual or fiduciary that fails to file a tax return within 60 days of its due date (including extensions) is subject to a penalty of the lesser of \$100 or 100 percent of the amount of tax required to be shown on the return. For taxable year beginning January 1, 2011, the penalty increases from \$100 to \$135.

## **Access Your Account FAQs**

On November 4, 2010, we implemented our new method of accessing your account. While the account information itself is still called MyFTB Account, we provided taxpayers and practitioners with a new method for logging in called “Access Your Account” that does not require a Customer Service Number (CSN). To help ease this transition, we have posted several [frequently asked questions](#) (FAQs).

For preparers that have filed for a new preparer tax identification number (PTIN) after September 30, 2010, you will not be able to sign up for Access Your Account until January 1, 2011 at the earliest. We only receive the Internal Revenue Service (IRS) PTIN information quarterly, and your PTIN will not be recognized until the next update. Note: The 1st quarter 2011 PTIN Extract distribution, scheduled for delivery in January 2011, **may** be delayed as a result of the PTIN Initiative.

You can also use an Electronic Filer Identification Number (EFIN) to sign up. We receive EFIN updates from the IRS weekly on a Monday. It takes the IRS one to four weeks to process your EFIN application and provide the information to us.

If you have trouble with your registration and need help, you can call us at 800.353.9032 (voice) or 800.822.6268 (TTY/TDD). Representatives are available between 7 a.m. and 5 p.m., weekdays, except state holidays.

## **Reminder: New Reporting Requirements Start in 2011 for Small Tax-Exempt Organizations**

As stated in our [July 2010 article](#), California will require small tax-exempt organizations with normal gross receipts of \$25,000 or less, to electronically file an annual informational notice with us starting January 1, 2011. (California Revenue and Taxation Code Section 23772)

If the organization does not file on time, we will send a reminder notice. Although there is no monetary penalty for failure to file the notice, any organization that fails to file for three consecutive years loses its California tax-exempt status.

Under existing law, we may revoke an organization's state tax-exempt status if the Internal Revenue Service suspends or revokes the organization's tax-exempt status.

For more information on the new filing requirements, go to [ftb.ca.gov](http://ftb.ca.gov) and search for [exempt organizations](#).

## **Free Withholding Webinars**

### **Backup Withholding**

Do you know the current backup withholding requirements? If not, join us for a free webinar and get the information you need.

The webinar is for individuals, businesses, and government entities. Participants attending the webinar will receive an overview of the following topics:

- Requirements.
- Reporting and remitting.
- Forms and publications.
- Frequently asked questions (FAQs).

**Duration:** Approximately 30 minutes.

**Register:** [Tuesday, December 14, 2010 at 10 a.m. \(PST\)](#)

### **Nonresident Independent Contractor Withholding**

We designed this webinar for those who must withhold on California source income payments to nonresident independent contractors. We will take a look at:

- The basics of nonresident independent contractor withholding, including backup withholding.
- A summary of the three phases of withholding and what to do before payment (FTB Forms 587, 588, 589, 590), at the time of payment, and after payment of California source income to independent contractors (FTB Forms 592, 592-V, 592-B).
- How we prepare for process changes that will occur when we implement our new, automated withholding system.
- Withholding resources and contact information you can use at any time.

**Duration:** Approximately 35 minutes

**Register:** [Thursday, December 16, 2010, at 10 a.m. \(PST\)](#)

Registration takes only a few minutes. Space is limited.

## 2011 Practitioner Seminars

Hear directly from IRS representatives about policies and procedures that affect you and your clients. Learn how to maximize IRS resources to increase your value to your clients, and earn up to seven hours of Continuing Professional Education (CPE) credits. Cost includes handouts, continental breakfast, lunch, and refreshments.

Get the latest including:

- Return Preparer Initiative – What you need to do to prepare for the 2011 filing season.
- Taxpayer Advocate Service – How we can work together to help your clients!
- Collection and examination updates.
- Modernized e-file & e-services.

| <b>Date</b> | <b>Location</b> | <b>Address</b>                                    | <b>Site Contact</b>   |
|-------------|-----------------|---|---|
| January 10  | Torrance        | Holiday Inn<br>Harbor Gateway<br>19800 S. Vermont | <b>Andy Stamatelatos, EA</b><br>1215 Crenshaw Blvd.<br>Torrance, CA 90501<br>310.328.8121<br>Fax: 310.328.6312  |
| January 11  | Irvine          | Hilton Irvine<br>18800 MacArthur Boulevard        | <b>Joni Terens, EA</b><br>17632 Irvine Blvd, Ste 150<br>Tustin, CA 92780<br>714.832.4633x4<br>Fax: 714.832.1369 |
| January 12  | San Diego       | Sheraton San Diego<br>1433 Camino Del Rio South   | <b>Roger Garay, EA</b><br>2065 Arnold Way #103<br>Alpine, CA 91901<br>619.445.5523<br>Fax: 619.445.1421         |
| January 13  | San Bernardino  | Hilton Hotel<br>285 E. Hospitality Lane           | <b>Connie Bracher, EA</b><br>PO Box 3278<br>Crestline, CA 92325<br>909.338.0041<br>Fax: 909.338.5609            |
| January 14  | Burbank         | Pickwick Gardens<br>1001 Riverside Drive          | <b>Clive Edwards, EA</b><br>6227½ Randi Ave.<br>Woodland Hills, CA 91367<br>818.489.3387<br>Fax: 818.992.6299   |

|            |               |  |  |
|------------|---------------|--|--|
| January 15 | Santa Barbara | Holiday Inn<br>5650 Calle Real<br>Goleta, CA | <b>Cyndy Scalisi, EA</b><br>270 Storke Road #13<br>Goleta, CA 93117<br>805.968.6288<br>Fax: 805.968.6674 |
|------------|---------------|--|--|

**COST:** \$130 Early registration (received by December 15)  
\$155 Regular registration (received December 16 to December 31)  
\$170 Registration (after December 31 or at the door)

**TIME:** Registration starts at 7 a.m.  
CPE 8 a.m. to 4 p.m. including lunch

**Register and pay online:** [media-enterprises.com/csea](http://media-enterprises.com/csea)

These events are presented by the Channel Islands, Inland Empire, Palomar, Orange County, San Fernando Valley, San Diego, and South Bay Chapters of California Society of Enrolled Agents (CSEA) and the IRS.

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## **2010 Income Tax Receipt**

Do you wonder what your taxes are paying for? We have a chart to give you a sense of how state government spends tax dollars. To find out how your tax dollars contributed to the operations of the government, create your own tax receipt [here](#).

## **Ask the Advocate**



### **CalCPA Holds Annual Meeting**

On October 27, we attended the California Society of Certified Public Accountants (CalCPA) Annual Liaison meeting. Our division chiefs gave updates on our filing season, audit matters, and collection policy information. We also participated in a question and answer session on emerging issues. The following are some of the questions and answers discussed at the meeting:

#### **FTB Web Pay for Business Entities**

**Question:** The Web Pay online payment option for individual taxpayers is very convenient. Are there plans to expand that program to business entities?

**Answer:** Yes. Web Pay for business entities became available in November 2010. Corporations, partnerships, and limited liability companies (LLCs) now have the ability to make payments online on FTB's website. Businesses will need to create an online account (establish a user name and password) prior to making payments. Businesses will have the ability to schedule payments up to one year in advance.

#### **Processing Large Refunds from Amended Returns**

**Question:** Amended 2007 and 2008 tax returns were filed with FTB in late September or early October 2009. The tax practitioner called FTB on February 4, 2010, to follow up. They indicated that due to the size of their refund (\$21,785) the matter has been referred to the audit department and it may take another six months to resolve. In another question submitted by a different tax practitioner he was told that it was FTB policy to hold refunds over \$10,000 for six months from the date of the acceptance of the amended return. If this is the policy it would not seem to be in the best interest of the people of California since interest must be paid on these refunds.

The federal government has special procedures in place for large refunds in an effort to protect the interest of the government. From this question, it is apparent that FTB has similar procedures in place. Could you elaborate on what California considers to be large refunds, how they are processed, and the timeframe in which the taxpayer can reasonably expect these requests to be processed?

**Answer:** We do not have a policy in place to hold refunds over \$10,000.

**For Personal Income Tax (PIT) Amended Returns:**

A review is performed on PIT amended returns to determine whether the claims need to be referred to the Audit Division depending on the reasons for the amendment. There is not a set dollar amount to refer PIT claims for refund to the Audit Division for review. PIT amended returns fall within a six-month return processing timeframe since our first priority is the processing of original returns. However, if we open an audit examination, the examination process may take up to 24 months to complete depending on the complexity of the issues on the claim.

**For Business Entity Tax Amended Returns:**

All business entity claims for refund are referred to the Audit Division for review regardless of the dollar amount or reason for the amendment. If the claim is allowed without audit, it is returned to our business entities validation section for processing within 30 to 60 days. If the claim is assigned to an auditor, the examination process may take up to 24 months to complete depending on the complexity of the issues on the claim.

**Head of Household Questionnaires for e-filing**

**Question:** Is a practitioner required to file a head of household questionnaire with a head of household return in order to e-file? The software support said they have been told the filing is mandatory and that if it is not there, the e-filed return will be rejected.

The Practitioner's Hotline says it is absolutely not mandatory in order to file a head of household questionnaire with each e-filed head of household return and that the software company is wrong.

Could you please clarify the situation?

**Answer:** We do not require the Head of Household (HOH) questionnaire be submitted with HOH e-file returns, and we will not reject the return if the questionnaire is not included with the return. However, we cannot control whether a software company, within their software, requires the HOH questionnaire be completed and submitted with the e-file return. If the HOH questionnaire is submitted, it must be complete and meet certain edits (e.g., if a response to a question is required, and there is no response, the return would be rejected).

Although not required, we recommend the HOH questionnaire be completed when e-filing because it reduces the chance of the taxpayer being contacted later. Returns with the HOH questionnaire have no greater chance of being selected for HOH review by Audit. However, if the return was selected and the questionnaire was submitted with the

necessary information to substantiate the HOH claim, then the taxpayer is not likely to be contacted by us.

## **Roth Conversions**

**Question:** For Roth Individual Retirement Account (IRA) conversions in 2010 taxpayers can make a federal election to defer the recognition of income until 2011 and 2012. Since California conforms to federal we presume that this election is available to CA taxpayers. Is this a separate election that is made with the California tax return or do conversions have to be treated for California purposes the same as for federal? If the election to defer to 2011 and 2012 is made and the taxpayer leaves California in one of those years how is the conversion treated for California purposes? Does the FTB plan to track these deferrals to make sure they are properly reported?

**Answer:** Regarding deferral of income recognition, California automatically conforms under Revenue and Taxation Code (R&TC) Section 17501 to the new federal rule that defers income recognition of 2010 Roth IRA conversions to 2011 and 2012. Unless the taxpayer elects to include the income in 2010, any amount otherwise required to be included in gross income for the 2010 taxable year is not included in that taxable year but is instead included in gross income in equal amounts for the 2011 and 2012 taxable years.

### **Is this a separate election that is made with the California tax return or do conversions have to be treated for California purposes the same as for federal?**

Under IRC Section 408A(d)(3)(A)(iii), a taxpayer must elect out of the deferral. Any election for federal purposes will apply for California purposes. But, if a taxpayer elects out of the deferral for federal purposes, California will allow a separate election to not opt-out of the deferral for California purposes and vice versa.

### **If the election to defer to 2011 and 2012 is made and the taxpayer leaves California in one of those years how is the conversion treated for California purposes?**

The income from 2010 Roth conversions is deferred to 2011 and 2012, unless the taxpayer elects to include the income in 2010. In Legal Ruling 98-3 Taxation of IRA Distributions Rolled Over to a Roth IRA Followed by a Change of Residence Status, we provided guidance as to the tax treatment of California residents who converted a traditional IRA to Roth IRA in 1998 and then changed their residence status during the four-year period that the Roth conversion was ratably included in income, as well as the tax treatment of California nonresidents who converted an IRA to Roth IRA in 1998 and then become California residents during the four-year period that the Roth conversion was ratably included in income. The analysis in this ruling applies to the new deferral rules.

Outbound taxpayers must include in gross income only those portions of the taxable distribution reportable under the two year rule before they became nonresidents. Under R&TC Section 17952.5, the gross income of a nonresident does not include qualified retirement income including income from an IRA, received on or after January 1, 1996. R&TC Section 17952.5 prevents the imposition of California tax on the portions of the IRA distribution recognized after an individual becomes a nonresident.

California will prorate the taxpayer's income from the conversion based upon the number of days a taxpayer is within California during the two years of the proration. An individual who makes a rollover contribution from an IRA to a Roth IRA before January 1, 2011, and thereafter during the same taxable year changes residency, must include in California adjusted gross income one half of the taxable portion of the distribution multiplied by a fraction: the denominator of which is the number of days from the date of the distribution until the end of the taxable year in which the distribution occurs and the numerator of which is the number of days in the denominator in which the individual is a California resident.

If the taxpayer changes residency during the second year, the amount included in California adjusted gross income for the second year is one half of the taxable distribution multiplied by a fraction: the denominator of which is the total number of days in the taxable year and the numerator of which is the number of days the individual is a California resident.

**Does the FTB plan to track these deferrals to make sure they are properly reported?**

Taxpayers must maintain records that support all items reported on tax returns, including IRC section 408A(d)(3)(A)(iii) deferrals.

**Steve Sims, EA**  
**Taxpayers' Rights Advocate**

Follow me on Twitter at [twitter.com/FTBAdvocate](https://twitter.com/FTBAdvocate).

## Event Calendar

As part of education and outreach to our tax professional community, we participate in many different presentations and fairs. We provided this calendar to show the events we are attending.

| <b>Education and Outreach</b>           |                                      |   |                 |
|---|--------------------------------------|---|-----------------|
| <b>December Events</b>                  |                                      |   |                 |
| <b>Date</b>                             | <b>Event Association</b>             | <b>Subject Matter</b>                           | <b>Location</b> |
| Dec 2                                   | Sac SB Office                        | Small Business Update                           | Citrus Heights  |
| Dec 3                                   | CSTC                                 | California Tax Update                           | Anaheim         |
| Dec 6                                   | Regional Enterprise Zone             | Enterprise Zone                                 | Imperial Valley |
| Dec 7                                   | Regional Enterprise Zone             | Enterprise Zone                                 | National City   |
| Dec 8                                   | SBDC                                 | Small Business Fair                             | Fresno          |
| Dec 14                                  | California Society of CPAs           | California Tax Update                           | Pleasant Hill   |
| <b>January Events</b>                   |                                      |   |                 |
| <b>Date</b>                             | <b>Event Association</b>             | <b>Subject Matter</b>                           | <b>Location</b> |
| Jan 4                                   | Cal CPA                              | CPA Morning Event                               | Woodland Hills  |
| Jan 4                                   | San Fernando Valley Discussion Group | San Fernando Evening speech                     | Van Nuys        |
| Jan 8                                   | CSTC Inland Empire Chapter           | 2011 CSTC Inland Empire Chapter Update Workshop | Claremont       |
| Jan 10                                  | IRS                                  | IRS Seminar                                     | Torrance        |
| Jan 10                                  | California Society of CPAs           | CALCPA Pasadena Discussion Group                | Pasadena        |
| Jan 11                                  | IRS                                  | IRS Seminar                                     | Irvine          |
| Jan12                                   | IRS                                  | IRS Seminar                                     | San Diego       |
| Jan13                                   | IRS                                  | IRS Seminar                                     | San Bernardino  |
| Jan14                                   | IRS                                  | IRS Seminar                                     | Burbank         |
| Jan 15                                  | IRS                                  | IRS Seminar                                     | Goleta          |
| Jan 25                                  | CSATP                                | California Tax update                           | Oakland         |
| Jan 26                                  | Society of CA Accountants            | SCA "IRS & FTB Night"                           | Arcadia         |
| <b>February Events</b>                  |                                      |   |                 |
| <b>No events scheduled for February</b> |                                      |   |                 |

## **Inside FTB**

### **Taxpayers' Bill of Rights Hearing**

The next Taxpayers' Bill of Rights Hearing is scheduled for December 2, 2010, at 1:30 p.m.

R&TC Section 21006(a)(2) requires FTB to hold an annual hearing where industry representatives and individual taxpayers may present to the Board their proposals on changes to California's tax laws. This annual hearing is conducted during a meeting of the Board, usually at the end of the year.

You can get more information for prior year's hearings from the [agendas, minutes, or audio](#).

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## **Criminal Corner**

### **Former Tax Preparer Sentenced to Federal Prison**

A former tax preparer, who fled the country in 2004 to avoid prosecution, was sentenced to 18 months in federal prison.

Luis A. Morales, formerly of Turlock, pleaded guilty October 15 to one count of mail fraud. According to court documents, Morales was the owner of L & M Tax Service with clients in Fremont, Turlock, and Vallejo. In 2002 through 2003, Morales prepared fraudulent amended returns for his clients falsely showing deductions for medical and dental expenses and gifts to charities that the clients neither incurred nor made. These false returns resulted in fraudulent tax refunds being sent through the United States (U.S.) mail, which constitutes mail fraud.

In 2003, Morales eluded our special agents by fleeing to his native Panama. Morales was arrested in July by U.S. Customs in Florida as he attempted to enter the country. Morales was then extradited to California for prosecution.

Morales' scheme resulted in more than 50 fraudulent refunds totaling \$116,000 and total refunds attempted exceeding \$177,000. Our Fraud Unit identified the scheme when an analysis of returns prepared by Morales showed identical deduction amounts on numerous amended returns. We recovered the entire \$116,000 from the taxpayers.

United States District Judge Frank C. Damrell, Jr. handed down the sentence in Courtroom 2 of the Sacramento Federal Courthouse. Assistant United States Attorney Samantha S. Spangler prosecuted the case.

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## **Big Business**

### **Uncertain Tax Positions - What to do for California**

For taxable years beginning on or after January 1, 2010, the Internal Revenue Service requires a corporation to file the Schedule Uncertain Tax Positions (UTP) with its income tax return if the corporation:

- Files Form 1120, U.S. Corporation Income Tax Return; Form 1120-F, U.S. Income Tax Return of a Foreign Corporation; Form 1120-L, U.S. Life Insurance Company Income Tax Return; or Form 1120-PC, U.S. Property and Casualty Insurance Company Income Tax Return.
- Has assets that exceed \$100 million.
- Issued audited financial statements reporting all or a portion of the corporation's operations for all or a portion of the corporation's tax year.
- Has one or more tax positions that must be reported on Schedule UTP.

California will include information about this new federal requirement in the instruction booklet for the Form 100/100W. If your client is filing the federal Schedule UTP (Form 1120), then they should attach it to the California Franchise or Income Tax Return. In addition, the corporation must complete Question AA on Form 100/100W. At this time, no decision has been made on whether the state should set up its own similar disclosure program.