JULY 1997

CALIFORNIA FRANCHISE TAX BOARD

Tax News

April 15: Going Down to the Wire

A new California resident wanted Michigan tax forms. A long-time resident said that the local post offices were fresh out of tax forms and wanted to know where else he should look. A former resident needed to locate California tax forms out of state.

These three taxpayers were among many who called the Franchise Tax Board on April 15 because they did not have the income tax forms they intended to fill out and mail that day.

Among the tens of thousands of other April 15 callers to FTB was a worker whose employer closed out a profit-sharing plan; he wanted to know if he needed to report the money distributed to him. Another taxpayer did not understand whether he needed to fill out a Schedule CA. Still another needed considerable convincing that she and her husband were required to use for California the same filing status that they used on their federal return. Some callers expressed surprise that their calls went through so quickly.

In all, FTB's Taxpayer Services Center took 25,336 calls from taxpayers on April 15, which is about 3.6 percent of the 710,076

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Executives Answer Taxing Questions

Filing Division Chief Lisa Crowe and Assistant Executive Officer Will Bush were among the Franchise Tax Board executives who pitched in on April 15 to provide answers to the 25,000-plus taxpayers who called FTB's Taxpayer Services Center.

Inside ...

Tax News

Volume 97-4 July 1997

TAX NEWS is a bimonthly publication of the Taxpayer Advocate Bureau, California Franchise Tax Board. Its primary objective is to provide information to income tax practitioners about state income tax laws, regulations, policies and procedures.

To update or correct your address or to subscribe to TAX NEWS (send $12 for a one-year subscription), write:
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For information about California tax law and/or a client's account, contact:
Tax Practitioner Support Unit
(916) 845-7057 (phone)
(916) 845-6377 (fax)

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April 15

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calls received since the first of the year. The calls averaged less than four minutes each. And on FTB's busiest day of the year for incoming calls, the average amount of time that callers spent on hold was 63.3 seconds.

On April 15, taxpayers also made 41,627 calls to FTB's F.A.S.T. (Fast Answers about State Taxes) automated telephone service. The number is slightly more than 2 percent of the 1.5 million-plus calls received since January 1. It also is 150 percent higher than the average number of calls to F.A.S.T. per day since January 1; the service takes calls seven days a week.

Unlike the general public, tax professionals have access to FTB's Tax Practitioner Support Unit's telephone and fax service. Most tax professionals tend to contact this service well in advance of April 15. As a result, calls to the unit were relatively low, at 388, on April 15. The unit took 8,274 calls and received 459 faxes during April.

On the other hand, FTB's Internet home page was a busy place on April 15. Just over 22,700 users visited FTB home page sites 203,456 times and downloaded 38,892 tax forms.

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Ruling on Refund Claims Withdrawn

The Franchise Tax Board has withdrawn a 1977 Legal Ruling dealing with the validity of claims for refund.

Legal Ruling 402, published on January 27, 1977, held that a refund claim would be valid if, at the time it was filed, all assessed or asserted tax and penalties, although not interest, had been paid. The ruling also stated that, when a taxpayer satisfies all requirements for a refund except for paying tax and penalties, the refund request is considered an "informal claim" that could be "perfected" by paying the entire tax.

The ruling's withdrawal was prompted by two recent judicial decisions. FTB Notice 97-4, which announced the withdrawal, explains that a 1991 judicial decision in *Shiseido Cosmetics (America), Ltd. v. Franchise Tax Board* held that FTB could not authorize as valid a purported refund claim that did not satisfy the statutory criteria of prepayment and provide a clear written statement that a claim was being sought. The Notice also states that the California Court of Appeal in *Anand G. Garg, et al. v. The People ex rel. State Board of Equalization* (February 28, 1997) determined that the California Constitution forbids a court from

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April 15 — Now and Then

	1996 tax year	1995 tax year
Taxpayer calls to Taxpayer Services Center	25,336	26,346
Taxpayer calls to F.A.S.T. (Fast Answers about State Taxes)	41,627	52,777
Tax practitioner calls to Tax Practitioner Support Unit	388	n.a.
Visits to FTB on the Internet	203,456	74,564
Tax forms downloaded from the Internet	38,892	11,574
Electronic filing/TeleFiling	16,152	4,062 *

* Only 100,000 individuals were invited to file by phone last year, while 1.6 million were eligible this year.

Sign up for Tax Talk

Have you received your Tax Talk registration information? A brochure and registration form for the one-day seminar were mailed in late June.

With a quick response to the invitation to register, you can save $45. If you sign up for the seminar before September 19, you will pay $150. Registration on or after that date costs $195.

Tax Talk is an all-day seminar that will be telecast on October 7 to more than 20 locations in California, Nevada and Oregon. It is a program of the Center for Tax Education presented by the California Franchise Tax Board, Employment Development Department, State Board of Equalization, Internal Revenue Service and the School of Business Administration, California State University, Sacramento.

This year, Tax Talk will offer seven presentations (see column at right), plus a series of field reports and question-and-answer sessions. If you attend the full program, you can earn up to eight hours of credit toward the continuing education requirements of the California State Board of Accountancy; the California Tax Education Council, which replaces the Department of Consumer Affairs' Tax Preparer Program this month; and, for enrolled agents, the Internal Revenue Service.

You can attend Tax Talk this year at any of 24 locations. In California, the sites

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Walk in to S.F. Office - Walk out with Revivor

The Franchise Tax Board's walk-in, same-day "revivor" service for corporations is now available at its San Francisco branch office.

A revivor reinstates a suspended corporation's privilege to do business in California and revives the corporation to good standing. The San Francisco office is the fourth location to provide same-day revivor service.

To qualify for the swift service, a suspended corporation must show that it has an escrow closing, litigation, loan or federal grant pending. Before your client goes to the branch office, you should call FTB's Tax Practitioner Support Unit at (916) 845-7057 to check on all revivor requirements that apply. Depending on a number of factors, the corporation may have to:

- File all past due tax returns.
- Pay any unpaid tax, penalty and interest by cash, cashier's check or money order.
- Complete form FTB 3557, "Application for Certificate of Revivor."

The corporation also may decide to submit form FTB 2518, "Application for Relief from Contract Voidability." You can obtain forms FTB 2518 and 3557 without charge from Tax Forms Request, Franchise Tax Board, P.O. Box 307, Rancho Cordova, CA 95741-0307.

To obtain same-day revivor service in San Francisco, a corporation representative must hand deliver all necessary revivor documents to FTB's branch office at 50 Fremont Street, Suite 900. If the corporation meets all requirements and the Secretary of State confirms that the corporation name is still available, FTB can issue a Certificate of Revivor within three hours.

Corporation representatives should allow adequate time for processing and consider that branch offices do not accept appointments.

In addition to the new service in San Francisco, representatives of suspended corporations may obtain same-day revivor service in:

- Los Angeles at 300 S. Spring Street, Suite 5704.
- Sacramento at 8745 Folsom Boulevard, Suite 150.
- Santa Ana at 600 W. Santa Ana Boulevard, Suite 300.□

Seven Topics Set for Tax Talk

Tax Talk on October 7 will cover seven topics, plus field reports:

General Partnerships: What's In It For Me? Learn how to form a partnership and why one might be beneficial for some of your clients.

Sales Tax: Compliance or Confusion? Find out about common sales tax reporting errors and how to help clients avoid costly sales tax audit errors.

Experience Rating System: What You Don't Know Could Cost You. What can you do to lower your client's unemployment insurance taxes? Find out what affects the unemployment insurance rate.

Trusts: Are Your Trusts Worthy? Do you have clients who hope to reduce taxes by transferring assets into trusts? Get the information that will help your clients understand and avoid abusive trust schemes.

Alternate Filing Methods: The Wave of the Future. This discussion of electronic filing includes a look at possible future methods of tax collection.

Penalties: Read the Fine Print. Experts from four tax agencies discuss when penalties are assessed and under what circumstances they can be canceled.

Employment and Excluded Services: Are You Paying More Taxes Than Required? Which employment services are exempt from employment taxes? Are exempt employees excluded from all or just certain employment taxes? □

SBE Opinions

Appeal of Al Tirpa & Associates, Inc., April 24, 1997. The State Board of Equalization upheld the Franchise Tax Board's position that the SBE has no jurisdiction to hear an appeal from a foreign corporation that is not qualified to do business in California. A nonqualified corporation, like a suspended corporation, has no right of administrative appeal.

Appeal of Brooks, Jr. and Danielle Walker, et al., April 24, 1997. The SBE sustained FTB's denial of small business stock treatment to shareholders who owned convertible debentures, converted them to stock after the corporation ceased to be a qualifying small business, and then sold the stock.

Appeal of Ray and Phyllis Watts, May 8, 1997. The SBE determined that a California resident was taxable on distributions from an Individual Retirement Account (IRA) created by a rollover contribution from an employer-sponsored pension plan made before the taxpayer became a California resident.

At press time, case numbers had not been assigned to these opinions.☐

Out-of-State Businesses: How to Pay Back Taxes for Six Years Only

Paying back taxes for six years is better than paying back taxes for seven or more years. That's good advice for out-of-state businesses that should have filed California tax returns but have not.

If a business qualifies for the Franchise Tax Board's voluntary disclosure program, it may file tax returns and pay the associated tax liabilities and interest for the last six income years. In return, FTB *may* waive penalties for those years and *will* waive all tax, interest and penalties for all preceding years.

Usually, a tax representative makes voluntary disclosure inquiries on behalf of a company that remains anonymous. If the company appears to qualify for the program and wants to apply, the three-member Franchise Tax Board must approve an agreement. The company gives up its anonymity when it signs the agreement. Then, FTB verifies the company's qualifications for the program.

To qualify for voluntary disclosure, a business must be all of the following:

- A bank or corporation.
- A business that, along with any predecessors, has never filed a California tax return.
- A business that, along with any predecessors, FTB has never contacted about a tax liability.
- A business that contacts FTB about voluntary disclosure before FTB contacts it about its tax liability.
- A business that makes a complete and accurate disclosure about its activities in the state for the last six years.

In addition, the business must *not*:

- Be organized and existing under California law.
- Be qualified or registered with the Office of the California Secretary of State.
- Maintain and staff a permanent facility in California. However, a business may qualify for voluntary disclosure if it stores items in a public warehouse in the state.

If a business is an S corporation, shareholders also may qualify for voluntary disclosure (see box on this page).

To obtain an application and instructions for voluntary disclosure, call FTB's filing enforcement staff at 800.852.5711. Ask for form FTB 4925, "Application for Voluntary Disclosure."☐

S Corporation Shareholders and Back Taxes

Beginning January 1, 1997, S corporation shareholders were included in the Franchise Tax Board's voluntary disclosure program (see article on this page).

To qualify for voluntary disclosure, an individual must be a:

- Shareholder of an S corporation that qualifies for voluntary disclosure.
- Nonresident of California on the date the voluntary disclosure agreement is signed.

A voluntary disclosure agreement with an S corporation shareholder will not apply to:

- Any year in which the shareholder was a California resident.
- Any wages the S corporation paid to the shareholder.
- The shareholder's income from any other California source.☐

Tax Returns Have Fewer Errors

Tax professionals particularly and taxpayers generally made fewer errors on their tax returns this year.

Of all 1996 tax returns processed between January 1 and the end of April, only 4.5 percent contained errors that resulted in a change to the return. Last year, 5.4 percent of the processed returns had errors.

One reason for the decrease in errors may be the increase in the number of returns filed electronically and by telephone. Last year, these returns accounted for about 3 percent of the total number of returns. This year, they make up 8 percent of the total. Most errors on electronically filed returns are detected at the time of transmission and corrected before the returns are accepted. And because taxpayers supply information for phoned-in returns in response to voice prompts, many possibilities for error are avoided.

The greatest number of errors this year occurred on Form 540A, "California Resident Income Tax Return." The Form 540A accounted for only 17 percent of the returns processed but had 30 percent of all errors. Form 540, "California Resident Income Tax Return," ran a close second. It represented 15 percent of the returns processed and had 29 percent of all errors.

The number of scannable returns processed was, at 42 percent, more than manually-processed Forms 540A and 540 combined. However, the scannable returns had only 16 percent of total errors.

Fifteen percent of the returns processed were Form 540EZ, "California Resident Income Tax Return For Single and Joint Filers With No Dependents," and they contained 15 percent of all errors. Form 540NR, "California Nonresident or Part-Year Resident Income Tax Return," represented only 3 percent of all returns and had 8 percent of all errors. Returns that were electronically filed or telephoned added up to 8 percent of all returns with about 1 percent of all errors.

Errors on 1996 tax returns fall into 11 general categories:

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Tax Return Error Rate

	% of all returns processed	**% of all returns with errors**
Form 540A	17%	30%
Form 540	15%	29%
Scannable returns	42%	16%
Form 540EZ	15%	15%
Form 540NR	3%	8%
Electronically filed returns	5%	1%
Telefiled returns	3%	*

* less than 1 %

Tax Return Errors by Type

Exemptions	31.1%
Estimates	12.8%
Tax	12.6%
Withholding	8.3%
Nonresidency	4.7%
Deductions	4.5%
State disability insurance credit	3.9%
Adjusted gross income	1.6%
Filing status	1.3%
Credits	0.1%
Miscellaneous	19.1%

FTB Calendar

July

- Requests for 1995 tax returns are issued to approximately 60,000 personal income taxpayers.
- Notices of Proposed Assessment are issued to approximately 75,000 persons who failed to respond to earlier requests for 1995 tax returns.

20 Previous month withholding at source payments are due if total withholding exceeded $2,500.

August

- Notices of Proposed Assessment are sent to taxpayers who do not appear to qualify for head of household filing status.

20 See July 20.

31 Final filing date for Homeowner/Renter Assistance claims.

September

15 Personal income tax estimate payments are due.

20 See July 20.

October

15 Final extended due date for personal income tax returns.

20 See July 20.☐

Some Partnerships File on Wrong Date

A number of partnerships have filed short-period returns on the wrong date.

The law requires partnerships to file Form 565, "Partnership Return of Income," and to pay any tax due by the 15th day of the fourth month after the end of their tax year. Recently, some partnerships that terminated failed to start the filing countdown from the termination date. Instead, they waited for the filing date of their regular fiscal or calendar tax year.

To make sure that your partnership clients avoid late filing penalties, remind them that filing a short-period return changes the due date. For example, a partnership that terminates and has distributed all its assets by March 31 must file by July 15, even though its former tax years ended on December 31 and its former filing dates were April 15.☐

Tax Returns Have Fewer Errors

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- **Exemptions.** Close to one-third of all errors involved exemptions. And the majority of these errors occurred because the total exemption amount was transferred to the wrong line on the return. Some other errors in this category occurred because taxpayers claimed dependent exemption credits but did not list dependents or because claimed exemption amounts were incorrect.
- **Estimates.** Almost 13 percent of the errors occurred because estimate payments were incorrectly calculated.
- **Tax.** Tax was the focus of 12.6 percent of the errors. Usually, the tax was computed incorrectly.
- **Withholding.** Withholding amounts were involved in 8.3 percent of the errors. In most cases, the withholding amounts did not match amounts supplied on W-2 or 1099 forms or by a government agency. Some taxpayers incorrectly added amounts on multiple W-2s. Others submitted out-of-state W-2s or failed to submit any W-2s.
- **Nonresidency.** These errors, at 4.7 percent of the total, mostly occurred in prorating net tax liabilities.
- **Deductions.** Most of these errors, 4.5 percent of the total, had to do with an incorrect standard deduction. In some cases, taxpayers itemized deductions that totaled less than the standard deduction.
- **State disability insurance.** In almost 4 percent of the errors, the state disability insurance credit did not match the maximum amount given on the accompanying W-2 form.
- **Adjusted gross income/ adjustments.** In this category, accounting for 1.6 percent of all errors, mistakes occurred either because incorrect totals were transferred from schedules or because of faulty addition or subtraction.
- **Filing status.** A filing status that was incorrect, according to information provided in the return, accounted for 1.3 percent of all errors.
- **Credits.** Credits accounted for only 0.1 percent of the total errors. Often, a special credit was claimed along with the alternative minimum tax, or a joint custody head of household credit was claimed erroneously.
- **Miscellaneous.** Another 19 percent of all errors make up this group. Included are math mistakes, incorrect refund or balance due amounts, incorrect computations of taxable income and incomplete information.☐

Sign up for Tax Talk

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are: Anderson, Bakersfield, Del Mar, Eureka, Fresno, Indio, Irvine, Long Beach, Los Angeles, Monrovia, Monterey, Pleasanton, Riverside, Sacramento, San Jose, Santa Barbara, Santa Rosa, South San Francisco, Stockton, Vallejo, Van Nuys and Ventura.

Tax Talk also will be telecast to Ashland, OR, and Reno, NV.

If you have not received Tax Talk registration information, call (916) 845-7070.☐

Ruling on Refund Claims Withdrawn

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adjudicating the validity of a tax before the tax, penalties and interest are paid in full.

FTB currently is assessing the impact of both court decisions.

Notice 97-4, issued on June 2, 1997, has been published by most tax services.☐

Part 1

Trusts: Too Good to Be True?

When a trust seems too good to be true, it probably is.

That's the wisdom contained in Internal Revenue Service Notice 97-24. And it has implications for California as well as federal tax returns.

The Franchise Tax Board and the IRS are working together to identify abusive trusts. And they are encouraging taxpayers who have participated in abusive trust arrangements to adhere to the law voluntarily. In order to comply, taxpayers should file:

- Correct tax returns this year.
- Amended tax returns for other years that they participated in abusive trust arrangements.

For more information, attend the IRS presentation on abusive trusts that is part of the Tax Talk seminar on October 7. (See "Sign up for Tax Talk" and "Seven Topics Set for Tax Talk" on page 3.)

For an adaptation of parts of the notice, see box below.☐

Trusts: Internal Revenue Service Notice 97-24

The following summary includes portions of Internal Revenue Service Notice 97-24. For specific application, refer to the entire text of the notice. Additional information will be published in the September Tax News.

Taxpayers should beware of abusive trust schemes. However, they also should know that many trusts have lawful uses. For example, taxpayers use trusts properly in estate planning, to aid in legitimately transferring property to charities and to hold property for minors or for people declared incompetent.

An abusive trust, on the other hand, may try to hide the true ownership of assets and income or to disguise the nature of a transaction. Often, more than one trust is involved; each one holds different assets of one taxpayer. For example, different trusts may hold the taxpayer's business, business equipment, home, automobile and other assets. Funds may move from one trust to another as a result of rental agreements, fees for services, purchase and sale agreements and distributions. Other trusts claim to encompass charitable purposes when they do not. Sometimes, one or more foreign trusts may be part of the arrangement.

Abusive trust arrangements often advertise that they provide tax benefits without any meaningful change in the taxpayer's ability to control or benefit from the income or assets that were put into the trust. Trust promoters may promise that the trust will reduce or even eliminate income subject to tax, self-employment taxes or gift and estate taxes. Promised benefits also may include deductions for the taxpayer's personal expenses that the trust pays, depreciation deductions for a personal residence and furnishings and a stepped-up basis for property transferred to the trust.

Many of the abusive trust arrangements that the IRS has identified fall into five categories:

The Business Trust. With this abusive trust, a business owner transfers the business to a trust, which sometimes is described as an unincorporated business trust. The transfer is made in exchange for units or certificates of beneficial interest. This trust makes payments to the trust unit holders or to other trusts that the owner creates. Often, these payments are characterized as deductible business expenses or as deductible

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Watch for Tax Form Changes

In 1997 and beyond, California tax forms will have some new features.

Among the tax forms changes you can expect are:

- Personal income tax forms that are printed in booklets in 1997 will have a series of boxes, called constrained hand print boxes, in which figures will be written. For example, each of the numerals of an adjusted gross income of $29,370 would be written in a separate box. Currently, figures are inserted on lines. The use of boxes will increase the likelihood that automated equipment can accurately scan or "read" the figures. This change does not apply to computer-prepared tax returns.
- All personal income tax forms eventually will feature a bar code that identifies the form by type and year. This helps the scanning equipment "know" where to look for data on the page. Another bar code will identify payment documents, such as the Form 540-ES, "Estimated Tax for Individuals," for the scanner.
- Eventually, all tax documents will be designed so that taxpayer data, such as name and address, social security number and payment amount, appear at the same place on every form. However, the change will be made on only a few 1997 personal income tax forms.☐

Trusts: Internal Revenue Service Notice 97-24

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distributions. They are intended to reduce the trust's taxable income to the point where little or no tax is due. Also, the self-employed owner claims that the trust arrangement reduces or eliminates self-employment tax because the owner receives little or no income from the operation of the business. In some cases, the trust units are canceled at the owner's death or sold at a nominal price to the owner's children. Promoters use this feature to claim that there is no estate tax liability.

The Equipment or Service Trust. These trusts are formed to hold equipment that is rented or leased to a business trust or to provide services to the business trust, often at inflated rates or fees. The business trust may purport to reduce its income by making allegedly deductible payments to the equipment or service trust. Also, an equipment owner may claim that transferring equipment to the equipment trust in exchange for trust units is a taxable exchange. The trust's position is that the trust has "purchased" the equipment at its fair market value, which becomes the tax basis of the equipment for purposes of claiming depreciation deductions. The owner, on the other hand, claims that the value of the trust units cannot be determined, so he or she has no taxable gain on the transaction. The equipment or service trust also may attempt to reduce or eliminate its income by making distributions to other trusts.

The Family Residence Trust. With this abusive trust arrangement, the owner of a family residence transfers the residence and its furnishings to a trust. Then, the parties involved claim inconsistent tax treatment, as they do with equipment trusts. The trust claims that the exchange results in a stepped-up basis for the property, while the owner reports no gain. The trust claims to be in the rental business and purports to rent the residence back to the owner. However, in most cases, the owner pays little or no rent. Instead, the owner contends that he or she and family members are caretakers or provide services to the trust and, therefore, live in the residence for the benefit of the trust. Sometimes, the family residence trust receives funds, which are treated as trust income, from business or other trusts. In order to reduce the tax that might be due on this income and from any rent the owner pays, the trust may attempt to deduct depreciation and the expenses of maintaining the residence.

The Charitable Trust. The owner of this abusive trust transfers assets to a purported charitable trust. The owner then claims either that the assets are deductible or that payments made by the trust are deductible charitable contributions. However, these payments to charitable organizations are mostly for the educational, living or recreational expenses of the owner or the owner's family, such as college tuition for the owner's child.

The Final Trust. Under this arrangement, the U.S. owner of one or more abusive trusts establishes a "final" trust that holds the trust units of the other trusts and to which the other trusts' income is distributed. A final trust often is formed in a foreign country that imposes little or no tax on the trust. Sometimes, more than one foreign trust is used, so that cash flows from one trust to another until it is ultimately distributed or made available, purportedly tax free, to the U.S. owner.☐

Renew Tax News Subscription

Keep Tax News coming.

You will receive a Tax News renewal form when your subscription to the newsletter is about to run out.

Be sure to return the renewal form immediately so that you will not miss any upcoming issues.☐

Internet Has Legislative Bills

Are you interested in bills that the California Legislature is considering?

Now, you can get copies of legislative measures from the Internet. They are located at the *http://www.leginfo.ca.gov* address of the Official California Legislation Information Web site.

Copies of bills also are available from:

Legislative Bill Room
Room B-32
State Capitol
Sacramento, CA 95814
(916) 445-2323.☐

The Question Column

Cashing a Refund Check for a Deceased Spouse

When a taxpayer receives a refund check made out to her and her deceased husband, can she cash the check?

A taxpayer whose spouse passes away before a California income tax refund check arrives may be able to cash the check even though it is made out to both spouses.

The taxpayer should take the check and a copy of the spouse's death certificate to the bank and ask to cash or deposit it. If the bank does not accept the refund check, the taxpayer should call the Franchise Tax Board's Taxpayer Services Center at (800) 852-5711. FTB can send the taxpayer a letter that authorizes the bank to accept the check. Then, the taxpayer should bring the letter, the check and a copy of the death certificate to the bank.

If the bank still does not accept the check, the taxpayer should send it back to FTB, along with a copy of the death certificate and a letter asking for the check to be made out to the surviving spouse only. The information should be sent to: Franchise Tax Board, P.O. Box 942840, Sacramento, CA 94240-0040. The refund will be mailed within 10 to 12 weeks of the date of the letter.

Corporation Tax Returns

How may a corporation obtain a copy of a tax return that it filed several years ago?

If you want to obtain a copy of a prior-year tax return for a bank, corporation, partnership or limited liability company, send the Franchise Tax Board a written request that includes:

- The name of the entity.
- Its California corporation number.
- Its federal employer identification number.
- Its telephone number.
- Its mailing address.
- The tax year or years of the returns requested.
- The signature and title of the corporate officer or trustee making the request. Without this authorization, FTB cannot provide a copy of a return.

In addition, a suspended corporation must pay any outstanding tax liability and/or penalties before FTB can supply a copy of a return. To find out how much the corporation owes, call FTB at (800) 852-5711 from within the United States, (916) 845-6500 from out of the country or (800) 822-6268 if you are hearing impaired.

If you request a tax return for a bank, corporation, partnership or limited liability company client that is in bankruptcy, you must provide one of the following:

- Court documents showing that you have been appointed trustee.
- A letter signed by the trustee authorizing you to receive the tax return, plus a copy of the court documents appointing the trustee.
- Other appropriate authorization.

Do not send money with your request for a bank, corporation, partnership or limited liability company return. FTB will send a bill with the copy of the return. FTB will mail the copy you requested within six to eight weeks of the date of your request.

Send your request for a tax return copy to: R.I.D. Unit, Franchise Tax Board, P.O. Box 942857, Sacramento, CA 94257-0560. If you have questions, call the R.I.D. Unit at (916) 845-5116.☐

Tax Practitioners' Institute Heads South

Just prior to press time, the Tax Practitioners' Institute announced that its three-day program will be held at some Southern California locations. For information on the sites and dates, call (916) 278-6346. (For Northern California sites, see article at right.)☐

Tax Practitioners' Institute Is Upcoming

In November and December, you can earn up to 24 hours of continuing professional education credits.

The Tax Practitioners' Institute's three-day education program is an opportunity to earn credits toward satisfying the requirements of the California State Board of Accountancy; the California Tax Education Council, which replaces the Department of Consumer Affairs' Tax Preparer Program this month; and, for enrolled agents, the Internal Revenue Service.

The Institute's program is offered at eight Northern California locations. (See box on this page for late Institute news.) For enrollment, registration fee and other information, call the telephone number listed below at the Institute site nearest you:

Sacramento: November 3 - 5
(916) 278-6346

Fresno: November 6 - 8
(209) 278-5663

Sunnyvale: November 10 - 12
(408) 342-0236

Chico: November 17 - 19
(916) 898-6105

Shell Beach: November 20 - 22
(408) 342-0236

Oakland: December 1 - 3
(510) 881-2312

Monterey: December 4 - 6
(408) 342-0236

Arcata: December 11 - 13
(707) 826-3731

Institute sponsors are the California State University, Chico, Fresno, Hayward and Sacramento; Humboldt State University; the University of California, Santa Cruz; the Franchise Tax Board; and the Internal Revenue Service.☐

Electronic Filing: Rapid Refunds Have Appeal

In 1997, for the second year, taxpayers were able to electronically file balance due California tax returns. But not many did.

Taxpayers who qualify for refunds continue to be the primary customers for the Franchise Tax Board's electronic filing program. Refunds that result from electronically filed returns are mailed within 10 days after FTB receives the return. Refunds to taxpayers who file paper returns are mailed within six to eight weeks.

Of the 355,877 electronically filed returns processed by April 21 this year:

- 85 percent were refund returns.
- 8 percent were balance due returns.
- 7 percent were zero balance returns.☐

Electronic Filing: Looking Ahead

What's in store for tax professionals who offer their clients the option of filing tax returns electronically?

Next year, the Franchise Tax Board's electronic filing program will usher in several new developments:

- The diskette version of FTB Publication 1345, "California Franchise Tax Board Handbook for Electronic Filers," will no longer be distributed with a copy of the Adobe Acrobat Reader. This software enables you to view the publication on diskette and to view and print tax forms on FTB's Internet home page. The Adobe Acrobat Reader is free software that you may share with others. You can obtain a copy by visiting the Adobe Internet home page at its *http://www.adobe.com* address. Also, FTB provides a link to the Adobe home page from its *http://www.ftb.ca.gov* Internet address.
- Electronic filing Help Desk staff will be in touch with you to obtain your Internet E-mail address if you have one. FTB hopes to use E-mail more often as part of its effort to do business with less paper.
- You will not have to reapply for acceptance into FTB's electronic filing program if you participated this year and if you have no changes to make to your initial application. See FTB Publication 1345 for guidelines on when you need to submit a revised application. Even though applying for the electronic filing program can be a one-time requirement, FTB will make yearly suitability checks to verify that participants are complying with FTB policies.

In addition, FTB, along with all other state entities and companies, is working to make the changes to electronic systems that must be in place before 2000. If any changes to the file specifications and record layouts for electronic filing are necessary for next year, FTB staff will notify you before the end of this year.☐

FTB Drops Two Billing Forms

The Franchise Tax Board has streamlined its personal income tax billing and collection processes by discontinuing two forms. As a result, FTB will be issuing fewer billing notices.

Taxpayers will no longer receive an Official Notice, which is one of several notices asking taxpayers to comply voluntarily with the tax law. Depending on the particular account, taxpayers will now receive two or three notices before a levy on wages is issued, instead of three to five notices.

FTB also is discontinuing its use of the Employment Confirmation Request, except when it has an incorrect address for a taxpayer. The Employment Confirmation Request is issued to employers to obtain information on an individual's employment status, phone number, address, occupation and union affiliation.

Before discontinuing the Employment Confirmation Request, FTB studied a sample of employer responses to the form and conducted informal employer surveys. It found that eliminating the forms would be beneficial to the business community, FTB and the state. Employers save time and expense involved in responding to the Employment Confirmation Request. FTB saves the cost of producing and processing the form. And the state benefits from an earlier deposit of funds because wage garnishments will be issued sooner.

In addition, FTB now receives current and accurate employment information through an automated information exchange with the Employment Development Department. The exchange diminishes the need for an Employment Confirmation Request.☐

What Carries Over When Economic Development Areas End?

What happens to a carryover credit or deduction when an economic development area's term expires?

The answer depends on whether the area is an enterprise zone (EZ), a Local Agency Military Base Recovery Area (LAMBRA) or the Los Angeles Revitalization Zone (LARZ) and on the nature of the credit or deduction.

Taxpayers operating in economic development areas are eligible for certain tax incentives. The incentives can be used only to offset either business income earned in the area or tax on the area's business income. As a result, taxpayers may no longer claim the credits or deductions when an area's term ends unless a law provides otherwise.

The incentives include a sales or use tax credit, a hiring credit and a 100 percent net operating loss deduction. Qualified creditors of businesses operating in EZs and the LARZ also are eligible for a net interest deduction.

Here is how the carryover rules work for the various incentives.

- **Sales or use tax credit and hiring credit.** These credits may be carried over even though the term of the economic development area has expired. However, the credits may offset only the tax associated with the economic development area's business income. So, the law deems the area to remain in existence for the purpose of calculating the business income and the related tax.

  For taxpayers who operated in an EZ or a LAMBRA, the credit can be carried forward until it is exhausted. For taxpayers who operated in the LARZ, the credit can be carried forward until it is exhausted or up to 15 taxable or income years after incurring the credit, whichever is shorter.

- **100 percent net operating loss (NOL) deduction.** Any net operating loss that is carried forward can offset only future economic development area business income. For taxpayers operating in a LAMBRA, the law provides that the LAMBRA is deemed to remain in existence for purposes of determining the area business income that can be offset by the NOL deduction carryover. The LAMBRA deduction may be carried forward until it is exhausted or up to 15 taxable or income years after incurring the loss, whichever is shorter.

  For taxpayers operating in an EZ or the LARZ, no such law exists. As a result, the deduction cannot be carried forward. However, if the economic development area proposal that is currently part of Assembly Bill 1040 (Committee on Revenue and Taxation) becomes law, EZs and the LARZ will be deemed to remain in existence for purposes of determining the area business income that can be offset by the NOL carryover deduction. They then will have the same carryover rules as the LAMBRA.

- **Net interest deduction.** This deduction is no longer available to creditors when the term of an EZ or the LARZ expires.□

April 15

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Electronic filing and filing by telephone are especially attractive options for taxpayers who want fast refunds. So, most of these returns come in to FTB earlier in the year. April 15 was a relatively slow day with 6,039 returns filed electronically and 10,113 by telephone.

Taxpayers filed an estimated 4.5 million personal income tax paper returns on April 15. They also paid about $3 billion in taxes on that date. Half of the amount arrived with 1996 tax returns. The other half represented either 1997 first quarter estimate payments or 1996 or earlier taxes paid either before or after filing a return.□

Did You Take Enterprise Zone Hiring Credit? Check Your Software

A developer of California income tax software is advising customers that one of its products does not remind practitioners to supply supporting forms.

If you use SCS/Compute's software for Form 100, "California Corporation Franchise or Income Tax Return," to claim an enterprise zone hiring credit, you will need to supply supporting forms.

The SCS/Compute Form 100 software requires tax practitioners to manually produce any required supporting forms or schedules, such as the Form 3805Z, "Enterprise Zone/ Program Area Deduction and Credit Summary," or Schedule P (100), "Alternative Minimum Tax and Credit Limitations - Corporations." Some practitioners who have filed the Form 100 so far failed to produce the supporting forms because the software does not prompt them to do so.

Also, if you claim an enterprise zone credit for your client on Form 100, be sure to check the "yes" box next to question "H" on the form's Side 2. Question H asks, "Is this corporation claiming enterprise zone, program area, LARZ or LAMBRA tax benefits?" If the "yes" box is not checked, the software automatically defaults to a "no" answer.□

Reminder: Tax Practitioner Support Unit Has New Number

To obtain tax and client information, call the new number, (916) 845-7057, for the Franchise Tax Board's Tax Practitioner Support Unit.

The Support Unit changed from an outside to an internal telephone prefix because it can handle more calls. The unit's services are for tax practitioners only, not their clients.

The Support Unit also can be reached by fax at (916) 845-6377.□

K-1 Filers: How to Save a Tree

If your partnership clients want to save the expense of processing paper when they file Schedule K-1s (565), remind them that they can file on magnetic media. Very large partnerships might even save a tree or two by eliminating paper filing.

For all the information a partnership needs to file on magnetic media, see the new FTB Publication 1062, "Guide for K-1 (565) Filing by Diskette or Magnetic Media." Among other things, it covers reporting requirements, acceptable media formats, file specifications, filing procedures, general and K-1 record layout information and penalties for filing a Form 565 incorrectly.

To obtain Publication 1062, you may do one of the following:

- Download a copy from the Franchise Tax Board's *http://www.ftb.ca.gov* Internet address.
- Contact the Tax Practitioner's Support Unit by calling (916) 845-7057 or faxing (916) 845-6377.
- Write Tax Forms Request, Franchise Tax Board, P.O. Box 307, Rancho Cordova, CA 95741-0307.□