

Package X: Order Now for January Delivery

The 1997 California Package X in paper and CD-ROM versions will be distributed on a first-come, first-served basis.

Your best bet for an early delivery is to order right now, even though the Package X will not be shipped until January. All early orders will be processed immediately so that labeling information is ready to print as soon as the Package X is produced.

In most cases, paper versions of the Package X will be distributed to street addresses by an expedited delivery as they were last year. As a result, deliveries are expected to be completed quickly once the books are produced. Previously, paper

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Installment Payment Program Is Streamlined

Qualifying to pay taxes in installments is about to get easier.

Starting in January 1998, California taxpayers will be able to make installment payments without filling out a financial statement. To qualify, taxpayers must owe no more than \$10,000 and agree to pay their liabilities by electronic funds transfer (EFT) within three years. They also must have filed all required tax returns.

To apply for the installment payment agreement, taxpayers must send the new form FTB 3567, "Installment Agreement Request," to the Franchise Tax Board. The form is not yet available. However, by the first of the

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Putting It on Paper



California tax forms will be printed on paper from giant rolls like these, in place at the Office of State Printing.

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Tax News

Volume 97-6 November 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.

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TAX NEWS
P.O. Box 520
Rancho Cordova, CA 95741-0520
or call: (916) 845-7070.

For information about a client's account, contact:

Tax Practitioner Support Unit
(916) 845-7057 (phone)
(916) 845-6377 (fax)

For recorded answers to questions on California taxes, to order forms or check on a refund, call:

F.A.S.T. (800) 338-0505
From outside U.S. (916) 845-6600

Information Center:
(800) 852-5711
From outside U.S. (916) 845-6500

Hearing Impaired:
TDD (800) 822-6268

FTB on the Internet
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Legal Notice Addresses Refund Claims

The Franchise Tax Board has published its position regarding refund claims and the "full payment rule."

FTB Notice 97-8 provides guidance on administrative claims and appeals to the State Board of Equalization (SBE) and also to refund actions filed in court. It states that, pending a final controlling appellate judicial decision on the issue:

- For purposes of administrative claims and SBE appeals, FTB will continue to accept refund claims that are filed with or after the tax, additions to tax and penalties are paid in full. Interest does not need to be paid. However, any unpaid interest amount will continue to compound daily, according to Revenue and Taxation Code Section 19521(b).
- For refund actions filed in court, if all tax, additions to tax, penalties and interest are not paid in full, FTB will

raise the failure to pay as a jurisdictional issue.

Earlier, based on various recent court decisions, FTB withdrew a 1977 Legal Ruling holding that a refund claim would be valid if, when it was filed, all assessed or asserted tax and penalties, although not interest, had been paid.

Notice 97-8 states that taxpayers may avoid uncertainty by paying all amounts, including interest, when or before they file a refund claim.

You will find the notice, issued on September 4, at FTB's <http://www.ftb.ca.gov> Internet Web site. It also has been published by most tax services. □

1099 Reporting of Punitive Damages: California Follows Federal

If you or your clients paid punitive damages recently, keep in mind that California conforms to the change in federal information reporting requirements.

Payers must now report on Form 1099-MISC all payments for punitive damages of \$600 or more, including those related to physical injury or physical sickness. For information reporting purposes, the change applies for payments after August 20, 1996. This change in information reporting does not mean that punitive damages related to physical injury or physical sickness were previously excludable from gross income reported on income tax returns.

Internal Revenue Code Section 104(a)(2) has been modified to reaffirm that punitive damage payments related to personal physical injury or physical sickness are taxable. California Income Tax Law Section 17131 incorporates this federal law section.

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Package X: Order Now for January Delivery

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versions were sent by fourth class mail, which is a much slower process.

CD-ROM for Windows versions of the Package X will be distributed by first-class mail.

To obtain a Package X order form, call (916) 845-7070. □

Installment Payment Program Is Streamlined

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year, it may be obtained from FTB's F.A.S.T. (Fast Answers about State Taxes) service; call (800) 338-0505, access "Personal Income Tax Forms Request" at the voice prompt and then enter code 949. The form will be included in the 1997 California Package X. It also will be available at the first of the year at FTB's

<http://www.ftb.ca.gov> Internet address and by mail from Tax Forms Request, P.O. Box 307, Rancho Cordova, CA 95741-0307. □

How to Order Package X, Tax News

Would you like a 1997 California Package X?

To order a Package X in either a paper or CD-ROM for Windows version, call (916) 845-7070 for an order form. You also can use the form to renew your Tax News subscription or to subscribe for the first time.

The Tax News/Package X order form has a new look this year, including a vertical bar code and full and half boxes for the information you fill in. The changes have been instituted as a prelude to the image-processing of order forms and checks, which will begin in mid-1998.

To order:

- Use the 1997 order form. Do not use a form from a previous year. Even if you cross out the year and replace it with "1997," you are using an out-of-date order form and your order may be delayed.
- Make any necessary corrections to your name and mailing address that are printed on the form.
- Fill in your telephone number.
- Supply a street address in the space provided if the mailing address at the top of the order form is a post office box. A street address is required by the Package X delivery service.
- To renew a Tax News subscription or subscribe for the first time, multiply the number of subscriptions you want by \$12 and enter the full amount in the space at the right of the form.
- To order a 1997 Package X, list the number of bound, loose-leaf or CD-ROM for Windows versions you are ordering. Then, multiply the number of paper copies by \$12. Multiply the number of CD-ROM versions by \$19.
- Follow the same procedure to order a paper version of Package X for a prior year. Prior year *loose-leaf* versions of Package X are available only for 1993, 1994, 1995 and 1996. (1994 through 1996 Package Xs are included on the CD-ROM.)
- Add the above amounts and write the total in the space marked "Total Amount Paid."
- Do *not* add sales tax.
- If you want to send one check for multiple subscriptions to Tax News and/or copies of Package X and you want them sent to different individuals and/or different addresses, print "Multiple Addresses" prominently on the front of the order form. Then, attach a sheet of paper with the other names and addresses and indicate which part of the order goes to each person or address.
- Be sure to enclose your check or money order, payable to the Franchise Tax Board. Orders without payments are not processed. Do not send cash.
- Mail the form and your check or money order to: Tax News/Package X, P.O. Box 2708, Rancho Cordova, CA 95741-2708.

For more information about Tax News or Package X, call (916) 845-7070. Also, see other articles about Tax News and Package X in this issue. □

Package X: What's on the CD-ROM?

The CD-ROM version of this year's Package X provides 1997 California tax forms and much more.

If you order the CD-ROM, which must be used with Windows software, you get:

- 1997 California Package X forms.
- 1997 Internal Revenue Service Package X forms.
- California Package X forms for the three previous years.
- Information on electronic filing.

The CD-ROM has a search feature so that you can locate references to special words or terms in both the tax forms and instructions. And in March you will receive a second disk with updated forms.

Inside ...

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- 16 ... Were tax returns lost in flood?
- 17 ... Comments sought on proposed telecommunications/electronic services regulation
- 17 ... Address correction
- 17 ... Tax practitioner contacts
- 17 ... Send vouchers with all 1997 tax payments
- 18 ... Wage amounts to be verified
- 18 ... Automated checks lead to withholding adjustments

Electronic Filing: Two New Advantages

If you participate in California's electronic filing program, you now can offer clients two new advantages: direct refund deposits and nonresident filing.

For the first time, California tax refunds can be directly deposited in your clients' bank accounts, but only if they file their returns electronically. Direct deposit may be available to taxpayers who file their returns on paper by 1999.

In addition, nonresidents may use the electronic filing system for the first time. For the 1997 tax year, taxpayers may electronically file Form 540NR, "California Nonresident or Part-Year Resident Income Tax Return," as well as Schedule CA (540NR), "California Adjustments - Nonresidents or Part-Year Residents," and Schedule P (540NR), "Alternative Minimum Tax and Credit Limitations - Nonresidents or Part-Year Residents." □

Electronic Filing: Who Needs to Apply?

For the coming tax season, tax practitioners who are electronic filing veterans generally do not need to reapply but newcomers must apply in order to participate.

If you are already enrolled in California's electronic filing program, do not apply again unless the information on the application you submitted earlier has changed. For example, you should reapply if your business moved, if you designate someone new as a contact person or if you have a new telephone number. The Franchise Tax Board will perform a suitability check to make sure that you are still in compliance with electronic filing policies.

If you are new to electronic filing, you must apply by December 1, 1997.

Whether you need to reapply or are applying for the first time, be sure to use the 1997 version of form FTB 8633, "California Application to Participate in the Electronic Filing Program." You can obtain a copy of the form by:

- Downloading it from FTB's <http://www.ftb.ca.gov> Internet address.
- Calling the Electronic Filing Help Desk at (916) 845-0353. Also call the Help Desk for additional information on FTB's electronic filing program.
- Contacting your local IRS district coordinator.

When you fill out the form FTB 8366, be sure to:

- Sign the application. FTB cannot process applications without signatures.
- Include a business address where you can be reached by mail all year, not just during the tax filing season.
- Provide the name of a person FTB can contact year-round and a telephone number where that person can be reached during traditional business hours.
- Add your Internet electronic mail address, if you have one.

FTB will send you a copy of the tax year 1997 FTB Publication 1345, "Electronic Filing Handbook, File Specifications and

Record Layouts for the State of California Individual Income Tax Returns." It will be available on disk in early December. It also will be available on the Internet. □

Package X: What's on the CD-ROM?

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The tax forms on the CD-ROM are not interactive. You must print out the form in order to enter data on it. You cannot enter data onto the forms by computer.

The CD-ROM will be delivered by first class mail in January. □

What Are Package X CD-ROM Specifications?

If you plan to order the 1997 California Package X on CD-ROM for Windows, make sure that your computer is compatible with the disk.

You should be able to use the CD-ROM if you have:

- A 386DX, 486DX or Pentium computer with a processor speed of 33 megahertz or faster.
- Microsoft Windows 3.1 or later with a mouse.
- Four megabytes of RAM (main memory).
- Double speed or greater CD-ROM drive capable of reading ISO 9660 format.
- VGA, SVGA or higher resolution color video display/adaptor.
- PostScript Windows-compatible printer or Hewlett-Packard Laserjet III and above with 1 megabyte of user RAM.

If you have questions about your computer's compatibility with the Package X CD-ROM, send a fax to the Franchise Tax Board's CD-ROM coordinator at (916) 845-4788. □

Questions Answered According to Topic

Do you have a question? Give the Franchise Tax Board a ring.

The answer to your question may be available from one of FTB's interactive voice response (IVR) telephone services. All of the IVR numbers are available in English and Spanish, 24 hours a day, seven days a week, unless the information below states otherwise. And you must use a touch-tone phone.

You and your clients can dial up a wide spectrum of information, categorized by subject matter. Here are the topics and the numbers to call about tax- and revenue-related matters:

Bank and corporation collection - (888) 889-8876. You will hear answers to questions about California corporation tax and exempt organization fees and taxes, suspension of a corporation, revivor of a suspended corporation, FTB mailing addresses and telephone numbers, corporation filing requirements, penalties, contract voidability, how to get exempt status and how an exempt organization can incorporate without paying corporation fees and costs. (Available in English only.)

Delinquent corporations and limited partnerships - (800) 478-7194. Your business entity clients may want to call this IVR service if they receive a notice asking for a tax return or a Notice of Proposed Assessment (NPA). Depending on their delinquency situation, they can hear, among other things, answers to commonly asked questions for qualified and nonqualified entities, information on California's Taxpayers' Bill of Rights, Schedule K-1 guidelines and an explanation of penalties, interest and the effects of suspension. (Available in English only.)

F.A.S.T. (Fast Answers about State Taxes) - (800) 338-0505. Out of the country - (916) 845-6600. When you call FTB's F.A.S.T. telephone number, you may listen to general tax information, order tax forms or check on personal income tax refunds. Specific options include:

- General tax information, which provides answers to commonly asked questions about personal income taxes, bank and corporation taxes and homeowner and renter assistance.
- Personal income tax refund information, which provides the status of the caller's current year refund. If the refund has not been authorized, the caller will be told how long the refund process may take. The caller also will be told if the refund has been applied to the next year's estimated taxes or to another tax year liability or intercepted by another agency.
- Personal income tax forms, which callers may order for the current year and the three previous years. Internal Revenue Service forms also may be ordered from January through April 15.
- Bank and corporation forms, which may be ordered for the current year.
- Personal income tax payment verification and account balance information, which provides the status of the caller's tax account.

To order forms or check a refund status or account information, call between 6 a.m. and 10 p.m., seven days a week except state holidays. Also, callers must enter their Social Security or account numbers, the numbers in their street address and their zip codes.

Head of household - (800) 338-0505. Out of the country - (916) 845-6600.

Taxpayers who receive a head of household audit questionnaire will get step-by-step and line-by-line instructions for answering the questions. They also may hear the qualifications for claiming the head of household filing status, answers to questions about audit letters and information about letters stating that their head of household claim has not been changed.

FTB Calendar

November

- Demands to file 1995 tax returns continue to be mailed to corporations.
- 7 1997 Package X order forms are distributed as part of Tax News.
- 17 Franchise Tax Board's Taxpayers' Bill of Rights hearing.
- 14 Last day to mail payment and order for Tax Talk home study course.
- 20 Previous month withholding at source payments due if total withholding exceeded \$2,500.

December

- Demands to file 1996 tax returns are mailed to individuals.
- 1 Deadline for submitting electronic filing applications.
- 20 See November 20.
- 26 1997 personal income tax forms are mailed.

January

- Demands to file 1996 tax returns are mailed to individuals.
- Wage verification program will begin.
- Package X is published and distributed.
- 2 Written comments on proposed regulation 25137.13 are due.
- 12 Electronic filing return transmissions begin.
- 15 Personal income tax payments are due.
- 20 See November 20.

February

- 20 See November 20.

Use Revised Form 100X

The form used to amend a California corporate tax return has been revised.

Be sure to use the most recent version of the Form 100X, "Amended Corporation Franchise or Income Tax Return," so that your corporate clients' returns will be processed quickly. Using the correct form also ensures that any refunds due will be issued as quickly as possible.

Form 100X underwent a major revision in 1993, when three columns replaced the former one-column "Income and Deductions" and "Computation of Tax" sections. And Form 100X was further refined in subsequent years. Recent modifications include additions and revisions to the series of questions on side one of the form and the addition of symbols that aid in the efficient capture of data when the forms are processed.

The most recent version of the Form 100X should be used to amend all corporation tax returns. And you should indicate which year you are amending in the box in the upper left corner. The form will be included in the 1997 Package X. In January, it will be available on the Internet at the Franchise Tax Board's <http://www.ftb.ca.gov> address. You also may order the form from FTB's F.A.S.T. (Fast Answers about State Taxes) system by calling (800) 338-0505. Or write Tax Forms Request, P.O. Box 307, Rancho Cordova, CA 95741-0307. □

1099 Reporting of Punitive Damages: California Follows Federal

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Individuals, partnerships, corporations and other organizations that are engaged in a trade or business in California and that make payments in the course of their trade or business must report the amounts on Form 1099-MISC. Payments reportable on Form 1099-MISC include payments for punitive damages, any damages for nonphysical injuries or sickness and other taxable damages. The

forms must be filed annually with both the Internal Revenue Service and the Franchise Tax Board.

If you have questions about information reporting, call FTB at (916) 845-6304 or check FTB's Internet Web site at <http://ftb.ca.gov> and look under "General Tax Information, Information Return Reporting." □

Questions Answered According to Topic

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Installment agreements -

(916) 845-4470. After validating their Social Security number, current address and zip code, your clients can access the current balance due on their tax accounts. Also available is general information about installment agreements, electronic funds transfers, missed or skipped payments, where to mail payments, how to update addresses, Earnings Withholding Orders for Taxes and Orders to Withhold received by their bank. Callers also may order financial statement and power of attorney forms. Although the IVR system is available all day, every day, representatives are available Monday through Friday from 8 a.m. to 5 p.m.

Personal income tax filing enforcement

- (800) 545-5009. Callers will hear answers to commonly asked questions about letters they receive informing them that they should file a tax return. The IVR program lets callers respond to the letters and gives them the opportunity to fully resolve their accounts. In fact, callers may cancel an assessment if the required return is already on file. This telephone line is open from 6 a.m. to 8 p.m., seven days a week, except state holidays.

Personal income tax NPA -

(800) 895-5440. You can listen to general information about personal income tax NPAs and hear answers to questions associated with the NPAs. Anyone who calls also may order prior year personal income tax forms.

Withhold-at-source - (916) 845-4900.

Callers will hear information about withholding that is required on payments of California source income made to nonresidents of California. They can listen to general information about the withholding requirements on California sourced income earned by nonresident sellers of California real estate, nonresident partners and members, entertainers and athletes and nonresident independent contractors. General information on the nonadmitted insurance tax and on bulk transfers also is available. And callers can select options to obtain withhold-at-source forms and publications by fax or mail. (Available in English only.)

Withhold-at-source forms -

(800) 998-3676. You may request forms to be sent to you by fax. (Available in English only.)

FTB also maintains four IVR telephone services related to its non-tax debt collection activities:

Child support collections -

(916) 845-4010. Callers may listen to general information about child support billing notices, notices to employers, earnings withholding and child support collection.

Court-ordered debt collections -

(916) 845-4064. Callers will receive general information about payment notices, earnings withholding and notices

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Reducing the R&D Credit: S Corporations and Shareholders Use Different Rates

If both your S corporation client and your S corporation shareholder client elect to reduce their research and development credits by the amount of tax imposed, be sure to use different rates to compute each one's credit.

For taxable years beginning after December 31, 1989, a corporation's, an S corporation's or an individual taxpayer's business deduction for research and development expenditures under Internal Revenue Code (IRC) Section 174 must be reduced by the amount of the research credit for the year. However, the taxpayer may make an irrevocable election to reduce the research credit that is generated by the amount of tax that is imposed, using the highest tax rate for the taxpayer. The election must be made when the tax return for the credit year is filed, either at the original due date or at the time of the automatically extended due date.

For California tax purposes, different tax rates are used in computing the reduced credit at the S corporation and shareholder levels. For S corporations, it must be the highest corporate rate. And for shareholders, it must be the highest individual rate. To determine the tax rates, refer to California Revenue and Taxation Code Section 24440 for bank and corporation taxpayers and Section 17270 for personal income taxpayers. Both sections modify the federal tax rates given in IRC Section 280C.

For income years prior to 1993, a reduced credit at the S corporation level is 97.5 percent of the full credit, to be offset against a 2.5 percent franchise tax. For income years 1993 and later, a reduced credit at the S corporation level is 98.5 percent of the full credit, to be offset against a 1.5 percent franchise tax. On the other hand, for tax years prior to 1996, a reduced credit at the shareholder level is 89 percent of the full credit, to be offset against a potential 11 percent personal income tax. For 1996 and later, a reduced credit at the shareholder level is 90.7 percent of the full credit. As a result, the Schedule K that the S corporation produces should reflect the

full credit, and the Schedule K-1 should reflect each shareholder's allocable share of the credit.

For example, the XYZ Corporation, which is an S corporation, generates a research and development credit of \$300,000 in tax year 1996. XYZ elects to take a reduced credit of \$295,500 ($\$300,000 \times 98.5$ percent) before applying the one-third limitation on S corporation credits. The corporation ends up with a research and development credit of \$98,500 ($\$295,500 \div 3$). Ms. Smith, the 100 percent shareholder, also elects to take a reduced credit. Her pro rata share of the research and development credit is \$300,000 and her reduced credit is \$272,100 ($\$300,000 \times 90.7$ percent).

For tax or income years prior to January 1, 1997, S corporations and their shareholders were allowed to make separate decisions about whether to reduce the research credit by the tax imposed. However, the Governor recently signed SB 5 – Lockyer (Ch. 97-610) that, for tax or income years after January 1, 1997, requires shareholders to make the same research and development election that the S corporation makes. So, if the S corporation elects to reduce a credit in tax year 1997, the shareholders also would have to reduce the credit. However, different tax rates for the S corporation and the shareholder still must be used to compute the credit. □

Clarification

In the September issue of Tax News, a Question Column response to a question on depreciation stated that the camera of a photographer who is a Schedule C filer does not qualify as eligible personal property under Internal Revenue Code Section 179. The response assumed that the camera was not used exclusively for a business purpose. The camera would qualify as eligible personal property if it is used exclusively for business purposes. □

Questions Answered

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to employers.

Student loan collections - (916) 845-5775. You can access general information about billing notices and earnings withholding notices.

Vehicle registration collections - (916) 845-6872. Callers will receive general information about Department of

Taxpayers' Bill of Rights Hearing Is This Month

November 17 is the date of the Franchise Tax Board's Taxpayers' Bill of Rights hearing this year.

The hearing, where taxpayers may present proposals for changing existing state income tax law, is scheduled for the early part of a regular meeting of the three-member Franchise Tax Board. The meeting begins at 2 p.m. in Room 121, 450 N Street, Sacramento.

Changes proposed at the hearing should be intended to improve the clarity and understanding of tax law. Anyone who plans to make a proposal should submit a written statement prior to the hearing. The statement should include the proposed law change and the Revenue and Taxation Code (R&TC) sections that would be affected. Taxpayers should send their statements to Taxpayer Advocate Bureau, P.O. Box 520, Rancho Cordova, CA 95741-0520.

The annual hearing is required by a provision of the Taxpayers' Bill of Rights, R&TC Sections 21001-21022. □

California Has New Taxpayers' Bill of Rights

California taxpayers are the beneficiaries of a new Taxpayers' Bill of Rights.

Assembly Bill 713 - Caldera (Ch. 97-600), which takes effect on January 1, 1998, conforms the laws administered by the Franchise Tax Board to the federal Taxpayers' Bill of Rights II. Among other things, the new law, which the Franchise Tax Board sponsored, institutes these provisions:

- Taxpayers may file a joint return if they qualify even if either taxpayer has not paid a previous, separate liability.
- Third parties, such as payers of wages, interest or dividends, must include a telephone number in addition to name and address on any California-only information return that they are required to file with a taxpayer and FTB.
- Thirty days before terminating an installment payment agreement without the taxpayer's consent, FTB must mail the taxpayer a notice stating the reason for the termination.
- After receiving a notice and demand for payment, a taxpayer has 15 instead of 10 calendar days to pay an amount due without incurring additional interest.
- Enrolled agents are included as third-party recordkeepers for the purpose of serving subpoenas.
- FTB can abate interest attributable to unreasonable errors or delays that are caused by an FTB officer or employee.
- An FTB regulation applies retroactively only if FTB issues it within 24 months of (a) the publication date of a federal temporary or final regulation as long as California conforms to the underlying law or (b) the date that the California underlying law was enacted.
- In civil actions involving taxes, the state may reimburse prevailing taxpayers for reasonable litigation costs and expenses and appeal fees and expenses.
- FTB must release a levy on property that is in violation of either its administration procedures or the

terms of an installment agreement or if it determines that a levy release would facilitate collection or be in the best interests of the state.

- If FTB files or records a lien in violation of its administrative procedures or of the terms of an installment agreement, it must follow the procedure for releasing the lien as though the lien were filed or recorded in error.
- A taxpayer can sue the state for damages and costs up to \$500,000, if FTB employees or officers intentionally enticed the taxpayer's representative to provide information in exchange for settling or compromising the representative's tax.
- If married persons filed a joint return with an amount due and are no longer married or living together, either one can find out from FTB whether FTB has attempted to collect the delinquency from the other taxpayer, the general nature of the collection activities and the amount collected.
- During an appeal of an amount that FTB assessed as a result of certain income items reported by third parties on information returns filed with FTB or wage information filed with the Employment Development Department and that FTB used, FTB may have the burden of proving that the information is correct, if the taxpayer fulfills certain criteria.
- FTB must make a reasonable attempt to notify the taxpayer if it is unable to locate the taxpayer's account within 60 days of receiving a payment.
- FTB must send a taxpayer with a delinquent personal income tax or business entity tax liability a delinquent notice at least once a year, unless the post office returned previous notices to the same address or the taxpayer's account was no longer being held responsible for the tax.
- In determining whether tax returns or payments are timely, FTB will process "mail" from private delivery

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It's the Law!

A number of legislative measures dealing with taxes or affecting the Franchise Tax Board were signed into law by press time.

Among other things, the new laws cover:

Customer comment forms. AB 206 - Hertzberg (Ch. 97-416) requires every state agency to put a customer comment form on its Internet Web site. (FTB's form will be available on the Internet by July 1, 1998.)

Confidentiality. SB 458 - Peace (Ch. 97-685) prohibits state agencies from mailing correspondence to an individual if it contains personal information about the individual including, but not limited to, Social Security, driver's license, telephone and credit card numbers, unless the correspondence is sealed and no personal information can be seen from the outside of the envelope. The law applies to all correspondence mailed after January 1, 1998.

Conformity. SB 455 - Alpert (Ch. 97-611) generally conforms California's Personal Income Tax Law and Bank and Corporation Tax Law to the Internal Revenue Code (IRC) that was in effect on January 1, 1997. Until now, California law generally conformed to the IRC as it was on January 1, 1993. The bill also provides some exceptions and modifications to the conformity. Most of the provisions apply to taxable or income years beginning on or after January 1, 1997.

Court-ordered debt collection, partnerships, interest, stock options, etc. SB 1106 - Senate Revenue and Taxation Committee (Ch. 97-604), sponsored by FTB, allows the state and

California Has New Taxpayers' Bill of Rights

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services that the IRS designates as though it had been mailed with the postal service. □

counties to refer to FTB for collection amounts associated with court-ordered fines, penalties, forfeitures or restitution orders. It also allows restitution that is due to a victim to be referred to FTB for collection under certain conditions. It allows FTB to prescribe the extent to which partner information must be included with limited partnership returns and member information with limited liability company returns. The bill amends Chapter 952 of the 1996 statutes to reflect that its provisions apply to taxable or income years beginning on or after January 1, 1997. It changes Administration of Franchise and Income Tax Laws Section 19340 so that, when an overpayment is credited against any amount due, any interest on the overpayment also is credited against the amount due. It clarifies changes to California Qualified Stock Options (CQSO) by requiring corporations that want to issue a CQSO to designate it as one when the option is granted. And, among other things, the bill specifies that for purposes of enterprise zone and Los Angeles Revitalization Zone net operating loss deductions, taxpayers may use the carryover against the income that derived from an expired zone business as though the zone remained in existence.

Deposit credit. AB 1520 - Vincent (Ch. 97-497) allows a credit of 20 percent of the amount of each "qualified deposit" into a "community development financial institution." The bill also allows the credit to be recaptured if the deposit is reduced or withdrawn before the end of a 60-month period. The law is effective for taxable and income years beginning on or after January 1, 1997, and before January 1, 2002.

Disaster losses. AB 1X- Cardoza (Ch. 97-3X) allows special disaster treatment of losses sustained as a result of storms or flooding or any other related casualty that occurred during December 1996 or January 1997 in any county that was declared a disaster area. (See "New Tax Law Aids Disaster Victims" in this issue.) The bill also amends Revenue and Taxation Code provisions about property taxation.

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Want Copy of New Law?

Would you like to have a copy of one of the legislative measures recently signed into law by the Governor?

You can request a copy by writing Legislative Bill Room, Room B-32, State Capitol, Sacramento, CA 95814. Or call the Bill Room at (916) 445-2323.

If you have Internet access, you also will find new laws at <http://www.leginfo.ca.gov>, which is the Official California Legislation Information Web site address. □

Tax Talk Offers Learn-at-Home Videos

The first entry in the Tax Talk Continuing Education Video Series is now available.

“Office-in-Home Deductions” is the initial title in the series.

It will be followed later this year by “California Tax Rules for Nonresidents.” Each course includes a one-hour videotape, textbook, workbook and brief, “open book” examination. Anyone who correctly completes the examination earns three continuing education credits.

Both courses are expanded adaptations of presentations at Tax Talk seminars. Each costs \$60.

If you would like either or both of the videos, call (916) 845-7070 for an order form. Or contact the Franchise Tax Board’s www.ftb.ca.gov/Education/taxtalk.htm Internet address for the order forms. □

It’s the Law!

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Disclosure. SB 504 - Johnston (Ch. 97-192) requires anyone who submits a written communication to a state agency to disclose the identity of any person for the production of the communication if it was created specifically for presentation to the state agency. The law is effective January 1, 1998.

Economic development areas. AB 797 - Takasugi (Ch. 97-461) makes changes under the Government Code to the Enterprise Zone Act regarding both “targeted employment areas” as defined and preferences given to certain contracts. The bill also requires FTB to give the Trade and Commerce Agency and the Legislature information each year on the dollar value of the enterprise zone tax credits that are claimed each year. The law is effective January 1, 1998.

AB 1217 - Bustamante (Ch. 97-602) authorizes a new kind of economic development area, called a “targeted tax area,” under the Government Code. It requires the Trade and Commerce Agency to designate one targeted tax area in addition to the 39 enterprise zones. Under the Revenue and Taxation Code, the bill also extends to businesses engaged in manufacturing (except tobacco), warehousing, certain transportation fields and wholesaling, as specified by Standard Industrial Classification Manual codes, tax incentives similar to those available to businesses operating in enterprise zones. The law applies to taxable or income years beginning on or after January 1, 1998.

SB 200 - Kelley (Ch. 97-609) authorizes a new type of economic development area, called a “manufacturing enhancement area.” It requires the Trade and Commerce Agency to designate two of the new areas in addition to the 39 enterprise zones. It also allows the agency to specify that, to qualify for the tax credit, businesses located in the areas must hire at least 50 percent of their workforces from the county in which the area is located. It also allows businesses operating in the new areas a hiring credit similar to the hiring credit allowed to businesses operating in enterprise zones. The law is effective on January 1, 1998.

SB 965 - Costa (Ch. 97-603) provides language that cleans up enterprise zone tax incentive provisions of three 1996 bills that substantively changed the Enterprise Zone Act. The law is effective January 1, 1997, as a tax levy and applies to taxable and income years beginning on or after January 1, 1996.

Electronic mail. SB 1273 - Hurtt (Ch. 97-697) permits a state agency to send correspondence and other communications by electronic mail at the recipient’s request, unless doing so is impractical or contrary to federal or another state law. The law is effective on January 1, 1998.

Entity classification. SB 1234 - Alpert (Ch. 97-608) conforms to the federal

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Interest Rates

For the first six months of 1998, the interest rate on under- and over-payments of California income taxes will continue to be 9 percent. The following table lists interest rates since 1986.

Effective date	Rate
1 Jan. 1986 - 30 June 1986	10%
1 July 1986 - 31 Dec. 1986	9%
1 Jan. 1987 - 30 Sept. 1987	8%
1 Oct. 1987 - 31 Dec. 1987	10%
1 Jan. 1988 - 31 Mar. 1988	11%
1 Apr. 1988 - 30 Sept. 1988	10%
1 Oct. 1988 - 30 June 1989	11%
1 July 1989 - 31 Dec. 1989	12%
1 Jan. 1990 - 30 June 1990	11%
1 July 1990 - 31 Dec. 1990	11%
1 Jan. 1991 - 30 June 1991	11%
1 July 1991 - 31 Dec. 1991	10%
1 Jan. 1992 - 30 June 1992	10%
1 July 1992 - 31 Dec. 1992	9%
1 Jan. 1993 - 30 June 1993	8%
1 July 1993 - 31 Dec. 1993	7%
1 Jan. 1994 - 30 June 1994	7%
1 July 1994 - 31 Dec. 1994	7%
1 Jan. 1995 - 30 June 1995	8%
1 July 1995 - 31 Dec. 1995	9%
1 Jan. 1996 - 30 June 1996	9%
1 July 1996 - 31 Dec. 1996	9%
1 Jan. 1997 - 30 June 1997	9%
1 July 1997 - 31 Dec. 1997	9%
1 Jan. 1998 - 30 June 1998	9%

It's the Law!

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entity classification or check-the-box regulations and generally provides that the classification adopted for federal purposes must be used for California purposes. It also provides special rules for single-member limited liability companies that are disregarded for federal tax purposes. The law applies to taxable or income years beginning on or after January 1, 1997.

Exemptions, conformity. SB 1233 - Lockyer (Ch. 97-612) increases the dependent exemption credit by \$50 in 1998 and \$100 in 1999 and conforms to the federal Tax Relief Act of 1997 by making permanent the capital gains exclusion for home sales and by adopting enhancements to IRA programs. The bill also increases the exemption amounts used in calculating the alternative minimum tax for individuals and annually indexes the exemption amounts. Other provisions eliminate the increase in the S corporation tax rate set by SB 5 and conform to the federal treatment of excluding gain on a principal residence after July 1, 1998 (See SB 5 on page 12). Most provisions apply to taxable or income years beginning January 1, 1998.

Grapevines. AB 122 - Brown (Ch. 97-607) extends to grapevines infested with Pierce's Disease provisions that allow accelerated depreciation for grapevines invested with phylloxera. It also would make changes to property tax provisions for grapevines. The law applies to taxable or income years beginning on or after January 1, 1997.

Indebtedness discharge, bonds, corporation definition, economic development areas, offsets, overpayment interest. AB 1040 - Assembly Revenue and Taxation Committee (Ch. 97-605), which was sponsored by FTB, allows FTB to receive federal information return data on the discharge or cancellation of indebtedness, creates a reporting requirement for payers of interest or dividends from bonds that are issued by another state and are exempt from federal tax, and amends Chapter 952 of the 1996 statutes, which enacted SB 715, to reflect that its provisions apply to taxable or income years beginning on or after January 1, 1997. The bill also modifies the definition of "corporation" to include banks, unless otherwise

excepted, and provides specific language to exempt banks from existing provisions of the Administration of Franchise and Income Tax Laws (AFITL) and the Bank and Corporation Tax Law for which intentional differences between the treatment of corporations and banks is clear. (This would reverse FTB's policy of not applying Section 24411 to banks and allow a foreign bank to pay exempt dividends to a water's-edge taxpayer.) The bill also changes AFITL Section 19340 so that, when an overpayment is credited against any amount due, any interest on the overpayment also would be credited against the amount due. The bill removes the election provision from the Los Angeles Revitalization Zone (LARZ) sales or use tax credit, the Local Agency Military Base Recovery Area (LAMBRA) sales or use tax credit and the LAMBRA hiring credit and replaces it with a provision limiting the taxpayer to one credit. And, among other things, the bill repeals Bank and Corporation Tax Law sections referring to offset provisions for personal property taxes or license fees that are obsolete.

Non-tax debt collection - child support. AB 1542 - Ducheny (Ch. 97-270) creates a Child Support Collection and Enforcement Advisory Committee to review and make recommendations about the development and implementation of a Child Support Centralized Collection and Distribution Unit, which federal law requires. FTB representatives will be included on the committee. The law is effective on January 1, 1998.

AB 573 - Kuehl (Ch. 97-599) allows district attorneys to voluntarily refer current child support obligations to FTB for collection. Also, it requires the Employment Development Department to give the Governor and the Legislature a report on independent contractors for purposes of collecting delinquent child support. The law is effective on January 1, 1998.

AB 702 - Villaraigosa (Ch. 97-697), through a cooperative agreement with the Department of Social Services, allows FTB to operate an "information match" with financial institutions doing business in California. Using automated data exchanges as much as possible, the

Are You a Tax News Subscriber?

If you do not subscribe to Tax News, this is your chance to sign up for the newsletter.

This issue of Tax News is being mailed to a number of tax professionals who do not currently subscribe. It is the Franchise Tax Board's way of introducing the newsletter to more registered tax preparers, certified public accountants, enrolled agents and others. It is also a means of distributing information on the 1997 California Package X to a broad audience.

To subscribe to Tax News or order a Package X, call (916) 845-7070 for an order form. □

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SBE Opinions

Appeal of William Tierney, 97-SBE-006-A, September 10, 1997, Order Denying Petition for Rehearing. For purposes of head of household filing status, if the taxpayer was married at some time during the year but was legally divorced under a final decree of divorce or legally separated from a spouse under a final decree of legal separation, one-half of the time during which the taxpayer, the taxpayer's ex-spouse and a child or other qualifying individual lived in the taxpayer's home may be included in determining if the taxpayer's home was the principal place of abode of the qualifying individual for more than one-half the year. □

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system each quarter must match persons who owe delinquent child support with accounts maintained at the financial institutions. The law is effective on January 1, 1998, but requires an implementation plan in the annual Budget Act.

AB 1395 - Escutia (Ch. 97-614) requires district attorneys to refer all their child support accounts that are 91 days delinquent to FTB for collection and allows them to refer accounts that are more than 30 days but less than 91 days delinquent. Counties with child support programs and systems that were in operation as of April 1, 1997, and that are comparable to FTB's program and system may apply for an exemption from participating in FTB's program. The bill also provides that, when an individual owes both delinquent taxes and child support, FTB would give priority to tax collection. The bill allows district attorneys to request FTB to search for the Social Security numbers of noncustodial parents in any child support case, using tax enforcement or child enforcement information for the search. The law is effective on January 1, 1998.

SB 247 - Lockyer (Ch. 97-601) shifts the funding for FTB's child support collection program from county incentive payments to the state's General Fund. The law is effective on January 1, 1998.

Open meetings. SB 95 - Ayala and Kopp (Ch. 97-949) revises the Bagley-Keene Open Meeting Act, to which FTB is subject. Among other things, it requires a state body to list on agendas more detailed descriptions of discussion items for closed sessions. The law is effective January 1, 1998.

Peace officers. SB 951 - Johnson (Ch. 97-670) amends the Penal Code and the Government Code to include FTB's special agents in the list of designated peace officers. The bill is effective on January 1, 1998.

Renter's credit. AB 1592 - Leonard (Ch. 97-292) suspends the renter's credit until January 1, 1998.

Research credit. AB 1042 - Wayne (Ch. 97-613) conforms state law to federal, except as otherwise modified, to permit the alternative way of calculating

the federal research credit made by the Small Business Job Protection Act of 1996. The law applies to taxable or income years beginning on or after January 1, 1998.

S corporations, sale of principal residence. SB 5 - Lockyer (Ch. 97-610) substantially conforms California law to the changes made to federal S corporation rules by the Small Business Protection Act of 1996. The law:

- Increases the number of S corporation shareholders to 75.
- Allows electing small business trusts to hold S corporation stock.
- Extends the post-death qualification to two years for certain trusts.
- Allows financial institutions to hold safe-harbor debt and to become S corporations.
- Expands the post-termination transition period.
- Allows exempt organizations to be S corporation shareholders.
- Allows S corporations that terminated within the previous five years to reelect to be S corporations.

The bill also conforms California to the federal S corporation rules dealing with:

- The termination year for shareholders who sell an interest.
- Distributions during loss years.
- The carryover of losses and deductions under the at-risk rules.
- The treatment of inherited stock and gain from subdivided real estate.

With certain exceptions, the bill provides conformity to the federal rules relating to inadvertent invalid elections and termination, the treatment of S corporations under Subchapter C and S corporation ownership of subsidiaries. The bill also provides transitional relief under the Revenue and Taxation Code regarding estimated tax payments; as a result, a C corporation that elects to be an S corporation in 1997 could request to have part of the estimated tax payment, which would be an amount in excess of the S corporation's expected tax liability, transferred to the principal income tax

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accounts of the shareholders. Most of the S corporation provisions are effective for taxable or income years beginning on or after January 1, 1997. The bill also increases the tax rate on S corporations for 1997 and subsequent years.

In addition to Small Business Protection Act of 1996 conformity, the bill also conforms to changes made by the Taxpayer Relief Act of 1997 to the federal treatment of excluding gain up to \$500,000 from the sale or exchange of a principal residence. The change is effective from May 7, 1997, through June 30, 1998. The existing state \$125,000 once-in-a-lifetime exclusion and rollover of gain provisions do not apply during that time.

Student loans. AB 364 - Baca (Ch. 97-228) provides that any loan made pursuant to the California State University's Forgivable Loan Program is a "student loan" for purposes of exclusion from gross income resulting from discharges of student loan indebtedness. The law applies to taxable years beginning on or after January 1, 1997, and to discharges occurring on or after the same date.

Tuition. AB 530 - Higher Education Committee (Ch. 97-851) establishes in the Education Code the Golden State Scholarshare Trust, a prepaid tuition plan to be administered by the Student Aid Commission. Under the Revenue and Taxation Code, the bill excludes from gross income any interest accruing on a Scholarshare Trust during the taxable year. The law applies to taxable years beginning on or after January 1, 1998.

Voluntary contributions. SB 1253 - Mountjoy (Ch. 97-856), among other things, reenacts the California Military Museum Fund voluntary contribution and extends its operation to January 1, 2002. The fund must receive a \$250,000 minimum contribution, adjusted for inflation, to remain on the tax return. The law is effective on January 1, 1998, and first applies to 1997 individual tax returns filed in 1998.

SB 39 - Johannessen (Ch. 97-7) appropriates the monies in the California Military Museum Fund and the D.A.R.E. (Drug Abuse Resistance Education) Fund. The law is effective now.

SB 78 - M. Thompson (Ch. 97-87) reenacts and extends to January 1, 2002, the operation of the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Fund voluntary contribution. It also provides that the fund must receive \$250,000, indexed annually for inflation, in contributions each year to remain on the income tax return. The law is effective on January 1, 1998, and first applies to 1997 individual tax returns filed in 1998.

SB 532 - Solis (Ch. 97-596) extends the operation of the California Firefighters' Memorial Fund voluntary contribution to January 1, 2001. It requires the fund to receive a minimum contribution of \$100,000 for 1999 and \$250,000 in subsequent years to remain on the tax return. The law is effective on January 1, 1998, and first applies to 1997 individual tax returns filed in 1998.

AB 1033 - Frusetta (Ch. 97-630) reenacts and extends the operation of the Children's Trust Fund voluntary contribution to January 1, 2002. The law is effective on January 1, 1998, and first applies to 1997 individual tax returns filed in 1998.

SB 602 - Alpert (Ch. 97-337), among other things, extends the operation of the California Breast Cancer Research Fund voluntary contribution to January 1, 2003. The fund must receive a \$250,000 minimum contribution, adjusted for inflation, to remain on the tax return. The law is effective on January 1, 1998, and first applies to 1997 individual tax returns filed in 1998.

Warrants. AB 874 - Takasugi (Ch. 97-920) restructures the negotiability of state warrants, generally reducing the negotiable period from four years to one year. The law applies to all state warrants issued on or after January 1, 1998. □

Watch for Tax News Index

The 1997 Tax News Index is scheduled to be published in the January 1998 issue.

The index will list all articles from 1997 issues of the newsletter, categorized by subject matter. □

Visit FTB in Cyberspace

Contact the Franchise Tax Board on the Internet for tax forms, FTB news and quick access to other government agency Web pages.

You can locate FTB at its <http://www.ftb.ca.gov> Internet address. □

1099s: When Magnetic Media Is Required

Some of your clients who file information returns in California may experience a "magnetic pull."

That's because they are required to file on magnetic media with the Franchise Tax Board if they file 250 or more of one kind of information return. However, anyone who files information returns may choose to file on magnetic media, no matter how many returns are involved.

All the Form 1099 series, 1098, 5498 and W-2G are subject to the magnetic media filing requirement. Keep in mind that Forms 1099-R, even ones with withholding, are now filed with FTB. And Forms 1099-C and 1099-LTC must be filed with FTB beginning with the 1997 calendar year. All information returns are due February 28, except the 5498 returns, which are due May 31.

FTB does not have an electronic filing program for information returns, but magnetic media filers may use diskette, cartridge or tape in certain formats. Filers also may choose from one of three methods of filing:

- **Combined federal/state filing program.** With this program, a filer does not need to file separately with California, because the Internal Revenue Service will forward the magnetically filed information it receives to the Franchise Tax Board. However, a filer must request IRS approval to participate in the program by sending the IRS a test file between November 1 and December 31. The IRS informs the filer by letter whether the test file is acceptable. An approved filer then must send a copy of the approval letter to the Franchise Tax Board. Not all types of information returns can be filed through the combined federal/state program. For information on the program, call the IRS at (304) 263-8700.

Direct filing. Anyone who files directly with California is not required to submit a test file. However, magnetic media filers might want to send a test the first time or if their organization has either undergone a significant system change or is changing from one

medium to another, such as from tape to diskette.

First-time magnetic media direct filers must file form FTB 4092, "Magnetic Media Filing Application," by December 31, 1997. The Franchise Tax Board generally responds within three weeks with a filing package that includes media labels, a transmittal form and an information bulletin that covers any changes in filing procedures for the year. Anyone who filed magnetically in a past year will automatically receive the filing package in November.

- **Indirect filing.** With this method, a transmitter acts as an agent on the filer's behalf. The transmitter may file under the combined program or directly with California. The transmitter is responsible for submitting any required IRS approval letter or application to FTB.

If you have any questions or want to request an application to file magnetically, call FTB's magnetic media

FTB Has New EFT Bank

The Franchise Tax Board soon will use a new bank account for tax payments made by electronic funds transfer (EFT).

Starting January 1, 1998, EFT payments must be transmitted to a Union Bank of California account, instead of to a Bank of America account. FTB will mail the necessary bank account information to all affected EFT participants during the first week of December. The participants in turn must provide the information to their financial institutions for any payments due in January 1998 or later.

The change in EFT transmission information applies to business entity taxpayers who remit payments by EFT. However, only taxpayers who remit payments by the Automated Clearing House (ACH) credit method or by Fedwire are affected. With the ACH

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Scannable/Substitute Forms Producers Need FTB Approval

Are you planning to use scannable or substitute 1997 state tax forms?

If so, make sure they meet the Franchise Tax Board's requirements. Otherwise, the software you use may produce forms that cannot be processed quickly. Processing problems are especially likely to happen when unapproved Schedule K-1 forms are filed.

All companies that publish, produce or sell electronically-processed substitute California tax forms or image-processed scannable Forms 540 and 540A must file an agreement to comply with FTB requirements for the forms. Also, FTB must approve the forms before they are sold or provided to tax preparers. Companies that sell or provide photocopies of official FTB forms do not need approval.

To date, the companies listed below have filed form FTB 1096, "Agreement to Comply with FTB Publication 1098," for the 1997 tax year. The form states that the companies agree to follow certain rules for developing scannable and substitute forms. Filing form FTB 1096, however, does not constitute approval from FTB.

Be sure to ask a company to show you FTB's letter of approval before you use its forms. Do not accept a general statement that the forms have been approved. Instead, give the company a list of the forms you plan to use, and make sure that each one is approved.

Companies that have filed form FTB 1096 to date are:

AEI Fund Management, Inc.
Abel-Wagner Inc. (714) 572-8585
Accountant Stationers & Printers
(800) 423-9717
Accountware (513) 561-1881
Alpine Data Inc. (800) 525-1040
AM Software (816) 741-7848
American Tax Services
Applied Information Solutions
(303) 893-8936
Arthur Andersen LLP (941) 365-9469
Atilla M. Taluy (805) 984-0248
ATX Forms (207) 455-4848
Block Financial Corporation (Tax Cut)
(913) 599-2885
Brass Tax Presentations (619) 487-2553
Bryan Cave LLP
BSoft Corporation (408) 438-7071
CCH Federal and State Tax Unit
CCH Incorporated (Torrance) (310) 543-6200
CCH Incorporated (Wichita, KS)
(316) 685-8100

CLR/Ace Division (770) 432-1996
CLR/Fast Tax (800) 327-8829
CompuCraft Tax Services (800) 435-7829
Computer Systems Analysis Corporation
Consolidated Business Systems
(800) 262-4461
CPASoftware (800) 434-2685
CPSystems, Inc. (804) 346-0640
Creative Solutions Inc. (313) 426-5860
Curtis Publications Inc.
Data Technology Group, Inc. (617) 661-1118
Dave Gomberg's JCF Systems
(415) 731-7793
David Osman's Tax and Accounting
Deloitte & Touche Tax Technologies LLC
(800) 966-1639
DRAKE Software (704) 524-8020
EXACTAX Inc. (800) 352-3638
Federated Tax Service Inc.
Gear Up Tax Seminars (916) 268-6508
Gemisys Corporation (303) 705-6000
Hambrecht & Quist (415) 576-3300
H&R Block/Tax Systems Development
(816) 753-6900
Hayden R. Wisdom, E.A. (916) 888-1040
Hogan & Hartson, L.L.P. (202) 637-8566
HowardSoft (619) 454-0121
Independent Preparer Services, Inc.
(818) 701-3090
Inland Society of Tax Consultants
Intuit, Inc. (619) 784-4274
ITS, Inc. (800) 487-8291
Jackson Hewitt Tax Service (757) 473-3300
JTR Bookkeeping & Tax (888) 869-4017
KPMG Peat Marwick LLP
Lacerte Software Corporation (972) 490-8500
Les Blend Co. (650) 917-0558
MAVRICC Management Systems
(248) 614-4500
Mercury Printing and Stationery Co.
(800) 421-2220
Micro Vision Software, Inc. (800) 829-7354
Nelco, Inc. (920) 337-2848
ORRTAX Software (800) 377-3337
Pencil Pushers Tax Software (617) 273-4556
PETZ Enterprises, Inc. (209) 835-2720
Prestige Graphics (619) 560-8213
Professional Stationers Inc. (800) 874-7383
Probate Software Co., Inc. (970) 330-3260
RealNet Software, Inc.
Reynolds & Reynolds (formerly Duplex
Products, Inc.) (408) 934-8540
Roseberg Escobar Services (213) 563-0497
Service Data Corporation (402) 691-6338
Short Form Software (914) 353-4177
Spidell Publishing Inc. (714) 776-7850
STF Services Corporation (800) 541-7197
Tax And Accounting Software Corporation
(800) 998-9990
Tax Biz (408) 243-1472
Tax Form Library (800) 466-9110
Tax Forms, Inc.
Tax Link, Inc. (614) 457-1949

Does Your Software Support Fiscal-Year Filing?

If any of your clients file on a fiscal-year basis, make sure that the tax software you use accommodates their needs.

Not all tax software supports fiscal-year filing. As a result, you may need to fill out some clients' tax forms manually.

Whether you use tax software or fill out the forms manually, be sure to enter the fiscal-year date in the appropriate place on the form. If you do not, the tax return will automatically be processed as a calendar-year return. When this happens, the taxpayer most likely will appear to be delinquent in some way. As a result, the taxpayer could receive a delinquent or late payment of tax penalty or an underpayment of estimated tax penalty and may be assessed interest.

If you have questions about your software's ability to support fiscal-year filing, contact the company that produces the software. □

Disaster Victims Reside in 48 Counties

Disaster victims in 48 California counties are affected by the provisions of Assembly Bill 1X (see article on this page).

The 48 counties, declared disaster areas due to the December 1996 and January 1997 storms and floods, are Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, Tulare, Yolo and Yuba. □

New Tax Law Aids Disaster Victims

A new California law provides special disaster loss carryover treatment for victims of last year's storms and floods. It also allows some victims additional time to elect to claim their disaster losses on the preceding year's tax return.

A disaster loss is a casualty loss that is due to a disaster and that is not reimbursed by insurance or other payments.

Assembly Bill 1X - Cardoza (Ch. 97-3X), which became law in September, states that flood and storm victims in 48 California counties (see list on this page) during December 1996 and January 1997 may carry forward 100 percent of the disaster loss for five years. Fifty percent of any remaining loss may be carried forward for the next 10 years.

The new law also deals with electing to claim a loss on a preceding year's return:

For losses suffered in 1996. The bill extended to October 15, 1997, the date by which individuals who file on a calendar year basis could amend previously filed tax returns in order to claim the loss in the prior year. For corporation disaster victims, the date was extended to the 15th day of the tenth month after the close of the 1996 income year. Prior to AB 1X's passage, individual disaster victims were required to file an amended 1995 return

by April 15, 1997, and corporation disaster victims were required to file by the 15th day of the third month after the close of the 1996 income year.

For losses suffered in 1997. Individual disaster area victims who file on a calendar year basis must claim the loss on an original return filed by October 15, 1997, or on an amended 1996 return filed no later than October 15, 1998. Corporation victims must file their amended 1996 returns no later than the 15th day of the tenth month after the year's close. □

Were Tax Returns Lost in Flood?

Did any of your clients lose their tax returns in the December 1996 or January 1997 storms and floods?

They can request free copies of lost or damaged returns by writing the Franchise Tax Board. FTB keeps personal income tax returns up to four years. For example, as of this month, FTB has personal income tax and partnership returns for tax years 1994, 1995 and 1996. Beginning in January, FTB also will have returns for 1997. Bank and corporation returns are kept up to five years.

Your clients may request copies of returns by completing and mailing form FTB 3516, which on one side is a "Request for Copy of Personal Income Tax or Fiduciary Return" and on the other side is a "Request for Copy of Bank and Corporation or Partnership Return." Or your clients can send a letter to FTB stating the tax year and type of return they need. They should write to RID Unit, Franchise Tax Board, P.O. Box 942840, Sacramento, CA 94249-0060.

Victims of the storms and floods in counties designated as disaster areas by the President will not be charged for copies of their tax returns if they print "DISASTER" at the top of the letter or form FTB 3516. For other taxpayers, the charge for a copy of a personal income tax return is \$10. Charges for copies of partnership or bank and corporation returns vary according to the number of pages. FTB will notify the taxpayer of the amount due. □

Scannable/Substitute Forms Producers

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Tax Systems, Inc. (713) 682-1791
TAXBYTE, Inc. (800) 245-8299
TaxSimple, Inc. (800) 989-8955
Taxware Systems, Inc. (800) 877-1065
Taxworks by Laser Systems (801) 552-8800
Technology Funding, Inc. (505) 982-2200
TFP Data Systems
TK Publishing Inc. (Tax Shop) (407) 351-0966
TMI Tax Services, Inc. (612) 935-6111
Total Peripherals, Inc.
Universal Tax Systems (706) 232-7757
U.S. Tax Systems, Inc. (800) 966-8787
Visible Computer Service (630) 377-2586
Wallace Computer Service (630) 377-2586
Weaver Tax Service (408) 258-0912
Westpro LTD
William H. Downs, CPA (818) 981-4313
XPRESS Software, Inc. (800) 285-1065 □

Comments Sought on Proposed Telecommunications/Electronic Services Regulation

The Franchise Tax Board is seeking public comment on a draft regulation affecting businesses involved in telecommunications, subscription television, Internet access and electronic information services. The regulation would prescribe special apportionment rules for dividing the businesses' income for tax purposes.

FTB Notice 97-9 is a request for public comment on the draft of proposed regulation 25137-13. The draft was prepared for discussion purposes, and written comments are due to FTB by January 2, 1998.

The draft, among other things, proposes rules for determining the property factor and sales factor numerators of the apportionment formula to be applied to affected taxpayers.

To obtain copies of the discussion draft regulation and explanation, write Legal Branch-Telecommunications, Franchise Tax Board, P.O. Box 1720, Rancho Cordova, CA 95741-1720. You may call the FTB's Legal Branch at

(916) 845-3354 or send a fax to (916) 845-3648. And information is available at FTB's <http://www.ftb.ca.gov> Internet site.

The notice states that, in 1995, FTB held a symposium on apportionment for affected businesses. A second symposium or a public meeting may be held before the formal notice process for the regulation begins. Notice 97-9, issued on September 5, has been published by most tax services. □

Address Correction

An article in the September issue of Tax News listed two addresses for mailing scannable returns. The correct address for mailing scannable returns showing that a refund or no amount is due is Image Processing, Franchise Tax Board, P.O. Box 942840, Sacramento, CA 94240-0009. Scannable returns with a balance due should be sent to Franchise Tax Board, P.O. Box 942867, Sacramento, CA 94267-0001. □

Send Vouchers With All 1997 Tax Payments

Starting with the 1997 income tax forms, all of your clients who owe taxes must attach a voucher as well as a check to their returns.

The new vouchers will be published in all 1997 income tax booklets for both individuals and business entities. They are a cost-saving measure, designed to make the processing of returns faster and more efficient. □



California Franchise Tax Board

Tax Practitioner Contacts

Tax Practitioner Support Unit (not toll free)

Telephone.....(916) 845-7057
 Fax.....(916) 845-6377

General Public Services

F.A.S.T. (Fast Answers about State Taxes)...(Phone) (800) 338-0505
 Internet..... <http://www.ftb.ca.gov>

General Information (Phone)

From within the U.S. (800) 852-5711
 From outside the U.S. (not toll-free). (916) 845-6500
 Hearing impaired TDD. (800) 822-6268



Wage Amounts to Be Verified

What happens when the amount that a taxpayer claims as wages on a California tax return is not the same amount that the Employment Development Department reports?

Due to a new automated wage verification system, the Franchise Tax Board will discover discrepancies as 1997 tax returns are processed. When errors are spotted, FTB will check with employers and, in June 1998, will begin correcting the returns. FTB will notify taxpayers of the corrections. Taxpayers do not have to file amended returns to correct the errors.

The wage verification program that begins in June will be a pilot. FTB will implement a permanent program the following year.

Wage verification is the second automated, on-line check to determine if taxpayer and EDD information match. The first verification process checks withholding information. □

Automated Checks Lead to Withholding Adjustments

By the end of August, the Franchise Tax Board had adjusted the withholding amounts claimed by almost 80,000 taxpayers on their 1996 returns.

The withholding amount increased for some taxpayers because the wages they claimed were substantiated. In fact, FTB increased more taxpayer withholding claims on 1996 returns than for any previous tax year. However, more often than not, the adjustments led to a decrease in the amount of the withholding claimed.

A automated on-line withholding verification process allows FTB to check withholding amounts that taxpayers claim on their returns against amounts that the Employment Development Department reports. It is one aspect of an automated information exchange between FTB and EDD and part of an ongoing integration of California's personal income tax and employment tax systems. A wage verification process will begin in 1998 (see article on this page).

As a result of the withholding verification process, FTB has reviewed 2.5 million 1996 tax returns since the first of the year and made adjustments to the withholding amounts claimed on 78,486 returns. Of these adjustments, 21,038 were increases, and 57,448 were decreases. In addition, the verification process identified approximately \$2 million in fraudulent refund claims that then were denied.

The withholding verification process also

identified another 11,000 tax returns that will be reviewed at a later date when they can be checked against more complete EDD employment information. □

FTB Has New EFT Bank

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credit method, the taxpayer's bank debits the taxpayer's account and credits the state's bank. Fedwire is an electronically transmitted payment system offered by the banking industry.

(Taxpayers who make EFT payments with the ACH debit, instead of the credit, method are not affected by the change in bank accounts. With the ACH debit method, taxpayers authorize the state's bank to debit the taxpayer's account on each payment occasion and specify the payment's amount and date.)

Business entity taxpayers must pay their taxes by EFT if any single estimated tax payment or extension payment exceeds \$20,000 or if their total tax liability exceeds \$80,000 for any income year. Others may volunteer to pay taxes by EFT.

If you or your clients have not received the new bank account information by December 20, call FTB's EFT Help Desk at (916) 845-4025. □

Tax Practitioner Contacts (continued)

Which Number Do I Call?

Tax Practitioner Support Unit Telephone — Do you need a quick answer? Specially trained technicians are available from 8 a.m. to 5 p.m., Monday through Friday, to answer questions related to client accounts. *(This service is for tax practitioners only.)*

Tax Practitioner Support Unit Fax — Do you need to write to FTB? You can fax your correspondence any time, 24 hours a day, 7 days a week. *(This service is for tax practitioners only. Please limit faxes to 15 pages.)*

FTB on the Internet — The Franchise Tax Board Web site gives you access to tax forms and information 24 hours a day, 7 days a week. You can download tax forms and publications and access specific program information, e.g., electronic filing, withhold-at-source and Legal Rulings. *(This service is available to the general public.)*

F.A.S.T. — An interactive voice response service provides recorded answers to more than 160 of the most commonly asked state income tax questions, 24 hours a day, 7 days a week. Tax refund status and forms ordering are available from 6 a.m. to 10 p.m., 7 days a week, except state holidays. *(This service is available to the general public.)*