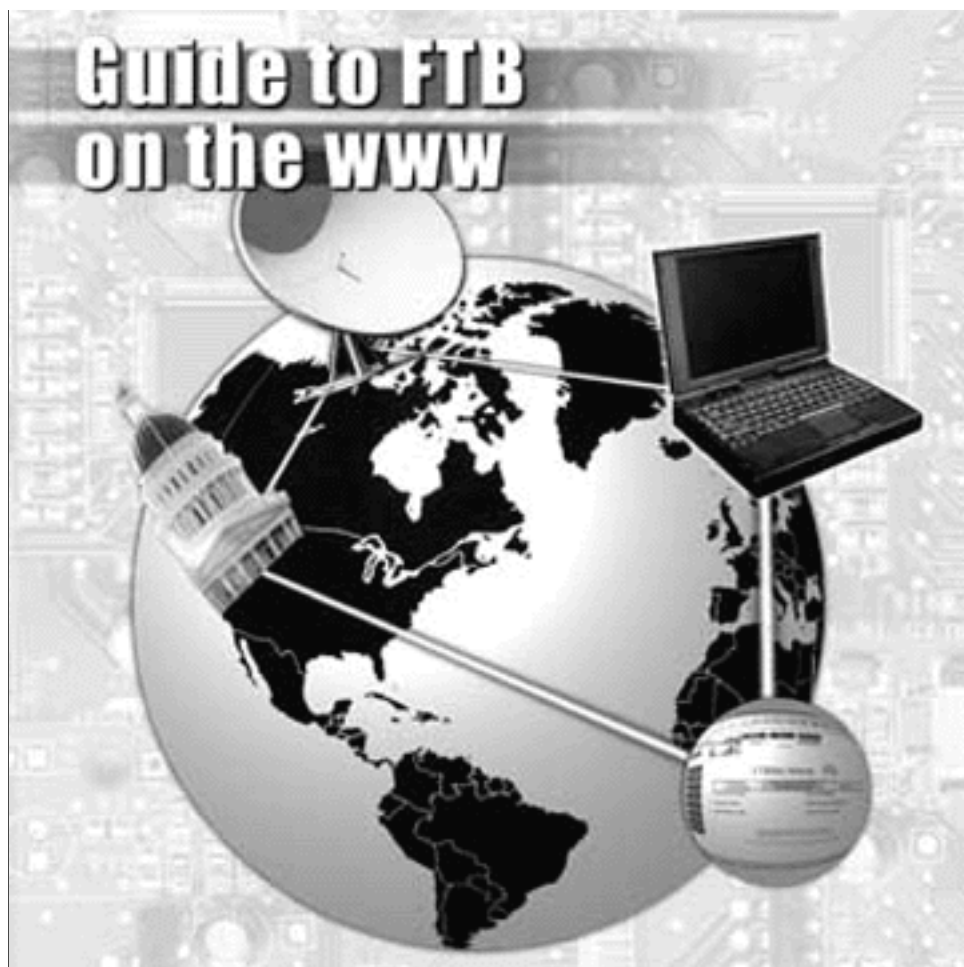


September 1999

CALIFORNIA FRANCHISE TAX BOARD

Tax News



Any given day, you can go to www.ftb.ca.gov and get the most current information affecting tax professionals, e.g., tips on how to avoid common tax preparation errors or information about how recent disasters affect taxes.

But what about when you need something other than what is readily available on our homepage? Do you know where to find it? Do you know *how* to find it?

Whether you are an Internet beginner or a skilled surfer of the World Wide Web, this "Guide to Franchise Tax Board on the Internet" is for you.

If you are familiar with the Internet and the World Wide Web, you know that *websites constantly change*. Our website is no exception. But with the help of our guide, located on page five, you will always be able to navigate our website's terrain, even when the road signs change. And in the end, you will save time and be more productive.

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Tax News

Volume 99-5 September 1999

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

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PO Box 2708
Rancho Cordova, CA 95741-2708
or call: (916) 845-7070.

To view TAX NEWS on the Internet or to request an electronic mail subscription, contact FTB on the Internet:
www.ftb.ca.gov

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

To send a facsimile about a client's account, transmit to:

Electronic Correspondence
(916) 845-6377

Information Center:
(800) 852-5711

From outside U.S. (916) 845-6500

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TDD (800) 822-6268

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New Look for Power of Attorney

Responding to requests from practitioners for an easier power of attorney process, the Franchise Tax Board unveiled a new automated power of attorney system in August.

FTB can now maintain information about taxpayers' representatives in one centralized location.

The new system features a new centralized computer database called the POA file. It uses automation technology and centralization procedures similar to those used by the Internal Revenue Services' centralized authorization file.

In the past, powers of attorneys were manually processed and maintained. As a result, the original documents were difficult to track and maintain.

Under the new system, whenever an FTB employee needs to verify your power of attorney, they simply access the POA database. Employees can conduct searches using one of several search variables, including social security numbers, names or tax years. There is

also a field for the centralized identification number assigned to representatives by the IRS' power of attorney system.

As part of the new look, FTB also revised their form FTB 3520, "Power of Attorney Declaration for Administration of Tax Matters." The most significant changes are:

- You can now use one form for personal income tax, bank and corporation and partnership clients.
- The power of attorney may be authorized for not more than three future years, similar to the IRS form.
- The multiple banks and corporation schedule (formerly form FTB 3520A) is incorporated into this one form.

You must submit a new form FTB 3520, "Power of Attorney Declaration for Administration of Tax Matters." in order to ensure that FTB has your most current POA information in its new database.

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FTB's Role In Child Support May Expand

At press time, three pieces of legislation that would increase the Franchise Tax Board's role in California's child support enforcement activities were awaiting Governor Gray Davis' signature.

AB 196 establishes a new state Department of Child Support Services (DCSS) within the Health and Welfare Agency. The bill maintains FTB's role as the primary collection agency for delinquent child support and authorizes FTB to collect child support payments that are 60 days delinquent rather than 90 days as it has been in the past.

AB 150 gives FTB the responsibility of creating a statewide child support automation system for California. This new statewide system would provide for

the sharing of all data and case files and the standardization of functions across all of the counties.

California faces millions of dollars in federal penalties because it does not have a statewide child support data, case registry and disbursement systems—as mandated by the federal government.

The third bill, SB 542, allows third parties (employers, etc.) to send child support funds directly to local child support agencies rather than to FTB. A statewide disbursement unit will eventually handle the function of receiving and distributing child support funds.

FTB's success with procuring automation systems in the past is the reason for its

CONTINUED ON PAGE 12

Muni Bond Interest

California Taxes Interest Income Earned on Municipal Bonds Issued Elsewhere

Taxpayers who earn municipal bond interest from non-California governmental entities must make an adjustment on their California returns in order to properly report the income.

California law requires that all interest income be included in gross income, unless the interest is specifically exempt from tax. Although California does not tax the interest earned on bonds issued by California state or local governments, or by the federal government, it does tax interest income earned on municipal bonds issued by another state or that state's municipalities.

Assembly Bill 1040, applicable to payments received on or after January 1,

1997, requires financial institutions to file information returns with FTB for any interest they distributed to California residents from municipal bonds issued outside of the state.

Payments of interest totalling \$10 or more on these types of municipal bonds to California taxpayers are now being reported to the Franchise Tax Board under this filing requirement.

California taxpayers do not report interest income from out-of-state municipal bonds on their federal returns because this income is exempt from federal taxation. Consequently, they must adjust their California returns by filing a Form 540 and adding the municipal bond interest to line 8 of Schedule CA.

In May 1999, FTB began a pilot project on tax year 1997 returns to determine taxpayer compliance with the reporting of municipal bond interest. FTB plans to conclude the 1997 tax year pilot at the end of 1999.

Power of Attorney Facts Available

CONTINUED FROM PAGE 2

For more information about FTB's power of attorney program, refer to form FTB 1144, "Power of Attorney: Frequently asked Questions."

To contact the Power of Attorney Unit, write to:

Power of Attorney Unit
P O Box 2828
Sacramento, CA 95741-2828
Or, send the unit a fax to 916- 845-0523.

Form FTB 3520 is available by:

Internet: Fill it out online or have it sent to you via email. Go to the "FTB 1998 California Income Tax Forms, Instructions

and Publications" webpage, located at www.ftb.ca.gov/forms/98_forms/index.htm. Scroll down to the "Tax Forms and Instructions" section and look for form FTB 3520.

Telephone: Call FTB toll-free from within the United States at 1-800-338-0505. If you are outside the United States, call 1-916- 845-6600. This is not a toll-free call.

Write FTB: Write FTB at:

Tax Forms Request Unit
P O Box 307
Rancho Cordova, CA 95741-0307

FTB Calendar

September

- Requests for tax returns are mailed to individuals who have not filed their 1997 personal income tax returns.
 - Notices of Proposed Assessment are mailed to individuals who have not filed their 1997 tax returns.
- 15 1999 personal income tax estimate payments are due.
- 20 Previous month nonresident withholding payments are due if total withholding exceeded \$2,500.

October

- Requests for tax returns are mailed to individuals who have not filed their 1997 personal income tax returns.
 - Notices of Proposed Assessment are mailed to individuals who have not filed their 1997 tax returns.
- 15 Final extended due date for personal income tax returns.
- 20 Same as September

November

- Requests for tax returns are mailed to individuals who have not filed their 1997 personal income tax return.
 - Notices of Proposed Assessment are mailed to individuals who have not filed their 1997 tax returns.
- 1 Last day for California Tax Policy Conference registration, to avoid late fee.
- 20 Same as September

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Credit Card Option Available to e-file Clients

Your clients can now use their Discover/NOVUS, MasterCard or American Express credit cards to make third quarter estimated tax payments.

The credit card option will be available to taxpayers who e-file, use TeleFile or file paper returns.

Frequently Asked Questions About Power of Attorney Program

CONTINUED FROM PAGE 3

Here are some of the frequently asked questions about the Franchise Tax Board's Power of Attorney Program.

When Does FTB typically require a power of attorney?

Some of the typical situations in which we will ask for a power of attorney include:

- when you request copies of your client records including tax returns, account records or any other confidential information; or,
- when you request information that we originally obtained from the Internal Revenue Service.

Regarding requests for information by telephone: If you have a copy of the tax return, bill or examination letter, we will ask a few questions to verify that you are the taxpayer's authorized representative. When we are satisfied that you are the taxpayer's representative, we will answer questions regarding the form you are calling about.

However, if you want information beyond what is directly related to the return, bill or letter in question, we will ask you for a power of attorney.

My clients filed a joint return but are now divorced. As a result, there are now two representatives. Can both representatives have power of attorney on the joint return issues?

Yes. However, indicate on the power of attorney that you only represent your client for those issues on the joint return.

In what situations might FTB bypass an authorized power of attorney?

When presented with a properly executed power of attorney, we will make every reasonable attempt to resolve the issues with the representative designated by the taxpayer. In cases where the representative is uncooperative, or repeatedly fails to meet commitments, we will contact the taxpayer directly.

How long will the power of attorney be valid?

A power of attorney must specify the tax years or period that it covers. If it doesn't specify the period covered (examples: through December 31, 1999, or 90 days from this date), the power of attorney will remain in effect until all issues regarding the specified tax years are resolved.

Must the power of attorney be notarized?

A power of attorney submitted to us no longer needs to be notarized.

Can my client just send you a letter instead of one of these special forms?

Yes. Make sure that your client's letter contains the following information:

- His or her name, social security number or identification number;
- Your name, address and phone number;
- The date when this authorization will no longer be valid;
- The tax years or period covered,
- Any restrictions on the authorization, and;
- His or her signature and date signed.



Guide to FTB on the World Wide Web

Search

We provide a search engine to help you find information maintained on our website by inputting specific words or phrases. (Look for the *search* field in the upper left-hand corner of the page or a search link at the bottom of most webpages.) Here are some tips for using our search engine:

Use the “*Search Tips*.” If you are new to our website, take a few minutes to familiarize yourself with our search engine before you search.

Look at the bottom line. When you conduct a search on our website, you may get one possible answer to your query, or you may get one hundred. This is when understanding how our website works can save you time.

You can perform a quick review of each entry without actually opening it. Simply read the hyperlink address at the bottom of each entry.

For example, if you typed “3520” into our search engine, you would get more than 50 matches. Here is what one match would look like:

1998 California Income Tax Forms and Instructions

Abstract: 1998 California Income Tax Forms, Instructions and Publications. Have the form emailed to you. This file...http://www.ftb.ca.gov/forms/98_forms/index.htm

The words, “*forms*” and “*forms/index*,” indicate that this entry is located on our *Forms Index* webpage.” Click on this entry and it will take you directly to where the 1998 version of form FTB 3520 resides.

There are several ways to fine-tune your search so that you can narrow or expand the focus of your query to get the results you want. These instructions are found under *Search Tips*.

Problems

If you experience problems accessing our website or downloading information from it, please contact our webmaster via email. Our webmaster address is webmaster@ftb.ca.gov.

When you e-mail the webmaster, please make sure you type your own e-mail address correctly so the webmaster can respond.

We continually try to improve the website. If you have any suggestions, please let us know. You can e-mail the webmaster directly at webmaster@ftb.ca.gov Please provide your own email address in case we need additional information.

Guide to FTB on the World Wide Web

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Recent Additions

Recent Additions is where we list information recently added to the website. You will find links to:

- current news releases published by our Public Affairs Office,
- FTB's analyses of State Assembly and Senate bills,
- recently revised FTB forms; and,
- other recent developments affecting FTB.

Taxpayer Advocate

As a tax practitioner, you have access to our Tax Practitioner Support Unit. However, don't overlook the *Taxpayer Advocate* webpages as a source of information. These pages provide:

- information on the rights of California taxpayers,
- links to the Principles of Tax Administration, Regulations and the California Revenue & Tax Code.

Forms & Publications

The *Forms and Publications* webpages allow you to view and print California tax forms and provide links to federal tax forms, forms for other California taxing agencies and tax forms for other states.



TIP: Did you know that you could also have 1998 and 1999 forms and publications sent to you automatically by email? If you have ever waited for a large form or publication to download from a website, you will appreciate this timesaving feature. To receive forms by email:

- Locate the form or publication. Click on the *email* icon located on the left of the form or publication you selected.
- Enter your email address.
- If the information you entered is correct, click the *Submit* button.

The form you receive will be in *Adobe's Portable Document Format (PDF)*. You will need the *Adobe Acrobat Reader 3.0* to view and print the tax forms. (You can download a free copy of the *Adobe Acrobat Reader 3.0* at www.adobe.com/acrobat/readstep.html).

You will receive your form or publication in your email in-box within a few hours (Most receive forms within a few minutes!) And best of all, your computer won't be tied up with a large download.

Electronic Services

The Electronic Services webpage is where we showcase our laborsaving filing and reporting programs. Click here when you want to:

- Learn about e-file requirements for practitioners and transmitters.
- Find out how to pay business and corporation taxes quickly and efficiently with electronic fund transfers.
- File certain information returns and schedules electronically.
- Download TestWare that allows you or your file transmitter to test the files before submitting them to FTB (send error-free files on the first try).

Guide to FTB on the World Wide Web

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Tax Assistance

Click on this button and you will be immediately connected to the following webpages:

- Individual Taxes
- Banks and Corporations
- Limited Liability Companies
- Partnerships
- Information Return Reporting
- Estates and Trusts
- Enterprise Zones, Program Areas, LAMBRA, LARZ
- Homeowner and Renter Assistance
- Tax Forms
- FTB Mailing Addresses

Need an FTB telephone number or field office address? They are all listed on this page along with many of our Internet email addresses.

Bills & Notices

Click on the *Bills and Notices* button to get information and application forms for our Offer in Compromise and Installment Agreement programs.

Law & Legislation

Go to our *Law and Legislation* webpages if you need:

- legal notices and rulings,
- proposed regulations; and
- notices explaining changes made to California income tax laws.

FTB staff analyzes all legislation that could affect FTB and provides their analysis to Franchise Tax Board members, the California Legislature, State and Consumer Services Agency, the Department of Finance and the Governor.

The bill analyses are available on this webpage for your use. The webpage also contains links to the California Revenue and the Tax Code and California Code of Regulations (CCR)



Tip: Did you know that our Legal Branch directory is available on its webpage?

The directory includes the names, telephone numbers and area of expertise for all Legal staff.

Another useful website is the Legislative Council for California's official site for California legislative information. Located at www.leginfo/bilinfo.html, this site contains the full text of bills, resolutions, and constitutional amendments, and their status, history, votes, analyses and veto messages are available. If you know the bill, select the session, and house of origin and type the bill number to retrieve this information. Don't know the bill? Use the site's search engine to locate bills by author, key words or enactment date.

Want the most current information about a bill as soon as it is available? Sign up for their subscription service. It allows you to subscribe to a specific bill(s). Once subscribed, if any changes occur to the bill(s), you will be notified via email.

Education & Outreach

Looking to earn continuing education credits? Need a speaker to explain the head of household filing status? Go to our Education and Outreach webpage.

This is also where you will find *Tax News* online. You can subscribe to the *Tax News* Internet mail service online. Once you subscribe, we will email a PDF version of each issue of *Tax News* to you. This service is free of charge.

Also visit our *Tax News* Archive. It contains links to issues dating back to 1997. Or scroll through the *Tax News* Index to locate articles about a particular subject published in *Tax News*.

Other FTB Info

Don't overlook this section of our website. It has many one-of-a kind web features including an interactive database that allows you to search for corporate deductible dividend reports by inputting the corporation's name and the calculation of the adjustment to the limited liability company fees for 1999.

We also provide on this webpage:

- FTB public hearing notices, agendas and meeting minutes,
- FTB Annual Reports for 1997, 1996, 1995 and 1994;
- FTB Public Hearing Information; and,
- Summary of Federal Income Tax Changes.

Tax Agencies Offer Free Seminars to Business Owners

Taxpayers Also Welcome

The Franchise Tax Board, along with the State Board of Equalization, Internal Revenue Service, Employment Development Department and other state, local and federal organizations, routinely offer free seminars for business owners and individual taxpayers.

For information about FTB's participation in these events, contact Alvaro Hernandez, FTB Small Business Tax Education Coordinator, at (916) 845-5257.

Also visit the BOE Web site at www.boe.ca.gov and click on "Taxpayer Education." For more information about the following seminars, contact the number provided.

Fullerton

September 24, 1999
CSU, Fullerton
Titan Student Union
800 N. State College Blvd.
(949) 461-5754

Los Angeles

October 1, 1999
West Los Angeles College
4800 Freshmen Drive
Culver City, CA
(310) 342-1080

San Diego

October, 16, 1999
Point Loma Nazarene University
3900 Lomaland Drive
(760) 744-6284, ext. 410

Van Nuys

November, 4, 1999
AirTel Plaza Hotel
7277 Valjean Avenue
(818) 901-5690

CPE Credits Available From Tax Practitioners' Institute

In November and December, the 1999 Tax Practitioners' Institute will offer tax practitioners the opportunity to obtain up to 24 hours of continuing professional education credits.

The education credits may be used to satisfy the requirements of the California State Board of Accountancy, the Department of Consumer Affairs and, for enrolled agents, the Internal Revenue Service.

The Institute will offer federal and state tax law programs at the following times and places. For enrollment, registration fee and other information, call the telephone number listed below for the site nearest you.

Sacramento

November 1-3
(916) 278-7129

Fresno

November 4-6
(209) 278-2352

Cupertino

November 11-13
(408) 342-0235

Chico

November 15-17,
(916) 898-6105

Santa Barbara,

November 18-20
(805) 893-4952

Oakland

November 29 - December 1
(510) 885-3605

Monterey

December 2-4
(408) 342-0233

Arcata

December 6-8
(707) 826-3731

The Institute's federal program covers compliance issues including policy and procedural updates for the current season and tax planning strategies for individual and corporate returns. The state program includes a review of changes in state income and franchise tax law and policy.

Register Now for Tax Policy Conference

Tax experts from around the country will debate the hottest issues facing tax professionals today at the 15th annual California Tax Policy Conference.

The conference, scheduled for November 8 through 10, 1999, will be held at Loews Coronado Bay Resort, located in Coronado, Calif.

The California Tax Policy Conference is sponsored by the Franchise Tax Board, the Institute of Governmental Affairs at the University of California, Davis, and the California Policy Research Center, a University of California Program.

The conference will help you get a competitive edge on what is happening in tax law and tax administration.

How to Register

The cost for this year's conference is \$695. The fee includes all workshops,

general sessions and conference materials; Monday's reception; Tuesday's breakfast, lunch, dinner and entertainment and Wednesday's breakfast.

Your registration form and payment must be postmarked no later than November 1, 1999, to receive the \$695 registration price.

Registration forms postmarked after November 1, 1999, will be charged \$770.

To register, mail your order form and check to:

CTPC Conference Registration
PO Box 115
Rancho Cordova, CA 95741-0115
Or, fax it to (916) 845-0805.

To receive an order form, call (916) 845-7998.

You can also register online by visiting our website at:
www.ftb.ca.gov/education/ctpc.

Hotel accommodations are not included in the conference registration fee. However, the Loews Coronado Bay

Resort is offering a special room rate for this conference.

To make hotel reservations, call Loews Coronado Bay Resort directly at (619) 424-4000 and identify yourself as an attendee of the 1999 California Tax Policy Conference.

Register early. Special room rates are only guaranteed through October 8, 1999.

After this date, reservations will be accepted only on a space available basis.

Don't Miss Out on Conference Workshops

Here is a summary of the workshops scheduled for this year's California Tax Policy Conference:

Legislation (The Good, the Bad, and the Ugly) A brief summary of the most significant pieces of legislation from the 1999 legislative session.

Credits/Business Incentives (Have I Got a Deal for You!) An overview and update of California's hottest tax credits which include the Manufacturers' Investment Credit.

Current Issues in Combined Reporting (Unlocking the Combination) Discussion of issues in combined reporting.

Procedural FTB – From Audit to Litigation (To Hell and Back – FTB Version) A panel discussion of FTB's audit process and an explanation of the role of the taxpayer advocate.

Directions in Electronic Filing (Can You Be Lost in Cyberspace?) A discussion of the vision and plans to expand electronic tax transactions between corporation/partnership taxpayers and government.

Escheat to State (Finders Keepers, Losers Weepers) Definition of "unclaimed property," affirmative reporting requirements and dormancy periods will be discussed.

Humor and the High Court (Who Says Taxes Can't Be Funny?) Insightful and sometimes humorous point/counterpoint analysis of recent tax cases including those of the U.S. Supreme Court.

Litigation (Fact or Fiction?) Representatives from the private and public sectors will conduct an interactive discussion of significant pending litigation cases.

Privacy and Tax Administration (Privacy in the Twilight e-Zone) Panel discussion about the threats and opportunities relating to information privacy in an e-business world.

Manufacturers' Investment Credit: For Your Information

Information that will help your clients better understand the manufacturers' investment credit (see article on this page) is available from the Franchise Tax Board.

FTB Publication 1113, "Frequently Asked Questions About the Manufacturers' Investment Credit (MIC)," provides answers to 19 questions about the credit. The questions include "How is the MIC claimed?" and "Do leases qualify for the MIC?" For a copy, visit FTB at its www.ftb.ca.gov Internet address. Click on "Tax Forms" and scroll to "Miscellaneous California Income Tax Forms, Instructions and Publications." Or write Tax Forms Request, PO Box 307, Rancho Cordova, CA 95741-0307. Or you may call (800) 852-5711.

You also can obtain form FTB 3535, "Manufacturers' Investment Credit," from the same FTB sources. The form includes instructions that feature the Standard Industrial Classification (SIC) Manual's Division D listings.

Also, see MIC regulations at Title 18, California Code of Regulations, Sections 17053.49-0 through 11 and 23649.0 through 11.

Some Leases Qualify for MIC

The following is part of a series of articles dealing with various aspects of the Manufacturers' Investment Credit (MIC) and Leases.

Question: My client acquired some property through a lease for the purpose of doing business in California. Does this qualify my client for the MIC?

Answer: If your client is a lessee who is a *qualified taxpayer* who uses the leased *qualified property* in a *qualified activity in California*, then your client qualifies for the MIC.

It is important that your client classify the lease as either an operating (true) lease or a finance (capital) lease. For purposes of the MIC, look to the California sales or use tax rules to determine whether the lease is an operating or finance lease, since both operating and finance leases can qualify your client for the MIC. The type of lease the client chooses however, will determine the capitalization/deduction of lease payments as well as determine who is required to pay the California sales or use tax so that the property qualifies for the MIC.

Under either type of lease, the person or entity that grants the lease (lessor) may not claim the MIC. It is possible, however, that a lease, classified as a finance lease for income tax and/or generally accepted accounting principles purposes, may be an operating lease for California sales or use tax purposes.

For California sales or use tax purposes, leases that acquire the following types of property are considered to be operating leases:

- Mobile transportation equipment for use in transportation of persons or property as defined in California Revenue & Taxation Code Section 6023.

- Tangible personal property leased in substantially the same form as acquired by the lessor and/or transferor, and the lessor or transferor has paid sales tax reimbursement or has paid use tax measured by the purchase price of the property.
- A lease not containing a nominal option price. California sales or use tax law generally treats the option price as nominal if it does not exceed the lesser of \$100 or one percent of the total contract price.

If the lease is an operating lease for sales and use tax purposes, it is also treated as an operating lease for MIC purposes.

Who pays what?

Generally, California does not require that sales tax be paid at the inception of an operating lease. This is true even if the lessor presents a resale certificate at the time he or she acquires the property to be leased.

Instead, use tax is collected from the person or entity that is leasing the property (lessee) and subsequently is remitted by the lessor to the State Board of Equalization (BOE) as the lease payments are made.

In order for the lessee of an operating lease to qualify for the MIC, the lessor must have already elected to pay the sales or use tax based on the acquisition price of the property at the time the lessor purchases the property (under specified sections of the sales tax law), excluding any portion relating to capitalized labor. Here is an example:

Entity Y acquires property and later leases the property to Entity Z.

Y also delivers a resale certificate to Z at the time of the lease.

Consequently, Y does not pay sales or use tax on the purchase of the property. Instead, Y collects use tax reimbursement from Z and remits it to the BOE as the lease payments are made.

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Timing Critical When Claiming Credit for Leased Property

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This is an example of an operating lease for California sales or use tax purposes; however, it would not qualify the lessee for the MIC because the lessor did not make the election to pay sales or use tax up front.

The lessee can claim the credit for the lessor's cost of the qualified property that is placed in service on or after January 1, 1994. The credit is based on the lessor's original cost of the qualified property upon which California sales or use tax was paid. Incidentally, the lessee's qualified cost for MIC purposes is the lessor's qualified cost of constructing, reconstructing or acquiring the leased property, including capitalized labor which is exempt from California sales or use tax where it is a separately-stated item. Here is an example:

Entity Y leases a printing press from X Corporation. The printing press cost X Corporation \$150; of which \$100 is subject to the sales tax and \$50 of which is separately-stated capitalized labor.

The lessor (X) pays only \$8 (eight percent of \$100) in California sales tax on the purchase of the qualified property.

The qualified costs to X would be equal to \$150; therefore, Y would be able to claim the MIC on \$150.

In the case of operating leases, the lessor must provide a statement to the lessee specifying the amount of the lessor's cost upon which sales or use tax was paid and the amount eligible for the credit (which would include qualified capitalized labor costs). Such a statement must be provided within 45 days after the close of the lessee's taxable or income year for which the MIC is allowable.

It is important to note that, for operating lease purposes, and only for purposes of providing this statement, the lessee will not

be precluded from claiming the MIC if the lessor has not remitted the applicable California sales or use tax due to timing differences between the lessor's sales or use tax return and the lessee's income year. Accordingly, it is not necessary that the lessor pay the sales or use tax prior to the lessee claiming the MIC as long as the tax is due and payable under California sales and use tax law.

The lessee's qualified cost for MIC purposes is the same amount as if the lessee had instead constructed, reconstructed, or acquired the qualified property, other than by lease.

Timing is important

When a lessee acquires leased qualified property within one year or less of the date the property is first placed in service in California, he or she is not entitled to claim the MIC. Furthermore, the lessee would be required to recapture any MIC previously claimed on the leased property.

For lease purposes, the "placed in service" requirement is satisfied at the time when all the terms and conditions for the lease contract have been completed so that the lessee has an unconditional obligation to pay all rents due under the contract to the lessor of the qualified property.

The lessee would only be entitled to a new credit based upon the acquisition of the previously leased property if he or she pays sales or use tax on the purchase and continues to use the qualified property for a qualified purpose. Here is an example:

On July 1, 1998, Y enters into a contract to lease three printing presses from X Corporation, an equipment leasing

Keep Tax News Coming

Is your Tax News subscription about to expire?

If so, the Franchise Tax Board will send you a renewal form by mail. Be sure to return the form immediately so that you will not miss any upcoming issues.

Remember: Tax News is also available by email at no charge and it can be viewed on FTB's website at www.ftb.ca.gov.

If you have any questions about your Tax News subscription, call (916) 845-7070.

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Timing Critical When Claiming MIC

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company. The equipment is for use in Y's manufacturing facility in California.

The equipment cost X Corporation \$300, plus California sales or use tax. For tax year 1998, Y claims a MIC of \$18 (\$300 x 6 percent). On June 1, 1999, Y

purchases the three printing presses for \$100 and does not pay sales tax.

Because Y purchased the equipment within the first year of the lease term, Y must year 1999 recapture the credit claimed in tax year 1998 by adding the \$18 to Y's tax liability for tax year 1999.

If Y pays sales or use tax on the \$100 purchase, then Y may claim a MIC of \$6.

Role in Child Support May Grow

CONTINUED FROM PAGE 2

designation as the entity responsible for the statewide system.

California is not the only state to collect delinquent child support through its tax department. Alaska, Arkansas, Florida and Massachusetts also use their respective tax departments for child support collection.

Official estimates of the number of children for who overdue support is owed range between three and four million. The

Department of Social Services estimates that the amount of child support owed is approximately \$9.8 billion.

FTB has collected \$292 million since becoming involved in the collection of delinquent child support payments in 1993 and the department estimates that implementation of a comprehensive accounts receivable management system would increase statewide collections of delinquent and current child support payments by up to \$70 million annually.

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