

FRANCHISE TAX BOARD MEETING MINUTES

December 3, 2019
(PENDING BOARD APPROVAL)

The Franchise Tax Board met in open session at 1:30 p.m. at the Franchise Tax Board, 9646 Butterfield Way, Gerald Goldberg Auditorium, in Sacramento, California. Present were Controller Betty T. Yee, Deputy Controller Yvette Stowers, Hon. Malia Cohen, and Deputy-Member Gayle Miller, Department of Finance, for Member Bosler.

Franchise Tax Board Staff Participating:

Selvi Stanislaus, Jozel Brunett, Shane Hofeling, Dawn Casey, Willie Armstrong, Red Gobuty, Susan Maples, Julie Moreno, Joel Smith

Item 1. – Approval of Minutes

The minutes of the September 12, 2019 Franchise Tax Board meeting were approved 2-0. The minutes of the October 1, 2019 Franchise Tax Board meeting were approved 2-0.

Item 2. – Update on October 1, 2019 Board meeting

The Board received a staff report and a high level summary of the issues raised in the meeting.

Item 3. – Legislative Matters

The Board received a presentation on the following four legislative proposals:

1. LP A. Electronic Delivery of Certain Withholding Orders
2. LP B. Six-Year Statute of Limitations for Understatement of Gross Income
3. LP C. Disregarded Limited Partnerships
4. LP D. Dependent Exemption Credit and Federal Individual Taxpayer Identification Number

The Board voted 2-0 to approve all four proposals, with Deputy Member Miller abstaining.

Item 4. – Regulation Matters

- A. 2020 Rulemaking Calendar – The Board voted 3-0 to approve the Rulemaking Calendar.
- B. Notice and Demand Penalty, Section 19133 – The Board voted 3-0 to approve the staff request to proceed with the formal regulatory process to amend regulation section 19133.

Item 5. – Taxpayers' Bill of Rights Hearing

See the attached Minutes for the December 3, 2019 Franchise Tax Board's Taxpayers' Bill of Rights Hearing.

Item 6. – Executive Officer’s Time

Selvi Stanislaus commemorated FTB's 90th anniversary with a brief presentation of Franchise Tax Board's history.

Item 7. – Board Members' Time

The Board members presented a Retirement Resolution to Julie Moreno commending her for her professional and personal dedication to the FTB.

Chairperson Yee adjourned the meeting at 2:49 p.m.

Board Liaison

Date

FRANCHISE TAX BOARD
TAXPAYERS' BILL OF RIGHTS HEARING
MEETING MINUTES

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Others Participating:

Barbara Donovan, Christine Grab, Meghan Loper, Kathryn Zdan

Taxpayers' Bill of Rights Hearing

Chairperson Yee provided opening remarks describing this annual hearing, which is required by law, and introduced Franchise Tax Board staff members who were present to respond to questions.

Susan Maples, Taxpayers' Rights Advocate, providing opening comments and reviewed issues raised at the last Taxpayers' Bill of Rights Hearing. She promised to ensure a written response from the department to all of the issues raised at the hearing by January 31, 2020.

Barbara Donovan – California Society of Enrolled Agents

Ms. Donovan provided oral comment to the Board on the following issues:

- The first issue is California's conformity with federal Tax Cuts and Jobs Act. Ms. Donovan commented that the FTB form for itemized deductions continues to be long and is recommends that FTB conform to the federal law and increase the standard deductions in California to ease the administrative burden on taxpayers.
- The second issue is the California Individual Health Care Mandate. She requested the FTB provide more information on the FTB's implementation process.

Christine Grab

Ms. Grab shared thirteen policy change requests to the Board.

- End the policy of withholding estimated tax payments made via credit elect until the taxpayer files a return.
- End the policy of withholding estimated tax payments made by married couples until the married couple files a return.
- Implement a policy whereby fees may not be assessed when the fee was imposed as a result of breach of duty.
- Disclosure of annual Taxpayer Bill of Rights meetings to the general public.

- Create an online database of all the FTB's policies and procedures searchable by keyword.
- Clearer definitions of what defines an abatement request.
- Post questions submitted to the annual Taxpayer's Bill of Rights meeting along with answers to the general public.
- The FTB should timely reapply misapplied payments.
- The FTB should only utilize standard use English.
- Issue a policy that all denials must be issued in writing to the taxpayer.
- Move the Taxpayer Advocate to work under the Government Operations Agency. Ms. Grab also requested the FTB work together with Ms. Grab's state representatives to put together a bill to propose this change in the next legislative session.
- FTB staff should only sign letters they wrote themselves.
- Control FTB marketing staff from harassing people online discussion websites.

Meghan Loper – Capitol Strategies Group

Ms. Loper had a request on the Rulemaking Calendar.

- The Rulemaking calendar states that staff anticipates a second interested parties meeting for the California Code of Regulations, Title 18, section 18001-1 regarding the other state tax credit. Ms. Loper requests that the second interested parties meeting occurs in the first quarter of 2020 so that Franchise Tax Board will ensure meeting the proposed February 2021 deadline to submit the regulation to the Office of Administrative Law.

Kathryn Zdan – Spidell Publishing Inc.

Ms. Zdan had four issues to share with the Board.

- The first issue was her concern the FTB's website upgrade had several issues and provided detailed suggestions to improve the usability of the site.
- The next issue was the passage of AB 5 and the adoption of the ABC test, for determining whether a worker is an employee, has caused confusion in the tax and business community. Spidell Publishing Inc. requested the FTB perform further investigation and clarification on this issue.
- The third issue was in regard to SB 274, which established the state level partnership reporting and payment requirements for adjustments that are made at the federal level after an IRS centralized partnership audit. Ms. Zdan inquired as to when the FTB will commence the interested parties meeting process regarding the implementation of SB 274.
- The fourth issue was the power of attorney forms and that wet signatures are misread as electronic signatures and rejected. Spidell Publishing Inc. requested the FTB to make implementation of accepting electronic signatures a priority.
- Lastly, Ms. Zdan explained Covered California's marketing has minimal information about the penalty for not having health insurance. She requested the FTB to push Covered California to be more transparent about the penalty, and for FTB to provide a brochure to the public.

Board Liaison

Date