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APPEARANCES

BOARD MEMBERS

BETTY YEE
State Controller
(Chairperson of the Board)

MALIA M. COHEN
Chairperson
Board of Equalization

GAYLE MILLER
Chief Deputy Director, Policy
Department of Finance

YVETTE STOWERS
Deputy State Controller, Taxation
State Controller's Office

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STAFF

SELVI STANISLAUS
Executive Director

DAWN CASEY
Board Liaison

JOZEL L. BRUNETT
Chief Legal Counsel

SHANE HOFELING
Assistant Chief Counsel

WILLIE ARMSTRONG

RED GOBUTY

SUSAN MAPLES

JULIE MORENO

JOEL SMITH
APPEARANCES CONTINUED

ALSO PRESENT

BARBARA DONOVAN
California Society of Enrolled Agents

CHRISTINE GRAB

MEGHAN LOPER
Capitol Strategies Group

KATHRYN ZDAN
Spidell Publishing

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CHAIRPERSON YEE: Good afternoon. This is the scheduled time for the meeting of the Franchise Tax Board.

Would the board liaison please call the roll to determine if a quorum is present.

MS. CASEY: Member Cohen.

MEMBER COHEN: Present.

MS. CASEY: Chair-Controller Betty T. Yee.

CHAIRPERSON YEE: Here.

Okay. Seeing two members present, we do have a quorum, and the Franchise Tax Board is now in session.

At this time, I would like to ask everyone to please stand and join me in the Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRPERSON YEE: The public has the right to comment on each agenda item and if there are any members of the public who wish to speak to an item, please come forward when that item is called, and you will have three minutes to address the Board.

The first item, Members, is approval of the minutes. And we have the minutes of the September 12,
2019, as well as the October 1st, 2019, board meetings.

Is there a motion?

MEMBER COHEN: I will make a motion to approve the minutes.

CHAIRPERSON YEE: Okay. Motion by Member Cohen to approve the minutes from both meetings.

I will second that motion.

Without objection, such will be the order.

Item 2 is an update on the October 1st, 2019, board meeting, and we have Shane Hofeling to provide that update.

Good afternoon.

MR. HOFELING: Good afternoon, Madam Chair and Members of the Board. My name is Shane Hofeling, and I'm an Assistant Chief Counsel in the Legal Division of the Franchise Tax Board.

As you know, on October 1st, 2019, your Board held a board meeting to discuss the California tax landscape and the gig economy, which included a FTB staff presentation on the past, present, and future of tax compliance with respect to the gig economy.

First, as a brief, high level summary of the issues raised in the meeting, I would like to provide you a short recap of that meeting:

During the meeting, we discussed the need for
better data for both independent contractors and W-2
employees at the federal and the state level.

We also discussed the challenges faced by our gig
workers and the fact that many of them do not understand
their tax filing obligations and items such, as how much
income do they need to report, what should they report,
and how should they report it.

We identified that more education and outreach is
definitely needed to help these workers properly report
and pay their tax obligations.

We heard from gig workers directly about these
challenges and their need for more information and
assistance with their tax obligations.

We also heard from platform providers and what
they are doing in terms of providing information for
their workers, tools, as well as their offer to partner
with state agencies.

Overall, the meeting provided us with an
excellent opportunity to identify and understand the
challenges, the opportunities, and the California tax
landscape where respect to the gig economy.

Turning to the issue of data, during the
Franchise Tax Board staff presentation, we highlighted
several key areas in which staff is actively engaged in
the studying and in analyzing the aspects of the gig

KATHRYN S. SWANK, CSR     (916) 390-7731
economy, as well as the staff's education and outreach activities in this area.

Today we would like to provide the Board with a brief update on the FTB's continued efforts in the aspects of the gig economy, specifically in the area of FTB's continued research and data analytic efforts, our ongoing outreach and education efforts, and our collaboration with industry, labor, and sister agencies.

During the FTB's previous presentation, Richard Geck, an administrator with the FTB, and Dr. Annette Bernhardt of the California Policy Lab at UC Berkeley, discussed some of the current data efforts currently being undertaken by the FTB, the data collected and analyzed by the California Policy Lab, and the types of data and information uncovered through the joint partnership between the FTB and the Policy Lab.

FTB staff is continuing to collect this data, and although we received most of our information through California income tax filings, we continually look to these areas to identify areas of trends and areas that need -- provide additional opportunities for education and outreach.

Since the FTB relies on data from the most recent tax filings, unfortunately, we don't have any additional updated information until we receive the 2019 filings in
2020. However, in the meantime, we are continuing to work with our partners at the California Policy Lab to gain instructive insight on the gig economy and the data that is coming in from that economy.

Now, by way of background, the FTB and the California Policy Lab began a research partnership in 2017 to generate evidence to help us inform decisions on tax administration, policy, and our practices.

The FTB and the California Policy Lab have launched research to identify and evaluate low cost, innovative ways that the FTB can better meet its mission to help taxpayers file in a timely and accurate manner. The California Policy Lab has also facilitated research and collaborations between the FTB and other state agencies, acting as a trusted third party to link administrative data sets and previously unanswerable empirical questions.

Now, as you know, the FTB takes its role as a data custodian very seriously, and we work hard to make sure that taxpayers data is secure and used only for the appropriate purposes of tax administration.

As a result, the FTB and the California Policy Lab have ventured into a data use agreement that allows the California Policy Lab to use anonymous tax data for specified research projects. The FTB strips all
identified information before securely sharing that data with the Policy Lab so that any individuals or companies cannot be identified. Furthermore, the California Policy Lab can only use the data for the research purposes specifically enumerated upon and agreed upon in the data use agreement.

All FTB/California policy project labs go -- undergo a review by institutional review boards at the state level. The state review board requires review and approval before individual level data held by a state agency or a department can be used for research purposes. All projects involve data analysts -- analytics conducted by the California Policy Lab have undergone this review and have all been approved.

And as you can tell, all efforts taken by the FTB and by the California Policy Lab are to ensure that the confidentiality and integrity of the taxpayers' data is maintained.

We look forward to our continued partnership with the California Policy Lab and the numerous and valuable data and information we continue discovering through that partnership.

Now, in addition to our partnership with the Policy Lab, the FTB continued to look to additional areas to provide additional education and outreach about
the gig economy and to help explore opportunities to
make tax compliance easier for California gig workers.
Our Taxpayer Rights Advocate Office, Education and
Outreach Program, will begin to include specific gig
information as part of their forms of ownership
presentations that are presented at the state and small
business events.

In fact, last year, our Advocate's Office
participated in 57 small business events and have
already participated in 43 events this year across the
state. In addition to providing these informational
presentations, they are also available to answer
questions, provide informational material, and share
what resources are available through our FTB's website
about the gig economy and the resources for those
workers.

We are also currently in the process of
identifying what FTB web content is relevant to gig
workers and their community, so that we can consolidate
all that information into our current gig economy web
page. Similar to the IRS Sharing Economy Tax Center web
page, our FTB's gig web page will allow a gig worker to
go to the web page and find information and links to
information to help them understand what are their
filing requirements, including FAQs and other helpful
tips and tricks. In short, this will serve as a one-stop informational portal for gig workers.

Once the new materials are publicly available on our website, we will reach out to the different platform providers to share the link to our newly repackaged gig website and share the information so they may be able to disseminate that to their workers. They'll also continue to use the various social media outlets to inform the public of the new gig website and the tools, tricks, and tips it will provide to all Californians.

Furthermore, we continue to look at the current FTB publications that have relevant information for gig workers and ways that we can enhance those publications to provide additional information. We will continue to evaluate and update our existing publications to make sure that they include easy-to-find references and information related to gig issues and topics, or whether we need to tailor new publications specifically for workers in the gig economy.

In fact, two of the publications we have already begun to evaluate are the Franchise Tax Board's Guide to Common Forms of Ownership and the business expense publications. We are making sure that we're incorporating the information that have been identified by our stakeholders as well as the gig workers, as far
as the information that they need to have to make their obligations easier.

As we work towards our goal of updating the relevant publications, given that there are many different types of businesses in the gig economy, we are focusing and concentrating our effort on the areas and issues that are most common to the most amount of taxpayers. This way, we can make sure that we are able to provide the most sought-out information to the widest of audiences.

The FTB also is continuing to strive to partner with key stakeholders in the gig economy, including industry platforms, labor, and our sister state agencies. During our meeting, we previously expressed our desire to work with stakeholders on the platform side as -- the platform side as well as labor. Since your October 1st meeting, we have continued to work with industry professionals to understand what information would be helpful for the platform to be able to provide to their service providers. Some of the information we're currently working on would allow service providers to know what their tax obligations would be, based on their classification, and provide handy tools, trips -- tips and guidance to take the complexity out of those tax filing obligations.
In addition, we continue our willingness and our openness to work with industry professionals, platform, and labor industry to make sure that we can provide a taxpayer-centric service and ease the burden of tax compliance.

We have also continued to work with our sister state agencies to help increase awareness of income tax filings. More specifically, with relation to the gig economy, the FTB has partnered with Employment Development Department, or EDD, to make sure workers and hiring entities have all the information they need when it comes to their tax filing requirements. We are going to continue to liaison with EDD to work to provide taxpayers with the tools they need early and provide the information they need at the time of their tax filings.

The FTB also is looking at sister states to see what type of issues they may be experiencing when facing similar challenges with worker classifications. For example, this year, in the New York State Assembly, there was a bill proposed to create a new worker classification known as a "dependent worker." This is for worker who provides professional services through a private sector third party, typically what you would see in a gig worker environment. This bill provides some limited benefits that are — that are normally received
by traditional employees. We are continuing to monitor that legislation as it is currently in committee in the New York State Assembly.

Also, in New Jersey, similar to California, a worker is considered an employee once they meet a test similar to California's ABC test. In 2018, the governor of New Jersey established a Misclassification Task Force to explore misclassification issues in the gig economy and to propose solutions to stop the misclassifications. Also throughout 2019, New Jersey has seen multiple bills introduced in its Assembly to help clarify workers' classification, explore alternative worker classifications, and provide assistance to anyone in the gig economy.

Other states, such as Massachusetts, Illinois, and Vermont have passed legislation to create the state-only filing requirement for the 1099-K, which would include lower thresholds than would be on par with the thresh -- filing thresholds for 1099 Miscellaneous with your payments of $600 or more.

As other states continue to work on the gig economy, we will continue to monitor those states and their activities with regard to the gig economy to see where we may leverage any opportunities and provide additional information to our California gig workers.
We greatly appreciate this opportunity to update the Board on our work with the gig economy and appreciate the service that you provided towards the FTB's goal of taxpayer-centric services.

I'm happy to answer any questions you may have.

CHAIRPERSON YEE: Thank you, Mr. Hofeling.

Questions or comments, Members?

Member Cohen.

MEMBER COHEN: Yes. Thank you.

You know, first, I just want to say, good afternoon, ladies and gentlemen. Good afternoon.

I want to just thank the staff for the work in developing an absolutely extensive presentation of the gig economy. It was fantastic and probably one of the highlights of the hearings and the things of the work that we have done, for me, this year. So my compliments on the -- on the October 1st board meeting.

And as I said in the last meeting, the gig economy is a -- complex; it's an emerging -- a complex and emerging issue, which has significant public policy implications, both for income as well as tax collection, as well as protecting the gig economy workers.

And I want to compliment you, Betty Yee, for your focus on the attention of the -- focusing this board to -- and our attention on the gig economy. It's kind
of a little bit of a hot topic, and you got us thinking about it in a different way.

Now, we know, earlier this year, AB 5 was at the forefront of many people's minds and was very popular in the news, and it was really refreshing to bring that conversation here, to look at it from a -- from a tax perspective. And I learned a lot from -- from those that are actually the practitioners; those who are actually actively working in the gig economy, understanding a little bit more where their challenges are, so that we, as policymakers, can help -- help them.

And as AB 5 begins to be implemented, I trust that the Franchise Tax Board will continue to monitor events and keep the board fully informed. And, again, I just want to, again, thank the FTB staff for their presentation and -- as well as the recap today.

Very good.

MR. HOFELING: Thank you.

CHAIRPERSON YEE: Thank you, Member Cohen. And let me add my thanks to the staff as well.

Clearly, I think the work to be done -- that continues to need to be done will require some partnerships, and very grateful for the one that we have with the California Policy Lab, and so I look forward to more information forthcoming.
I wanted to just ask a question with respect to AB 5 implementation, since Member Cohen raised it. And that is, on the, kind of, roles and responsibilities, and if you don't have that clearly now, we can talk about it at another time. But in terms of a determination about whether the tests are met, as laid out in AB 5.

Can you just kind of talk about, I guess, the decision map or the implementation map in terms of our role in that and where that begins and how we --

MR. HOFELING: You bet.

CHAIRPERSON YEE: Yeah.

MR. HOFELING: So normally what happens now, as you know, the presumption is, a individual or a worker is an employee unless the test is met. At that point, we look -- since it is a test under the Labor Code and Employment Insurance Code, we look to the determination by our sister state agencies that make that determination. And once that determination is made, we will follow that for purposes of administering the California income tax.

CHAIRPERSON YEE: Okay. Other comments or questions?

Great. Thank you very much for the overview, again, and we look forward to further reports as we
begin to tackle some of the data gaps that you have identified.

Thank you, Mr. Hofeling.

Okay. Members, we are going to move on to Item Number 3, and this is -- relates to legislative matters, and we have Mr. Willie Armstrong to present the 2020 legislative proposals. We can either consider these action items separately or in a single motion. But why don't we hear about them all first.

MR. ARMSTRONG: Good afternoon --

CHAIRPERSON YEE: Good afternoon.

MR. ARMSTRONG: -- Members. My name is Willie Armstrong, as you mentioned. I'm the department's legislative director. And I have four legislative proposals for your consideration:

I will begin with Legislative Proposal A, which seeks to allow electronic delivery of earnings withholding orders for taxes, earnings withholding orders, and continuous orders to withhold, and herein -- hereinafter, I will just refer to them as "notices."

So just by way of background, this is a proposal that is similar to a previously Board-approved proposal -- that's LP 96-16 -- which resulted in the enactment of RTC Section 19264. It allowed FTB to establish a pilot program to issue automated earnings
withholding orders for taxes to employers electronically. However, due to insufficient technical capabilities, the pilot program failed to launch.

Currently, as it stands today, current law restricts the methods of serving and responding to these issues by FTB to First-Class Mail and in-person service. This precludes the FTB from utilizing electronic service methods that could reduce the time and cost for employers and the FTB to process paper documents.

So once again, this is a proposal that seeks to modify various RTC sections to permissibly allow the FTB to serve these notices.

The next legislative proposal is Legislative Proposal B. This seeks to modify the six-year statute of limitations for understatement of gross income in excess of 25 percent of gross income.

Members, this is a conformity proposal for your consideration.

And so, in general, federal and California tax law applies a six-year statute of limitations for the substantial omission of gross income. However, Internal Revenue Code section 6501 was amended to provide a six-year statute of limitations for omission from gross income resulting from the overstatement of unrecovered costs or bases.
And so under current California law, the six-year statute of limitations is inapplicable when there's an omission of gross income as a result of the overstatement of unrecovered costs or bases. So, once again, this proposal would realign California law with federal law.

The third proposal is Legislative Proposal C, and it's related to the disregarded limited partnership annual tax and filing requirement. As you may recall, in the 1990s, California law conformed to the federal check-the-box entity classification regulations, and, therefore, generally disregards, for California income and Franchise Tax purposes, entities that are disregarded for federal purposes.

As a result, California law enacted specific exceptions to the disregarded entities' ruling related to disregarded limited liability companies, such as requiring disregarded LLCs to file a return and pay the annual tax and LLC fee. However, there were no exceptions enacted for disregarded LPs, because disregarded LPs were not a recognized entity by the IRS.

In later years, the IRS issued Revenue Rule 2004-77, acknowledging the existence of disregarded LPs, but California did not amend the RTC section 23038 to reflect the new type of entity.
And so current state law lacks a provision expressly requiring disregarded LPs to annually file a return and pay the annual tax. So this proposal seeks to remedy that disparate treatment by amending the RTC to expressly require disregarded LPs to pay the annual tax and file a return under the applicable statutes.

And so, Members, the final proposal is Legislative Proposal D. And this seeks to modify the dependent exemption credit identification number requirement by allowing the FTB to accept alternate documentation from taxpayers ineligible from obtaining a federal ITIN for the claimed dependent.

As you know, in tax year 2015, California required that the dependent's taxpayer identification number, either a social security or a federal ITIN, must be provided on a California tax return, or the dependent exemption credit would be disallowed. With the recent federal changes, taxpayers who are unable to obtain federal ITINs for nonresident alien dependents will fail to meet the identification requirement for claiming the California dependent exemption credit.

This will result in the denial of a dependent exemption credit for otherwise qualifying dependents. This proposal would allow an additional option of providing relevant documentation, as prescribed by FTB,
for an affected taxpayer claiming the dependent exemption credit when a nonresident alien dependent is not eligible to receive a federal ITIN.

And so, Members, these are the four proposals.

Do you have any questions or conditions?

CHAIRPERSON YEE: Thank you, Mr. Armstrong.

Questions or comments, Members?

MEMBER COHEN: I have a couple questions --

CHAIRPERSON YEE: Please.

MEMBER COHEN: -- for proposal A.

CHAIRPERSON YEE: Okay. Why don't we do them in order.

MEMBER COHEN: Okay.

CHAIRPERSON YEE: Okay -- on Legislative Proposal A. Member Cohen.

MEMBER COHEN: Okay. Thank you.

Okay. So -- sorry. Bear with me here. I lost my place.

Okay. So just a handful of questions for you. How are you doing?

First, what's -- what is the current practice of identifying employers of individuals who are subject to wage garnishment? What's the practice that you use to identify them?

MR. ARMSTRONG: So, usually, once -- once there's
a tax liability that's identified, normally notices will go out to that particular taxpayer. That process could last anywhere from six months to a year, and then, after that, that's when FTB would begin to reach out to the employer.

MEMBER COHEN: So since many employees have -- could have multiple jobs and employment venues -- or even change their jobs frequently, how does the FTB know or how does the FTB ensure that the wage garnishment notices are delivered electronically to the correct employer?

And this is kind of hindsight of the gig economy, right? How do we -- how do you identify the correct employer to send these notifications to?

MR. HOFELING: So what we will do is, at that point, we will take every effort to make sure we do identify the right employer and to confirm that employment before we send out any notices.

As you know, right now we're required to do it via First-Class Mail, and so by allowing us to do it electronically, we feel we'll be able to actually make more accurate identification in these services, that will be able to be electronically rather than sent to an address via mail.

MEMBER COHEN: And what leads you to believe that
it will become -- it will be more accurate? That acc --
you increase your accuracy rate by delivering it
electronically, as opposed to post mail?

MR. HOFELING: Just as far as the opportunity to
be delivered immediately and not -- and that way, based
on the information we currently have.

MEMBER COHEN: Um-hmm. Um-hmm.

So would wage garnishment be sent to all
employers, regardless of the size? Or would they be
limited to companies which receive significant numbers
of wage garnishment?

MR. ARMSTRONG: So it's my understanding that
under this proposal, employers would have the option to
opt in, given their technical capabilities.

MEMBER COHEN: So it could be a large employer or
a small employer, but the -- the decision is the
employer's decision.

MR. ARMSTRONG: Yes.

MEMBER COHEN: Okay. Would employers be
contacted first to see if they wanted to receive wage
garnishment notices electronically? Or is this
something -- you know, sometimes you have a system where
you can opt in or you have to opt out. Just want a
clarification on what the proposal is.

MR. ARMSTRONG: Just so I understand the
question, you are saying, would the employee --

MEMBER COHEN: Employer.

MR. ARMSTRONG: The employer.

MEMBER COHEN: Yes.

MR. ARMSTRONG: I'm sorry. Could you --

MEMBER COHEN: So would the -- would the employer be contacted first to see if they wanted to receive the wage garnishment notices electronically?

MR. ARMSTRONG: Yes.

MEMBER COHEN: Okay.

MR. ARMSTRONG: And the -- the other two options still apply: They can still receive First-Class Mail --

MEMBER COHEN: I see.

MR. ARMSTRONG: -- or in-person service.

MEMBER COHEN: So -- okay. That clears things up for me. So it's not mutually exclusive.

MR. ARMSTRONG: Right.

MEMBER COHEN: Could I select both? Could I select post and electronic as well, if I was an employer?

MR. ARMSTRONG: That's a good question. I can -- I can get back to you on that one.

MEMBER COHEN: Okay.

And then my final question is, will there be a requirement that employers acknowledge receipt of the
electronically transmitted wage garnishment notice?

Because, you know, things get, all the time, jammed up in a spam box. So how do we -- I mean, you are sending a notification, but if it keeps going into a spam box, we need some kind of a assurance that it's being received.

Do we have that?

MR. HOFELING: That is a great -- at some point, we will definitely consider that as we go forward.

The current LP would just allow us to serve that electronically. So if that is -- and we will definitely work with procedures and policy when we develop that. But that would be something we would definitely consider, is creating some type of acknowledgement.

MEMBER COHEN: Have you taken it under consideration? I mean, this is a proposal that you are bringing to us and we are kind of evaluating it. So I'm a little surprised to hear that you are going to take it under consideration.

MR. HOFELING: As far as all the policies and procedures?

MEMBER COHEN: Well, in terms of the requirement that employers acknowledge a receipt. Like, what is -- what is the policy in place? I send you an electronic notification. Does the employer confirm receipt? Is
it -- I don't know. Is there a return receipt automatically given? I don't know.

CHIEF COUNSEL BRUNETT: This would be a new procedure, so, currently, we don't have it. So I think what we are trying to say is that it's a very good point, when we develop the policies and procedures, it doesn't need to be in the law. We develop the policy and procedure. That's something we want to build into how we program that.

MEMBER COHEN: Fantastic. Thank you. I hope you take some of these questions. I have more if you want more. I have a whole nother page more. No. I will spare everyone. But if you want my notes, I'm happy to give them to you.

Thank you very much.

CHAIRPERSON YEE: Thank you, Member Cohen, for your questions.

Any other questions or comments?

I have one. In the legislative summary, for Proposal A, there was a policy consideration about whether this might be the time to expand the proposal, and I just want to get your thoughts on the feasibility of that, at this point in time, or how -- or a better time that you envision that being --

MR. ARMSTRONG: Absolutely.
CHAIRPERSON YEE: -- a little more appropriate.
Yeah.

MR. ARMSTRONG: That's a good question.

So right -- so we have had discussions with our six sister agencies. However, right now, we're moving forward with the FTB proposal, should you all approve it. And as we're shopping for authors for this proposal, there may be an opportunity for the sister agencies to join in at that time.

CHAIRPERSON YEE: Okay. So -- so it would be feasible if there were an interest to do that now?

MR. ARMSTRONG: Yes.

CHAIRPERSON YEE: Okay. Good. Good. All right. Excellent. All right.

Let's -- Members, do -- Member Cohen, please.

MEMBER COHEN: One more. One last one, just very quickly.

Are there other states providing these notifications electronically?

MR. ARMSTRONG: So there's -- there's currently a pilot program that's being developed in Wisconsin. It's my understanding that there's roughly 23 or 24 other states that are interested in joining in that program.

MEMBER COHEN: Okay. Thank you.

CHAIRPERSON YEE: All right. Thank you.
Members, what's the desire? Should we hear all of these -- have questions after all of them and take them up together?

MEMBER COHEN: I thought we were going --

CHAIRPERSON YEE: Well, we will go by -- one at a time. Well, let me then see if -- let me entertain a motion, then, on Legislative Proposal A.

Is there a motion?

MEMBER COHEN: I will take make a motion to approve Legislative Proposal A.

CHAIRPERSON YEE: Okay. We have a motion by Member Cohen to approve Legislative Proposal A.

I will second that motion.

MEMBER COHEN: Great.

CHAIRPERSON YEE: And Gayle, you are not voting on these or --

MEMBER MILLER: No. I am abstaining on all of them.

CHAIRPERSON YEE: Great.

With Member Miller not voting, that motion carries.

Thank you.

Okay. Let's move on to Legislative Proposal B. Any questions or comments on this proposal?

MEMBER COHEN: I don't have any on B.
CHAIRPERSON YEE: I don't either.

Okay. Seeing none, we'll move -- is there a motion to approve?

MEMBER COHEN: Make a motion to approve Legislative Proposal B.

CHAIRPERSON YEE: Okay. I will second that motion.

Again, with Member Miller not voting, that proposal is approved.

Legislative Proposal C.

MEMBER COHEN: Yes. I have a question.

CHAIRPERSON YEE: Please.

MEMBER COHEN: So how would the proposal to require disregarded limited partnerships to file and pay a minimum of $800 tax impact the auditing -- the auditing entities, which includes -- including corporations, including LLCs, partnerships, and individuals? How would -- how would the proposal to require these limited partnerships file to pay the minimum of $800 tax impact?

MR. HOFELING: So any -- currently, any disregarded limited partnerships under this -- the legislative proposal would have their own filing obligation.

MEMBER COHEN: Okay.
MR. HOFELING: And so they would have to file a California -- pardon me, I believe it's 565 is the partnership form -- to report the -- to report their $800 tax obligation.

MEMBER COHEN: I'm curious. Could this -- could this proposal result in a -- in -- in the duplicate filing and duplicate tax payments?

MR. HOFELING: It shouldn't, based on -- right now, what our current position is that a discredited LP does not have a filing obligation. And so with this -- if this is enacted, then it would create a one-filing obligation. It should not result in duplicate.

To the extent it has, we would definitely work with that taxpayer to reverse the duplication.

MEMBER COHEN: Great. Thank you.

I have no other questions.

CHAIRPERSON YEE: Okay. Is there a motion?

MEMBER COHEN: Sure. I will make a motion to approve Legislative Proposal C.

CHAIRPERSON YEE: Great. Thank you, Member Cohen.

I will second that motion.

Without objection, noting Member Miller not voting, such will be the order.

Okay. Legislative Proposal D.
MEMBER COHEN: I have a question.

CHAIRPERSON YEE: Yes, Member Cohen, please. No, I love it.

MEMBER COHEN: I have a question.

Okay. So I like this particular proposal. I support this proposal as a simple fairness measure. And I think no family should be denied receiving the benefit of an exemption credit simply because their otherwise qualified dependent can't obtain an individual tax identification number. So I definitely want to go on the record and say that.

When enacted, I'm sure that the Franchise Tax Board will make sure that this is publicized and so that everyone in communities, in communities that speak English as a second language, understand that they do not have a barrier in qualifying for this exemption credit.

So I guess it's not a question. It's more of a comment.

Thank you.

CHAIRPERSON YEE: Great comment. I share in that.

And I know, this is probably something the staff is already thinking ahead about.

MEMBER COHEN: Yeah.
CHAIRPERSON YEE: So thank you for the -- the comment.

Is there a motion on Legislative Proposal D?

MEMBER COHEN: I will make a motion to accept Legislative Proposal D.

CHAIRPERSON YEE: All right. Motion by Member Cohen. Seconded by -- I will second that motion.

Without objection, noting that Member Miller is not voting, that motion carries.

Thank you very much, Mr. Armstrong.

All right. Our next item is Item Number 4, which relates to regulation matters. There are actually two action items, Members, on this. The first is the annual Rulemaking Calendar, and let me ask Red Gobuty to come forward and present that.

MR. GOBUTY: Thank you very much.

My name is Red Gobuty with the Legal Division's Technical Resources Bureau. The 2020 Rulemaking Calendar in your materials shows the regulation projects FTB staff plans to work on during the 2020 calendar year.

As required by Government Code 11017.6, on a yearly basis, FTB delivers a Board-approved Rulemaking Calendar to the Office of Administrative Law, providing required information on the regulatory items FTB plans
to transmit for review and approval as part of the
rulemaking process during the year.

As in the past, this Board's approval of the
calendar -- and any new items identified on it for which
staff has not previously received Board approval to
begin the informal regulatory process -- serves as an
explicit approval by the Board to allow staff to begin
the informal regulatory process and hold interested
parties meetings for all calendared items.

This year, there are four new items on the
calendar: These items are identified on the first page
of the materials. There are two regulatory projects
related to the new minimum essential coverage individual
mandate; one item related to market-based rules for
personal income tax sourcing and withholding; and one
project related to architectural and engineering
services.

And at this time, I would now ask for the Board's
approval of the 2020 Rulemaking Calendar.

CHAIRPERSON YEE: Thank you very much,
Mr. Gobuty.

We do have a speaker on this item. Let me call
the speaker forward. Meghan Loper, please come forward.
You will have three minutes to address the board.

MS. LOPER: Good afternoon, Members.
For the record, my name is Meghan Loper from Capitol Strategies Group, and I'm here on behalf of Bechtel, an S Corporation.

We appreciate the inclusion of the 2020 Rulemaking Calendar. And in Schedule B, it includes the proposed changes to the California Code of Regulations, Title 18, section 18001-1 regarding the other state tax credit.

The Rulemaking Calendar does state that staff anticipates a second interested parties meeting for this item in 2020 and that then the proposed regulatory change would be submitted to the Office of Administrative Law in February of 2021.

We respectfully request that that second interested parties meeting does occur in the first quarter of 2020 so that they will be able to ensure meeting the February 2021 deadline.

We would also like to bring to the Board's attention that we did submit a comment letter during the interested parties meeting that was held on August 7th, and we look forward to a response to that comment letter.

Thank you.

CHAIRPERSON YEE: Thank you very much, Ms. Loper.

Okay. I think, with that, let me entertain a
motion on adopting the calendar.

MEMBER MILLER: Sure. I make a motion.

MEMBER COHEN: Second.

CHAIRPERSON YEE: Okay. We have a motion by
Member Miller, second by Member Cohen, to adopt the 2020
Rulemaking Calendar.

Without objection, such will be the order.

Thank you very much, Mr. Gobuty.

MR. GOBUTY: Thank you.

CHAIRPERSON YEE: We now have Joel Smith, who
will speak on the second action item, and that relates
to the notice and demand penalty regulation.

Good afternoon.

MR. SMITH: Good afternoon, Madam Chair and Board
Members. My name is Joel Smith, and I'm an attorney
with the Franchise Tax Board. We are seeking the
Board's approval to proceed with the formal regulatory
process to amend regulation section 19133. Pursuant to
Revenue and Taxation Code section 19133, regulation
section 19133 provides the framework for the Franchise
Tax Board to impose the notice and demand penalty, which
is commonly referred to as the demand penalty, on
individual taxpayers who fail to file a tax return after
contact from the Franchise Tax Board.

The reason for the proposed amendment is to
clarify how the Franchise Tax Board imposes the demand penalty. Specifically, the proposed amendments resolve ambiguity in subsections (b) and (d) of the regulation. This will allow for ease of administration and avoid confusion regarding the imposition of the penalty. The proposed amendments do not alter how the Franchise Tax Board interprets the regulation or imposes the demand penalty. Staff held one interested parties meeting to solicit comments from the public regarding the proposed amendments. Staff did not receive any comments or suggested changes regarding the proposed amendments from the public.

Following the interested parties meeting, staff did make two nonsubstantive changes to improve clarity with respect to the proposed amendments. The first change inserted the word "immediately" in subsection (b) before the word "preceding;" and the second change deleted the word "previous" in subsection (d), example 2, and inserted the phrase, "immediately preceding the 2001 taxable year."

These changes, as well as all of the proposed amendments, are reflected in the documents provided in your materials.

Again, we request the Board's approval to proceed with the formal regulatory process for regulation.
section 19133. I am happy to answer any questions you may have at this time.

CHAIRPERSON YEE: Great. Thank you, Mr. Smith. Questions or comments, Members?

(No response)

CHAIRPERSON YEE: Okay. Hearing none, is there a motion?

MEMBER MILLER: Move for approval.

MEMBER COHEN: I will make a motion to approve.

MEMBER MILLER: Second.

CHAIRPERSON YEE: Okay. Motion by Member Cohen to approve and proceed with the regulatory process on this item; and seconded by Member Miller.

Without objection, such will be the order.

Thank you very much.

MR. SMITH: Thank you.

CHAIRPERSON YEE: All right, Members. Next we have Item Number 5, and this is the Annual Taxpayer Bill of Rights hearing. This is the time that is set for the Board's annual Taxpayer Bill of Rights hearing, as required by section 21006 of the Revenue and Taxation Code. The purpose of the hearing is to allow taxpayers and tax practitioners the opportunity to present directly to the Board any proposals they may have for changes in existing state income tax law.
We have FTB staff who are available to respond to member questions, which may be raised as a result of the presentation of the proposals. We have also present Selvi Stanislaus, our Executive Officer; Jozel Brunett, our Chief Counsel; Shane Hofeling, our Assistant Chief Counsel; and Susan Maples, our Taxpayer Rights Advocate.

Staff will analyze the fiscal and administrative consequences of the proposals that come to us. Susan has some introductory remarks before we get started, and then I will call on the names of the individuals who have indicated that they want to make a presentation, and you can come forward when your name is called and present your proposals, and we generally allow for three minutes for each presentation.

So Susan, with that, let me turn it over to you for some introductory comments.

MS. MAPLES: Thank you, Madam Chair, and good afternoon, Board Members. It's hard to believe that another year has passed so quickly. 2019 was a year, though, filled with twists and turns, and it was definitely a year of change as we made adjustments to handle the federal Tax Cuts and Jobs Act. This year promises to be no different, as we work on the new health care mandate and employee versus independent contractor rules.
I would like to thank you, Selvi, and this Board for your support throughout the year. I would also like to thank the many tax professionals and external stakeholders and other partners who have worked alongside me this year. The successes we had would not have been possible without this collaboration, and I am truly grateful for that.

As we listen to the speakers signed up for today's hearing, I would like to say that FTB will review their comments and concerns presented and respond in writing by January 31st, of 2020.

Thank you.

CHAIRPERSON YEE: Thank you very much, Susan.

Okay. Let me call the speakers up in the order that we receive requests.

First, let me have Barbara Donovan, representing the California Society of Enrolled Agents come forward.

MS. DONOVAN: Hi. Thank you. My name is Barbara Donovan, and I represent the California Society of Enrolled Agents, and I'm from the Sacramento Chapter. We want to thank FTB for all your support that you helped the community and the tax advisers.

We have a couple issues that we're a little concerned with, with the federal Tax and Jobs Act. One of the things is that California CA and the importance
of conforming with the itemized deductions in the future. The California CA form is -- for itemized deductions continues to be long and, as a result, doesn't conform with federal law.

Although the form is adequate, the information required from the California taxpayer to complete is significant, and the current form should not be considered for use in the ongoing future. Since California standard deduction is substantially lower than the federal, it -- it causes a lot of issues for the taxpayers doing their taxes. They don't have to file itemized deductions on the federal side, but on the state, they do. So it causes a lot more work for the taxpayers.

Our next issue that we're really concerned about is new health insurance mandate. We're just kind of hearing about this. With the passage of SB 78, we understand that California will now have a penalty for not maintaining health insurance effective 1/1/20. CSEA understands that there will be a penalty calculated on the 540, including the taxpayer's disclosure of their exemptions and their income if they are below the 600 poverty level; I guess they won't be penalized.

However, we're unclear as how this is going to work. How -- we're the one that's going to be working
with this. So we want to get some more information:
How this is going to proceed, how the tax providers --
practitioners are going to deal with it.

Also, for the taxpayers, a lot of them aren't
even aware that this has come about and we need to get
information out there. The website doesn't have a lot
of information out there, the FTB website, so they are
not really addressing the concern. And when the
taxpayers -- you know, some of them have actually
finally said, oh, you know, the penalty, we can't afford
to have insurance. Now that the federal side is gone,
now California is coming. So we need to get the
information out to the taxpayer and the practitioner
community.

So, as always, we want to thank FTB for your
attention to this, and we look toward to a response.
Thank you.

CHAIRPERSON YEE: Thank you, Ms. Donovan.

Any comments by staff on that? I know we're
focused on that issue.

MS. MAPLES: Yeah. I do want to address the
conformity piece. While it is the process of developing
the legislation properly lies with the state
legislature, I do want to thank CSEA and our other
partners for working with us and working alongside us as
we saw AB 91 get passed, so brought us into some
conformity with the Tax Cuts and Jobs Act.

In the past, FTB has generally had a policy in
favor of conformity, simply because it makes it easier
for taxpayers when they only have one set of rules to
work with.

As far as health care, the health care mandate, I
appreciate the comments about communication, and as we
work on our communication plan, we'll definitely take
those into consideration.

So thank you.

CHAIRPERSON YEE: Thank you very much.

Next we have Ms. Christine Grab. Please come
forward.

MS. GRAB: My name is Christine Grab. I have 13
requests:

One, in the policy of withholding estimated tax
payments made via credit elect until the taxpayer files
a return. This policy violates R&TC 19363, which, in
simple English, says that no matter what date you file
the previous return, the credit elect payment must be
applied on Tax Day, which is usually April 15th.

The FTB does not apply these payments in
accordance with the law. Instead, the FTB puts the
credit elect money into suspense, which is a fancy word
for the general slush fund. The credit elect money does not get moved from the slush fund until the taxpayer files that year's return.

The FTB claims this policy is in line with federal practices, but that is a lie. The IRS does not withhold payments made via credit elect. Demand notices are only sent to taxpayers whom the FTB believes have underpaid their tax liability. The accompanying demand penalty is a crippling 25 percent of extra additional taxes beyond what the taxpayer actually owed.

By withholding the credit elect payment, it appears that the account was underfunded and, thus, a demand penalty is assessed. However, had the credit elect payment been applied in accordance with the law, the account would not have been underfunded and the demand penalties would not have been imposed. This practice of withholding credit elect, in order to improperly impose demand penalties, is the federal crime of racketeering, per the RICO Act.

If a taxpayer is single, the FTB will apply the credit elect to the taxpayer's account after the demand notice has gone out, but they are still on the hook for the false penalties. However, married taxpayers are double-racketeered. The FTB refuses to apply monies to married people's account until the return is filed.
In addition to the false penalties, the FTB demands overpayments of estimated tax monies that would not have been due had the original estimated tax payments been applied in accordance with the law. This second ploy to collect extra funds from married people is also the federal crime of racketeering, per the RICO Act.

Two: End the policy of withholding estimated tax payments from married couples. It is not only credit elects that are withheld from married couples. All estimated tax payments made by married couples are withheld. If a married couple files late, they are double racketeered, as I just described.

The FTB claims its policy is in line with federal practice, but that is a lie. The IRS does not withhold estimated tax payments made by married couples. The tax code that the FTB uses to justify this policy says that joint estimated tax payments can be apportioned in any manner that the spouses agree upon. By not giving the spouses the opportunity to designate how much of the money is to be applied to each spouse, and instead withholding the payment altogether, the FTB is violating federal law.

Three: Implement a policy whereby fees may not be assessed when the fee was imposed as a result of...
breach of duty. The FTB seems to frequently misapply estimated tax payments. The net result of these mistakes is the same as with the withholding scenarios. If a taxpayer files late, the current year's tax liability appears to be underfunded, and, thus, a demand fee is imposed. The fee would not have been imposed had the FTB not breached their duty by -- by inaccurately applying the payment. The FTB is currently being financially rewarded for their breaches and, thus, are incentivized to make mistakes. We must eliminate the incentive to err.

Four: Disclosure of the requests for the annual Taxpayer Bill of Rights meetings can be submitted online. This meeting is a California state right. I am pleased to see that the FTB has added a blurb about the meeting on their website in a place where it can actually be found.

However, the verbiage makes it sound as if personal attendance is required to make a request. Attending this meeting is impossible for most Californians, as most of us can't take the day off work to fly to Sacramento. Not disclosing the right to make a request via e-mail is discrimination against the middle and lower classes.

Last year, I also stated that the FTB agents were
trained to violate California's disclosure laws by
telling people who complain about FTB policies or
procedures that the FTB cannot do anything to change
these practices.

In their response, the FTB did not address
retaining -- retraining staff to comply with the law. I
am asking you to address it this year.

Five: Create a public, online database of all
the FTB's policies and procedures that is searchable by
keyword. Over the years, FTB agents have repeatedly
given me erroneous information that created problems.
Even the FTB's disclosure department sometimes gave me
incorrect information; that is, when they answered my
request. Several of my disclosure department requests
were not answered because they seeded -- they said I
needed to better identify what I was looking for.

Had an online database of policies existed, I
could have simply looked up the information for myself
by typing in assorted keywords until I found what I was
looking for.

Six: Clear guidelines of what constitutes an
abatement request and claim for refund request. At last
year's meeting, I made the same question: I explained
that I had been turned down for my tax years 2013 and
2014 abatement requests before I applied.
When I asked Ms. Maples how this could possibly be legal, she told me that I was turned down because I told Gov Ops that I was going to submit an abatement request. Ms. Maples said this turndown was considered reasonable, thanks to the FTB's loose guidelines of what defines an abatement request. This policy of loose guidelines is a tool to deny due process for taxpayers. The law states that documentation must be provided, along with the request, but the FTB preemptively issues denials before the taxpayer has had a chance to submit a formal request along with the documentation.

In the FTB's formal response to me, they did not address this request. Instead, they reference a page on the FTB's website titled "Claims for Refund," which contains directions on how to request a refund. I am asking that you address the unlawful practice of preemptively issuing denial letters in this year's response.

Seven: Post questions submitted to the annual Taxpayer Bill of Rights meeting along with the answers. For the 2017 meeting, I made an online request to end the policy of withholding estimated tax payments made via credit elect. In their formal resolution, the FTB did not respond to my question. Instead, they answered a completely different question altogether. But I was
the only one who knew that because the question had not been posted.

When I asked Ms. Maples why questions weren't posted, she replied, it was necessary to leave the questions out because they may contain personal information. That is ridiculous, as personal information can be redacted. I am requesting that the FTB pose -- post the questions so they can no longer evade accountability.

Eight: Timely reapplication of misapplied payments. I notice, in the FTB's accounting ledgers, that there is a six-week lag between the date that a misapplied payment is located and the date the money is moved to the correct year.

I am requesting that these misapplied payments be corrected immediately.

Nine: The FTB should only utilize standard use English. The FTB utilizes a strange internal vocabulary that does not match standard use English. Here are three examples:

The word "transfer" to the FTB means, tell the customer to hang up and call an entirely different phone number;

Two: When someone disputes a notice of proposed assessment, the dispute is called a "no response";
Three: When the FTB ignores written correspondence they call it, "issuing a turndown."

Due to the language barrier created by the strange vocabulary, taxpayers often do what they believe they were told, only to find out later that they did the wrong thing. Besides confusing taxpayers, these odd vocabulary words also serve to deceive regulators.

Ten: Issuing of denial letters. Over the years, I have submitted many requests to the FTB that they never responded to. In my OTA appeal, the FTB claimed that not responding to my request was the same as issuing a denial letter. This practice is unprofessional and creates confusion for taxpayers. I am asking that the FTB establish a policy that all denials must be issued in writing.

Eleven: Move the Taxpayer Advocate to work under Gov Ops. Having the Taxpayer Advocates employed by the taxation agencies they are supposed to be protecting taxpayers from is a conflict of interest. It is not fair to the advocates to be placed in a position of divided loyalties. This can be corrected by changing their employer to Gov Ops.

I am requesting that the FTB with work with my state legislators to create a bill to propose, in 2020, with the following structural changes:
Instead of one advocate for taxation agency, there should be one advocate per district that works with all three agencies; the advocates should all work under Gov Ops; and the Tax Appeals Assistance Program should stay with the advocates at Gov Ops.

Currently, this crucial, free student attorney program is being administered by the agencies they are fighting against in court.

Twelve: FTB staff should only sign letters they wrote themselves. In the 2014 formal resolution that I mentioned, Susan Maples committed two counts of collusion to cover up racketeering. The advocate department later claimed she did not write that letter herself, but she signed it, so she is on the legal hook.

Rather than making Ms. Maples a scapegoat, I think that, in this year's resolution, each person who helped author it should sign the portion that they wrote. Going forward, all letters issued by the FTB should only be signed by the true author.

And, finally, stop harassing people online. In May 2019, a new account by someone named "Dave" appeared on a popular website called Reddit. He offers advice to people who post questions about tax issues. Based on his expertise and all matters FTB, how quick he is to respond, and how much time he spends online, he appears
to be a full-time FTB employee, paid to answer these queries. Unfortunately, Dave also harasses people who criticize the FTB.

While I think an online marketing person is a great idea, I am asking that you train your employees to be polite.

Thank you.

CHAIRPERSON YEE: Thank you, Ms. Grab, for bringing all of those issues to our attention. Appreciate you being here.

Next we have Kathryn Zdan with Spidell.

MS. ZDAN: Good afternoon, Board and staff. My name is Kathryn Zdan. I'm the editorial director at Spidell Publishing. As always, we appreciate the opportunity to present issues of concern to taxpayers and tax professionals.

The first issue we bring before you today relates to the FTB's website upgrade. We understand that a lot of the issues with the new website were due to budget constraints, and we know that it's expensive to convert content, both in terms of cost and staff time. But the design is still very user unfriendly and it causes confusion.

The FTB used the standard state website template, but compared to the other agencies, there's a lot of
wasted space and design elements that interfere with the normal usage of the website. Our main issues with the site are, the new HTML display is clunky and hard to navigate, and we request a link to be added to the PDF version of the content for those who would like to access the content that way. The design of the search results page is such that the list of results is pushed all the way down to the bottom of the page so it looks like there are no results. And the search function does not return good results.

To this point, I will just say that some FTB employees have mentioned to us that they have trouble finding things on the FTB website.

The next issue is the passage of AB 5 and the adoption of the ABC test. This has caused chaos in the tax and business communities with questions about who is an employee and who is not. For income tax purposes, the big question is, how will a worker who is an employee for California purposes, but an independent contractor for federal purposes, reports wage and independent contractor income. The FTB initially told us that these workers are employees for California income tax purposes, but we believe that under standard personal income tax conformity treatment, they should be treated as independent contractors.
We also believe that if they are treated as employees for personal income tax withholding, this should have been included in the amendment to the applicable Unemployment Insurance Code section, because all the other programs and code sections the legislature intended to amend were specifically listed. If personal income tax withholding wasn't addressed in the bill, we feel the legislature was aware of this and the omission -- they were aware of the omission and they chose not to apply the changes for income tax purposes. So we're asking for further investigation and clarification on this issue.

The third issue is SB 274, which established the state level partnership reporting and payment requirements for adjustments made at the federal level after an IRS-centralized partnership audit. The bill also directed the FTB to hold an interested parties meeting, and we would like to know when the FTB will be holding this meeting.

Our next issue is that we've been hearing complaints that on power of attorney forms, the FTB misreads a signature as electronic rather than as a wet signature. And it seems that if somebody too legibly prints a signature, it's being interpreted as an electronic signature; but the opposite is happening too,
where the forms are rejected if they have a very scribbly signature.

We believe that FTB should make implementation of E-signatures a priority. And, in the meantime, we would like FTB staff to be better trained and more careful when they are reading signatures.

And finally, Covered California has been running radio, TV, and billboard ads about their open enrollment and California's new requirement that all residents have health insurance. But Covered California's marketing has minimal information about the penalty for not having health insurance.

We would like to thank the FTB for the recent outreach they have done regarding the penalty, specifically the informative news release sent on December 2nd. Also, along with EDD and Covered California, the FTB has gone to great lengths to notify the public about the penalty via their website, a new brochure, and there's a letter campaign. But this can't compare with advertising.

The FTB has done everything they can to publicize the penalty, but Covered California is the agency with the funds to do the marketing. We believe Covered California has been irresponsible in their campaign. We would like the FTB to push them to be more transparent.
about the penalty, and we would also like the FTB to
provide the brochure to the public, especially at small
business workshops and other public events.

Thank you for your consideration on these issues.

CHAIRPERSON YEE: Thank you very much, Ms. Zdan,
for coming forward with the issues. We appreciate it.

Any comments, Susan?

MS. MAPLES: Yes, I have a few.

With regard to the website, I just wanted to say,
although they weren't able to get external stakeholder
feedback prior to the go-live date, since then, we have
conducted a lot of feedback sessions, including at our
Advisory Board at the CSEA and CalCPA liaison meetings,
as well as a lot of external stakeholder events that we
have attended. So we do really appreciate the feedback,
and we have been taking that into consideration.

And as we move forward, we're looking forward to
that partnership with our external stakeholders to
improve the website, so thank you for your comments
today.

Also, with regards to the interested parties
meeting for the partnership rules, that will be
commencing in 2020, so we're looking forward to that.

And then, finally, I just wanted to -- since this
was the second testimony we have heard on the health
care mandate and the penalty, I wanted to share a couple of items that we have been doing with regards to the communication about the penalty, starting with a FTB news release that was put out yesterday. And that focused heavily on the penalty, as well as, Covered California is planning on sending a letter to families identified as being in need of the insurance. The letter was developed with the help of FTB and will include information about the penalty.

A joint FTB Covered California video is also in the works. It's going to address the penalty and be shared via social media.

We also have, at FTB, on our integrated voice response system -- that's the messaging that callers hear as they are waiting for an agent -- there will be messaging about the health care mandate as well as the penalty so that callers waiting for an agent will be able to get information about that.

Also, this -- I guess the filing season in January, as we do our tax tips interviews, we're going to be sharing information about the mandate as well as the penalty.

And, finally, FTB is also working with EDD to leverage their relationship with employer -- with the employer community to try to further spread the word.
about the mandate and the penalty.

So those are just a few of the things we've got going on, and we are looking forward to doing more.

CHAIRPERSON YEE: Thank you very much Susan.

Comments from Members?

(No response)

CHAIRPERSON YEE: Very well.

Thank you very much.

Any other members of the public who wish to come forward during the Taxpayer Bill of Rights hearing?

(No response)

CHAIRPERSON YEE: Okay. Seeing none, we will conclude that portion of the hearing and move on to Item Number 6, which is the Executive Officer's Time.

Selvi.

EXECUTIVE OFFICER STANISLAUS: Thank you. Good afternoon, Board Members.

Here we are at the end of 2019. As we get ready to close another year and decade, I would like to celebrate and commemorate FTB's 90th anniversary.

Here's a brief recap of our rich history:

We started in 1929, when the California Legislature created the Office of the Franchise Tax Commission to administer California's new Bank and Corporation Franchise Tax Act. The honorable Reynold
Blight took office as the first Franchise Tax Commissioner with the staff of 33 employees.

California's personal income tax law was enacted in 1935 as part of a major restructuring of the state's tax system, resulting from revenue pressures created by the Great Depression.

In the first year of operation, nearly 373,000 returns were filed. Those returns reported a 1.4 billion of income earned during 1935 and resulted in 11.8 million in personal income taxes.

So fast forward to the 1950s, with abolishment of the Office of the Franchise Tax Commissioner, and the creation of the Franchise Tax Board, with the State Controller, Director of Department of Finance, and the Chair of the State Board of Equalization as board members.

The first executive officer was John Campbell, effective January 1st, 1950.

In the 1960s, Martin Huff became the Executive Officer and launched us into the technology era when we acquired one of the largest data processors in America.

We also saw the assignment of the Senior Citizens Property Tax Assistance Law that required the department to function in dual roles: One, as a tax collection agency; and, two, as a tax assistance agency.
In the 1970s, we saw a lot of change: The minimum tax on high income tax taxpayers, income tax withholdings, 9.5 million tax returns were filed, and our office moved from 1025 P Street to Aerojet.

In the 1980s, California had its first Tax Amnesty Program. We moved from Aerojet to our current location in 1985, and Gerry Goldberg signed on as Executive Officer.

In the 1990s and 2000s, more buildings were acquired to our central campus. We acquired nontax debt collection. We started e-file, CalFile, Ready Return, and the EDR projects.

After 25 years of service, Mr. Goldberg, FTB's third executive officer, retired, and I was hired in 2006 as the fourth Executive Officer.

And today, we have more than 5,800 employees and we process more than 18 million individual tax returns, for a total of $48.8 billion in revenue.

Since 1929, our mission and workloads continue to grow along with the state of California. We are proud to help taxpayers file timely and accurately their tax returns and pay the correct amount to fund important services to Californians.

And we are also very proud to have reached this milestone of FTB's 90 years of service. All of these
achievements are due to the leadership of our forward thinking Board and our wonderful FTB staff. I would like to personally thank each and every one of you here today and also those of you who are watching online.

I invite all of you to enjoy some cookies outside of the auditorium after the board meeting to celebrate 90 years of service to taxpayers.

Thank you.

(Applause)

CHAIRPERSON YEE: Thank you very much. Really quite a milestone and a lot of accomplishments along the way.

Members, our next item is Item Number 7. This is Board Members' Time, and I would like to see if any members wish to make a comment.

Yes, please.

MEMBER MILLER: I just -- I also wanted to celebrate the 90 years of the Franchise Tax Board and the amazing team that you have that works here. I have gotten to work with you for 23 years, and the exemplary service and the professionalism and the intelligence that your team brings all the time is -- is remarkable. And I think, only having had four directors in 90 years really speaks to the -- to the caliber not only of the directors, but just of the team that you have brought
together, and it's really been an honor to work alongside you and learn from you and your team, and I'm really, really grateful for the service you have provided.

Thank you very much.

EXECUTIVE OFFICER STANISLAUS: Thank you.

CHAIRPERSON YEE: Thank you.

Any other comments, Members?

(No response)

CHAIRPERSON YEE: I will just say one, and that is, I think, over the years, we have even earned the admiration and the respect of the Internal Revenue Service, so they have been looking to us as really being the leaders in the -- in the field and in the disciplines. So congratulations on all of that.

Also, with Board Member Time, these are the bittersweet moments when we honor a member of the team, and we're celebrating Franchise Tax Board and 90 years, but we have a member of the team who has been serving the people of the State of California for more than 40 years, who is retiring, and that's Julie Moreno, who is our Bureau Director of Technology Services.

(Appause)

CHAIRPERSON YEE: We have heard a lot about the milestone initiatives that were achieved over the 90
years, and I think, Julie, you probably had a hand in being an architect in almost all of them, whether it be e-file, CalFile, Ready Return, but just -- you have been a terrific mentor. You are actually very well known by reputation in this organization.

But I understand that you are going to be winding down and beginning to enjoy other aspects of your life, and so we will miss seeing your mismatched shoes in the morning. But really wish you the best as you begin to travel and really create your next journey in life.

But really nothing is adequate to just thank you for the years of service and, certainly, the years of contribution to the benefit of the people of State of California.

Congratulations.

MS. MORENO: Thank you, Controller and Members.

I wanted to make just a few comments:

I really thank you for the honor of this recognition today. I really enjoyed my time at the FTB, the fine people that work here, and, really, all of the innovations that -- that we have done together.

And as I reflect back over these many years, I did serve under three of the directors. And I remember, in my first retirement training class -- this is quite a long time ago -- thinking I could work here until 2020,
but never really believing that could happen, and, yet, here we are. So I am going to exceed expectations and retire in 2019, one day before 2020.

(Laughter)

MS. MORENO: So getting back to a little bit about FTB, I really feel privileged to have worked here. I came here for a job and it turned into a career. And I really appreciate that because -- and I can attest to the variety of interesting work at the FTB. There's always something that really draws you in. And as you talked about today, the gig economy is one of the latest things that we've been drawn into. And so it did become a career and -- and it really -- because you devote so much time here and self, it gave me memories that are truly memorable and, oh, meaningful and rewarding.

So today, I want to thank you all, as the Board, and as my FTB colleagues, I will miss you, and I know you will continue to do great things.

CHAIRPERSON YEE: Thank you. Thank you.

(Applause)

CHAIRPERSON YEE: Once again, I can assure you that your work that you have so graciously shared in your four decades studying the future of work will be still very, very topical as we move forward. So thank you for all of your time spent on that.
I do have a resolution that had been signed by each of the board members, and we would like to come up and present that to you.

(Applause)

CHAIRPERSON YEE: All right. Thank you.

Any other business to come before the Board?

(No response)

CHAIRPERSON YEE: Hearing and seeing none, this meeting is adjourned.

Thank you very much.

(Proceedings concluded at 2:49 p.m.)

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CERTIFICATE OF REPORTER

I, KATHRYN S. SWANK, a Certified Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing proceedings were reported in shorthand by me, Kathryn S. Swank, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said proceedings nor in any way interested in the outcome of said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of December 2019.

/s/ Kathryn S. Swank
KATHRYN S. SWANK, CSR
Certified Shorthand Reporter
License No. 13061