

LEGISLATIVE PROPOSAL E

EXECUTIVE SUMMARY

Title

FTB/SCO Unclaimed Property Checkbox Data Sharing

Introduction

In the Budget Act of 2019 (SB 109), the Joint Legislative Budget Committee (JLBC) tasked the Franchise Tax Board (FTB) with researching the feasibility of adding questions regarding unclaimed property on Business Entity (BE) returns. FTB worked in conjunction with the State Controller's Office (SCO) to identify the questions to include on BE returns (FTB forms 100, 100 S, 100 W, 565, and 568) that could increase awareness of, and compliance with, the unclaimed property reporting requirements.

The questions identified are:

1. Has this business entity previously filed an unclaimed property Holder Remit Report with the State Controller's Office? [Yes/No]
2. If "Yes," When was the last report filed? _____
3. What was the amount last remitted? \$_____

Currently, the FTB has statutory authority to disclose specific taxpayer information to the SCO to locate owners of unclaimed property (Revenue and Taxation Code (R&TC) section 19554). The information FTB can disclose is limited to the taxpayer's name, address, identification number, and principal business activity code. FTB's statutory authority to disclose information to the SCO, however, does not allow FTB to share information related to the three questions above if added to BE tax returns.

Problem

The volume of unclaimed property reports filed with the SCO has declined over the last ten years, resulting in less than two percent of businesses being in compliance with the unclaimed property law (UPL). This reduction in compliance reduces the likelihood that an individual or business would learn that they have unclaimed property and have it returned.

Proposed Solution

Amend Section 19554 of the R&TC to allow the FTB to share the tax return information received in response to the three new questions that could be added to the tax forms.

Major Concerns/Issues

None noted.

Fiscal Impact

This proposal would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update. As a result, this proposal would not significantly impact the department's costs.

Economic Impact

This proposal would not impact state income or franchise tax revenue. This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Title

FTB/SCO Unclaimed Property Checkbox Data Sharing

Introduction

This proposal would add language to the Revenue and Taxation Code (R&TC) allowing the Franchise Tax Board (FTB) to share additional corporate tax return information with the State Controller's Office (SCO). The information shared as a result of this proposal would help SCO improve compliance with the Unclaimed Property Law (UPL).

Problem

The volume of unclaimed property reports filed with the SCO has declined over the last ten years, resulting in less than two percent of businesses being in compliance with the UPL. This reduction in compliance reduces the likelihood that an individual or business would learn that they have unclaimed property and have it returned.

Proposed Solution

Amend Section 19554 of the R&TC to allow the FTB to share the tax return information received in response to the three new questions will be added to the tax forms, with the SCO.

Program History/Background

In the Budget Act of 2019 (SB 109), the Joint Legislative Budget Committee (JLBC) tasked the FTB with researching the feasibility of providing a "check box" question regarding unclaimed property on Business Entity (BE) returns. FTB worked in conjunction with the SCO to identify the questions to include on BE returns (FTB forms 100, 100 S, 100 W, 565, and 568) that could increase awareness of, and compliance with, the unclaimed property reporting requirements.

The questions identified are:

1. Has this business entity previously filed an unclaimed property Holder Remit Report with the State Controller's Office? [Yes/No]
2. If "Yes," when was the last report filed? _____
3. What was the amount last remitted? \$_____

Current business entities that are holders of unclaimed property are required to report and remit unclaimed property to the SCO when there has been no activity or contact with the owner for a period of time (generally three years). As noted in the JLBC summary, the trend in compliance with the UPL is declining among holders. The JLBC is seeking ways to increase compliance among business entities.

Current Federal Law

No provision comparable in federal law.

Current State Law

Currently, the FTB has statutory authority to disclose specific taxpayer information to the SCO in order to locate owners of unclaimed property (R&TC section 19554). The information FTB can disclose is limited to the taxpayer's name, address, identification number, and principal business activity code.

The FTB provides to the SCO, on an annual basis, a list of all business entity taxpayers that incorporated or began conducting business at least three years ago and have filed a return.

Effective/Operative Date of Solution

If enacted in the 2021 legislative session, this proposal would be effective and operative on January 1, 2022.

Justification

Without legislation authorizing the FTB to share data with the SCO, the FTB will not be able to share any information obtained from the new unclaimed property questions that could be added to the tax forms.

Implementation

Implementing this proposal would occur during the department's normal annual update.

Fiscal Impact

This proposal would require some changes to existing tax forms and instructions and information systems, which could be accomplished during the normal annual update. As a result, this bill would not significantly impact the department's costs.

Economic Impact

This proposal would not impact state income or franchise tax revenue. This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Policy Considerations

None noted.

Other Agency/Industry Impacted

State Controller's Office

Other States

None noted.

Potential Compromises

None noted.

Additional Comments

Business entities that decline to answer the new questions being added to the tax returns will continue to have their returns processed as normal.

Information from Form 199 is shared under our existing data sharing agreement with SCO, but this form was not identified as one of the returns on which to add these questions in the original report issued by the FTB. It has been proposed that FTB add the questions to this form as well.

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Franchise Tax Board's Draft Proposed Amendments LP E

Subject: FTB/SCO Unclaimed Property Checkbox Data Sharing

Amendment to Section 19554 of the R&TC

(a) Subject to the limitations of this section and federal law, the Franchise Tax Board may provide the Controller with the address or other identification or location information from income tax returns or other records ~~which is necessary~~ for the Controller to locate owners of unclaimed property pursuant to Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(b) Subject to the limitations of this section and Section 6103(d) of the Internal Revenue Code, the Franchise Tax Board may provide the Controller, on an annual basis, the following information from business entity income tax returns or other business entity records maintained by the Franchise Tax Board:

(1) The taxpayer's name.

(2) The taxpayer's identification number.

(3) The taxpayer's address.

(4) The taxpayer's principal business activity code.

(5) The taxpayer's entity status and the date that the Franchise Tax Board last updated the taxpayer's entity status.

(6) The taxpayer's revenue range.

(7) Whether the taxpayer previously filed an Unclaimed Property Report with the State Controller's Office, including, if applicable, the date of, and amount remitted on, the taxpayer's last filed report.

(c) For the purposes of this section:

(1) "Unclaimed Property Report" means the report and remittance required to be filed pursuant to Sections 1530 and 1532 of the Code of Civil Procedure.

(2) "Unclaimed property" has the same meaning as defined in Section 1300 of the Code of Civil Procedure.

(3) "Revenue range" is a range of income amounts determined by the Franchise Tax Board.

(4) "Income" means net income as reported on Forms 100, 100S, and 100W, ordinary income as reported on Form 565, total income as reported on Form 568, or total gross receipts as reported on Form 199.

~~(c)~~(d)(1) The information provided to the Controller under this section is subject to Section 19542.

(2) Neither the Controller nor any officer, employee, or agent, or former officer, employee, or agent of the Controller may disclose or use any information obtained from the Franchise Tax Board pursuant to this section except for the purpose of locating owners of unclaimed property as provided in subdivision (a), or for the purpose of determining compliance with the Unclaimed Property Law (Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure), as provided in subdivision (b).