



STATE OF CALIFORNIA
Taxpayers' Rights Advocate Office MS F385
FRANCHISE TAX BOARD
PO BOX 157
SACRAMENTO CA 95741-0157

02.03.2026

California Society of Enrolled Agents (CSEA)

Dear Susan Shaw:

Thank you for submitting your concerns at the December 2025 Taxpayers' Bill of Rights Hearing. As the Taxpayers' Rights Advocate, your concerns are important to me.

Below are the three concerns you presented, followed by responses from the appropriate program areas within the department:

CSEA opposes the increased burden, by the legislators, on the Franchise Tax Board to administer the collection and sharing of tax return information with other state entities for non-tax purposes. CSEA recognizes the value and does not oppose outreach offering low-cost/no-cost health insurance or putting someone on the organ donor registry. CSEA does not agree that the FTB should be responsible for collecting and sharing that information.

The following identifies the Member concerns, potential risks, and impact on the taxpayer community including the FTB.

Legislation Currently Enacted and Implemented

Healthcare: In 2022, the legislature passed SB 967 that required the FTB to add a checkbox item on California income tax returns asking if the taxpayer wanted to learn about no-cost or low-cost healthcare. The R&T Code now reads (*emphasis added*):

18543.

For taxable years beginning on or after January 1, 2023, the Franchise Tax Board shall include a checkbox for a taxpayer *to indicate on their individual income tax return that they are interested in no-cost or low-cost health care coverage and authorize the Franchise Tax Board to share information from their tax return with the California Health Benefit Exchange* for purposes of providing notification under subdivision (b) of Section 100720 of the Government Code. *(Added by Stats. 2022, Ch. 170, Sec. 2. (SB 967) Effective January 1, 2023.)*

Member Concerns Regarding Healthcare Checkbox

Concern #1: Tax software providers are not consistent in their implementation of this new requirement.

A CSEA Member recently brought to our attention an issue with his Lacerte software regarding the healthcare checkbox required pursuant to R&TC §18543. According to that Member, his Lacerte tax preparation software requires a yes or no answer, however it may be overridden which takes additional time. He contacted Lacerte to discuss removing this requirement to answer. Lacerte indicated it is required by the FTB. This prompted CSEA to collect additional information from members. The limited results are as follows:

Tax Prep Software	Requires Answer	Override Available	Default yes answer
Drake Software	Yes	No	No
Intuit ProSeries	Yes	Yes	Yes
Lacerte	Yes	Yes/No*	No
Pro System fx	No		No
Taxware Systems	Yes	Yes	
Ultra tax	Yes/No*	Yes	No

*Yes/no answers may indicate use of different versions of the software, or user's familiarity with software

FTB's Response to Concern#1

FTB works with our various Computerized Tax Processor (CTP) partners regularly. We require that our CTPs ensure their e-filed return submissions meet the requirements to provide the correct data in the proper format or structure for processing by FTB systems, which includes checking one of the boxes in the "Health Care Coverage Info" section. However, if a practitioner has any questions or concerns regarding their specific software's functionality, please reach out to your software provider.

Concern #2: Tax practitioners are being put in a position provide guidance to taxpayers on a non-tax issue with limited information available to them.

The inclusion of this checkbox adds additional responsibility on tax preparers to specifically call this option to the attention of each taxpayer to obtain their response, as the return is signed under penalty of perjury. This adds additional burden on the tax preparer to gather that information. While it might not seem time-consuming, consider that it also puts the preparer in a position to respond to any questions that the taxpayer may have regarding what a yes or no answer involves. The statute states the information is for outreach and enrollment purposes. But what exactly does that mean? What kind of outreach? Will they automatically be enrolled if they answer yes? Are there any income limitations to qualify for low or no-cost insurance? If we assume an average tax preparation return volume is 350 per preparer and assume it takes an additional 7 minutes to fully address, and report, this one question with each taxpayer, that adds 40 hours (one week) to the tax preparer's responsibilities.

FTB's Response to Concern #2

FTB appreciates the concerns raised by CSEA; however, FTB is statutorily required under California R&TC section 18543 to include a checkbox regarding health care coverage information. Pursuant to R&TC section 19548.9, if a taxpayer checks the "Yes" box on Form 540, FTB is required to disclose limited information to the California Health Benefit Exchange ("Covered California") for Covered California's outreach and enrollment efforts. The information shared is limited to:

1. Taxpayer's name
2. Full mailing address listed on the tax return
3. Number and age of household dependents
4. Gross income

The outreach and enrollment efforts that this information disclosure supports are required of Covered California by Government Code 100720.

Concern #3: Disclosure of specific tax items from the return are being disclosed to a non-tax agency.

The instructions for the 2024 Form 540 state:

Health Care Coverage Information: If you are interested in no-cost or low-cost health care coverage information, check the "Yes" box on Form 540, Side 5. If you check the "Yes" box, you, and your spouse/RDP if filing a joint return, authorize the FTB to share limited information from your tax return with Covered California (the state agency that provides Californians with access to affordable health insurance) for their outreach and enrollment efforts. Limited information that will be shared include the following:

- Taxpayer name, or in the case of taxpayers filing a joint tax return, the names of both spouses or RDPs.
- Full mailing address listed on the tax return.
- Number and age of household dependents.
- Gross income

Covered California is not a government agency.

1. The California Health Benefit Exchange (aka Covered California) is described in GC Section 100720 (*emphasis added*):

(a) There is in state government the California Health Benefit Exchange, *an independent public entity not affiliated with an agency or department, which shall also be known as Covered California*. Covered California shall be governed by an executive board consisting of five members who are residents of California. Of the members of the board, two shall be appointed by the Governor, one shall be appointed by the Senate Committee on Rules, and one shall be appointed by the Speaker of the Assembly. The Secretary of California Health and Human

Services or the secretary's designee shall serve as a voting, ex officio member of the board.

Gross income is specific tax return information that should not be disclosed for non-tax use. Even if there is an exception, taxpayers may not realize the risk involved in authorizing FTB to share this information. In addition, the age of household dependents is not available on a tax return unless a specified age-related credit is claimed. All of the information requested is sufficient information to cause harm to the taxpayer should a data breach occur either during the sharing of information, or use of the information by Covered California, an independent public entity not affiliated with an agency or department. This is a critical issue considering the increasing levels of breaches and scams.

Current Legislation Effective January 1, 2026:

Organ Donor: In 2023, the legislature passed AB 1268 which becomes effective January 1, 2026. CSEA notes that the tax form for the 2026 filing season is not yet available. AB 1268 added Section 18544 to the R&T Code:

18544.

- (a) For each taxable year beginning on or after January 1, 2025, the Franchise Tax Board shall include checkboxes on resident income tax returns to allow individuals, including spouses filing a joint return, heads of households, or surviving spouses, to provide written consent for Donate Life California to enroll the individual in the Donate Life California Organ and Tissue Donor Registry and for the Franchise Tax Board to share the individual's information, as described in Section 19572.5, with Donate Life California for purposes of administering that registry. The individual's written consent to have their information shared with Donate Life California shall be valid for one year from the date the return is signed.
- (b) The Franchise Tax Board shall enter into a memorandum of understanding with the Donate Life California Organ and Tissue Donor Registry for purposes of mutually agreeing on the language to be used on the returns pursuant to subdivision (a).
- (c) For purposes of this section, "Donate Life California Organ and Tissue Donor Registry" means the registry established pursuant to Section 7150.90 of the Health and Safety Code.

(Added by Stats. 2023, Ch. 573, Sec. 1. (AB 1268) Effective January 1, 2024.)

Pursuant to 19572.5, the FTB is authorized to provide:

- (1) The individual's name.
- (2) The individual's address.
- (3) The individual's date of birth.
- (4) The last four digits of the individual's social security number.

Concerns

The same concerns exist for this legislation: (1) disclosure risk for personal information sufficient to harm the taxpayer if a data breach occurs, and (2) use of the Franchise Tax Board to gather and share personal information for non-tax initiatives.

Adding additional administrative responsibilities for the Franchise Tax Board to implement impacts the agency as well as the taxpayer community. These responsibilities are not tax related and divert resources from the tax purposes of the agency. Fewer agency resources means reduced access to customer assistance or tax matters. These non-tax related matters are cracks in the foundation of the tax system.

Recommendations

CSEA acknowledges that the Franchise Tax Board is not positioned to change the existing legislation or prevent future legislation that imposes such responsibilities. However, there are things that can and perhaps should be done procedurally to safeguard taxpayer information and create consistent implementation.

1. Provide sufficient information to tax preparation software developers to allow consistent treatment of the healthcare checkbox, and future organ donor checkbox, requirement across all platforms. An answer should not be mandatory since not every taxpayer will want to respond. The preparer should not be put in a position to decide for the taxpayer just to satisfy the software constraints to allow filing the return.
2. Include stakeholders in the implementation process for the future organ donor checkbox. This includes sharing the Memorandum of Understanding reached with the Donate Life California Organ and Tissue Donor Registry.
3. Provide sufficient detailed information in the instructions explaining how the checkbox information will be used. For example, define outreach efforts so taxpayers understand what to expect.
4. Explain the exception to disclosure laws so the taxpayer fully understands the implication and risk.

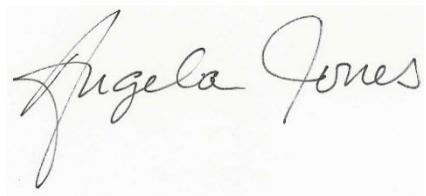
CSEA is ready and willing to work with the FTB on any of the above recommendations or anything related to the concerns raised. Thank you for allowing CSEA to participate and bring these issues to your attention.

FTB's Response to Concern#3

As you articulated above, FTB is not positioned to change existing legislation and is statutorily required under R&TC sections 18543 and 18544 to include health care and organ donation information on income tax returns. That said, FTB welcomes working with CSEA on easing the burden on taxpayers and enrolled agents.

Thank you for calling in to present on behalf of CSEA. Your participation helps strengthen the Taxpayers' Bill of Rights process.

Sincerely,

A handwritten signature in black ink that reads "Angela Jones". The signature is fluid and cursive, with "Angela" on the top line and "Jones" on the bottom line.

Angela Jones
Taxpayers' Rights Advocate

cc: Malia M. Cohen

Sally J. Lieber

Joe Stephenshaw

Selvi Stanislaus

Tel 916.845.5796

Fax 916.845.2178

ftb.ca.gov