



Tax News

December 2016

Contents

- Legislative Update2
- New due dates for foreign nonwage withholding information returns and statements3
- Form FTB 3504, Enrolled Tribal Member Certification.....4
- FTB requires reporting of cooperative commissions.....4
- National Guard bonuses5
- Home energy system loan programs: Payments are not deductible real estate taxes7
- New January 31 deadline for employers9
- IRS stakeholder liaison western area presents Understanding the 2016 Tax Law Updates
Webinar10
- Ask the Advocate11
 - Power of attorney declaration process11
- MyFTB Corner13
 - Renew your tax preparer client relationships in MyFTB.....13
- Doing Business in California17
 - Opportunity for more discussion on reasonable approximation17
- All About Business18
 - The Gillette Company v. Franchise Tax Board18
- Event Calendar.....19

Legislative Update

The following is a brief overview of the bills that became law in 2016 in addition to the voter approved Proposition 55:

[AB 1399](#) Establishes the California Domestic Violence Victims Fund and allows a taxpayer to make a voluntary contribution to the fund on their California personal income tax return.

[AB 1775](#) Modifies the California return due dates for partnerships and C corporations to be similar to the federal due dates for such returns.

[AB 1789](#) Extends the effective and repeal dates for the School Supplies for Homeless Children Fund.

[AB 1847](#) Requires that California employers, state departments, and certain agencies also provide formal notification to their employees of possible eligibility for the California Earned Income Tax Credit.

[AB 2318](#) Modifies reporting requirements and related enforcement activity relating to nonprofits receiving public resources.

[AB 2371](#) Establishes the Special Olympics Fund and allows a taxpayer to make a voluntary contribution to the fund on their California personal income tax return.

[AB 2430](#) Establishes the Type 1 Diabetes Research Fund and allows a taxpayer to make a voluntary contribution to the fund on the California personal income tax return.

[AB 2623](#) Modifies an annual reporting requirement to the Department of Technology.

[AB 2853](#) Modifies provisions of the California Public Records Act.

[SB 836](#) Among other items, modifies the operative date for the Advanced Strategic Aircraft Credit.

[SB 837](#) Among other items, modifies the existing Low-Income Housing Credit and adds provisions to allow the credit to be sold. Creates a new Donated Fresh Fruits and Vegetables Credit.

[SB 1054](#) Limits the ability of the Department of Corrections and Rehabilitation or a county from referring specified debts to the Franchise Tax Board for collection.

[SB 1073](#) Conforms the California EITC to recent federal changes.

[SB 1171](#) Annual Code Maintenance bill.

[SB 1416](#) Establishes the Revive the Salton Sea Fund and allows a taxpayer to make a voluntary contribution to the fund on their California personal income tax return.

[SB 1476](#) Adds general requirements for new or extended voluntary contribution funds.

[SBX2-2](#) Establishes the Managed Care Organization Provider tax, provides a reduction to the gross premiums tax, and excludes certain income under the Corporation Tax Law.

[Proposition 55](#) Extends the operation of the temporary personal income tax rates on high-income individuals originally enacted by Proposition 30 by twelve (12) years.

New due dates for foreign nonwage withholding information returns and statements

California conforms to federal business entity due dates

On September 14, 2016, Governor Brown signed Assembly Bill 1775. This bill changes the due date to file certain tax returns to conform to the federal due dates. For taxable years beginning on or after January 1, 2016, California conforms to the due dates for foreign partnerships and limited liability companies (LLC) to file information returns to report nonwage withholding. Although the information return file date changed, the payment due date remains the same.

New due date to file Form [592-B](#), Resident and Nonresident Withholding Tax Statement to Foreign (Non-U.S.) Partners or Members and [592-F](#), Foreign Partner or Member Annual Return

The due date to file Form 592-B and Form 592-F is now the 15th day of the 3rd month following the close of their taxable year for foreign (non-U.S.) partnership's or limited liability companies (LLC) treated as partnerships for tax purposes.

No change to withholding payment due dates

The due dates to file Form [592-A](#), Payment Voucher for Foreign Partner or Member Withholding, with the withholding payment remain the same: the 15th day of the 4th, 6th, 9th, and 12th month of the partnership's or LLC's taxable year.

For more information regarding California source nonwage withholding, go to ftb.ca.gov and search for **nonwage**.

For other withholding questions, contact Withholding Services and Compliance.

For reference, see October 2016 Tax News edition, California Conforms to Federal Business Entity Due Date Changes, which generally outlines AB 1775 legislative change information.

Form FTB 3504, Enrolled Tribal Member Certification

Beginning January 2017, form FTB 3504, Enrolled Tribal Member Certification, will be available to the Native American Tribal community. Tribal members have the option to use FTB 3504 to communicate their enrolled status and residency within their Tribe's federally recognized Indian Country.

The intent of this form is to reduce unnecessary contacts between us and enrolled tribal members. The form is standardized for efficient processing and will help ensure each enrolled member's declaration of reservation residency is properly identified by us and the inherent sovereignty of tribal reservation boundaries is respected.

Tribal leaders and enrolled members can find additional information about Form 3504:

- Visit our Native American webpage
- Call our information line at 916.845.2790
- Email us at TribalHotline@ftb.ca.gov

FTB requires reporting of cooperative commissions

We require listing brokers to file Form 1099-MISC for all individuals who are paid a cooperative commission of \$600 or more. The amount paid must be reported in Box 7 – “Nonemployee Compensation” on Form 1099-MISC. Brokers must give Copy B of the form to the individual who received the compensation, and file Copy 1 with us by January 31 following the year of payment.

“Nonemployee compensation” includes fees, commissions, prizes, and awards, and includes cooperative commissions and referral fees paid by real estate professionals to nonemployees.

For real estate professionals these filing requirements exist even if the listing broker is not directly paying the cooperative commission to another broker. If it is paid by the escrow agent, then the listing broker must file a 1099-MISC. Since the funds constituting the cooperative commission are drawn from the listing broker's portion of the commission, the payment is technically made by the listing broker.

This requirement only applies to payments made to individuals, and does not apply when the payments are made to corporations unless payments are for gross proceeds to an attorney or for legal fees. Individuals or business entities not in the trade or business of selling real estate do not need to complete a 1099-MISC for the commissions they pay to real estate professionals. If the cooperative broker does not return the W-9, the taxpayer can still verify the corporate status of the cooperative broker by checking the [Secretary of State's website](#) under [Business Search](#). Listing brokers should make it part of their business practice to obtain a completed Form W-9 from anyone to whom it pays a commission, whether it be an individual or a business entity.

Reporting deadlines and other information

- 1099-MISC Copy B must be sent to recipients by January 31 following the year of payment.
- 1099-MISC Copy 1 must be filed with us by January 31 following the year of payment.

For more information visit ftb.ca.gov and search for **1099** or call us at 800.852.5711.

In order to complete the 1099-MISC, a taxpayer needs to obtain a social security number or an employer identification number from the recipient. Brokers should obtain this information by giving Form W-9 to every broker to whom it pays cooperative commissions (or causes to be paid) and request that the cooperative brokers return a completed Form W-9 to the taxpayer. This form will give the taxpayer sufficient information to complete the 1099-MISC and will also inform the taxpayer about whether the cooperative broker is an individual or a corporation.

Remember, if the cooperative commission is paid to a corporation, except as noted above, the taxpayer does not need to file a Form 1099-MISC. However, it is recommended that the taxpayer make it part of their risk management policies to obtain the W-9 from all cooperating brokers, in order to demonstrate that the taxpayer can still verify the corporate status of the cooperating broker by checking the [Secretary of State's website](#).

National Guard bonuses

Many California National Guard soldiers received bonuses for reenlistment during the wars in Afghanistan and Iraq.

Due to the uncertainty now surrounding the bonuses, we have received several questions relating to their initial taxation and possible repayment.

In general, California law fully conforms to federal tax law in this area. Because the provisions of the California Personal Income Tax Law are in substantial conformity with the Internal Revenue Code (IRC) for this issue, we will follow federal regulations, procedures, and rulings. Minor differences may exist for California tax purposes with respect to taxpayers where the residency or domicile of that taxpayer changes from the original year of receipt of the bonus and the year of repayment. Ultimately, facts and circumstances regarding why each bonus was received will determine whether or not the bonuses were taxable when received. Without specific facts, the following information may be helpful.

Bonus income

- Bonuses are generally taxable for the year in which the employee receives the bonus payment.
- Bonuses are generally treated as wage income and will be reported on Form W-2.
- Any individual who serves in a combat zone may exclude certain pay from their income, including bonuses for re-enlistment if the voluntary extension or reenlistment occurs in a month during which the individual served in a combat zone.
- Student loan repayments attributable to the period of service in a combat zone are not taxable.
- [IRS Publication 3](#) *Armed Forces' Tax Guide* provides additional information and covers the special tax situations of active members of the U.S. Armed Forces.

Bonus repayment

- Any wage repayment made in a year other than the year in which the bonus was received would be deductible or credited on the return for the taxable year the repayment was made.
- Assuming the bonus was taxable when originally received, if the amount repaid during the year was \$3,000 or less, the amount may be deducted as a miscellaneous itemized deduction on Schedule A subject to the 2-percent miscellaneous AGI limitation.
- Affected taxpayers must be able to claim itemized deductions greater than the standard deduction in order to claim a deduction for a repayment of \$3,000 or less. If the amount repaid during the year is greater than \$3,000, the taxpayer may either claim a tax credit or a deduction that is not subject to the 2-percent miscellaneous AGI deduction limitation on Schedule A, whichever is most beneficial to them.

- When the wage repayment during the year exceeds \$3,000, the tax in the year of repayment is the lesser of the tax computed with the wage repayment treated as a deduction not subject to the 2-percent miscellaneous AGI deduction limitation or, a tax credit for the tax computed on the tax originally paid on the wage amount (IRC section 1341, R&TC section 17049). The credit can result in a tax overpayment in the year of repayment.

For both federal and state tax purposes, if taxpayers repaid the bonuses, in whole or in part, and are later reimbursed for such repayments, then those amounts would generally be taxable as income for federal tax purposes, and taxable by California assuming the taxpayer is a resident or domiciliary of California when the reimbursement is received. However, assuming tax was paid on the bonus when originally received, then, to the extent a taxpayer did not receive a tax benefit for the repayment, e.g., the taxpayer did not deduct the repayment as an itemized deduction or under the claim of right doctrine, then under the tax benefit rule in IRC Section 111(a), to which California conforms in R&TC Section 17131, the taxpayer may be entitled to exclude the repayment from income.

We are aware that there are ongoing discussions surrounding this issue. Recently, federal legislation was introduced to stop the collection of these bonuses and repay those from whom repayments have been collected. We will provide additional information in future issues of Tax News as it becomes available.

Home energy system loan programs: Payments are not deductible real estate taxes

Some homeowners finance energy saving improvements through government-approved loan programs.

The payments on these loans are collected through your tax bill, so they may appear to be deductible real estate taxes. ***However, the payments are not deductible real estate taxes.*** If you have clients that are such homeowners, here are the details that may be important to you.

Generally, the loan programs have similar facts. Taxpayers sign up for a home energy system loan and use the proceeds to make home energy improvements to their home. The home energy system loan is secured by a lien on their home.

The taxpayer repays the principal and interest associated with this home energy system loan over some period agreed to in the documents they signed. This is billed to them through specific assessments, *i.e.*, additional amounts due to the governmental entity. These specific assessments appear on their real estate property tax bill over the period of the loan.

The taxpayer's real estate tax bill may not list the breakdown between principal and interest. However, in reality, the total amount due reflects an amount for principal repayment and an amount for interest expense, using the interest rate applicable to the loan. The documents the taxpayer signed may list this breakdown.

As stated above, the amount that is billed to the taxpayer through the specific assessment is not deductible as a real estate tax. This amount is not deductible because it is a specific assessment associated with a specific improvement benefitting the taxpayer's home. In other words, it is not in the nature of a general assessment. It is not similar to other typical real estate tax assessments that are levied against all real estate in their jurisdiction for more general governmental funding purposes, *i.e.*, to fund public schools, fire departments, bridge construction projects, etc.

However, the interest portion of the taxpayer's payment may be deductible as "qualified residence interest," *i.e.*, home mortgage interest expense. Refer to [Publication 936, Home Mortgage Interest Deduction](#), to see whether they might qualify for a deduction of home mortgage interest expense.

Additional IRS resources:

- [Instructions for Form 5695](#), Residential Energy Credit
- [Topic 503 - Deductible Taxes](#)
- [Publication 17, Your Federal Income Tax for Individuals](#), has information on nonbusiness tax deductions
- [Publication 530](#), Tax Information for Homeowners, contains deductions for homeowners
- [Residential Energy Efficient Property Credit \(Section 25D\) at a Glance](#)
- [Energy Incentives for Individuals: Residential Property Updated Questions and Answers](#)
- [Home Energy Credits Save Money and Cut Taxes](#)

New January 31 deadline for employers

A new federal law, aimed at making it easier for the Internal Revenue Service (IRS) to detect and prevent refund fraud, will accelerate the W-2 filing deadline for employers to January 31.

For similar reasons, the new law also requires the IRS to hold refunds involving two key refundable tax credits until at least February 15. Here are details on each of these key dates.

The Protecting Americans from Tax Hikes (PATH) Act, enacted last December, includes a new requirement for employers. Employers are now required to file their copies of [Form W-2](#), submitted to the Social Security Administration, by January 31. The new January 31 filing deadline also applies to certain Forms 1099-MISC reporting non-employee compensation such as payments to independent contractors.

In the past, employers typically had until the end of February, if filing on paper, or the end of March, if filing electronically, to submit their copies of these forms. In addition, there are changes in requesting an extension to file the Form W-2. Only one 30-day extension to file Form W-2 is available and this extension is not automatic. If an extension is necessary, a Form 8809 *Application for Extension of Time to File Information Returns* must be completed as soon as you know an extension is necessary, but by January 31. Please carefully review the instructions for Form 8809, for more information.

The new accelerated deadline will help the IRS improve its efforts to spot errors on returns filed by taxpayers. Having these W-2s and 1099s earlier will make it easier for the IRS to verify the legitimacy of tax returns and properly issue refunds to taxpayers eligible to receive them. In many instances, this will enable the IRS to release tax refunds more quickly than in the past.

The January 31 deadline has long applied to employers furnishing copies of these forms to their employees and that date remains unchanged.

Some refunds delayed until at least February 15

Due to the PATH Act change, some people will get their federal refunds a little later. The new law requires the IRS to hold the refund for any tax return claiming either the Earned Income Tax Credit (EITC) or Additional Child Tax Credit (ACTC) until February 15. By law, the IRS must hold the entire refund, not just the portion related to the EITC or ACTC.

Even with this change, taxpayers should file their returns as they normally do. Whether or not claiming the EITC or ACTC, the IRS cautions taxpayers not to count on getting a refund by a certain date, especially when making major purchases or paying other financial obligations. Though the IRS issues more than nine out of 10 refunds in less than 21 days, some returns are held for further review.

IRS stakeholder liaison western area presents Understanding the 2016 Tax Law Updates Webinar

Sign up now!

Date: **Thursday, December 15, 2016**

Time: **11 a.m. (Pacific), 120 minutes**

[Register](#)

This webinar will provide an overview of the following:

- Extensions introduced in the “Protecting Americans from Tax Hikes Act of 2015.”
- Section 179 Expensing.
- Due Dates for Information Returns.
- Refundable Credits.
- Tuition Reporting.
- New ITIN rules.
- Health Care Law Changes.
- Inflation Adjustments.
- Live question and answers time.

CPE: Earn two continuing education (CE) credits (Federal Tax)

PTIN Holders: In order to get your CE reported to the IRS, ensure that your first name, last name and PTIN match your account.

Your PTIN must begin with the letter P followed by 8 numeric characters. If your name and PTIN are incorrectly entered, you may still receive a certificate but your credit will not be reported to the IRS.

Ask the Advocate



Susan Maples, CPA
Taxpayers' Rights Advocate
Follow me on Twitter at
twitter.com/FTBAdvocate

Power of attorney declaration process

As your Taxpayer Advocate, I will share updates and encourage you to provide feedback.

Many of you conduct business with the Franchise Tax Board (FTB) on behalf of your clients, which may include submitting a Power of Attorney (POA) Declaration. Beginning January 2016, the preferred method for submitting a POA Declaration to FTB is online using MyFTB. This has been a paradigm shift for many of you and you have voiced your concerns to us about this, both directly and through focus groups we have sponsored. Some of your concerns are the amount of time it takes to process a POA Declaration and the POA Declaration being rejected during the validation process.

I want you to know that FTB values your feedback and listened to your concerns. As a result, I am pleased to tell you about some of the short and long-term efforts we are taking to improve the overall POA process, while continuing to safeguard your clients' personal information.

Short-term efforts include education and outreach to the tax professional community and making system enhancements. We have increased staff in our POA Declaration processing area and enhanced the editing and verification steps we take before a POA Declaration is rejected. Including in these changes is calling representatives in some instances. I have personally sat with our POA processing staff to better understand the validation process and observed their attention to detail when processing your POA Declarations. They are committed to ensuring only authorized representatives gain access to your client's personal information.

For the longer term, we have formed a department-wide team to address other areas of concern tax professionals may have with POA Declarations. This is a comprehensive effort and FTB is committed to making improvements in the POA process where possible. This team is carefully looking at all phases of the POA process, including the various form types and different privileges based on need. We are identifying areas that are “pain points” for you, the tax professional, and working to alleviate them.

FTB staff are also experiencing a paradigm shift in terms of our use of Implied Consent (IC). I know that our staff take the confidentiality of your client’s information very seriously. For this reason, the IC process may at times not be as seamless for you as it could be because FTB staff prefer to err on the side of caution when dealing with confidential information. For those of you unfamiliar with IC, the majority of contacts between FTB and tax professional representatives can quickly be resolved by verifying a representative’s identity and establishing a right-to-know, by having a copy of a notice FTB sent the taxpayer and sufficient taxpayer information to allow us to establish authorization through IC.

We are currently in the process of reviewing and updating our IC procedures, including ongoing staff training to ensure a consistent experience when contacting FTB on behalf of your client, regardless of whether you have submitted a POA Declaration or where it is in processing.

I look forward to sharing updates with you and encourage you to continue to provide feedback on the POA process to me and my staff. Members of my staff are participating in the various efforts and teams surrounding the POA and IC processes and are keeping me apprised. By working together, I am confident that we will continue streamlining and improving both the POA and IC process, while meeting the ongoing challenge of keeping your client’s personal information secure.

MyFTB Corner

Renew your tax preparer client relationships in MyFTB

You spoke and we listened!

Starting January 3, 2017, you will have an easy and convenient way to renew your Tax Preparer clients in MyFTB.



Simply:

- Select **Renew** link next to your client's name.
- **Confirm** you are authorized to continue to access your client's account.
- **Submit** by selecting OK.

Tax Preparer clients expire 13 months from the date you add them to your **Client List** in MyFTB. For uninterrupted access, renew your clients *more* than 10 business days **before** the expiration date. We will send a letter to your clients notifying them you have renewed access to their account.

For more details, see the table below.

Question	Answer
Is there a difference between a POA client and Tax Preparer client in MyFTB?	Yes. In MyFTB there are two client types: POA (Power of Attorney client) Tax Preparer (non-Power of Attorney client)

Question	Answer
	The client type designates what a representative can “view” and “do” in MyFTB. The client type is shown in the Access Type column in the Client List page.
How long will Tax Preparer clients display on my <i>Client List</i> ?	13 months. If not renewed, the client will drop off your Client List .
When does the <i>Renew</i> link display for a Tax Preparer client on my Client List?	More than 90 calendar days after the date the client was added or renewed, and More than 10 business days before the expiration date
How do I renew an existing Tax Preparer client?	Select the Renew link next to your client’s name. Confirm you are authorized to continue to access your client’s account. Submit by selecting OK.

Home Client Notices Services Profile

Client List ?

New Easy Client Renew option. You can now renew your existing tax preparer relationships and avoid interruption to access. Use the Renew link at least 10 business days before the expiration date. For more information, see [renew client help](#).

By default, all active individual clients display. To find specific clients, use the filter boxes at the top of each table column. For more information, see [missing clients help](#).

[Add Individual Client](#)
[Add Business Client](#)
[File a Power of Attorney](#)

Client List Options

Client Type:

Individual
 Business
 Estate/Trust

Client Access:

Access Type: All

[Search](#)

Search Results - Individual Clients

[Clear Filter](#)

Last Name	First Name	SSN/ITIN	Expiration Date	Access Type	Status	Actions
Doe	Barbara	XXX-XX-0000	07/08/2017	Tax Preparer	Active	Renew Remove
Doe	Dorothy	XXX-XX-0000	07/28/2020	POA	Active	View POA

For more details, see *How to Renew an Existing Tax Preparer Client*.

Question	Answer
Will I receive a confirmation?	Yes. A Renew Success confirmation will display on the top of your Client List page.

Home Client Notices Services Profile

Client List ?

i Your client relationship with Jane Doe has been renewed.

New Easy Client Renew option. You can now renew your existing tax preparer relationships and avoid interruption to access. Use the Renew link more than 10 business days before the expiration date. For more information, see [renew client help](#).

By default, all active individual clients display. To find specific clients, use the filter boxes at the top of each table column. For more information, see [missing clients help](#).

[Add Individual Client](#)
[Add Business Client](#)
[File a Power of Attorney](#)

Question	Answer
Will my client be notified?	Yes. We will send a letter to your client letting them know you renewed them as a client on MyFTB and you will have continued access for the next 13 months. We recommend you notify your client that they will receive this letter from us.
Do I need to renew my POA clients?	No. The Renew feature does not apply to your Power of Attorney (POA) clients. They will remain on your Client List as long as you have an active POA declaration.
What happens if I don't renew my client before the 13 month expiration date?	You will need to add your client again as a new client. See How To Add a Client to My Client List for help.

Doing Business in California

Opportunity for more discussion on reasonable approximation

The California Tax Policy Conference was held in October this year. One of the topics for discussion was a panel presentation on market based sourcing rules. During the presentation, taxpayers and representatives brought up a lot of good questions regarding "reasonable approximation", and the method by which the term "reasonable approximation" would be decided. In order to allow more discussion on this issue, we are including this topic in the next Interested Parties Meeting. The Interested Parties Meeting is tentatively set for January 20, 2017. Topics of discussion include amendments to Regulations section 25136-2 which include, but are not limited to "reasonable approximation", government contracts, research and development contracts, issues concerning the definition of "benefit of the service", dividend assignment, and the scope of a "marketing intangible." We hope that everyone brings their concerns, suggestions, and questions throughout the amendment process so that we can have a meaningful and productive discussion about the issues.

"Reasonably approximated" is defined under Regulations Section 25136-2(b)(7). It states:

- Considering all sources of information other than the terms of the contract and the taxpayer's books and records kept in the normal course of business, the location of the market for the benefit of the services or the location of the use of the intangible property is determined in a manner that is consistent with the activities of the customer, to the extent such information is available to the taxpayer.
- Reasonable approximation shall be limited to the jurisdictions or geographic areas where the customer or purchaser, at the time of purchase, will receive the benefit of the services or use of the intangible property, to the extent such information is available to the taxpayer.
- If population is a reasonable approximation, the population used shall be the U.S. Population as determined by the most recent U.S. Census data.
- If it can be shown by the taxpayer that the benefit of the service is being substantially received or intangible property is being materially used outside the U.S., Then the populations of those other countries where the benefit of the service is being substantially received or the intangible property is being materially used shall be added to the U.S. Population.
- Information that is specific in nature is preferred over information that is general in nature.

Under the Special Rules, Regulations Section 25136-2(h)(2)(A) and (B) state:

- Once a "reasonable approximation" method is used by a taxpayer, the taxpayer must continue to use that method in subsequent taxable years.
- A change to a different method of "reasonable approximation" may not be made without the permission of the Franchise Tax Board.
- Where the Franchise Tax Board has examined the "reasonable approximation" method in writing, the Franchise Tax Board will continue to accept that method as long as there are no changes of material facts such that the method does not reflect the market of the services or intangible property.
- The method of "reasonable approximation" must reasonably relate to the income of the taxpayer.

All About Business

The Gillette Company v. Franchise Tax Board

The California Supreme Court issued its decision in *The Gillette Company v. Franchise Tax Board*.

We recently issued [FTB Notice 2016-03](#) to advise taxpayers and their representatives of our intended courses of action on Multistate Tax Compact election cases after the United States Supreme Court Denied the Petition for a Writ of Certiorari in *The Gillette Company v. Franchise Tax Board*.

On December 31, 2015, the California Supreme Court issued its decision in *The Gillette Company v. Franchise Tax Board* (2015) 62 Cal.4th 468. This case addresses the issue of whether taxpayers may elect to utilize the apportionment formula contained in the Multistate Tax Compact, former Revenue and Taxation Code (R&TC) section 38006, rather than the double-weighted sales factor mandated in the prior version of R&TC section 25128. The California Supreme Court held that an election was not available as a matter of law. The plaintiffs' petition for a writ of certiorari was subsequently denied by the United States Supreme Court on October 11, 2016.

We have been holding cases **raising the compact election issue** pending resolution of the *Gillette* litigation. Now that litigation in this matter has concluded, we will take the following actions in cases where taxpayers attempted to make an election based on the Multistate Tax Compact, former Revenue and Taxation Code section 38006.

Claims for Refund will be processed in the normal course of business. Taxpayers may expect to receive formal notices in response to their claims for refund over the next several months.

Administrative Protests, and Administrative Appeals before the State Board of Equalization (the “Board”) will be placed into active status. We will resume working those cases in the normal course of business. In addition, the FTB will work with the Board to return administrative appeals involving the compact election issue to active status before the Board.

Audits will be worked in the normal course of business. Taxpayers should consult with the auditors assigned to such cases to determine the anticipated timeline in each case.

Penalties will be imposed as appropriate on a case-by-case basis.

Event Calendar

As part of education and outreach to our tax professional community, we participate in many different presentations and fairs. We now provide a calendar that shows the events we attend, as well as other events happening with us, such as interested party and board meetings.