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State of California
Franchise Tax Board

02.03.11

Catherine Apker, CAE
California Society of Enrolled Agents
3200 Ramos Circle
Sacramento, CA 95827-2513

Dear Ms Apker,

Thank you for your proposals submitted for the Taxpayers' Bill of Rights Hearing as presented by Vicki Mulak. I am responding to the proposals.

Conformity to Federal Tax Law with the Same Dates

FTB staff already communicates with staff at the Legislature to educate them regarding the effects of Proposition 26 on SB 401 and how taxpayers and tax professionals will be impacted. It is also important that the Enrolled Agents have a significant voice at the Capitol on conformity generally and specifically on solutions for the impending repeal of SB 401 in November 2011. We encourage the Enrolled Agents to participate in the legislative process--individually by contacting their respective legislators on the issue and collectively through the Society's legislative advocate at the Capitol.

Power of Attorney Notification on all FTB Taxpayer Correspondence

Our current method of capturing and maintaining power of attorney information is limited and not readily available for the purposes of our automated noticing processes. As a result, it is cost prohibitive in most instances to provide a duplicate notice to both the taxpayer and the taxpayer representatives. A subsequent copy of a notice may be provided, when available, at the request of the taxpayer or authorized representative. This is on a case by case basis.

In your question, you referenced FAQ # 18, *will the FTB contact me if I file a power of attorney?*

When you have filed a properly executed power of attorney with us, we will make every reasonable attempt to communicate with your representatives. However, if your representatives are uncooperative or repeatedly do not meet commitments, we will need to contact you directly."

This FAQ is not clear in describing what instances we will attempt to work directly with your representative. We are working on improving both our publications and forms with regard to obtaining a power of attorney. In fact, we are planning a Power of Attorney Webinar for February 17th at 10 a.m. This Webinar is intended to provide information to make the request for a power of attorney a smoother and quicker process for you and your client. Please check FTB's website for information as well as a subscription email with additional information.

We'd also like to share with you one of the many goals of our Enterprise Data to Revenue (EDR) project that in the future will address both you and your clients needs.

The existing plan for the (EDR) solution includes a common view of taxpayer information for external and internal users (referred to as the Taxpayer Folder) including representatives from FTB's public website. This includes the ability to establish and update a power of attorney.

The vision for the Taxpayer Folder is to provide a one stop centralized view of the account including account status, FTB actions, an online view of notices issued, electronic images of Tax Returns and associated correspondence.

The Taxpayer Folder will also integrate existing MYFTB Account capabilities and other existing taxpayer self-services such as Web Pay, paying by credit card, applying for installment agreements, ReadyReturn and CalFile.

Implementation of a Hold-time Message

On the 800 number with the Virtual Hold Technology (VHT) service active, a caller will first hear the estimated wait time and then be given the option to receive a call back or wait for an agent. Once a caller chooses a call back, s/he will get a range when to expect to receive the call back. It is the same estimated wait time simply provided in a range format taking into account the variables that can occur with longer or shorter call duration and changes in staffing. For example, the caller initially may get an estimated wait time of 10 minutes. If the call back is chosen by the caller, a taxpayer may be told to expect a call back in 9 to 13 minutes.

When selecting VHT (call back) the caller keeps his/her place in line in the queue, but instead of actually waiting online, a taxpayer gets a call back within the timeframe stated.

In practice, when the estimated wait time is very low and the next customer service representative is readily available, we do not activate the VHT service because it would not be a benefit to the taxpayer.

At this time, we do not provide the VHT service for our Practitioner Hotline. The reason that VHT is not an option is because the call traffic on the Practitioner Hotline and the respective staffing levels are not large enough to allow the benefits of VHT to be realized by the customer. This is for a number of reasons including the variable call length due to the complexity of practitioner type telephone calls, volume of calls, and high level of service.

We appreciate your question and that the VHT service has been well received by the CSEA members and their clients.

Combining Secretary of State Statement of Information (SI) Filings with the FTB Return

Undertaking this proposal would involve significant system and process changes at both agencies. Some issues that would have to be considered include how to incorporate filing the SI into both the paper filing and e-filing income tax return processes; determining which agency would review and validate the SI information (statute currently requires SOS to

receive the information); and how to data capture and transmit the SI information to SOS timely. There are also complexities with matching payments received by FTB back to source documents.

We will contact SOS and do additional research and analysis to fully explore this issue. We will report our findings by March 31, 2011, regarding the feasibility and potential solutions to improve this process.

Increase Lien Filing Threshold to \$5,000.00 or More

In the 2010 Taxpayer Bill of Rights Annual Report, the FTB Taxpayer Advocate recommended *"...the FTB collection department re-consider raising the lien threshold in this economic climate to avoid causing undue hardship to taxpayers and improve operational efficiencies."*

FTB understands the impacts to the taxpayer, and as a result is in the process of establishing a team of experienced collection staff to closely examine methods and alternatives that would address the Advocate's concerns and the recommendation by CSEA to raise the lien filing threshold. The team will begin meeting in early January, and expect to present a proposal to FTB's Executive Management by the end of June, 2011.

Decrease Processing Times for Account Resolution

FTB's first priority each filing season is the processing of current year returns to ensure refunds are issued before interest is due. Some current year returns may be subject to audit prior to allowing a claim for refund. Once filing season peak is over, we redirect resources to processing amended returns.

Personal income tax amended returns fall within a 6 month return processing timeframe since our first priority is the processing of original returns. Staff review amended returns carefully to determine whether the returns should be referred to the Audit Division for further examination. Most amended returns are processed without audit and refunds are usually released within the 6 months return processing period.

All business entity amended returns are reviewed by the Audit Division upon receipt by FTB. If the amended return is allowed without audit, it is forwarded for processing. Efforts to automate some return processing activities are currently being evaluated for efficiencies and may be implemented in 2011. Most amended returns are processed without audit and refunds are usually released within 6 months. If an audit examination is opened, the process may take an additional 6 to 24 months to complete depending on the complexity of the issues under examination.

California Revenue and Taxation Code Section 19331 provides that the taxpayer may consider the claim as disallowed if FTB has not acted on the claim within 6 months after the claim was filed. Taxpayers can file an appeal of the deemed denial.

Resolution of Audited Returns

On average, it takes 10 months to conclude the audit of a personal income tax return and 13 to 17 months to conclude the audit of a business entity return, depending on the complexity of the return and the issues under audit.

Resolution of Taxpayer Protests

Each protest is assigned a specific timeframe for completion that is determined based on the complexity of the issue(s) under protest. For example, a protest of a personal income tax return with issues of medium to high complexity might be given a timeframe of 18 months to complete. Although we make every effort to complete the protest within the specified timeframe, some protests require more time to complete. This may be due to the number of issues under protest, whether additional information is needed, or the complexity of the issues that must be addressed. Taxpayer input and cooperation are the keys to timely resolution.

Protests are managed on a first-in-first-out basis. This is to ensure the oldest protests are assigned at the earliest possible date. Upon assignment, a hearing officer contacts the taxpayer to get the protest under way. On average it takes 18 months to conclude a protest of a personal income tax return and 19 to 23 months to conclude the protest of a business entity return. These timeframes are longer than the timeframes noted for concluding an audit because protests often involve complex controversies, and because additional information is routinely provided at protest that requires review and analysis.

Collection Accounts

The Collection Division receives and reviews requests for collection relief from taxpayers and business entities while their amended return is being processed. If the amended return significantly reduces or eliminates their balance due, collection action may be delayed or stayed. The taxpayer or business entity is asked to provide a copy of the amended return prior to granting collection relief. Staff is advised to work with the taxpayer to allow time for amended return processing, which helps to ensure the correct amount of tax is collected. The Collection Division also works with audit staff to review requests for collection relief based on an audit protest. If it is determined that an amended return is incomplete, inaccurate or there is no change to the balance due, collection action may continue as normal.

FTB understands the taxpayer's frustration when account resolution is delayed and we continue to look for ways to reduce the burden of the taxpayer by evaluating our processes for effectiveness. We have begun a large system modernization project called the (EDR), which will greatly enhance our current systems. Among the many benefits, we expect increased efficiency and effectiveness in processing of all returns and account resolution throughout the department. Implementation of this system is scheduled to begin in 2014 and is contingent upon state budget approval.

Sincerely,

Steve Sims, EA
Taxpayers' Rights Advocate

cc: Hon. John Chiang, Chair
Hon. Jerome E. Horton, Member
Hon. Ana J. Matosantos, Member