



STATE OF CALIFORNIA  
**FRANCHISE TAX BOARD**  
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January 10, 2007

Richard E V Harris



Dear Mr. Harris:

I want to thank you for attending FTB's 2006 Taxpayers' Bill of Rights Hearing. Below are responses to the issues you raised at the hearing.

*Spanish language portion of FTB's Website is much better, but there is still work to be done.*

The State of California is home to a diverse population of more than 33 million residents, some who speak English as a second language. Over the past few years, FTB has made significant progress in addressing the needs of our non-English speaking taxpayers. For instance, we:

- Established a departmental task force to translate various publications to foreign languages.
- Provide Spanish-language IVR telephone lines.
- Participate in small business seminars in Spanish and other languages.
- Developed a pool of qualified bilingual employees who are available to assist non-English speaking taxpayers.
- Continue to expand the Spanish version of the FTB Website.

Currently, we are developing our strategy for moving forward with providing more publications and services for non-English speaking taxpayers. We are also studying the feasibility of providing more of our web services in Spanish, such as Web Pay, Installment Agreements, and CalFile. Additionally, on an ongoing basis, we continue to translate to Spanish various general information pages on our Website. Eventually, we plan to translate the entire FTB Website to Spanish. Since the current Website includes over 4,500 pages, this process will require significant time and resources over the next few years.

#### *Late Response to Last Years Issues*

I apologize for the lateness of my response to your issues from last years hearing. I made a decision to wait until all of the issues were resolved to write to

the presenters. I will be sending responses as resolutions are available in the future.

*Identify all your manuals and put them online.*

In 2006, the department adopted a policy that all manuals that can be obtained through a public information act request should be placed on the FTB Website. Many of these manuals have already been posted. However, the department is currently identifying all remaining manuals that should be reviewed for placement on the Website. This review is ongoing and subject to available department resources. The department will post individual manuals to the Website upon completion of the review process.

*All briefs should be online.*

As you may be aware, copies of briefs filed by or on behalf of the Franchise Tax Board are available from the court where the brief was filed or from the State Board of Equalization. We should also note that the BOE redacts certain information in copies provided to the public. You request that FTB publish these briefs on FTB's Website and suggest that a good example to emulate would be the Antitrust Division of the U.S. Department of Justice.

Briefs filed by IRS counsel with the U.S. Tax Court in connection with a petition filed by a taxpayer for a redetermination of a deficiency are not available on the IRS Website. Briefs filed by the U.S. Department of Justice in federal courts on behalf of the IRS in connection with a suit for refund brought by a taxpayer or an appeal of a decision of the U.S. Tax Court are not available on the IRS Website. Consequently, the current practice of the FTB with respect to the publication of briefs on the Internet is identical with the practice of the IRS.

The Antitrust Division of the U.S. Department of Justice is responsible for ensuring compliance with federal antitrust laws and frequently initiates litigation to compel compliance. Unlike the Antitrust Division of the U.S. Department of Justice, the Franchise Tax Board does not initiate litigation to compel compliance with the laws we administer. In addition, unlike the Antitrust Division, employees of the FTB are not authorized to appear in court. We feel a better comparison would be the Internal Revenue Service, the federal agency responsible for administration and enforcement of federal tax laws.

In addition, we think there are sound reasons to adhere to the practices of the IRS and not publish briefs filed by or on behalf of FTB on our Website. As a technical and policy matter, disclosure in the form of publication on the Internet of a brief filed in a court of law by the Office of the Attorney General on behalf of the FTB is a matter within the purview of the court where the brief was filed. Similarly, the publication on the Internet of a brief filed by the FTB with the State

Board of Equalization is a matter within the purview of the State Board of Equalization.

While we appreciate your interest in enhancing transparency, we cannot recommend favorable action with respect to your request to publish on the Internet briefs filed by or on behalf of the FTB in a court of law or with the State Board of Equalization until the courts and/or the State Board of Equalization does so.

*Status of Operations Reports*

We have been behind in publishing our Operations Reports. During 2006, we added the following reports to our Website:

March 2006 – 2000-01 and 2001-02

April 2006 – 2002-03

We plan to add the following reports to our Website in 2007:

February 2007 – 2004-05

December 2007 – 2005-06

*Deemed Denied proposal.*

In my letter to you of November 22, 2006, I provided you a copy of the Executive Summary for FTB's Re-Engineering The Docketed Protest Process. FTB Notice 2006-5 and FTB Notice 2006-6 provide additional information about these new procedures. FTB chose an administrative approach to improve the timeliness of concluding docketed protests. This administrative approach is currently in effect for protests filed after July 1, 2006. We believe this administrative approach will go a long way to accomplish the goal we both seek --- timely, efficient, and responsible resolution of tax disputes.

As you know, a taxpayer has a remedy available to move a tax matter to the next level of administrative review or litigation after six months if the proposed tax in issue has been paid. You propose a new prepayment procedural remedy. We will not be pursuing the deemed denial remedy you suggested at this time.

*Set hearing dates in advance.*

Your comments about scheduling the Taxpayers' Bill of Rights Hearing and providing notice in advance are well taken. As stated at hearing, "we're very sensitive to the Bill of Rights hearing dates." As soon as we have a tentative date to announce, I will notify you.

At the meeting, you also commented about the postmark date of

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November 29, 2006, on my letter to you of November 22, 2006. I understand your frustration and concerns and apologize for FTB's delay in mailing this letter. We have implemented new procedures to ensure this will not happen in the future.

If you have any questions about the status of your issues, please feel free to contact me anytime.

Sincerely,

Debbie Newcomb  
Taxpayer Advocate

cc: Hon. John Chiang  
Hon. Betty T. Yee  
Hon. Michael C. Genest  
Marcy Jo Mandel  
Alan LoFaso  
Anne Maitland