

chair **John Chiang**
member **Betty T. Yee**
member **Michael C. Genest**



State of California
Franchise Tax Board

12.10.09

Kyla Christoffersen
California Chamber of Commerce
1215 K Street, Suite 1400
Sacramento, California 95814

Subject: California Backup Withholding on Proceeds from Broker and Barter Exchange Transactions (1099-B)

Dear Ms. Christoffersen:

Effective January 1, 2010, with certain limited exceptions, payers that are required to withhold and remit backup withholding to the Internal Revenue Service are also required to withhold and remit to the Franchise Tax Board. In general, backup withholding is required on payments made by a business, individual, or government entity if a payee does not provide or refuses to provide a correct taxpayer identification number.

When the Legislation was enacted July 28, 2009, FTB started a campaign to educate and provide information to businesses impacted by this new law. Since July 2009, we have fielded many technical calls from industry related to California backup withholding processing and compliance issues. In the October and December 2009 issues of Tax News, we published articles on the topic and we've scheduled the first Webinar on backup withholding for December 15, 2009. We plan to schedule more Webinars for 2010. New and updated forms will also be available December 15, 2009.

On December 2, 2009, FTB met with representatives from California Chamber of Commerce, California Bankers Association, Advocation, and a number of financial institutions. Because the statute as enacted was arguably unclear, some financial services providers interpreted this new legislation to exclude gross proceeds (1099-B), and have asked for additional time for business to fully implement California backup withholding specific to gross proceeds (1099-B) without penalty. They have also asked FTB to review the legislation to reevaluate this withholding requirement.



As with any new legislation, FTB plans to continue to focus our efforts on education and outreach so that withholding agents can implement processes and procedures to comply with the law as it is ultimately determined to apply. FTB will not assess a penalty for failure to backup withhold on gross proceeds (1099-B) distributions during 2010. We will continue to monitor compliance levels to determine the appropriate time to begin implementation of the penalty provision of the statute after 2010.

Sincerely,

Phillip Gray
Withholding Services & Compliance Section

cc: Selvi Stanislaus
Anne Miller