BAKER & McKENZIE

J. Pat Powers
Attorney at Law

Baker & McKenzie LLP
660 Hansen Way
Palo Alto, California 94304-1044, USA

Direct: +1 650 856 5526
Fax: +1 650 856 9299
pat.powers@bakernet.com

Asia Pacific
Bangkok
Beijing
Hanoi
Ho Chi Minh City
Hong Kong
Jakarta
Kuala Lumpur
Manila
Melbourne
Shanghai
Singapore
Sydney
Taipei
Tokyo

Europe & Middle East
Almaty
Amsterdam
Antwerp
Bahrain
Baku
Barcelona
Berlin
Bologna
Brussels
Budapest
Cairo
Dusseldorf
Frankfurt / Main
Geneva
Kyiv
London
Madrid
Milan
Moscow
Munich
Paris
Prague
Riyadh
Rome
St. Petersburg
Stockholm
Vienna
Warsaw
Zurich

North & South America
Bogota
Brasilia
Buenos Aires
Caracas
Chicago
Chihuahua
Dallas
Guadalajara
Houston
Juarez
Mexico City
Miami
Monterrey
New York
Palo Alto
Porto Alegre
Rio de Janeiro
San Diego
San Francisco
Santiago
Sao Paulo
Tijuana
Toronto
Valencia
Washington, DC

December 1, 2008

Franchise Tax Board

RE: Comments on Rev. & Tax. Code Section 19138

BACKGROUND

The Legislature suddenly and unexpectedly enacted legislation containing new section 19138 of the Revenue and Taxation Code in the chaotic aftermath of passing the Budget. To any fair-minded observer, the provision is unfair, ill-considered, and unduly harsh and punitive. Indeed, the constitutionality of the provision may be in doubt. For all of its flaws and deficiencies, section 19138 must now be administered by the Franchise Tax Board ("FTB"). These comments are submitted in an effort to suggest how the FTB, stuck with ill-considered legislation, can best administer the statute.

Most large taxpayers are routinely or invariably audited by the IRS, and frequently the IRS proposes adjustments increasing taxable income, disallowing credits, or otherwise increasing the federal tax obligation. Taxpayers often agree with some of these adjustments, compromise or partially agree with others, and persuade the IRS that other proposed adjustments are not warranted. For large companies, the proposed adjustments are routine and occur despite the taxpayers good faith efforts to prepare complete and accurate returns. Factual situations are often complex and susceptible of different characterizations, and likewise tax law itself is highly complex and often ambiguous. If the proper treatment were always clear and certain, there would be little need for the many tax professionals, some working for the tax collectors and others representing taxpayers.

What can be said about the complexity and uncertainty of federal tax law applies at least as much to California tax law, which incorporates most of the ambiguities of federal taxation and then adds a whole overlay of its own, including, for example, apportionment rules and business/non-business income concepts.

A fundamental American value is that a person should not be penalized when that person did nothing wrong and diligently tried to comply with the rules. Reconciling this fundamental notion of fairness with a "no fault" penalty such as that in Rev. & Tax. Code section 19138 requires walking a fine line between implementing the legislative directive on one hand and preserving a sound and fair tax administration on the other.

At a practical level, the FTB can partially alleviate the harsh unfairness of the statute by allowing "protective payments" to avoid the penalty. The FTB should adopt a policy to accept as valid a return showing an additional tax liability on line 16 of Form 100X with the explanation "Protective payment to avoid § 19138 penalty" or language to similar effect.

Baker & McKenzie LLP is a member of Baker & McKenzie International, a Swiss Verein.

To avoid the penalty for earlier years, taxpayers would need to file such amended returns on or before May 31, 2009, and pay the additional liability shown on the amended returns.

To avoid the penalty for future years, taxpayers would need to file the amended returns on or before the original or extended due date.

So long as taxpayers paid by the above deadlines whatever taxes are ultimately assessed, no penalty under section 19138 should be imposed.

The FTB should prescribe a procedure for filing protective claims for refunds of the protective payments made to avoid section 19138 penalties. Taxpayers should be allowed to file refund claims: (i) on or after June 1, 2009, for prior years, and (ii) promptly after the original or extended due date for current and future years.

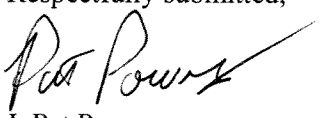
Taxpayers should not be penalized when they have tried fully to comply with their obligations. In the event that, in response to a protective claim as described herein, the FTB refunded an amount larger than what ultimately is determined to be owed to the taxpayer, the normal fair remedies for underpayment (*e.g.*, interest on underpayment) would apply.

Disclosure

I am a partner in Baker & McKenzie and devote my practice to tax matters. Baker & McKenzie represents many companies that are highly concerned about being penalized through no fault of their own.

We are not, however, representing any specific clients in submitting these comments; but, rather as a California tax professionals concerned with fairness and administrability of taxation, we have prepared these comments.

Respectfully submitted,



J. Pat Powers

Questions received by FTB re: Rev. & Tax. Code §19138
November 24, 2008
Anonymous

1) The current penalty structure anticipates that taxpayers will file two returns each year: one highly conservative return intended to avoid the penalty, and a second return with more accurate information requesting a refund. How can a taxpayer sign and declare that each return is correct under penalty of perjury? Would it be permissible on the first return to include an item of income (perhaps on line 8 - other additions) with the simple (but correct) explanation that a taxpayer has included such amount in its tax base to avoid the CRTC Sec. 19138 penalty?

2) May an overpayment (and interest thereon) from one year may be used to offset an underpayment from a subsequent year? For example, if a federal audit results in an acceleration of deductions, such that in Yr 1 the taxpayer receives a refund but in Yr 2 the taxpayer owes an equivalent amount, would California penalize the taxpayer for the understatement in Yr 2?

3) Will any relief for estimated payment penalties be available for a taxpayer's 2008 franchise tax return? How may a taxpayer wishing to file a conservative 2008 return avoid penalties for estimated payments made prior to the passage of CRTC Sec. 19138?

4) Will the CRTC Sec. 19138 penalty apply to a California non-filer that is subsequently determined to have nexus with the state? If so, would relief be available through the state's various voluntary compliance programs?

DLA PIPER

DLA Piper LLP (US)
2000 University Avenue
East Palo Alto, California 94303-2214
www.dlapiper.com

David Colker
david.colker@dlapiper.com
T 650.833.2149
F 650.687.1162

OUR FILE NO. 21502-19

December 3, 2008

Anne Mazur
FTB Legal Division (MS A260)
P.O. Box 1720
Rancho Cordova, CA 95741-1720

Re: S.B. 28x

Dear Anne:

This letter provides comments with respect to the implementation of S.B. 28x.

For the reasons discussed below, we suggest that the Franchise Tax Board issue guidance in FAQ form that expressly authorizes taxpayers to:

(i) file valid amended returns designated as "S.B. 28x amended returns" where the required information could be limited to the amount of tax originally reported, the net tax change, and the "correct" tax amount;

(ii) qualify the penalty of perjury statement by adding language to the effect that "This amended return is filed solely to mitigate possible penalties imposed under S. B. 28x in view of the impossibility of accurately predicting the ultimate tax liability, and accordingly the taxpayer does not believe that the tax liability as amended herein is correct."; and

(iii) file valid claims for refund designated as "S.B. 28x claims for refund" where the required information concerning the requested refund could be limited to the amount of the "net tax change" set forth in the "S.B. 28x amended turn," in which case the taxpayer would be entitled to a refund of the net tax change to the extent the FTB does not establish tax adjustments to the original return equal to that amount in any proceeding concerning the claim for refund.

The 20% penalty imposed by S.B. 28x encourages taxpayers to prepay potential income tax assessments to avoid possible penalties imposed on a strict liability basis. However, it is extremely difficult to predict in advance the exact basis for any such assessment and the exact extent to which it may be ultimately sustained. For example, although changes made to the federal return upon resolution of federal audits must be reported on Form 100X, such changes will not be known at the time the amended return will be filed. Moreover, it is common to compromise federal tax issues with IRS Appeals and/or to compromise federal tax issues during the litigation process. Such compromises are difficult to predict with any accuracy, and such predictions become even more difficult when there are numerous discrete issues in dispute, many of which often impact the computation of other issues.

Similarly, California income tax liabilities are often impacted by complex issues involving numerous discreet factual and legal matters, such as unitary/non-unitary status, formula apportionment computations, nexus, and business/non-business income status. As under federal law, it is possible to compromise issues with the Settlement Bureau and during the litigation process. Here again, where there are numerous issues in dispute, it is difficult to accurately predict the ultimate outcome.

FIN 48 reserve estimates for California income taxes (including the impact of possible federal tax changes) are not an adequate source of information for purposes of preparing amended returns intended to reasonably minimize the risk of S. B. 28x penalties, because FIN 48 is based on settlement outcomes that have a 51% chance of occurring and because non-public companies have not yet prepared such accounting records. Taxpayers may desire to minimize potential S. B. 28x penalties to a greater extent than would be accomplished by preparing an amended return that reflects FIN 48 reserves.

If the FTB does not permit amended returns and claims for refund filed in the manner suggested above, taxpayers will be forced to assume greater penalty risks because of their inability to prepare accurate amended returns and/or because of concerns about the validity of amended returns and refund claims, which defeats the objective of the legislation. If the FTB does not accept the comments contained herein, we nonetheless request that the FTB explicitly establish safe harbors with respect to forms of valid amended returns and associated valid claims for refund concerning S.B. 28x.

Notwithstanding our comments above, we stress that it cannot seriously be disputed that S.B. 28x represents extremely poor tax policy and discourages companies from doing business in the state. As the economy enters a recession, encouraging companies to site property and payroll out of state is imprudent. The infirmities of S.B. 28x were exacerbated by the "process" in which it was adopted, which included no public hearings or public input. S.B. 28x will force existing taxpayers to overpay California taxes in order to minimize potential strict liability penalties resulting in numerous refund claims and litigation as well as increased burdens on the FTB. On an ongoing basis, S.B. 28x will discourage any utililization of Settlement Bureau as taxpayers will be forced to litigate issues reported on tax returns to avoid any penalties. Moreover, California law currently contains adequate penalty provisions and the additional 20% penalty contained in S.B. 28x is unreasonable, unnecessary, and possibly illegal.

Accordingly, the FTB should request the complete and immediate repeal of S. B. 28x. If the FTB is unwilling to request such repeal, it should request repeal effective for tax years commencing on or after January 1, 2008, because the permanent inclusion of this 20% penalty in California tax law will perpetuate these problems.

DLA Piper LLP (US)

David Colker

DLA Piper LLP (US)

Hugh Goodwin

WEST\21608861.1

DLA PIPER

DLA Piper LLP (US)
2000 University Avenue
East Palo Alto, California 94303-2214
www.dlapiper.com

David Colker
david.colker@dlapiper.com
T 650.833.2149
F 650.687.1162

OUR FILE NO. 21502-19

December 22, 2008
VIA ELECTRONIC MAIL AND AIRMAIL

Anne Mazur
FTB Legal Division (MS A260)
P.O. Box 1720
Rancho Cordova, CA 95741-1720

Re: S.B. 28x

Dear Anne:

This letter updates our comments with respect to the implementation of S.B. 28x provided on December 3, 2008.

In our December 3, 2008 letter we suggested that the Franchise Tax Board issue guidance in FAQ form that expressly authorizes taxpayers to:

(i) file valid amended returns designated as "S.B. 28x amended returns" where the required information could be limited to the amount of tax originally reported, the net tax change, and the "correct" tax amount;

(ii) qualify the penalty of perjury statement by adding language to the effect that "This amended return is filed solely to mitigate possible penalties imposed under S.B. 28x in view of the impossibility of accurately predicting the ultimate tax liability, and accordingly the taxpayer does not believe that the tax liability as amended herein is correct."; and

(iii) file valid claims for refund designated as "S.B. 28x claims for refund" where the required information concerning the requested refund could be limited to the amount of the "net tax change" set forth in the "S.B. 28x amended turn," in which case the taxpayer would be entitled to a refund of the net tax change to the extent the FTB does not establish tax adjustments to the original return equal to that amount in any proceeding concerning the claim for refund.

In the event the FTB does not adopt our previous suggestions, we request that the FTB permit taxpayers to file valid amended returns that adopt a compromise position as to a specific issue. It is common for taxpayers to compromise issues with the IRS and FTB. Taxpayers should be permitted to make a tax payment based on an estimated compromise of a tax issue as long as the amended return sets forth an explanation of the compromise and the resulting tax liability. If the FTB approves this suggestion, it should permit a modification of the penalty of perjuries statement since the amended return will not be in technical compliance with law. Similarly, the FTB should confirm that valid claims for refund could be filed seeking a return of the compromise payment.

DLA PIPER

DLA Piper LLP (US)

David Colker

WEST\21608861.2
021502-000019

December 19, 2008

Ms. Anne Mazur
Legal Division
Franchise Tax Board
P.O. Box 1720
Rancho Cordova, CA 95741-1720

Re: Comments regarding the Franchise Tax Board's Implementation of Revenue & Taxation Code Section 19138(b), the 20 Percent Understatement Penalty

Dear Ms. Mazur:

This is to provide comments concerning the Franchise Tax Board's development of Frequently Asked Questions to help taxpayers understand and comply with Section 19138 of the Revenue & Taxation Code, otherwise known as the 20 percent understatement penalty. As the December 5 interested parties meeting on this issue made clear, implementation of the statutory 20 percent understatement penalty, enacted by SB X1 28 (Chapter 1, Statutes of 2008) presents many issues in need of Franchise Tax Board clarification. Section 19138(f)(3) requires the Franchise Tax Board to "implement this subdivision in a reasonable manner." We urge the Franchise Tax Board to exercise its authority under Section 19138(f)(3) to implement the 20 percent understatement penalty in a manner that is equitable and that imposes the least administrative burden on California taxpayers.

The enactment of Section 19138 forces taxpayers to overpay their tax liability to avoid the strict liability 20 percent understatement penalty. This raises numerous administrative concerns for both taxpayers and the Franchise Tax Board:

- **What level of specificity is required on an amended return with respect to overpayments?** Because taxpayers cannot predict the ultimate adjustments that will be made to their tax liabilities by the IRS and/or the Franchise Tax Board, and the law fails to provide an exception from the penalty for tax positions taken in good faith and supported by substantial authority, the new law forces taxpayers to deliberately overstate their tax liability to avoid imposition of the 20 percent penalty. The question arises whether the overstatement of liability must be associated with particular items of income and deductions on the amended return. The Frequently Asked Questions should state that a valid amended tax return filed in connection with the new penalty does not

require any tie-in between the estimated additional tax liability and specific items of income and/or deductions and that a lump-sum presentation is acceptable.

We suggest that the Franchise Tax Board place a separate line on original and amended tax returns wherein taxpayers can state an amount in excess of what they believe they owe without overstating actual tax liability. A separate line on the tax return would reduce inaccurate reporting with respect to estimated liability. However, it would still allow the state to retain funds as collateral pending dispute regarding certain items of income and deductions on the amended return or a federal RAR that results in an adjustment of California liability. A separate line would avoid the problem of certifying a deliberate overpayment as true and correct tax liability under penalty of perjury. In addition, it would avoid potentially subjecting taxpayers to federal criminal liability based on differences between the overstatement on the California return and actual estimated liability on the federal return. Finally, preserving accuracy with respect to California tax liability will help the Franchise Tax Board to ascertain true tax liability without sorting through actual versus overstated amounts.

- **What is considered to be a "change of law" under Section 19138(f)(2)?** Section 19138(f)(2) states that a "change of law" is a statutory change or an interpretation of law or rule of law by regulation, a legal ruling of counsel for the Franchise Tax Board or Board of Equalization, or a published federal or California court decision. We suggest that the Franchise Tax Board interpret the a "change of law" to include Franchise Tax Board and Internal Revenue Service notices that identify a policy change of those agencies, Internal Revenue Service private letter rulings, both federal and state statutes, as well as both federal and state regulatory changes. This interpretation is reasonable, within the meaning of Section 19138(f)(3), and it will allow the Franchise Tax Board to relieve the 20 percent understatement penalty for those taxpayers who complied with the law as it existed at the time they filed their original or amended return.

- **Is an adjustment in the sales factor denominator under Revenue & Taxation Code Section 25137 considered to be a "change of law?"** Under *Microsoft Corp. v. Franchise Tax Bd.*, 39 Cal. 4th 250 (2006), the Franchise Tax Board may use Section 25137 to correct distortions in the sales factor created by a large corporate treasury department. Thus, although a taxpayer may include gross receipts from its treasury department in its sales factor denominator, if the Franchise Tax Board determines this to be distortive (although no specified threshold for distortion exists), the Franchise Tax Board may adjust the sales factor denominator to include only net income. This adjustment will result in an understatement subject to the 20 percent understatement penalty, provided the understatement meets the $1 million threshold specified in statute. As with other changes of law that the taxpayer could not have anticipated, Section 25137 can be invoked to increase taxpayers' liability without warning. The intent of the "change in law" exception appears to have been to provide some relief for taxpayers that otherwise comply with the law. Thus, we suggest that the Franchise Tax Board interpret Section 19138(f)(2) to include Section 25137 adjustments as a "change of law."

- **Will the Franchise Tax Board supply an advisory list of what it considers to be "changes of law" applicable to tax years 2003-2007?** Reasonable minds may differ regarding which policy, statutory, case law, or regulatory changes may be considered changes in law that would provide a taxpayer relief from the 20 percent understatement penalty. For example, the First District Court of Appeal sided with the taxpayer in *Fujitsu IT Holdings, Inc. v. Franchise Tax Bd.*, 120 Cal. App. 4th 459 (1st Dist. 2004), with respect to the appropriate method to order dividends from subsidiaries of a unitary business. The Franchise Tax Board rejected the appellate court's view and proceeded to defend its position regarding dividend ordering before the Board of Equalization which ruled in its favor. Due to occasions, such as with dividend ordering, where the Board of Equalization, the Franchise Tax Board and the appellate court have differing views of applicable law, we suggest that the Franchise Tax Board provide clarification as to what it considers to be "changes in law" applicable to tax years subject to the penalty.

We appreciate the opportunity to offer these comments regarding the Franchise Tax Board's interpretation and implementation of Section 19138. We welcome the opportunity to answer any questions or concerns that pertain to these comments or other issues that may arise with respect to the difficult task of implementing this new tax law change.

Respectfully submitted,

California Taxpayers' Association
American Electronics Association
California Bankers Association
California Chamber of Commerce
California Manufacturers' and Technology Association

Cc: Geoffrey Way
Chief Counsel

PRICEWATERHOUSECOOPERS

PricewaterhouseCoopers LLP
400 Capitol Mall, Suite 600
Sacramento CA 95814
Telephone (916) 930 8100
Facsimile (916) 930 8450

December 10, 2008

Bruce Langston
Senior Lead Tax Counsel
Franchise Tax Board
Legal Division MS A260
P.O. Box 1468
Sacramento, CA 95812-1468

Re: Interested Parties Meeting
20 Percent Understatement Penalty
Revenue and Taxation Code § 19138

Dear Bruce:

I need to follow-up on the question I posed to you at the Interested Parties Meeting on Friday, December 5, 2008, regarding the new 20 percent understatement penalty in Revenue and Taxation Code section 19138.

The Problem: PwC's Question -- What Happens When the FTB is Not Satisfied Owing to a Lack of Specificity About Payments Made in Respect of Section 19138?

PricewaterhouseCoopers requests an immediate response due to the fact that our firm needs to advise clients with respect to the impact of this penalty on their quarterly estimated tax payments due December 15, and with respect to quarterly and annual periodic financial reporting requirements tied to December 31.

My basic question is as follows. On several occasions during the course of the December 5 meeting, you, along with other members of the panel on behalf of the FTB, asserted that is was important that taxpayers be specific in reporting the basis for the added tax they expect to pay on or before May 31, 2009 in consideration of section 19138.

The question is this: What happens in the event taxpayers are not specific enough to satisfy the FTB?

This basic inquiry can be parsed in various ways, and the rest of this letter explores that and poses the question in various ways. But above is the heart of it. This is exceptionally important. Without specificity from the FTB on this point, taxpayers have no way to make decisions with respect to section 19138.

PricewaterhouseCoopers believes it is imperative that the FTB publicly answer this basic question as soon as possible, and we respectfully request that you do so.

PwC's Proposed Solution -- Specificity is Not Required

In order to resolve the dilemma, explored more thoroughly in the remainder of this letter, PwC proposes the following simple solution:

The FTB should issue written advice to taxpayers stating that the FTB will refund any amounts remitted by taxpayers who may be subject to section 19138, with interest, upon filing of a claim for refund. To be eligible to be refunded, the amounts involved need only be in excess of the taxpayer's calculation of the correct tax, subject of course to audit and verification by the FTB. There should be no need to specify the reasons for payments in excess of the tax the taxpayer believes to be true and correct. There should not even be a requirement to specify that the payment is necessary to protect the taxpayer from section 19138, although we believe that providing a line on the tax return forms to allow such an adjustment would advance the interests of everyone in efficient administration of section 19138.

We do not have a second best or other alternative to offer for your consideration, unfortunately. SB 28x radically changed the Social Contract in California and will do irretrievable damage to the self-assessment tax system unless taxpayers and the FTB can find a way to accomplish the law's purpose while preserving taxpayer's basic rights.

Detailed Questions and Related Inquiries

If a taxpayer subject to section 19138 files a California tax return and includes an overpayment (i.e., payment in an amount in excess of the "Tax" on Form 100) in an attempt to avoid imposition of the understatement penalty, and if the overpayment does not relate to any specific tax liability reported on the tax return filed with the payment, how will the FTB respond to receipt of the overpayment and/or to a subsequent claim for refund of the overpayment? The concern being that the taxpayer will not be able to detail any specific grounds upon which the claim for refund is based, other than the taxpayer sent too much money to the FTB. This being the case, the taxpayer did not actually overpay any tax liability, but instead made a gift to the state of the overpayment amount and would not be entitled to a refund.

The basis for my question is found in the interaction of Revenue and Taxation Code sections 19301 and 19322. Section 19301, subdivision (a), allows the FTB to credit or refund to a taxpayer "an overpayment of any liability" imposed under Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001). Section 19322 requires that every claim for refund "shall state the specific grounds upon which it is founded." The regulations accompanying Section 19322, found in California Code of Regulations, title 18, section 19322, subdivision (a), state "The claim must set forth in detail each ground upon which a refund or credit is claimed and facts sufficient to apprise the Franchise Tax Board of the exact basis thereof." This requirement for detailing the specific grounds upon which the claim for refund is founded was repeated in one form or another on several occasions by several (and perhaps all) of the representatives speaking on behalf of the FTB at the Interested Parties Meeting.

In working through the possible outcomes resulting from the dilemma, I come up with the following potential responses from the FTB.

1. **The FTB returns the overpayment amount immediately upon receipt and discovery that the amount paid exceeds the tax due as stated on the tax return.** This result, however, raises additional questions. On what basis would the FTB return the money? An "overpayment of any liability," as defined in Section 19301, subdivision (a), did not occur, since the overpayment did not relate to any specific liability. Would the repayment be made with interest? What impact would the FTB's return of the money have on the taxpayer with respect to the imposition of the penalty at a later date?

2. **The FTB returns the overpayment amount upon a claim for refund by the taxpayer and verification by the FTB that the amount paid exceeds the tax due as stated on the tax return.** On what basis would the FTB return the overpayment? The taxpayer would not be able to detail any specific grounds for the FTB upon which to determine the amount of overpayment because the overpayment was just a general amount unrelated to any specific issue. Section 19322 and the accompanying regulation require details of the grounds for refund. Further, the FTB emphasized at the meeting the need for specificity with respect to this penalty. Would this "general" overpayment unrelated to any specific issue protect the taxpayer from imposition of the understatement penalty? Would the repayment be made with interest?

3. **The FTB does not return or refund the overpayment amount at any time, whether or not requested by the taxpayer, because the taxpayer cannot detail specific grounds upon which a refund should be granted.** Despite the fact that the FTB keeps the overpayment amount, does the overpayment protect the taxpayer from imposition of the penalty? If it does, on what grounds? The FTB did not return the overpayment because the taxpayer could not detail specific grounds upon which the return or refund should be granted, so the taxpayer cannot be specific about what issues the overpayment relates to. If the overpayment does not protect the taxpayer from imposition of the penalty, will the overpayment protect against the imposition of interest or other penalties?

4. **The FTB accepts and keeps the overpayment amount.** On what basis would the FTB keep the overpayment? Would the FTB's retention of the overpayment protect the taxpayer from imposition of the penalty at a later date? If so, on what basis? The FTB stated at the meeting that it would not accept deposits as it did in amnesty because the FTB needs specificity with respect to the issues on which amounts were paid. Would the FTB later refund any amounts to the taxpayer based upon a claim for refund? If so, on what basis? If not, why not?

PRICEWATERHOUSECOOPERS

Thanks, Bruce. We look forward to hearing from you.

If you need further clarification regarding my questions, please contact me as soon as possible at (916) 930-8109.

Sincerely,

Reed Schreiter

Reed Schreiter
Manager State and Local Taxes
PricewaterhouseCoopers LLP

cc: Selvi Stanislaus, Franchise Tax Board
Steve Sims, Franchise Tax Board
Doug Anderson, PricewaterhouseCoopers LLP