

Pending Board Approval

FRANCHISE TAX BOARD MINUTES NOVEMBER 28, 2007 MEETING

The Franchise Tax Board met in open session at 9:30 a.m. at the Franchise Tax Board, 9646 Butterfield Way, Gerald Goldberg Auditorium, Sacramento, California. Present were Hon. John Chiang, Deputy Controller Marcy Jo Mandel, Hon. Betty T. Yee, and Hon. Michael C. Genest.

Franchise Tax Board

Staff Participating:

Selvi Stanislaus, Geoffrey S. Way, Patrick Kusiak, Lisa Crowe, Brian Putler, Patrice Gau-Johnson, Anne Miller, Bruce Langston, Carl Joseph, and Colleen Berwick.

Others Participating:

Ronald A. Boucher, United Californians for Tax Reform; Kyla Christoffersen, California Chamber of Commerce; Lenny Goldberg, California Tax Reform Association; Eric J. Miethke, Business for Economic Growth in California; Maurine C. Padden, California Bankers Association; Michele Pielsticker, Cal-Tax; Gina Rodriguez, Spidell Publishing, Inc.; Barry Weissman, Chevron Corporation.

Item 1. – Approval of Minutes

The minutes of the September 5, 2007, Franchise Tax Board meeting were unanimously approved (3-0).

Item 2. – Legislative Matters

Legislative proposals – Possible Board action.

The Board received a brief summary of the thirteen legislative proposals.

The Board heard from the following members of the public regarding this Agenda item:

Michele Pielsticker – California Taxpayers' Association
Lenny Goldberg - California Tax Reform Association
Kyla Christoffersen – California Chamber of Commerce
Maurine C. Padden – California Bankers Association
Barry Weissman – Chevron Corporation
Gina Rodriguez – Spidell Publishing, Inc.
Ronald A. Boucher – United Californians for Tax Reform

The Board voted 2-0 (Member Genest abstaining) to approve the following proposals:

LP 07-12 - Award of Attorney Fees in Tax Refund Lawsuits

LP 08-1 - Failure to Resolve Outstanding Liabilities as Grounds for Suspension of an Occupational or Professional License by Franchise Tax Board

LP 08-6 - Mandatory Electronic Payments

LP 08-7 - Conformity to Federal Backup Withholding

LP 08-9 - Modify the Group Return Provisions

LP 08-11 - Real Estate Withholding for Certain Non-California Business Entities

LP 08-12 - Taxpayer Advocate Equity Relief

LP 08-13 - Period of Limitations For Other State Tax Credit Claims For Credit Or Refund (as amended)

LP 08-16 - Child and Dependent Care Credit Fraud

LP 08-18 - Direct Deposit Refund (DDR) Errors

LP 08-2 (Financial Institution Record Match (FIRM) System for Collection of Delinquent Income Tax Debts) – The Board directed staff to further examine the issues of compensation for costs and of volumes and determine whether revision should be made to the proposal and bring it back to the Board.

LP 08-3 (Controlled Foreign Corporations in Water's-Edge Combined Report) – The Board directed staff to hold an Interested Parties Meeting for further input and bring it back to the Board.

TPBOR 07-1 – Reduce Complex Tax Return Filings – The Board directed staff to provide additional information regarding the distributional impact of this proposal and bring it back to the Board.

Item 3. – Regulation Matters

a. 2008 Rulemaking Calendar – Board approval.

The Calendar was approved unanimously (3-0).

b. Draft Regulations 18662-0 through 18662-8 (Withholding at Source) and 19002 (Withheld Tax to be Used as Credit Against Tax Owed) - Staff report and possible Board action.

The Board received a staff report and voted unanimously (3-0) to approve the staff request to proceed with the formal regulatory process.

c. Regulation 25137(c)(1)(D) (Special Rules – Sales Factor) - Staff report and possible Board action.

The Board heard from the following members of the public regarding this Agenda item:

Eric J. Miethke – Business for Economic Growth in California

Barry Weissman – Chevron Corporation

The Board received a staff report and voted unanimously (3-0) to adopt the regulation.

Item 4. – Taxpayer Data Access Project

The Board received a staff report.

Item 5. – Taxpayers' Bill of Rights Hearing

See attached Taxpayers' Bill of Rights Hearing, Franchise Tax Board, Minutes, November 28, 2007.

Item 6. – Executive Officer's Time

There was no discussion under this Agenda item.

Item 7. – Board Members' Time

Member Yee announced that this meeting might be her last FTB meeting for a while and expressed her extreme honor and pleasure to have worked under Chair Chiang's leadership and with Member Genest. She also stated it was a privilege to have been associated with the Franchise Tax Board and expressed her appreciation. She also publicly acknowledged and thanked the Executive Officer and the executive leadership team at FTB for accommodating over a hundred members of the Board of Equalization staff on the campus of the Franchise Tax Board and making an untenable situation with the Board of Equalization headquarters building much more workable and for providing a welcoming environment.

The Chair announced the agenda for and the Board convened in Closed Session commencing at 11:20 a.m. pursuant to Government Code section 11126.3.

The Board reconvened in Open Session and adjourned the meeting at 11:26 a.m.

Board Liaison

Date

Pending Board Approval

TAXPAYERS' BILL OF RIGHTS HEARING FRANCHISE TAX BOARD MINUTES NOVEMBER 28, 2007

The Franchise Tax Board met in open session at 9:30 a.m. at the Franchise Tax Board, 9646 Butterfield Way, Gerald Goldberg Auditorium, Sacramento, CA. Present were Hon. John Chiang, Deputy Controller Marcy Jo Mandel, Hon. Betty T. Yee, and Hon. Michael C. Genest.

Franchise Tax Board

Staff Participating: Selvi Stanislaus, Geoffrey S. Way, Patrick Kusiak, Brian Putler, and Lisa Crowe.

Others Participating: Gina Rodriquez, Spidell Publishing, Inc.; Michele Pielsticker, Cal-Tax; and Roland Boucher, United Californians for Tax Reform.

Taxpayers' Bill of Rights Hearing

Chair Chiang read the opening statement regarding this annual hearing required by law and introduced Franchise Tax Board staff members who were present to respond to questions.

Michele Pielsticker

Ms. Pielsticker provided oral comment to the Board on the following issues:

- Problems members are having with auditors in the sales tax and income tax areas when auditors take taxpayer data offsite for audit purposes, e.g., in determining entitlement to the research and development credit.
- Thanked the Board for sponsoring federal conformity legislation last year and since it stalled in the Senate Appropriations Committee, asked the Board to sponsor the legislation again in 2008.

Gina Rodriquez

Ms. Rodriquez presented written materials and provided oral comment to the Board on the following issues:

- Presented the Board with three specific conformity provisions to consider:

1) dependency exemption rules for noncustodial parents; 2) waiver of the penalty tax on premature distributions for certain reservists and public safety officers; and 3) FTB should defer penalty notices on e-file returns to allow for the processing of payments made by check.

- Requested that FTB take a look at the estimated tax penalty; look at increasing the current \$200 threshold for the imposition of the penalty for underpayment of estimated tax.

Roland Boucher

Mr. Boucher provided oral comment to the Board on the following matters:

- Thanked the Board and the members of the Franchise Tax Board for the work on the 540 2EZ form; will suggest to Congress and the Treasury Department that the IRS use the same type of form.
- Expressed interest in a tax code where almost no one would have to file taxes on April 15th- the withholding would be exact (pertaining mainly to retirees).
- Requested the banking industry to withhold income tax on interest from a CD.
- Requested support of a bill that would index capital gains.

The hearing adjourned at 11:26 a.m.

Board Liaison

Date