

TAXPAYERS' BILL OF RIGHTS HEARING  
FRANCHISE TAX BOARD  
MINUTES  
DECEMBER 2, 2010

The Franchise Tax Board met in open session at 1:30 p.m. at the Franchise Tax Board, 9646 Butterfield Way, Gerald Goldberg Auditorium, Sacramento, CA. Present were Deputy Controller Marcy Jo Mandel for Hon. John Chiang, Hon. Betty T. Yee, and Department of Finance Chief of Financial Research, Jay Chamberlain, for Hon. Ana J. Matosantos.

**Franchise Tax Board**

**Staff Participating:** Selvi Stanislaus, Geoffrey S. Way, Patrick Kusiak, Steve Sims, Brian Putler, and Colleen Berwick.

**Others Participating:** Roland Boucher, United Californians for Tax Reform; David Feldman, ZF Micro Solutions; Vicki Mulak, Society of Enrolled Agents; Gina Rodriguez, Spidell Publishing.

**Taxpayers' Bill of Rights Hearing**

Deputy Controller Marcy Jo Mandel provided opening remarks regarding this annual hearing required by law and introduced Franchise Tax Board staff members who were present to respond to questions.

Steve Sims, Taxpayers' Rights Advocate, provided opening remarks advising that we received several written submissions in advance, and that our goal is to respond to the written submissions by February 1, 2011.

**Roland Boucher**

Mr. Boucher presented written materials and provided oral comment to the Board on the following issues:

- Indicated he is pleased with the improvements made to the short tax form (540EZ), but would like to see an increase to the standard deduction to match the federal tax return and to pay for this by removing the 1% tax bracket and start at 2%; he provided his method analysis and a draft bill.
- Commented that he worked with FTB staff in 2009 to find a discrepancy between their numbers and FTB's numbers and found that in the FTB publication, the statistics of income did not include tables for children who fall under the deduction of their parents; since that information was not available, it had to be supplied separately and the numbers were pretty close.

**David Feldman**

Mr. Feldman provided oral comment to the Board on the following issues:

- Stated that he is CEO of a company that is currently in Chapter 11 bankruptcy as a result of being sued by two companies that were transacting intrastate

business in California for more than ten years; Mr. Feldman reported these companies to FTB three years ago; indicated these companies were not taxpayers.

- Claims he was never contacted by anyone from FTB unless he called FTB first; provided depositions and gave all the facts; was told Investigations could not talk to him because of taxpayer privacy concerns. Mr. Feldman had to lay off several people and is currently in personal bankruptcy as well.
- Mr. Feldman would like to see a simple change that mandates that corporations present either a letter of exemption saying they are not required to register to the courts before they are allowed to proceed with their lawsuit or with a defense against a lawsuit.
- Requested to speak to someone.

Steve Sims indicated he would establish contact with Mr. Feldman.

### **Vicki Mulak**

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

- Opened her comments with an announcement of the Society of Enrolled Agents' new logo; indicated they surveyed their membership instead of a select chosen few for concerns and recommendations to get a real sense of recommendations to present at the meeting; came up with proposals and recommendations.
- The first proposal pertains to the problem with conformity in California; it has become really unmanageable; particularly the many facets and aspects of the Conformity Act that was passed last April, is now facing possible necessity to be re-enacted or being declared void, all of which are unsettling for taxpayers. Ms. Mulak would like conformity with the same dates that the federal conforms to so we have all of the major federal tax acts for 2008 and 2009.
- The second proposal was regarding Power Of Attorney notification; would like to see consistency and shooting for 100% that the power of attorney on file gets a duplicate copy of every piece of correspondence that goes to the taxpayers; it would enable us to manage our workloads and represent the taxpayers in the best manner possible.
- The third proposal pertains to the hold-time message as Anne Miller brought up; not only the ability to give taxpayers a call back, but to indicate how long the wait time is so the taxpayers can make a decision.
- The fourth proposal is for the combined Franchise Tax Board statement of information for Secretary of State filing; it's time for the lien and filing thresholds to be increased.
- The fifth proposal is for items that require account resolution have a faster processing time; amended returns and protests are the ones that members consistently mention.
- Finally, Ms. Mulak thanked the Franchise Tax Board for recent improvements, including MyFTB account and the provisional payment plan.

**Gina Rodriguez**

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

- Ms. Rodriguez thanked Patrick Kusiak and Brian Putler for their continued support of Spidell's constant suggestions.
- Commented on the 2009 proposal of having better coordination with the Secretary of State; the statement information program discussed by Ms. Mulak earlier; in light of a significant increase in business entity suspensions and other states that allow the filing of Statement of Information, request that FTB revisit the proposal to file Statement of Information with income tax returns.
- Reiterated what Ms. Mulak proposed regarding conformity; we need to look at reverting back to the stand-alone return; taxpayers have the right to understand their state and federal differences.
- The current piggyback return is unmanageable; unfair to taxpayers and costly to taxpayers and the government; the stand-alone return may end up producing greater compliance with tax laws and likely a fairer tax system.

The hearing adjourned at 2:32 p.m.

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Board Liaison

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Date