

CONFORMITY TO RECENT FEDERAL CHANGES

California's income tax laws are based on the concept that making the state's laws generally like federal laws reduces taxpayer burden, permits tax planning based on one set of laws and regulations, requires tax professionals to know just one set of laws and regulations, and provides efficiencies for the tax agency by following IRS adjustments and applicable case law. This concept is commonly referred to as "conformity." It is achieved by incorporating the Internal Revenue Code (IRC) into the California Revenue and Taxation Code by reference as of a "specified date." The current "specified date" is January 1, 2005.

The concept of conformity was recommended by a 23-member task force appointed by the Assembly Revenue and Taxation Committee Chairman in 1983 (when Dave Doerr was the Chief Consultant). At that time, California law was a stand-alone Code with few references to federal law.

Conformity is built on the assumption that the Legislature would review the federal changes and update the "specified date" each year, adding any new differences for state purposes. To assure a process for annual review, the Franchise Tax Board is required by statute to submit a report to the Legislature by January 10th each year that details the changes made to the IRC for the prior year and the revenue impact on California from conformity to the federal change. The statute requiring this report also declares the intent of the Legislature that the policy committee of each house holds a public hearing on that report.

Although enactment of an annual conformity bill has become uneven, conformity ensures that California is still tied to the "specified date" of a particular version of the IRC until changed by legislative action. For example, the "specified date" for taxable years 1998 through 2001 was January 1, 1998, while the "specified date" for taxable years 2002 through 2004 was January 1, 2001. The current "specified date" of January 1, 2005, was established by AB 115 (Stats. 2005, Ch. 691) for taxable years beginning on or after January 1, 2005, and will continue to be the date of incorporation of the IRC until changed by subsequent action of the Legislature.

To meet the repeated input from taxpayers and tax professionals regarding the problems associated with gaps in conformity legislation, FTB staff, with the knowledge of the Chair of the Assembly Revenue and Taxation Committee, is experimenting with a modified process to ensure that a "date change" bill is at least introduced in the Legislature.

To this end, an interested parties meeting has been scheduled by staff for the morning of March 29, 2007, at FTB. The objective of the meeting is to obtain consensus for the contents of a date change bill (January 1, 2007) that would conform California income tax law to selected, non-controversial changes in federal income tax law made during 2005 and 2006.

April 4, 2007