

TAXPAYERS' BILL OF RIGHTS HEARING
FRANCHISE TAX BOARD
MINUTES
DECEMBER 3, 2009

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 Hon. Michael C. Genest.

Franchise Tax Board

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

Others Participating: Vicki Mulak, Society of Enrolled Agents, Gina Rodriquez, Spidell Publishing.

Taxpayers' Bill of Rights Hearing

Deputy Controller Marcy Jo Mandel 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.

Steve Sims, Taxpayers' Rights Advocate, read the opening statement advising that we received written submissions in advance, and that our goal is to respond to the written submissions by February 1, 2010.

Vicki Mulak

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

- Expressed her concern on the general economic downturn, malaise, and the fact that so many things are hitting taxpayers at once: their loss of jobs and foreclosures on the increase; California has no more mortgage relief provisions in 2009; the annual use tax return and the fact that companies will have to come into compliance with this; failure of conformity and if we cannot have conformity, a stand alone California tax return might be in order.
- Some of the more glaring issues for personal income taxpayers: lack of conformity in disaster losses; the expired mortgage relief provisions; S Corp issues; Kiddie tax; husband and wife joint ventures; and health savings accounts.
- The retroactive tax increase and the three sets of withholding tables made it very difficult for people to manage the liabilities in 2009.

- Applauded FTB for the proposals regarding the innocent spouse program and the voluntary disclosure program.
- The inability to easily find things on the FTB website.
- Mentioned the debit and credit card convenience fees.
- California has their own distinctive penalties, and we cannot find an easy place to locate what all of those penalties were, the code sections that authorized them and when abatement was available and what the procedures and reasonable causes were.
- Commented that the Tax News article indicating that one of the top ten tax return errors is an incorrectly calculated AGI; also mentioned in the Tax News was an article regarding FTB's request for exemption for furloughs.

Deputy Controller Marcy Jo Mandel commented that she wasn't aware if FTB had a penalty handbook. Steve Sims, Taxpayers' Rights Advocate, commented that back in April or May of 2009, his section began a project to catalogue all the penalties and the project is almost complete. However, as a result of the resources reallocation, the project had to be put on the side.

Gina Rodriguez

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

- Thanked Steve Sims, Susan Maples and Patrick Kusiak for their extraordinary dedication to the public.
- FTB should sponsor legislation to replace specified disaster legislation with a generic overall law to allow the three standard relief provisions: 100% disaster loss carryover, California only throwback election, and the extension to make the throwback election.
- FTB should address the inequities with respect to interest assessment involving NOL carrybacks.
- Use tax lookup tables; FTB should try again to sponsor legislation to provide the optional lookup tables, whereby individual taxpayers can determine their use tax liability based on their income.

The hearing adjourned at 2:30 p.m.

Board Liaison

Date