

I. Introduction

The purpose of this document is to provide updates on various NetFile and e-file issues and to provide private sector input on these issues to the three-member Franchise Tax Board. The issues include the following:

1. *NetFile Program and Other FTB Web Services*

2. *e-file Privacy*

Address concerns regarding use of taxpayer data by commercial e-file providers for marketing purposes raised by Mr. Lenny Goldberg at the September meeting of the Franchise Tax Board

3. *NetFile Costs*

4. *Free File Alliance States and Direct e-file Program States*

Provide information about the other states, the direction they chose, and the reasons.

II. Methodology

FTB staff requested input from various interested parties, including representatives of the commercial e-file industry, on e-file privacy, NetFile costs, and the activities of other states regarding the Free File Alliance and direct government e-file programs (see Attachment XI for a summary). Six responses were received and are attached to this report.¹ Additionally, FTB staff solicited information on these issues from the 42 states that have e-file programs. Thirty states responded (73%). The information from the other states is recapped in this report.

III. Issue Updates

1. *NetFile Program and Other FTB Web Services: Prefiling Season Update*

A. *NetFile and e-file Update*

The NetFile and e-file programs are scheduled to re-open for the 2004 filing season on January 16. Staff is working on routine annual maintenance for both programs. Recently, staff has reviewed NetFile program costs. Updated costs are provided under the *NetFile Costs* section of this report.

Additionally, in November, Department of Finance staff reviewed the FTB costing and methodology for the NetFile project. It is our understanding that DOF found that FTB's costing is consistent with DOF guidelines and does not under-represent costs specific to the NetFile application.

B. *NetFile and Free Commercial e-file Currently Coexist*

Free Commercial e-file and FTB's Memorandum of Agreement Program

In 1999, FTB initiated the Memorandum of Agreement Program. FTB collaborates with commercial online filing companies to attract taxpayers to e-file. In essence, the MOA

¹ See Attachments 1-6

program enables commercial e-file companies to benefit from Web traffic sent via hyperlinks from FTB's Website to the commercial Websites. FTB's MOA program is very similar to the IRS's Free File Alliance approach.

Currently, FTB staff is in the process of soliciting commercial e-file providers to renew their annual free e-file offers for the 2004 filing season. Last filing season, the FTB Website featured free offers from nine commercial e-file companies. These free offers proved to be very beneficial to California taxpayers. They coexisted with FTB's free e-file programs: the 2EZ Direct program (deployed in September 2002 and discontinued in April 2003) and the NetFile program (deployed on April 13, 2003).

Recently, two companies, Intuit (makers of TurboTax) and TaxSlayer, have notified FTB that they will not offer a free product to any California taxpayers (no matter what their income level is) unless FTB discontinues its NetFile program. (See *Attachments VIII* and *Attachment IX* for copies of the letters). Most other states have also received these letters. The vast majority of effected states have responded that they will not close their programs due to the valuable service that they provide to their citizens. Thus, current information shows that 25 states will again have a government offered e-file solution and a private sector e-file solution that co-exist.

FTB is committed to featuring the private sector free offers prominently on the FTB Website. In fact, the "free offers" page is just one click from the FTB Homepage. In addition, promotional language provided by the private sector participants is posted on the FTB Website, similar to the IRS Free File Alliance approach. This advertising of private sector offerings provides the citizens of California a choice of free e-file services, either direct to FTB or via a third party software provider.

Other Web Services

Following is a list of the primary web services that FTB currently provides. All of these services will be available for the upcoming filing season.

- Credit card payment: pay balance due by credit card
- Web payment: electronic funds transfer of balance due from taxpayer bank account
- Download tax forms
- e-Installment Application: apply for payment arrangements
- Electronic return originator locator: find an e-file tax practitioner
- Refund status
- Tax calculator
- View balance due: find amount owed
- View estimated payments: find amount of estimated payments

2. e-file Privacy

At the September meeting of the Board, there was concern expressed by a representative of a consumer privacy advocacy group regarding the use of taxpayers' data for purposes other than the filing of tax returns, such as the cross-marketing of products. FTB staff researched this issue and found that various consumer groups have been in touch with the IRS regarding "consumer privacy." Their letter to the IRS, dated March 24, 2003 states, in part:²

² See Attachment 7 for the full text of the letter

The Consumer Federation of America, National Consumer Law Center (on behalf of its low-income consumers), Consumers Union, U. S. Public Interest Research Group and the Electronic Privacy Information Center write to you again regarding the issue of consumer privacy, this time specifically regarding the deprivation of privacy protections that, as we understand it, consumers are encountering when they access the website of (company name deleted) via the IRS Free File program. In a disturbing development, we have been informed that Free File taxpayers who use (company name deleted) website via www.irs.gov are being required to be subject to cross-marketing of not only tax-related products, but potentially subprime mortgages as well.

FTB staff is aware of similar marketing strategies used by some e-file providers that promote the benefits of “refund anticipation” loans. These are short-term, high interest loans based on the taxpayer’s anticipated refund.³

See Attachments 1-6 for more information on this issue.

3. NetFile Costs

The following information includes the costs associated with the NetFile program based on Department of Finance (DOF) Guidelines. Additionally, recently DOF staff reviewed the FTB costing and methodology for the NetFile project. It is our understanding that DOF found that FTB’s costing is consistent with DOF guidelines and does not under-represent costs specific to the NetFile application.

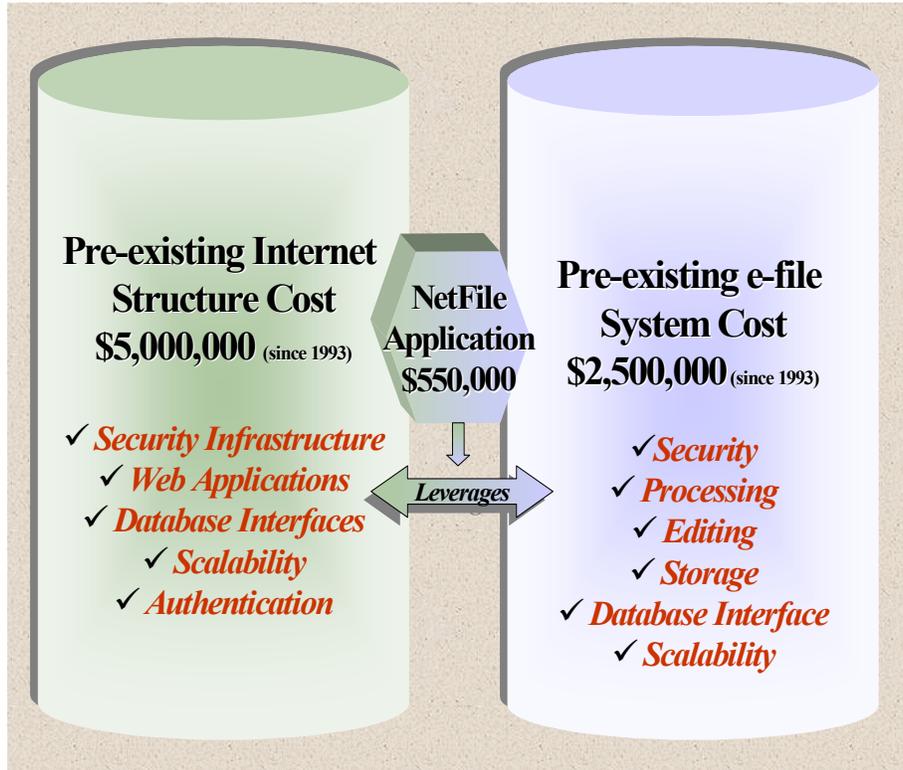
Actual Project Costs (FY 2002/2003 and July thru September 2003)			
Personnel Years	Personal Services	OE&E	Total
6.5	\$485,405	\$64,894	\$550,299

³ A recent survey by the Business Software Alliance showed that 77% of those surveyed are concerned about their information being sold to a third party. Fifty-seven percent are concerned about receiving unwanted emails.

NetFile and e-file Update

The following display reflects FTB costs for enterprise-wide infrastructure that supports the NetFile program, in addition to other FTB programs.

Costs: NetFile and Related Infrastructure



4. Free File Alliance States and Direct e-file Program States

1. Arkansas	8. Illinois	15. Missouri	22. South Carolina
2. California	9. Indiana	16. Montana	23. Utah
3. Colorado	10. Iowa	17. Nebraska	24. Virginia
4. Connecticut	11. Kansas	18. New Jersey	25. Wisconsin
5. Delaware	12. Louisiana	19. New Mexico	
6. District of Columbia	13. Maine	20. Ohio	
7. Hawaii	14. Maryland	21. Pennsylvania	

Continuing to offer a free direct government Internet e-file option because:

- Provides service to all classes of taxpayers.
- Infrastructure is in place and paid for.
- Additional filing convenience.
- Benefits a large group of taxpayers.

1. Alabama	4. Michigan	7. New York	10. Rhode Island
2. Arizona	5. Minnesota	8. North Carolina	11. Vermont
3. Idaho	6. Mississippi	9. North Dakota	

Joined the FFA because:

- Save programming cost.
- Implied benefit of the extensive E-File marketing by the vendor.
- Vendor agreed to certain inclusions within the software application for Tax Year 2003.
- “We were already performing the actions that are set forth in the FFA agreement and we do not have our own Internet program. Joining the alliance would only help us in our goal of receiving more e-file returns.”
- “We do not have our own filing website and this will benefit our lower income filers.”
- “After doing the analysis of our income tax filing population we felt it was the right business decision to have private industry provide this service.”

Table C. States that discontinued a free direct government Internet e-file option

1. Idaho	2. Minnesota	3. Massachusetts (unconfirmed ⁴)
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Free direct government Internet e-file option discontinued because:

- “Discontinued in favor of the Free File Alliance.”
- “It (*state’s direct program*) was a very basic option (an alternative for those qualifying for Telefile).”

Table D. States considering offering a free direct government Internet e-file option in the near future

1. Arizona	2. North Carolina
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Considering offering a free direct Internet e-file option because:

- “It will allow us to offer North Carolina taxpayers another method of e-filing and to provide first-rate assistance to North Carolina taxpayers.”

Note: Information on other states based on: (1) states’ responses to the *request for input* letter sent by FTB staff in October 2003 and (2) the Federation of Tax Administrators Website. Bulleted comments excerpted from written responses from the states. Selected comments are representative of information provided by the states.

IV. Possible Alternatives

There are several possible alternatives regarding FTB’s NetFile program. Following is an overview of the alternatives.

- 1. Status quo: Retain current NetFile program but discontinue further expansion and enhancements. Continue Memorandum of Agreement Program.**
FTB would proceed with the NetFile program as previously directed. FTB would limit the NetFile target audience to those taxpayers who are currently eligible. FTB would not add significant enhancements to the program. FTB would continue its Memorandum of Agreement Program, thus providing the private sector the opportunity to feature their free e-file offers on the FTB Website.
- 2. Retain current NetFile program but limit future NetFile enhancements to form-based, fillable and e-filable forms**
This would entail filling the form out online (with automatic math and tax look-up), and e-filing to FTB upon completion. FTB would continue its Memorandum of Agreement Program, thus providing the private sector the opportunity to feature their free e-file offers on the FTB Website.

⁴ Staff requested information from Massachusetts regarding the possibility that they had discontinued a direct e-file program in favor of a Free File Alliance approach, we have not received a response. Massachusetts is included in Table C because members of the software industry cited Massachusetts as a state that had discontinued their program.

- 3. Discontinue the NetFile program and establish a Free File Alliance.**
FTB would discontinue the NetFile program for the 2004 process year. FTB would begin the process to establish a Free File Alliance.
- 4. Retain current NetFile program and establish a Free File Alliance**
FTB would proceed with the NetFile program as previously directed. FTB would limit the NetFile target audience to those taxpayers who are currently eligible. FTB would not add significant enhancements to the program. FTB would work with Industry to establish a program somewhat similar to the IRS Free File Alliance.

Attachment I - CAGW

1. Privacy

**Question: Please discuss your perspective regarding the following:
Is privacy protection for California's taxpayers being maximized by the FTB
and by the e-file industry?**

Since the Board is trying to determine whether to preserve NetFile or not, our response will be related to whether NetFile can meet the privacy and security standards taxpayers have come to expect from the private sector tax preparation and filing industry. As you will see, some of this refers you to our earlier answers (the prior FTB questionnaire) on this topic:

Repeated studies by the U.S. General Accounting Office (GAO) and others give government agencies failing grades when it comes to maintaining and protecting critical systems against hacking and other security threats. Furthermore, despite the implication in the question, government agencies are not subject to the same federal laws governing taxpayer privacy as private sector companies. Should a private sector entity misuse private data, the victim has legal recourse to take action against the perpetrator. This is not the case in the public sector.

NetFile gives the government the ability to electronically "see" - keystroke-by-keystroke - additions and deletions made in the process of preparing a consumer's taxes. There appear to be few guarantees preventing the misuse of this sensitive information. Any protests of "we won't do that" or "our plan doesn't call for us to ever do such a thing" are meaningless, because there are no guarantees or safeguards against it. The private sector companies can't do it, by law. The government can, anytime it chooses to change its policy from "we won't" to anything else it would like. Government agencies have a long history of finding a public policy excuse to justify such a change. The end result is the same. There are no guarantees for consumers.

Further, the FTB is currently allowed by law to share the information it gathers with city and county tax agencies seeking to practice computer "data mining" techniques to target investigations to find more potential tax revenue from individuals. Such behavior goes on among government agencies without consumer knowledge, and only seems to be growing during these times of troubled government budgets.

Proponents of NetFile consistently present only the system's "advantages," without appropriately warning taxpayers of the dangers to their privacy rights. Not only is it an inherent conflict of interest for the state tax board to control this information, but it will be expensive to maintain quality privacy standards as technology advances.

Tax agencies are not governed by as strict a regimen of laws as private industry. There are few penalties, comparatively, for the gross violations of taxpayer privacy that have occurred in tax agencies in the past. Low and mid-level bureaucrats at tax agencies in the U.S. and around the world have paid few penalties for their transgressions. Indeed, the "strict" laws governing the use of this data referenced in the question above have all been enacted as a result of scandalous abuses by government workers. Private sector companies in the tax field, on the other hand, have long been governed by federal laws that would result in penalties far worse than any suffered by tax agency staff caught perusing their neighbors' or some celebrity's tax returns, which are among the acts by tax agency workers that have come to light in recent years.

2. **Free File Alliance and NetFile**

Question: At the September meeting of the Franchise Tax Board, the Controller suggested that the Free File Alliance approach and the NetFile program could possibly co-exist in California, thus allowing taxpayers to choose between the two. Please discuss why you believe this model will work, or why this model will not work:

CAGW's position is that there is absolutely no inherent reason for government, at any level, to provide tax *preparation* services. The private sector has developed a mature, competitive sector to meet any demand there might be for this service and there is no national interest associated with government involvement with the activity.

Tax collection is a government function. Using the Internet and electronic filing to provide useful information to taxpayers and facilitate the electronic collection of tax revenues is an appropriate use of the government resources, especially when it can be shown to result in cost savings over the long term. However, tax preparation is a private sector activity.

3. Cost figures:

Question: Given the size of the budget deficit in California, any wasteful and frivolous spending on services taxpayers don't want or need is a travesty. Whether you are choosing to fritter away \$1,000, \$1 million or \$100 million is somewhat irrelevant. We have already provided our estimate of how much a fully developed NetFile program will cost, our rationale, and examples of how governments routinely hide, distort and obfuscate the true costs of such a program in order to get it enacted -- only to have it explode in costs when implemented.

That document can be found at:
http://www.cagw.org/site/PageServer?pagename=news_NewsRelease_03262003

Please go to the above-referenced web page to see our financial assessment, based on an analysis of tax preparation systems that have actually been built and used.

NetFile is tailor-made for the kind of in-depth audit and review that the Governor-elect is planning to do for the entire California budget.

Reasons for State Decisions:

CAGW has no independent knowledge of why states make the decisions they make. We can only assume that some wise states chose to terminate their online tax preparation web sites because, as we have suggested, the sites proved too costly and cumbersome, and with little return.

We can also site one state, which fought to shield from the public documents which exposed their true motivations in creating such a system: In Virginia, where that same document says the state spent \$123 million (plus financing costs, we must assume) to create such a system, the state's goal was solely to increase tax revenue per consumer, not to create ease-of-use for consumers, not to provide the best tax information for consumers, not to cut down on time and frustration for consumers, but to maximize income to the state from taxpayers. This is not how government agencies should view taxpayers and that fact speaks volumes about the inherent conflict associated with allowing the tax collector to also take on the role of tax preparer. Will government tax preparation systems make an extra effort to make sure taxpayers are made aware

of every deduction they are legally entitled to? That is doubtful under the best of circumstances, it is extremely doubtful in an era of tough budgets.

California is trying to hop on a bandwagon that other states have realized has two bad wheels. Already, states that had these systems are starting to abandoning them. California should follow their lead, drop this wasteful, costly, no-benefit, anti-consumer NetFile goal and use precious state tax dollars on more worthy programs, not duplicating services that already exists for little or no cost.

Attachment II - CCIA - Response to Franchise Tax Board Request for Input

Please respond to the following items.

1. Privacy

Please discuss your perspective regarding the following:

Is privacy protection for California's taxpayers being maximized by the FTB and by the e-file industry?

Response:

The private tax preparation and electronic tax filing industry goes to great lengths to protect the privacy and security of taxpayer information. Aside from being subject to strict laws and regulations of the federal government, the State of California, and independent privacy guarantors, it is essential for the industry to go even further, since we know that a significant privacy or security failure could undermine consumer confidence in our products and services, and severely harm the electronic tax filing market. Government-provided services are not subject to the same privacy and security regulations, nor are they subject to market discipline.

Other than saying that NetFile uses 128-bit encryption, the FTB has not disclosed any information that suggests that it was developed with security models or standards similar to best practices recognized in the private sector.

As we described in our original response to the Board, designing online financial services for security and taxpayer privacy is very expensive and a somewhat specialized engineering field. As Chairman Westly pointed out at the April 29 hearing, adequate security involves much more than using 128-bit encryption, and security costs can exceed 25% of the total engineering budget for a particular design function. For example, the hardware and software should be designed with multiple lock-down protocols to recognize and prevent irregular online activity, multiple layers of requests between devices for specific information to be sent in precise formats to differentiate legitimate activity from abuse. Routers must be designed and installed to allow only those systems designed to communicate with each other to do so, to prevent back doors and to block erroneous communications. Standard 128-bit encryption is generally effective against external searches for data, but the FTB needs to explain how it has budgeted for the protection from internal abuses of taxpayer data. Private-sector systems are designed to identify and screen those with access to the system, track their behavior, and prevent irregular or inappropriate activities within the existing infrastructure.

When designing an online tax preparation and e-filing system where taxpayers are entering their most sensitive personal and financial information, new challenges arise that are unique to that environment. For example, all software has bugs that frequently reveal themselves at inconvenient times – such as in the middle of preparation of a tax return.

- Has the FTB designed for a secure environment for debugging capability during the preparation of a taxpayer return?
- What are the specifications for user verification for return users, to ensure that only the person who started – but didn't complete – a return has access to that financial information?
- What is the infrastructure for setting and/or changing access passwords?
- How will users report and how will the system respond to instances of privacy or security failures?
- Is the taxpayer support built in to address those inevitable issues?

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- What are the security procedures and protocols for FTB staff, which may have to access files to deal with error data, security logs, fraud prevention, and other patterns of activities that can help identify security holes?

Private-sector systems are specifically designed to identify employee access, track usage, identify irregular behavior, and prevent corruption of personal information files. All of these systems have to be engineered and designed based on anticipated volumes – have these been built into the FTB's cost estimates? What anticipated volumes were used for these estimates?

Designing for security is more complex than using encryption, which solves for only one kind of problem. And, unlike the FTB, private-sector companies bear the financial and legal risk of any compromise of taxpayer data or personal information. As a government agency, the FTB has no such risk and the taxpayer would have no recourse if there were problems with the NetFile program that contributed to error, fraud, theft or other abuse.

2. *Free File Alliance and NetFile*

At the September meeting of the Franchise Tax Board, the Controller suggested that the Free File Alliance approach and the NetFile program could possibly co-exist in California, thus allowing taxpayers to choose between the two. Please discuss why you believe this model will work, or why this model will not work.

Response:

The Free File Alliance model is intended to allow the private sector to continue to do what it does best – provide the highest quality tax preparation services and the best technology, while providing access and outreach to low income and underserved populations. Creating an environment in which both NetFile and the Free File Alliance coexist would be a waste of taxpayer resources to serve a population already served at no cost. From the perspective of the industry it would also be a waste of effort, as we would be asked to continue to donate free services that are already available from the State.

3. *NetFile Costs*

Please specify, by activity, where you believe that FTB staff has inaccurately represented the cost of the NetFile program. Please show what you feel the appropriate cost should be and explain why. Note that the hours and costs shown below do not include the costs for FTB's e-commerce infrastructure. (Refer to the NetFile Report, September 2003, for e-commerce infrastructure investment costs and NetFile program cost details. The report is available at www.ftb.ca.gov.)

**CCIA Response to
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NetFile Costs Incurred as of July 31, 2003

Actual Project Costs (FY 2002/2003 and July 2003)

	Personnel Years	Personal Services	OE&E	Totals
Development costs (one-time):	3.7	\$300,650	\$46,269	\$346,919
Maintenance costs (on-going):	.1	\$7,801	\$968	\$8,769
Totals	3.8	\$308,451	\$47,237	\$355,688

	Personnel Years	Personal Services	OE&E	Totals
Staff Training	.2	\$5,823	\$903	\$6,726
Marketing	.1	\$3,761	\$871	\$4,632
Totals	.3	\$9,584	\$1,774	\$11,358
Actual costs grand total	4.1	\$318,035	\$49,011	\$367,046

NetFile Hours Incurred as of July 31, 2003¹

The total hours attributable to Maintenance includes the total hours from July 1, 2003 to July 31, 2003. The anticipated Maintenance cost (including, but not limited to cost associated with annual changes) for fiscal year 2003-2004 is \$36,749, as reflected in the *NetFile Report*, footnote 22, September 2003.

Development (one-time)	Hours	Maintenance (on-going)	Hours
<i>Programming</i>	4965	<i>Programming</i>	227.5
<i>Testing</i>	2144	<i>Testing</i>	91.5
<i>System Administration</i>	224.5	<i>System Administration</i>	45
<i>Web Support</i>	226	<i>Web Support</i>	44
<i>Database</i>	60	<i>Database</i>	
Total	7619.5	Total	408

Staff Training	Hours	Marketing	Hours
<i>Trainers</i>	60.5	<i>Staff</i>	105
<i>Trainees</i>	150		
Total	210.5	Total	105

Response:

As an initial matter, we would suggest that since Governor-elect Schwarzenegger plans to subject the entire budget of the State of California to an independent audit, it is appropriate to await the results of that audit before evaluating the figures provided by FTB staff. Furthermore, since the entire State budget is being scrutinized, we believe it is prudent to re-evaluate any State expenditures on the NetFile program in light of current and future budget exigencies that will be revealed by the audit.

¹ The hours include overtime hours that are normally not included in the computation of personnel years in relation to project costs. The total dollar cost does include the cost of the overtime.

CCIA Response to Franchise Tax Board Request for Input

If the costs of the FTB NetFile program are as low as has been claimed, it would by far be the lowest cost online tax program of its kind in the world, and FTB staff will have outperformed some of the industry's most innovative companies and technologists. The dramatic disparity between FTB cost claims and the actual costs for such systems in private-sector experience, as well as the similarly substantial costs experienced by all other government tax agencies anywhere in the world where this has been attempted, has brought considerable attention to the highly unusual cost numbers being cited by the FTB. It is this disparity that has resulted in the questions and doubts raised about the figures produce by the FTB staff.

No information has been provided by FTB staff to substantiate their tax system cost estimates, so it is impossible to provide specific analysis of individual figures. An example of the skepticism surrounding the figures is the FTB staff's claim of flat fees per form – such numbers are neither realistic nor complete because there are vastly different levels of complexity involved in providing different tax forms and functionality. Moreover, there is no way to determine externally the full scope of all direct and indirect FTB expenditures and resources required to create and host NetFile, and make it work at the volumes and customer service levels being promised.

Software and hardware infrastructure must be designed to particular specifications, including anticipated total volume and peak capacity for simultaneous users. Building a system capable of handling 10,000 returns is completely different than building one capable of handling 1 million, and if the system is not developed initially to scale at the higher level, all investment will be wasted once the peak limits of the system are reached, because a completely new architecture will be necessary. It would be helpful to know the design specifications and annual volume estimates that the FTB used in developing NetFile because the sunk costs may be completely insufficient to handle the loads anticipated for year two or year three. If so, taxpayers will be burdened with the cost of refurbishing the infrastructure to accommodate new peak volumes.

Saving money by leveraging the existing e-file platform also seems suspect, since there is much more involved in the design of a functional online tax preparation service than the e-file infrastructure. Aside from the software architecture to handle the user interface, calculations and scalability, there is also the hardware infrastructure of the network, routers, servers and data storage. Again, existing hardware may be sufficient for the very small volumes of taxpayers tested this year, but the infrastructure must be redesigned and built to certain scale and anticipated volume specifications, which have not been disclosed.

There are also other costs that have not likely been accounted for in the FTB's estimates. As explained above, designing for security and taxpayer privacy is very expensive, and the costs for robust security can exceed 25% of the total engineering budget for a particular design function. Beyond technological investments, the FTB has not explained how it has budgeted for the protection from internal abuses of taxpayer data. Private-sector systems are designed to identify and screen those with access to the system, track their behavior, and prevent irregular or inappropriate activities within the existing infrastructure. These procedures are exceedingly expensive and require significant investments in manpower and technology.

The FTB has also yet to indicate how its system has been designed for data storage. Depending on the anticipated need for taxpayer access to data (for completing a return, starting a new return, reviewing a previous year's return) and administrative access to data (for troubleshooting technical problems, answering customer inquiries, etc.), there are advantages and disadvantages to using centralized storage or numerous segregated servers – and, again, volume, speed, and anticipated use are all factors in the design. The existing data storage facilities at the FTB may be totally inadequate to meet the needs of a system handling even 200,000 returns. Taxpayers should know the true costs, even in the out years, rather than discover that new storage systems have to be designed and built to meet rising volume demands.

**CCIA Response to
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Another potential cost that has not been disclosed by the FTB in their estimate is the design for emergency continuity. Is duplicity and redundancy being designed into the software and hardware infrastructure? What are the processes and protocols for load sharing between overlapping systems as compared to having a back-up system for unanticipated problems. Without proper emergency continuity, taxpayers could again be left without access to the FTB web site for several hours on April 15 when other unanticipated problems arise.

Private-sector companies also spend substantial resources on quality assurance testing of each part of the hardware and software infrastructure, as well as performance testing, to determine whether the system can adequately handle the expected user load, software stability, accessibility to data storage by customers, the speed of the network and servers to find bottlenecks, etc. Is the FTB conducting independent testing of its infrastructure, taxpayer usability, security systems, wait times, software and hardware compatibility checks, etc., to ensure that the system will be ready for the tax filing season? We are not aware that these essential safeguards are in place, and if so, what costs have been attributed to them.

4. Activities of Other States

Please provide background information regarding the e-file activities of the other states, based on your information, by completing the following tables. In addition, please provide any other comments, as appropriate.

Table 1: Reasons States Closed Their Direct e-file Programs			
States Identified by Industry as Having Cancelled Direct e-file Programs	Enter Reason for Discontinuing Direct e-file Program	Identify Source of Information	Additional Comments
1. Idaho			
2. Massachusetts			
3. Minnesota			
4. Vermont			

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Table 2: Reasons Other States Adopted the Free File Alliance			
Free File Alliance States	Enter Reason for Adopting Free File Alliance	Identify Source of Information	Additional Comments
1. Georgia			
2. Idaho			
3. Massachusetts			
4. Michigan			
5. Minnesota			
6. Mississippi			
7. New York			
8. Rhode Island			
9. Vermont			

**CCIA Response to
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Response:

With all due respect to the Board, we do not believe it is appropriate for us to characterize the motives of individual states in making the decisions they have.

Attachment III

FileYourTaxes.com

Post Office Box 7657, Oxnard, Ca 93031-7657
805.984.0248

October 20, 2003

Lisa Crowe
Chief, Filing Division
Franchise Tax Board
Post Office Box 2229
Sacramento, CA 95827-2229

Lisa,

Thank you for allowing us additional time to respond to your questionnaire. In as much as this was a task originally intended for the Franchise Tax Board (FTB) Staff, I do recall the Industry also being invited to reply. Based on my perception and recollection, I should also note that the questions posed in the Board meeting were different in intent than what appeared and/or interpreted in the submitted questionnaire. For instance, the second question in the submitted questionnaire implies that there was a specific suggestion to analyze the coexistence of the NetFile and the Free File Alliance (FFA). The Controller was seeking alternatives and brought this as a possibility and the Industry was very quick to clearly distance itself from this option since it was fundamentally incongruent with the concept of the FFA. Likewise, the directed request was to determine why the other states were abandoning their own systems. Obviously, this is a question to be best answered by each of the ever increasing number of states choosing this path, presumably finding out that such efforts were waste of precious tax dollars.

I will attempt to reiterate our position on this matter, as I have done previously.

The state sponsored competitive business activity fueled by taxes is not an alternative that appeals to the Software Development Industry (Industry). The implication of the recent referendum in California also indicates to us that the citizens and taxpayers of California do not appear to favor such frivolous government spending, as well. Further, the termination of this competitive preparation activity will be consistent with the expressed desire of the new Governor-elect to eliminate the government deficit and to reduce the (non-essential) government services provided.

We felt that such sentiments were also echoed by the Controller during the last Board meeting. Vastly contested cost of such an inefficient activity was seen as an anomaly. In the light of the immediate and follow-up cuts that were imposed on the FTB's budget, together with the immense undertaking that tasked the FTB by the previous administration via the mandate to eFile, while simultaneously conducting a tax preparation business will not be an easy task, as was observed. In our technically superior and innovative State where the private and public sectors in unison have proved to be a Phoenix many times in the face of adversity in the past, it is very odd that such an emphasis is placed unilaterally on an activity not so beneficial or efficient.

The Controller's statement pertaining to the technologically and otherwise innovative nature of the peoples of our State should not be overlooked. As a matter of fact, we should take our direction from this concept to create the best partnership between the State and the Industry to benefit the taxpayers of California.

In the past, California, in fact had an innovative approach to precede the FFA. This approach used the "Memoranda of Agreement" concept, and in our opinion, worked very well. Such a voluntary yet beneficial model allowed the Industry to contribute tax preparation and eFiling services, with full attention to taxpayer data privacy within the guidelines of the IRC 7216 and State statues, while the State remained uncompetitive, yet supportive of the eFile process and the Industry through the FTB website. This fine partnership is definitely in contrast to the present competitive posture where the NetFile logo overtakes many pages of the said site, neglecting even the State originated eFile logo, let alone the Industry contributions.

We hope and think that productive partnerships can be formed between the State and the Industry to benefit the taxpayers, rather than creating adversarial stands that result in waste, inefficiency, and burden on the taxpayers.

Sincerely,

Atilla M Taluy
President

cc: Hon. Steve Westly
Hon. Carole Migden
Hon. Steve Peace

Attachment IV - INTUIT

Please respond to the following items.

1. *Privacy*

Please discuss your perspective regarding the following:

Is privacy protection for California's taxpayers being maximized by the FTB and by the e-file industry?

Taxpayers who choose to use tax software to prepare and e-file their returns through industry should feel secure about the protection of their privacy and the security of their data – Intuit Inc has been providing these services securely for over a decade. In addition to being compliant with all state and federal regulations, Intuit invests substantial resources toward ensuring the privacy and security of taxpayer data. The depth and breadth of the measures taken to protect against both internal and external abuses have been outlined by Intuit in answers to previous questionnaires; please let us know if additional copies are needed.

The new privacy protection issue, which needs to be discussed, involves the continuation and potential expansion of the state's NetFile system. The privacy and security of systems built by the FTB to receive completed returns from taxpayers are likely very different from the challenges posed if the FTB is also serving as a tax preparer. The rules and regulations governing how the state collects, manages, stores and uses tax payer data were established in the context of a system where the FTB was simply collecting returns. Whether they are sufficient for addressing the interactive relationship of the tax preparation process between the taxpayer and tax preparer should be of primary concern to the Franchise Tax Board and California citizens.

There are also substantial public policy questions about the appropriate differentiation of roles between the tax preparer and the tax collector – since they have divergent objectives. These questions have been raised by a variety of experts over the years, throughout the time that the FTB has considered providing tax preparation services. The potential impact on taxpayers cannot be easily dismissed, in terms of protecting the public interest.

2. *Free File Alliance and NetFile*

At the September meeting of the Franchise Tax Board, the Controller suggested that the Free File Alliance approach and the NetFile program could possibly co-exist in California, thus allowing taxpayers to choose between the two. Please discuss why you believe this model will work, or why this model will not work.

Intuit is proud to have reached agreement with 10 states in the last year to provide free tax preparation and e-filing services to poor and underserved populations, consistent with our participation in the Federal Free File Alliance. Those states have committed that they have no intention of providing duplicate services, at taxpayer expense, during the term of the agreement.

It is inconsistent with the founding principle of the various state and Federal Free File Alliance agreements to have both free services from industry and services provided at taxpayer expense offered to the same taxpayers.

We had provided free services in all 50 states to qualified taxpayers for 5 years, and provided over 90,000 free state returns in California last year alone. Intuit and others in industry that participate in these Free File Alliance agreements are committing great resources to provide these services to taxpayers. However, it makes little sense for us to continue providing free services in states which are spending precious tax dollars to provide duplicative services. Based on the success of the Free File Alliance model this year, going forward Intuit will be focusing our efforts and energies on serving lower income taxpayers in those states that share a mutual commitment to public-private partnership.

3. *NetFile Costs*

Please specify, by activity, where you believe that FTB staff has inaccurately represented the cost of the NetFile program. Please show what you feel the appropriate cost should be and explain why. Note that the hours and costs shown below do not include the costs for FTB’s e-commerce infrastructure. (Refer to the NetFile Report, September 2003, for e-commerce infrastructure investment costs and NetFile program cost details. The report is available at www.ftb.ca.gov.)

NetFile Costs Incurred as of July 31, 2003

Actual Project Costs (FY 2002/2003 and July 2003)

	Personnel Years	Personal Services	OE&E	Totals
Development costs (one-time):	3.7	\$300,650	\$46,269	\$346,919
Maintenance costs (on-going):	.1	\$7,801	\$968	\$8,769
Totals	3.8	\$308,451	\$47,237	\$355,688

	Personnel Years	Personal Services	OE&E	Totals
Staff Training	.2	\$5,823	\$903	\$6,726
Marketing	.1	\$3,761	\$871	\$4,632
Totals	.3	\$9,584	\$1,774	\$11,358
Actual costs grand total	4.1	\$318,035	\$49,011	\$367,046

NetFile Hours Incurred as of July 31, 2003¹

The total hours attributable to Maintenance includes the total hours from July 1, 2003 to July 31, 2003. The anticipated Maintenance cost (including, but not limited to cost associated with annual changes) for fiscal year 2003-2004 is \$36,749, as reflected in the *NetFile Report*, footnote 22, September 2003.

Development (one-time)	Hours	Maintenance (on-going)	Hours
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¹ The hours include overtime hours that are normally not included in the computation of personnel years in relation to project costs. The total dollar cost does include the cost of the overtime.

<i>Programming</i>	4965
<i>Testing</i>	2144
<i>System Administration</i>	224.5
<i>Web Support</i>	226
<i>Database</i>	60
Total	7619.5

<i>Programming</i>	227.5
<i>Testing</i>	91.5
<i>System Administration</i>	45
<i>Web Support</i>	44
<i>Database</i>	
Total	408

Staff Training	Hours
<i>Trainers</i>	60.5
<i>Trainees</i>	150
Total	210.5

Marketing	Hours
<i>Staff</i>	105
Total	105

While Intuit would like to be helpful to the Franchise Tax Board members and staff as they try to understand the true costs of the NetFile program, unfortunately, the information provided above and through the hyperlink is insufficient for Intuit to be helpful in determining the accurate costs. We have previously provided substantial information, both in written testimony and in verbal meetings with the FTB, about the kinds of costs that tax preparation and e-filing companies have experienced in creating, maintaining, and innovating a tax preparation services for taxpayers. We can only reiterate that the costs provided by the staff are vastly inconsistent with our experience as a leader in the tax preparation and e-filing business for 20 years.

4. Activities of Other States

Please provide background information regarding the e-file activities of the other states, based on your information, by completing the following tables. In addition, please provide any other comments, as appropriate.

Table 1: Reasons States Closed Their Direct e-file Programs			
States Identified by Industry as Having Cancelled Direct e-file Programs	Enter Reason for Discontinuing Direct e-file Program	Identify Source of Information	Additional Comments
1. Idaho			
2. Massachusetts			
3. Minnesota			

4. Vermont			

Table 2: Reasons Other States Adopted the Free File Alliance

Free File Alliance States	Enter Reason for Adopting Free File Alliance	Identify Source of Information	Additional Comments
1. Georgia			
2. Idaho			
3. Massachusetts			
4. Michigan			
5. Minnesota			
6. Mississippi			

7. New York			
8. Rhode Island			
9. Vermont			

We believe it is most appropriate for individual state tax agency officials to directly provide information as to the reasons they discontinued duplicative services and/or adopted the Alliance model directly to the FTB staff and Board members. As we have previously offered, we would be happy to share what contact information we have with the states in question and facilitate any conversation we can to help the FTB learn from the experiences of other states should that be helpful.

For clarification: Intuit is unaware of any invitation from Rhode Island to industry to develop a Free File Alliance in that state. However, Alabama and Arizona have offered such invitations. And, since the questionnaire was released, North Dakota has also issued an invitation to industry for an Alliance.

Attachment V - Mr. L Goldberg - Franchise Tax Board

Request for Input

Please respond to the following items.

1. Privacy

Please discuss your perspective regarding the following:

Is privacy protection for California's taxpayers being maximized by the FTB and by the e-file industry?

Taxpayers assume the highest standards of privacy and security with the FTB. In particular, the data is expected to be as thoroughly secure with Netfile as it is with mail. Taxpayers must have the highest degree of confidence in FTB that their data cannot go anywhere else, or be used in any other way, unless required by law (e.g. criminal investigation).

As the sponsor of legislation on the subject (SB 1724, Dunn, 2000) which was signed into law, we are aware that filers through the e-file industry are supposed to have complete protection of their data. However, we know from public statements that at least one company considers taxpayer data an asset which can be used for other purposes (see below). Others have had "incidents" in which taxpayer data was unprotected. I do not believe that the FTB has had the same security problems. Beyond that, the privacy policies of these companies are entirely inadequate. We have attached those policies as part of this response.

On security: No matter what level of security is provided, there is less security by definition if a taxpayers' data is stored in two places rather than one, and is transmitted twice rather than once. Any requirement that data be sent to a proprietary company and then to the FTB makes that data less secure, because it can become a target for security breaches in twice the number of locations. Intuit notes that for trouble-shooting, they may ask for resubmission of data, a further potential compromise of security.

Privacy, of course, is not the same as security but is related. The fundamental objection which we, as a taxpayers' organization, have to filing through a proprietary company is that, despite legal protections, there should be no requirement that a third party receive a taxpayers' data.

The fundamental privacy problem with using proprietary companies is that a third party intervenes between the FTB and the taxpayer. That would be the equivalent of having to send my paper file to a company who would then send it to the FTB. There is no justification for a private party to intervene between the taxpayer and the FTB. In fact, it would compromise the privacy of the process—no one other than the FTB should have this data, unless the taxpayer so chooses.

Here is a statement from Mark Ernst, the CEO of H&R Block: Block advisers know "virtually everything" about their clients' financial lives, so "we can use it to their advantage and our advantage to customize advice unique to their financial situation...when they come to our doorstep, they bring all their personal information and effectively pay us to update our database." This is entirely unacceptable to many taxpayers, who are not at all interested in having their tax preparer have that data, or seek a personal accountant who they trust with the data.

We have examined the privacy policies of several of the companies, and they are entirely inadequate. Intuit, for example, has an "opt-out" policy by which the information can be used unless they are notified by the taxpayers. This information is taken from order and contact information, not tax return data, so Intuit explains that it can be used for promotional purposes—something that the FTB would never do and which should never be permitted, particularly when someone has accessed the site via the FTB. Intuit also maintains cookies, and collect e-mail

Franchise Tax Board Request for Input

addresses and information. They also may share information with third-party service providers. Their privacy policy is subject to change within 30 days notification on the website. In addition, if the company is sold the data is transferred. And, in the attached document, Intuit notes that it “will share” with its subsidiaries and for a variety of purposes.

H&R Block explicitly notes that the information can be shared with its affiliate companies. H&R Block also notes that it uses log files which track clicks, IP addresses, internet service provider and other information. IP addresses are tied to personally identifiable information. Ironically, the red-herring that the FTB might follow keystrokes appears to reflect the actual practice of on-line proprietary companies.

Arguably, this information is not tax data—it is e-mail data, IP addresses, cookies, and other electronic transmissions. Thus it can be used for communications, promotions, etc, and directly compromises the privacy of the individual filer.

The privacy policies we examined are entirely inadequate, particularly as compared to the FTB and the decision of the Legislature and Governor in unanimously passing SB 1724. In no way should the state require that this valuable and private personally identifying information be relinquished to a private business in order to file online.

2. *Free File Alliance and NetFile*

At the September meeting of the Franchise Tax Board, the Controller suggested that the Free File Alliance approach and the NetFile program could possibly co-exist in California, thus allowing taxpayers to choose between the two. Please discuss why you believe this model will work, or why this model will not work.

First, “Free File Alliance” is a complete misnomer. It means, apparently, that some people with modest incomes and simple forms can file for free. Otherwise, those with reasonable incomes and anything other than cookie cutter tax returns—e.g. no itemizing, wage and salary income only—will have to pay to file electronically, and will have to send their information to a third party which will charge them.

If anyone has to pay to file on-line, the phrase “free file” is false and misleading and should not be used.

The offers made by the companies have been for the most part far from generous: only the simplest of filings, only taxpayers with modest incomes, no guarantees over any extended period of time that these free policies will be in place. And, there is no legitimate way the state/FTB should try to enforce anything more. To do so would be confiscatory, because the FTB cannot ask a private business to give away its products.

For the taxpayer, there is no clarity as to who receives free filing and who does not. One has to fill out the forms and go through the process before one finds out that she/he will not be charged. If the income level does not qualify, or the return is mildly complex, then the taxpayer will have to pay to file. By that time, they have gone through the process of filing and are unlikely to eliminate the work they have done and start over, particularly with another company.

In fact, the IRS “free” file website notes this very fact—one may find out after they have filed they are subject to a fee. Since various companies have different restrictions, a taxpayer may not know that they are not getting free filing. In addition, the IRS restrictions include no dependents, and income under \$50,000. Why should families not be able to file for free? Will that be a restriction on “free” file in

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California? We don't know, nor can we say—it's purely up to the companies, who can change year to year, so that one year's free file may cost the next year.

Free filing is in effect a way to acquire a customer. Those customers who are simple and lower-income filers now will become paying customers later. But it provides little for the ordinary middle-class family taxpayer.

How can the two co-exist? First, the FTB must offer on-line a full range of forms by which taxpayers can file directly and for free. The FTB cannot mandate that companies give away their products, so it cannot mandate that free filing must be made available. No one is required to pay to file, and they should not be required to pay to file electronically, ever.

On the same website by which direct free filing is offered (Netfile), the FTB would include on its website links to companies which will file taxes for free, with clear descriptions up front of the filers who can do it for free for each company, (although the IRS notes that it will not always be clear until the process is finished). It could allow taxpayers to use those links as an alternative to direct e-filing, at the taxpayers' choice. However, the site must emphasize that they can file for free through the FTB. And it should directly warn taxpayers that using a proprietary company may or may not be free. In no case should it use the phrase "free file alliance" except in connection with any company which offers a full range of filing options for free.

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3. NetFile Costs

Please specify, by activity, where you believe that FTB staff has inaccurately represented the cost of the NetFile program. Please show what you feel the appropriate cost should be and explain why. Note that the hours and costs shown below do not include the costs for FTB's e-commerce infrastructure. (Refer to the NetFile Report, September 2003, for e-commerce infrastructure investment costs and NetFile program cost details. The report is available at www.ftb.ca.gov.)

NetFile Costs Incurred as of July 31, 2003

Actual Project Costs (FY 2002/2003 and July 2003)

	Personnel Years	Personal Services	OE&E	Totals
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Maintenance costs (on-going):	.1	\$7,801	\$968	\$8,769
Totals	3.8	\$308,451	\$47,237	\$355,688

	Personnel Years	Personal Services	OE&E	Totals
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Actual costs grand total	4.1	\$318,035	\$49,011	\$367,046

NetFile Hours Incurred as of July 31, 2003¹

The total hours attributable to Maintenance includes the total hours from July 1, 2003 to July 31, 2003. The anticipated Maintenance cost (including, but not limited to cost associated with annual changes) for fiscal year 2003-2004 is \$36,749, as reflected in the *NetFile Report*, footnote 22, September 2003.

Development (one-time)	Hours	Maintenance (on-going)	Hours
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<i>Testing</i>	2144	<i>Testing</i>	91.5
<i>System Administration</i>	224.5	<i>System Administration</i>	45
<i>Web Support</i>	226	<i>Web Support</i>	44
<i>Database</i>	60	<i>Database</i>	
Total	7619.5	Total	408

Staff Training	Hours	Marketing	Hours
<i>Trainers</i>	60.5	<i>Staff</i>	105
<i>Trainees</i>	150		
Total	210.5	Total	105

¹ The hours include overtime hours that are normally not included in the computation of personnel years in relation to project costs. The total dollar cost does include the cost of the overtime.

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Since I have no way of verifying costs, the only omission here are the future development costs of putting all the forms on-line and allowing taxpayers' to access them and file them. The issue is costs and benefits: do the benefits outweigh the costs?

4. Activities of Other States

Please provide background information regarding the e-file activities of the other states, based on your information, by completing the following tables. In addition, please provide any other comments, as appropriate.

Table 1: Reasons States Closed Their Direct e-file Programs			
States Identified by Industry as Having Cancelled Direct e-file Programs	Enter Reason for Discontinuing Direct e-file Program	Identify Source of Information	Additional Comments
1. Idaho			
2. Massachusetts			
3. Minnesota			
4. Vermont			

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Table 2: Reasons Other States Adopted the Free File Alliance

Free File Alliance States	Enter Reason for Adopting Free File Alliance	Identify Source of Information	Additional Comments
1. Georgia			
2. Idaho			
3. Massachusetts			
4. Michigan			
5. Minnesota			
6. Mississippi			
7. New York			
8. Rhode Island			
9. Vermont			



H&R Block Privacy Statement for Online Tax Services

Your privacy is very important to H&R Block. We are providing this statement to inform you about the types of information we collect from you, and how we may use or disclose that information in connection with your business relationship with H&R Block.



H&R Block is a licensee of the TRUSTe Privacy Program. TRUSTe is an independent, non-profit organization whose mission is to build users' trust and confidence in the Internet by promoting the use of fair information practices. Because this Web site wants to demonstrate its commitment to your privacy, it has agreed to disclose its information practices and have its privacy practices reviewed for compliance by TRUSTe.

Who Is Covered by this Privacy Statement

This Privacy Statement describes the privacy practices of H&R Block e-solutions, a division of Block Financial Corporation ("H&R Block") and its affiliates providing online tax preparation and related online services. An "affiliate" is a company within the H&R Block family of companies related by common ownership or control. The TRUSTe program covers only information that is collected through the H&R Block Web-based tax and tax-related services Web site and does not cover H&R Block Financial Advisors, Inc., H&R Block Mortgage Corporation, other H&R Block affiliates or information that may be collected through H&R Block software, such as TaxCut® or H&R Block DeductionPro software. This Privacy Statement applies to consumers who are clients or former clients of our relevant businesses. This Privacy Statement applies to personal information, which is nonpublic information about our clients that we obtain in connection with providing a financial product or service.

Information We Collect

We may collect information about you from the following sources:

- Information we receive from your transactions with us and our affiliates, such as information you submit to prepare your online tax return or in connection with other online tax services. Examples of such information may include information from your Form 1099, W-2, and other tax forms, as well as information about balances and payment history.
- Information we receive when you request services or information from us or companies, with whom we have business relationships, enter contests or sweepstakes, or complete surveys or polls, such as your name, address and e-mail address.
- Credit or debit card information, such as card number and card expiration date, and checking and savings account information when you purchase online tax and related products and services on or through our site.
- Web technologies. We may collect information through the following Web technologies:

We utilize a software technology called "cookies". Internet cookies allow us to

customize our Website for you. Through the use of cookies we can, for example, display only those items that may be of interest to you, or make it easier to access such things as account information. In most cases, however, information we collect through Internet cookies does not identify you personally.

We also employ a software technology called clear gifs (also known as web beacons or web bugs), that help us better manage content on our site by informing us what content is effective. Clear gifs are tiny graphics with a unique identifier, similar in function to cookies, and are used to track the online movements of Web users. Clear gifs are not tied to users' personally identifiable information.

Like most standard Web site servers, H&R Block use log files. This includes internet protocol (IP) addresses, browser type, internet service provider (ISP), referring/exit pages, platform type, date/time stamp, and number of clicks. We utilize this information to analyze trends, administer the site, track user's movement in the aggregate, and gather broad demographic information for aggregate use. IP addresses are tied to personally identifiable information to enable users to file or transmit tax returns to the Internal Revenue Service.

Our online tax programs contain features to speed the preparation of your tax return and to reduce the chance for errors when entering tax data. If you elect to use these features, we may collect information about you from third parties to populate portions of your account registration or tax return. The auto entry feature allows you to transfer data from certain tax forms, such as a 1099 or W-2 from your employer, financial institution or other third parties directly to H&R Block.

From time to time, H&R Block may offer online chats on its Web site. If you participate in these public chats, you are not required to provide any personally identifying information to H&R Block, and we recommend that you do not provide such information. During these tax chats, we may log the questions asked by users and the answers provided by H&R Block. These sessions may be archived and reposted on the H&R Block Web site at a later time.

Federal law requires that H&R Block retain, for the Internal Revenue Service, filed tax returns for a period of at least three years. It is H&R Block's policy that if you start, but do not complete, a tax return, we will generally keep the tax return information you provide for one year.

Information We May Disclose

Subject to applicable laws, we may disclose information we collect to our affiliates. Our affiliates may assist us in providing services that you have requested, or they may offer related tax or financial services, such as mortgages, investment accounts, and banking products.

We may disclose any information we collect to service providers to perform a service for us or perform a function on our behalf, or financial institutions with whom we have joint marketing agreements. Examples could include, without limitation, disclosures to a printer to print checks for you, or data processors to process contest entry forms, collate letters, manage or sort information we collect from you, or to send e-mails or letters on our behalf. In cases where we use service providers or joint marketers, we require such entities to enter into written contracts with us. These contracts require the service provider or joint marketer to safeguard your information and prohibit them from using your information for any unlawful purposes.

We may make other disclosures of information we collect to affiliated and non-affiliated third parties as required or permitted by law. We also may disclose information where you have consented to the disclosure. Such disclosures may include, without limitation, disclosures that effect or aid in the processing of electronic refund, advance loans or other

products or services that you request. It may also include information to our franchisees to affect a product or service you have requested, process credit card transactions, to permit H&R Block to audit its franchisees or vendors, to comply with a subpoena or other court or government agency order, or in the event of a sale or transfer of our business or assets. In the event of such a sale or transfer, H&R Block will notify you as set forth below. Though we make every effort to preserve user privacy, we may need to disclose personal information when required by law, or wherein we have a good-faith belief that such action is necessary to comply with a current judicial proceeding, a court order or legal process served on H&R Block.

H&R Block may disclose aggregate information compiled using your personal information that does not identify you individually or personally. This may include, for example, the total number of clients H&R Block served in a particular state or city, or the number of total clients who filed a particular tax form. H&R Block may also provide the Internal Revenue Service with anonymous statistical data relating to tax return preparation and filing. You may have additional rights under federal or state laws, and this Privacy Statement will not limit those rights.

Links to Other Web sites.

This Web site contains links to other sites. Please be aware that H&R Block is not responsible for the privacy practices of such other sites. We encourage our users to be aware when they leave our site and to read the privacy statements of each and every Web site that collects personally identifiable information. This privacy statement applies solely to information collected by this Web site. In certain cases, H&R Block may co-brand or frame certain web pages or allow third parties to co-brand or frame certain pages of our site. In cases where non-public personal information you provide on, or in connection with transactions at, the H&R Block Web site will be subject to a third party privacy policy, H&R Block will notify you that the information you provide will be subject to such third party privacy policy. H&R Block may notify you by posting a copy of the third party privacy policy at the location where you enter personal information.

Changes to Our Privacy Statement.

If we make a material change to this Privacy Statement, including a material change in the way we use your personal information, we will notify you by using one of the following methods at least thirty (30) days prior to the effective date of such change: (1) we will post a notice on our Web site describing the change; or (2) we will send you electronic mail notifying you of the change. You may also have additional rights under state or federal law in the event of a change in our Privacy Statement.

If H&R Block were to sell its assets to a third party, certain personal information of our customers could be part of the assets sold or transferred. In the case where H&R Block transfers or sells its assets, including your personal information, to a non-affiliated third party, H&R Block will notify you of the transfer or sale. The notification procedure will be the same as the procedure we use to notify you of a change in our privacy statement.

Protection of Personal Information

The use of, and access to, nonpublic personal information by H&R Block companies is restricted to those employees who need to know that information to provide products, services or support to you. We maintain physical, electronic, and procedural safeguards to guard your nonpublic personal information.

Update your information or provide feedback: Should your personal account information change or if you would like to modify it in any way, please call 816-504-1599.

If You Want to Limit Receiving Promotions from H&R Block. If at any time you wish

to limit your receipt of promotional offers from H&R Block based upon information you provide in connection with your use of H&R Block online tax services, you may call the following number: 816-504-1599 and ask for client relations. We may, however, continue to provide you with tax or financial information, legal notices, and other information about your accounts and transactions with H&R Block and its affiliates. This paragraph only applies to contact information H&R Block obtains through this Web site, so you could still receive offers where H&R Block obtain your contact information through other sources.

Contacting Us With Questions

If you have questions or concerns regarding this statement, you should first contact H&R Block at 816-504-1599. If you do not receive acknowledgment of your inquiry or your inquiry has not been satisfactorily addressed within a reasonable period of time, you should then contact TRUSTe http://www.truste.org/users/users_watchdog.html. TRUSTe will then serve as a liaison with the Web site to resolve your concerns.

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Intuit's No-Sharing Practice

Intuit will **not** share consumer data, including contact information such as name, address, telephone number or e-mail address - with outside companies for their promotional use. We also do not rent or sell our customer lists to other companies

We **will** disclose customer information...

- Between Intuit and its subsidiaries. All Intuit subsidiaries operate according to the same Intuit privacy guidelines.
- With service providers, which in some cases deliver a product you order, fulfill a service you request or market one of our products or services. Service providers are contractually prohibited from using our customer information for their own purposes.
- With a partner, to fulfill your request for the partner's services.
- In cases involving the sale of an Intuit business.
- In cases where we disclose certain information to comply with the law, an investigation or a legal process such as a court order, subpoena, search warrant, or law enforcement request.

We may occasionally offer partners' products and services directly to our customers, but we do not provide customers' contact information to other companies for their promotional use.

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Frequently Asked Questions

What are Contact Preferences?

At Intuit, we take pride in our commitment to customers' privacy. We give our customers the option to select how they would like to be contacted or not to be contacted. You can "opt-out" of promotional communication delivered via phone, mail, or e-mail. In other words, you can let us know you do not want to receive promotions from Intuit.

What does it mean to "opt-out"

Opt-out is a choice customers make to not receive promotional communication delivered via phone, mail or e-mail. The choice to opt-out means you will not receive promotional materials for Intuit products. Intuit offers many financial products and services for both consumers and small businesses. For a complete list of Intuit's offerings, please see <http://www.intuit.com/>. If you do not specify any privacy preferences (do not opt-out), Intuit may contact you with promotional information regarding products and services that may be of interest to you. If you elect to specify your privacy preferences (opt-out of promotional communications), you will not receive offers from Intuit about products, services or special discounts that may benefit you, including offers on Intuit products you use.

What if I don't choose Intuit contact preferences?

If you don't choose Intuit contact preferences, we may contact you via e-mail, phone or U.S. mail to inform you of special offers or discounts that may interest you.

What if I opt-out? Will I miss out on special offers?

Yes - when you opt-out of mail, phone and e-mail you will miss announcements from Intuit about both special offers and product updates on products and services you currently own or use. You can opt-out of just one communication channel and still receive promotions by another channel. For example, if you opt-out of receiving promotional communication by phone, we may still e-mail you with special offers.

I only want to receive information on product updates for a product I own. Can I do that?

Currently, your choice to opt-out of promotional communication applies to all Intuit products and services. For a complete list of Intuit's offerings, see our [Products & Services](#) section.

I've opted-out but I'm still getting mail (or phone calls or e-mail) from Intuit. Why aren't you honoring my request?

Intuit respects the privacy and contact preference of our customers. It is our intention to always to honor your preferences. If you continue receiving promotional communication from us after you've opted-out, it's usually traceable to one of two reasons.

First, some promotional materials may already be in progress when you opt-out. Depending on what preference you opt-out of, the cycle time to get your preference recorded could be up to eight weeks.

Second, some customers use a different name or address on their order/registration than in their contact preference. For example, a customer could register under "Paul" but "opt-out" using the name "PJ". It is important to provide us with accurate and complete contact information so that we may locate your customer account.

If you continue to receive promotional information after you have opted-out, please [contact Intuit's Privacy Team](#), so we can help resolve your issue.

[Quicken.com](#) | [TurboTax.com](#) | [QuickBooks.com](#) | [For Accountants](#)

[Developer Network](#) | [International](#)

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[Legal Notices](#) | [Privacy Statement](#)





TurboTax.com and TurboTax for the Web Privacy Statement

At Intuit, we dedicate ourselves to revolutionizing the way individuals manage their financial lives and small businesses manage their business. In that effort, we respect and protect the privacy of those who visit or use our Web sites. When we collect information from you, we want you to know how it is used. To demonstrate our commitment to fair information practices, we have adopted leading industry privacy guidelines. Intuit is a Premier Sponsor of TRUSTe and a member of the TRUSTe Privacy Program.

This Privacy Statement defines privacy aspects specific to the TurboTax.com, TurboTaxWeb.com, and TurboTax.Intuit.com Web sites and affiliated Intuit Web servers (referred to as the "TurboTax Web sites"). Please read this Statement in conjunction with the [Intuit Online Privacy Policy](#), which represents our general privacy philosophy and governs all of our Web sites. You may also want to read the Quicken.com Privacy Statement, which defines privacy aspects specific to the Quicken.com web site. The TurboTax Web sites' privacy practices are consistent and compliant with the Intuit Online Privacy Policy.



Because of the financial nature of our business, our Web sites are not designed to appeal to children under the age of 13. Therefore, we do not knowingly attempt to solicit or receive any information from children.

Our Philosophy and Practices

At Intuit, we want you to feel comfortable and confident when using this Web site. Therefore, we would like to share with you the following principles that govern our information practices and other privacy aspects of our Web site:

- [We provide you notice of our Web site information practices .](#)
- [We tell you how and why we use Web technologies.](#)
- [We give you choices about how the personally identifiable information that you provide to us may be used.](#)
- [We provide you with the opportunity to update or correct the personally identifiable information you provide to us.](#)
- [We work to protect personally identifiable information from loss, misuse, or unauthorized alteration.](#)
- [We provide various ways for you to contact us about our information practices and other aspects of privacy.](#)

We provide you notice of our Web site information practices.

To maximize the value of our services, we may request information from you when you visit our Web sites or purchase or register our products or services.

Here is a description of the information we collect and how it is used:

Preparation and Electronic Filing of Tax Returns. You may use TurboTax for the Web Basic, TurboTax for the Web Deluxe, TurboTax for the Web Premier, TurboTax for the Web Premier Home & Business, TurboTax for the Web 1040EZ, TurboTax for the Web State, and TurboTax for the Web 1040EZ State, to assist you with the online preparation and electronic filing of your tax return (referred to as the "TurboTax for the Web products"). "Tax return information" is information provided by a taxpayer that is used to prepare a tax return with the TurboTax for the Web products.

Intuit uses tax return information, only in accordance with applicable laws to provide the online tax preparation, electronic filing or other services you have requested. Except as required by law or to provide you with the products or services that you specifically request or consent to, Intuit does not disclose tax return information to third parties, nor does it use tax return information to market other Intuit or third parties' products or services.

As a method for detecting fraud in tax information transmitted via the Internet, the Internal Revenue Service (IRS) requires Intuit to provide to the IRS, in connection with the electronic filing of tax returns, the Internet Protocol (IP) address of the computer from which the return originated. We are also required to notify the IRS whether the e-mail address of the person electronically filing the return has been collected.

Electronic Filing. As an approved transmitter of electronically filed federal and state income tax returns, we follow stringent security guidelines to protect the security and privacy of your data. Electronically filed tax returns are encrypted during transmission to us. When transmitting your tax return, we use the most secure transmission technology supported by the IRS and by state tax filing agencies. To provide customer technical support when troubleshooting e-filing related problems, such as acknowledgements or rejected returns, we may ask you to resubmit your tax return to us.

Instant Data Entry. Instant Data Entry allows you to automatically retrieve and enter tax information from sources such as participating employers, brokerages, payroll companies, mortgage companies, and mutual fund companies, directly into the correct forms in the TurboTax for the Web products. When you download information from such tax data providers, you will be required to enter authentication information such as your user name, account number and/or password. The TurboTax for the Web products use this information solely for the purpose of providing authentication to the tax data provider.

Order and Payment Information. We gather contact and payment information from you to process your order. This information may include name, address, phone and e-mail address and, as payment is required, credit card information. We do not share your information with outside companies for their promotional use. On occasion, however, we may use your contact information to notify you of important product updates, significant tax law changes, or promotional opportunities about these or other Intuit products. If you do not wish to receive these notices, you may opt out during the information collection process or by visiting <https://privacy.intuit.com>. We do not share your credit card information with third parties except to process payment for the service you are requesting.

Credit Card Payments. If you would like to pay your federal balance due by credit card, the IRS requires your name, Social Security Number, and balance due. If you select the credit card payment option, including credit card payment through electronic filing, you are giving your consent for the TurboTax for the Web federal product to gather this information from your tax return and transmit it securely to our credit card payment partner. Our partner uses this information solely to process payment of your federal taxes. If you don't want this information transmitted to our credit card payment partner, we recommend payment by check. You may also be requested to provide your contact information, such as your e-mail address and phone number, which may be used to contact you if there is a question about your payment.

Tax Calculators. Information entered into the Tax Calculators (e.g., Tax Estimator calculator) is used solely to provide you with estimates of various tax situations. The Tax Calculators do not link the information entered with personally identifiable information. Unless otherwise noted in the calculator description or instructions, once you close the tool, none of the information used in these calculations is saved.

Tax Planner. Information entered into the Tax Planner section (e.g., Life Events planner) of the TurboTax for the Web products is used solely to provide you with "what if" tax estimates. This information is stored behind a firewall and remains on Intuit's servers and is not sent to the IRS or anyone else.

Bank Products. You can choose to apply for bank products, including a "refund anticipation loan" (Quick Cash Loan) or "refund transfer". These bank products are offered by our partner, Santa Barbara Bank & Trust (SBBT). When you apply for a refund anticipation loan or refund transfer you are authorizing Intuit to disclose your personal and tax return information to SBBT. Additionally, you should consult the applicable bank product application to understand how SBBT will use this information including: the processing and underwriting of your application; collecting outstanding balances on any unpaid refund anticipation loans; and, detecting, preventing and reporting fraud.

Purchase of Products and Services with Tax Refund. You may purchase certain Intuit products and services and those of our partners, with the TurboTax for the Web products, by using your tax refund. Intuit collects personally identifiable information to process your order. We request certain contact information, including your shipping address name, address, phone number and e-mail address. When you purchase those products and services that are offered by our partners, you are authorizing Intuit to disclose your customer information to our partners. We encourage you to review our partner's privacy policies to learn more about what, why and how they collect, use, and store personally identifiable information.

If you have provided an e-mail address, an e-mail confirmation of your order will be sent after your refund is funded by the IRS. Except as required by law or to provide you with the products or services that you specifically request or consent to, Intuit does not disclose tax return information to third parties, nor does it use tax return information to market other Intuit or third parties' products or services.

Professional Tax Review. You can choose to have your tax return reviewed by a certified tax professional. This service is offered by our partner, TaxResources, Inc. ("TRI"). When you agree to have your tax return reviewed by a certified tax professional, you are authorizing Intuit to transmit your tax return to TRI. You should consult the TRI Privacy Statement to understand how TRI will use this information.

Except as required by law or to provide you with the products or services that you specifically request or consent to, Intuit does not disclose tax return information to third parties, nor does it use tax return information to market other Intuit or third parties' products or services.

More on our general information practices.

Contests, Sweepstakes, and Surveys. From time to time, we may offer you the option to participate in contests, sweepstakes or surveys. If you would like to participate, we may ask you for contact information, preferences, or other information. This information may be used to conduct research, improve our offerings, or award prizes. Our contests or sweepstakes may have separate rules and we will identify how the information that you supply will be used in each case.

Required and Optional Information. We identify what information is required to fulfill your request and what information is optional. If you choose not to provide required information, we will not be able to provide the service you are requesting. A decision to provide incomplete information in the preparation of a tax return, for example, will preclude the full and proper use of the TurboTax for the Web products. You cannot complete and file a tax return using Intuit's online tax products if you do not identify yourself, although you do not have to identify yourself to just try out the product.

Newsletters. We provide you the opportunity to subscribe to e-mail newsletters and other e-mail communications. You may unsubscribe at the subscription center or by following the instructions provided in each e-mail newsletter.

Intuit Partners and Co-branded or Third-Party Sites. Some of the products and services offered on this Web site are provided

by Intuit's business partners. To fulfill your request for such services, we will forward your customer information to a partner, as necessary. When offering partner services on an Intuit or co-branded site, the partner who will be receiving your information will be clearly identified. The TurboTax Web sites may provide links to third-party Web sites, such as those of our business partners and online advertisers. On these sites either Intuit and/or its partners may collect information about you. Intuit is not responsible for the actions of these third parties. We encourage you to review their privacy policies to learn more about what, why and how they collect, use, and store personally identifiable information.

E-mail Messaging. When sending you e-mail, we may use an image called a single-pixel GIF, that allows us to format messages tailored to your computer's capabilities. We also use this technology to determine, in the aggregate, the number of people who open our e-mails. When you initiate a response by clicking on a link within an e-mail message, you are re-directed onto the internet. We then record your individual response to help us deliver information that is more relevant to your interests.

Intuit and its Subsidiaries. Intuit and its subsidiaries may exchange customer data with each other to fulfill your request or to provide you with information about other products or services.

Service Providers. In some cases, we will use service providers such as consultants, temporary workers, third party software developers, or outsourcers, to complete a business process or provide a service on our behalf. For example, we may use service providers to deliver products, to offer online software applications, or to send e-mails. When we use service providers, we may need to share your personally identifiable information. Service providers are strictly prohibited from using your personally identifiable information for purposes other than to act on our behalf.

Service Alerts and Critical Notices. Although we respect and honor the privacy preferences you have expressed, we may need to contact you to inform you of specific changes that may impact your ability to use this service or for other critical non-marketing purposes, such as error alerts. We may also contact you to respond to your specific requests, to clarify the order information you provided to us, or to notify you of upcoming subscription expiration dates.

Change of Control. Your personally identifiable information may be transferred in connection with a sale, merger, transfer, exchange or other disposition (whether of assets, stock or otherwise) of all or a portion of a business of Intuit and/or its subsidiaries. You will have the opportunity to opt out of further secondary use of your information following any change of control.

Changes to Our Privacy Policy. If we plan to make significant changes to any of our privacy policies or practices with respect to how we use personally identifiable information, we'll post those changes to this Web site 30 days before they take effect.

Legal Disclosures. In some cases we may disclose certain information to comply with a legal process, such as a court order, subpoena, search warrant, or law enforcement request.

We tell you how and why we use web technologies.

This is how and why we use some common Web technologies to help manage our Web site:

Cookies. A "cookie" is a small piece of information that our Web sites may provide to your browser while you are at our site. If you are a registered user on the TurboTax Web sites, you will receive a cookie when you login. This cookie is maintained by your browser and contains your identifier. This cookie is also used to authenticate your identity and provide you with appropriate messaging and access to areas of our Web site that are limited to registered users, such as those for tax return preparation and electronic filing

You do not have to accept cookies from our site. Only the areas that support the use of TurboTax for the Web products require cookies. Should you decide that you would like to use TurboTax for the Web products and you have modified your browser settings not to accept cookies, you will need to re-set your browser to accept the cookies that we send. Most browsers, by default, accept and maintain cookies.

We may, at times, use advertising networks to serve ads on this Web site. These ads may assign different cookies to you. Those cookies may be used to track your involvement with the advertising on our site. You may choose not to accept these cookies. Intuit does not control those parties. You should review their privacy policies to learn more about what, why and how they collect and use private information. If you have questions about our ad serving networks, please contact us at <https://privacy.intuit.com>.

Web Site Usage Data. With or without cookies, our Web site keeps track of usage data, such as the source address that a page request is coming from, your IP address or domain name, the date and time of the page request, the referring Web site (if any), and other parameters in the URL. We use this data in the aggregate, to better understand Web site usage, including what areas of our Web site users prefer. This information is stored in log files and is used for aggregated and statistical reporting. This log information is not linked to personally identifiable information gathered elsewhere on the site.

We give you choices about how the personally identifiable information that you provide to us may be used.

We give you the opportunity to control the use of your personally identifiable information for purposes other than to fulfill your request. For example, on occasion we may use your contact information to contact you about product updates, significant tax law changes, or promotional opportunities about the TurboTax for the Web products or other Intuit products, or those of our partners. If you do not wish to receive this information, you may specify your contact preferences during the information collection process or by contacting us at <https://privacy.intuit.com> or by writing to us at Intuit Inc., Customer Communications, 2800 East Commerce Center Place, Tucson, AZ 85706.

We provide you the opportunity to update or correct the personally identifiable information you provide to us.

We provide you the opportunity to update or correct the personally identifiable information that you have provided to us in product registration. Once you have completed a tax return using a TurboTax for the Web product and directed that it be electronically filed, you cannot change the information in it because the tax return has become a legal record of your tax filing. Furthermore, changes must be made prior to the final tax filing deadline, which is generally October 15 each year.

You may update or correct the contact, account and other information that you have provided to us by contacting TurboTax Service and Support at <http://turbotaxsupport.com> or by writing to us at Intuit Inc., Customer Communications, 2800 East Commerce Center Place, Tucson, AZ 85706.

We work to protect personally identifiable information from loss, misuse, or unauthorized alteration.

We use industry-recognized security safeguards to help protect the personally identifiable information that you have provided to us from loss, misuse, or unauthorized alteration. Whenever we request that you transmit sensitive information, such as tax return information or a credit card number, to us through our Web site, we support encryption of your data as it is transmitted to us.

We work to protect personally identifiable information stored on the site's servers from unauthorized access using industry standard computer security mechanisms. In addition, we have developed and deployed extensive security procedures and practices. All Intuit employees must review and sign a written statement of these practices, which include restricting access to sensitive information to

only those employees requiring such information and enforcing strict password protocols for all employees.

In addition, we require correct username and password to give you access to use, view or change (prior to electronic filing) tax return information in the TurboTax for the Web products. We use both internal and external resources to review the adequacy of our security measures on a regular basis.

We provide various ways to contact us about our information practices and other aspects of privacy.

If you have questions about the TurboTax.com and TurboTax for the Web Privacy Statement, our Online Privacy Policy, our information practices or other aspects of privacy on our Web sites, please contact us at <https://privacy.intuit.com> or by writing to us at Intuit, Inc., Customer Communications, 2800 East Commerce Center Place, Tucson, AZ 85706. If we have not responded to your inquiry, or if your inquiry has not been satisfactorily addressed, please contact [TRUSTe](#) .

Last Updated: 01/09/03

Attachment VI - NACTP Franchise Tax Board Request for Input

Please respond to the following items.

1. Privacy

Please discuss your perspective regarding the following:

Is privacy protection for California's taxpayers being maximized by the FTB and by the e-file industry?

NACTP does not possess intimate knowledge of privacy protection provided by each participating company or CA FTB. Therefore, we cannot adequately answer this question as stated. .

However, industry is subject to multiple layers of privacy and security regulation and to our knowledge all member companies are in compliance. NACTP bylaws also ensure the integrity of the member organizations. Where regulations are established, We will work with the states to resolve issues with member companies that are not compliant.

It is also important for CA to realize that consumer confidence is essential to our industry. Based on that, the tax preparation/e-file industry goes to great lengths to protect the privacy and security of taxpayer information.

2. Free File Alliance and NetFile

At the September meeting of the Franchise Tax Board, the Controller suggested that the Free File Alliance approach and the NetFile program could possibly co-exist in California, thus allowing taxpayers to choose between the two. Please discuss why you believe this model will work, or why this model will not work.

The principle of the Free File Alliance agreement is predicated on the agreement between a public agency and a commercial entity. The agreement is that the public agency will not field tax preparation products and the commercial entity agrees to offer mutually agreed upon free services. Based on this understanding the model will not work.

3. NetFile Costs

Please specify, by activity, where you believe that FTB staff has inaccurately represented the cost of the NetFile program. Please show what you feel the appropriate cost should be and explain why. Note that the hours and costs shown below do not include the costs for FTB's e-commerce infrastructure. (Refer to the NetFile Report, September 2003, for e-commerce infrastructure investment costs and NetFile program cost details. The report is available at www.ftb.ca.gov.)

With the provided information, there is no way for industry to specifically determine which cost estimates are correct and which are incorrect. No information was presented on the specifics of the system. Examples of the missing information are scalability, expected use, timelines for implementation, and any service level agreements. In the data gathered from the previous survey, specifics were presented on the types of costs that would be considered by industry.

NetFile Costs Incurred as of July 31, 2003

Actual Project Costs (FY 2002/2003 and July 2003)

Personnel Years	Personal Services	OE&E	Totals
			September 26, 2003
			Page 1

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Development costs (one-time):	3.7	\$300,650	\$46,269	\$346,919
Maintenance costs (on-going):	.1	\$7,801	\$968	\$8,769
Totals	3.8	\$308,451	\$47,237	\$355,688
	Personnel Years	Personal Services	OE&E	Totals
Staff Training	.2	\$5,823	\$903	\$6,726
Marketing	.1	\$3,761	\$871	\$4,632
Totals	.3	\$9,584	\$1,774	\$11,358
Actual costs grand total	4.1	\$318,035	\$49,011	\$367,046

NetFile Hours Incurred as of July 31, 2003¹

The total hours attributable to Maintenance includes the total hours from July 1, 2003 to July 31, 2003. The anticipated Maintenance cost (including, but not limited to cost associated with annual changes) for fiscal year 2003-2004 is \$36,749, as reflected in the *NetFile Report*, footnote 22, September 2003.

Development (one-time)	Hours	Maintenance (on-going)	Hours
<i>Programming</i>	4965	<i>Programming</i>	227.5
<i>Testing</i>	2144	<i>Testing</i>	91.5
<i>System Administration</i>	224.5	<i>System Administration</i>	45
<i>Web Support</i>	226	<i>Web Support</i>	44
<i>Database</i>	60	<i>Database</i>	
Total	7619.5	Total	408

Staff Training	Hours	Marketing	Hours
<i>Trainers</i>	60.5	<i>Staff</i>	105
<i>Trainees</i>	150		
Total	210.5	Total	105

¹ The hours include overtime hours that are normally not included in the computation of personnel years in relation to project costs. The total dollar cost does include the cost of the overtime.

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4. Activities of Other States

Please provide background information regarding the e-file activities of the other states, based on your information, by completing the following tables. In addition, please provide any other comments, as appropriate

It would be inappropriate for industry to speak on behalf of these agencies regarding decisions on their development. Based on our relationships with the states, we would be willing to share our state contact list with CA if you are not certain who to contact.

Table 1: Reasons States Closed Their Direct e-file Programs			
States Identified by Industry as Having Cancelled Direct e-file Programs	Enter Reason for Discontinuing Direct e-file Program	Identify Source of Information	Additional Comments
1. Idaho			
2. Massachusetts			
3. Minnesota			
4. Vermont			

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Table 2: Reasons Other States Adopted the Free File Alliance

Free File Alliance States	Enter Reason for Adopting Free File Alliance	Identify Source of Information	Additional Comments
1. Georgia			
2. Idaho			
3. Massachusetts			
4. Michigan			
5. Minnesota			
6. Mississippi			
7. New York			
8. Rhode Island			
9. Vermont			

Attachment VII - Consumer Federation of America

Consumer Federation of America

1424 16th St. NW, Suite 604, Washington, DC 20036

Consumers Union

1666 Connecticut Avenue NW, Suite 310, Washington, DC 20009

Electronic Privacy Information Center

1718 Connecticut Avenue NW, Suite 200, Washington, DC 20009

National Consumer Law Center

77 Summer Street, 10th Floor, Boston, MA 02110

U. S. Public Interest Research Group

218 D Street SE, Washington, DC 20003

March 24, 2003

Ms. Pamela F. Olson

Assistant Secretary (Tax Policy)

U.S. Treasury Department

1500 Pennsylvania Avenue, NW

Washington, DC 20220

Re: Subprime Mortgage Marketing through IRS Free File

Dear Ms. Olson:

The Consumer Federation of America, National Consumer Law Center (on behalf of its low-income consumers), Consumers Union, U. S. Public Interest Research Group and the Electronic Privacy Information Center write to you again regarding the issue of consumer privacy, this time specifically regarding the deprivation of privacy protections that, as we understand it, consumers are encountering when they access the website of H&R Block via the IRS Free File program. In a disturbing development, we have been informed that Free File taxpayers who use Block's website via www.irs.gov are being required to be subject to cross-marketing of not only tax-related products, but potentially subprime mortgages as well.

It appears that H&R Block is pitching mortgages to Free File taxpayers when these taxpayers are preparing their tax returns, using information that has been submitted as part of that return. A copy of such a solicitation from a consumer who accessed the Block website as a Free File taxpayer is attached to this letter as Exhibit A. This solicitation pops up when a taxpayer, in preparing his return on the Block website that he reached via www.irs.gov, enters mortgage interest in his tax form. The solicitation is entitled "Refinancing Your Mortgage" and reads:

We noticed that you entered an itemized deduction for home mortgage interest. By refinancing your mortgage, you may be able to lower your monthly payments or pay off other debts. Now is a great time to take advantage of historically low interest rates. It's easy! Do you want to learn how refinancing your mortgage can help you?

The taxpayer must click on "Yes," "No," or "Contact me later" to return to tax preparation.

If the taxpayer clicks on "Quick Help," the next message includes:

What happens if I say Yes? We will gather a little more information about your current mortgage and debt situation for a preliminary refinancing analysis. Then we will forward your information to one of our mortgage professionals, who will

contact you to discuss your refinancing options further. If you wish to speak to a mortgage professional now, just call 1-877-HRBLOCK (1-877-472-5625). There is no obligation to use H&R Block for your new home mortgage.

The message doesn't disclose that H&R Block owns both H&R Block Mortgage **and** Option One, one of the largest subprime mortgage companies in the country. Thus, some of the Free File taxpayers who are sold mortgages may end up with subprime mortgages, which present the potential for high costs and risks for these taxpayers. Indeed, we are aware of at least two predatory lending cases in which Option One is involved. And since Block uses income eligibility as its Free File criteria, these taxpayers will be low-income consumers by definition, who are more likely to be sold subprime mortgages.

It also appears that Block is *requiring* all Free File taxpayers to consent to cross-marketing, despite the protections of the Internal Revenue Code, 26 U.S.C. section 7216. As you can see from Exhibit B, Block states "You must agree to the license agreement to use the online tax program." In turn, the license agreement at paragraph 3 refers to the Block Privacy Policy, attached here as Exhibit C. The Privacy Policy states under "Information We May Disclose" that:

Subject to applicable laws, we may disclose information we collect to our affiliates. Our affiliates may assist us in providing services you have requested, or they may offer related tax or financial services, such as mortgages, investment accounts, and banking products.

Not only does the Block Privacy Policy permit marketing by affiliates, it permits disclosure to "service providers ... or financial institutions with whom we have joint marketing agreements." Thus, Block is forcing consumers to consent to marketing by affiliated third parties. This appears to be a violation of the Free File Agreement, which we understand requires that: "Consortium Participants shall also agree that provision of Free Services shall not be conditioned on obtaining an eligible taxpayer's consent to solicitations of additional business."¹

In September 2002, we sent your agency a letter outlining our concerns that Free File would become a "loss leader" for commercial preparers to market other products to ¹Internal Revenue Service, Free On-Line Tax Filing Agreement, Section III.B.8, available at www.irs.gov. Block privacy policy at the very end does give taxpayers the option to limit cross-marketing. However, the only way for consumers to even learn of this opt-out is to go through 2 weblinks, and then proactively call a telephone number or go to Customer Support. This is hardly a real and meaningful opportunity to opt-out of cross-marketing

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consumers. We raised the issue that some Free File sites would charge extra for preparing state tax returns, for personal assistance, and for other products and services tangentially related to preparing and electronically filing tax returns. However, this new level of marketing, based on the information a taxpayer enters into his tax return using Free File, is extremely troubling and requires enforcement action by Treasury and the Internal Revenue Service.

In our meeting of October 2002, when we raised our concerns regarding the potential marketing of RALs through Free File, the response of Treasury officials was that the provisions of section 7216 would protect taxpayers from unwanted solicitations.

This is simply not true - IRS rules have not been sufficient to protect consumers from sharing of personal financial information provided during tax preparation. The rules create a huge loophole for privacy protection by permitting disclosure of taxpayer information for other lines of business with the written consent of the taxpayer. Taxpayers who use the commercial tax preparation sites in the Free File program are forced to accept license agreements and privacy policies that authorize data sharing with affiliates of the tax preparation entity. As a result, taxpayers are exposed to the cross marketing of unrelated financial services when they file their taxes through the take-it-or-leave-it deals offered through Free File.

As we urged you in our letter dated October 24, 2002, the Treasury should amend its regulations under Section 7216 to close the “consent” loophole. This loophole is now permitting commercial preparers to peddle, not only usurious refund anticipation loans, but potentially subprime mortgages to taxpayers who access websites through a government promoted program. We renew our request to prohibit commercial preparers from selling RALs via Free File, and add to that a request to prohibit commercial preparers from marketing other financial products and services to taxpayers.

Sincerely,

Jean Ann Fox Chi Chi Wu

Consumer Federation of America National Consumer Law Center

Edmund Mierzwinski Chris Hoofnagle

U.S. Public Interest Research Group Electronic Privacy Information Center

Shelley Curran

Consumers Union

cc: Christopher Smith, U.S. Treasury Department

Nina Olson, National Taxpayer Advocate

Timothy Muris, Chairman, Federal Trade Commission

Robert Knecht, Office of Thrift Supervision

Penny Marshall, Office of Thrift Supervision

Edwin Chow, Office of Thrift Supervision

Joseph Lynyak III, H&R Block

Robert Weinberger, H&R Block

Jim Gazdecki, Option One

Attachment VIII - Intuit Memo**MEMO**

To

From:

Date:

Re: Donation of Personal Income Tax Services for TY2003

As you may be aware, since 1998 Intuit Inc. has been delivering free tax preparation software and services to lower-income Americans with great success through our Intuit Tax Freedom Project. Over the last five years, Intuit has donated *more than 7 million* individual federal and state online tax returns and e-filing by providing free use of its TurboTax® for the WebSM service to assist the disadvantaged and underserved and help bridge the Digital Divide.

Reaffirming Our Commitment to Underserved and Low-Income Taxpayers. Intuit, and our Intuit Financial Freedom Foundation ("Foundation"), remains committed to providing free services to those who need them most. This letter reaffirms our commitment to continue offering free services through the Foundation under the federal and state Free File Alliance (FFA) model and any other agreements that ensure a robust marketplace. We helped achieve such successful increases in e-filing by low-income consumers this past tax season through the Free File Alliance that we're working toward Free File Alliance adoption in every state.

Plans for 2004 Tax Season. Last tax season, Intuit joined a Public-Private Partnership between the IRS and other tax software companies called the Free File Alliance. Through the Alliance, low-income and other underserved taxpayers are able to use the best-known and most trusted commercial tax preparation software products for free. There is no cost to the IRS or the state governments that are using the Alliance model to deliver these free services to the needy. In addition the federal and participating state governments benefit by increasing their e-filing volumes, which greatly decreases government tax return processing costs. The Free File Alliance is a win for consumers and government tax agencies.

Intuit believes taxpayers are best served by a robust marketplace of competitive tax preparation service offerings, which are independent from government, thus providing objective tax assistance for the taxpayer. This solution allows taxpayers to meet their Voluntary Compliance obligations in a manner that helps them privately determine their lowest, lawful tax liability. In addition, given the intense fiscal

services for consumers offers government the ability to devote budgetary resources to other, critical priorities, rather than attempting to duplicate e-commerce products and services that are already available at low-cost and no-cost for consumers from the private sector. For all of these reasons, Public-Private Partnerships represents the best value solution for taxpayers and for government.

In order to consistently support the value of Public-Private Partnerships across the nation, *Intuit will provide its free online state tax preparation and electronic filing services in those states whose policies support the principles of a voluntary Public-private Partnership, such as the Free File Alliance model, as well as those states that otherwise decide not to invest precious tax dollars attempting to duplicate private sector e-commerce services, such as online tax preparation systems.*

- We want to partner with government to do all that we can to advance the growth of e-filing. Government has brought availability of the worldwide web to public Internet access points throughout our communities, and now industry can bring the benefits of the tools of electronic commerce to those access points. This Public-Private Partnership approach lets government and industry each do what they do best, with the consumer as the biggest beneficiary.

In participating states, Intuit will donate TurboTax for the Web services to the Intuit Financial Freedom Foundation and the Intuit Tax Freedom Project to provide assistance for underserved and disadvantaged taxpayers, utilizing the same criteria as our national donation program through the federal Free File Alliance. These State taxpayers will also continue to have free access to free federal tax returns as well.

- In those *states which choose not to participate in Public-Private Partnership arrangements, or who chose to try to duplicate private online tax preparation by absorbing it as a new function of government tax administration, taxpayers will have free access only to the Intuit Tax Freedom Project for their federal returns, as a benefit of the national Free File Alliance program,* a result of Public-Private Partnership between the software industry and the United States Government.

The Free File Alliance is a model of voluntary collaboration through which the government can become more effective in meeting the needs of underserved and disadvantaged taxpayers by partnering with the private and not-for-profit sectors. Participating state governments are seeing this innovative model significantly increase the number of individuals filing their taxes electronically. As other states realize the value that participating states are reaping from the Alliance, and budgetary savings are realized, we are hopeful they will choose to make these services available at no charge to their citizens as well, by deciding to create their own Free File Alliance.

Several of the state governments participating today in the Free File Alliance have taken down and dismantled their own costly state government-run online tax preparation systems in order to participate in a Free File Alliance model, and have seen lower IT and operational costs as a result. The Alliance model also provides needed services to those

least able to afford them, while speeding up the receipt of tax refunds through electronic filing. At the same time, states reduce the cost of tax return processing through increased taxpayer reliance on e-filing rather than paper filing.

No Risk. There is no cost and no risk involved in a state creating a Free File Alliance, and states benefit from the nearly year-long negotiations that were undertaken by the federal government with the national tax software industry. Adoption of the Free File Alliance model at the State level brings great benefits in contrast to other alternatives:

Cost Savings; Secure, High Quality Service for Taxpayers. States and foreign governments that have created their own online tax preparation systems have realized significant and ongoing IT and operational costs, as well as embarrassing security and quality flaws, and achieved little taxpayer uptake in most cases.

Consumer Trust. While about 1% of State taxpayers nationwide use government tax preparation products, about 40% use the commercial electronic tax products whose names they know and have come to trust. That makes sense, since these companies have long and well-established track records with consumers, have continually invested in product enhancements, service and delivery, and are well known because of the extensive brand marketing and advertising they have undertaken over the years.

With the Free File Alliance, state governments have the opportunity to leverage these advantages to their own benefit, and enjoy the best of both worlds - higher taxpayer e-filing uptake, with no cost to the state government or taxpayers.

Additional Information. Please call **858-525-7742** with questions about the Intuit Tax Freedom Project, or to discuss how your state might create an Alliance model in your state if you are not already participating. We would be happy to answer any questions you might have about the Alliance, our own Intuit Tax Freedom Project, or the other works the Intuit Financial Freedom Foundation is currently undertaking. We look forward to continuing to work with you in bringing the latest tax preparation and e-filing software to the people who need it most.

REC'D OCT 14 2003 SAC

Attachment IX - TaxSlayer

610 Ronald Reagan Drive
Evans, GA 30809



(706) 868-7021
Fax: (706) 868-1955

California Franchise Tax Board
Sean McDaniel, Coordinator
Electronic Processing Section
MSA-1
Franchise Tax Board
P.O. Box 1468
Sacramento, CA 95812

TAXSLAYER, an online service provider and software company, agrees to participate in your state's free filing agreement modeled after the Federal Free File agreement. TAXSLAYER is a member of the Federal Free File Alliance and will offer free electronic preparation and filing services to qualifying taxpayers for both State and Federal income tax returns for years 2003, 2004, and 2005. TAXSLAYER's offer is as follows: Free federal and State Tax Preparation and E-Filing for taxpayers whose AGI is \$30,000 or less and Free Federal and State Preparation and E-File to ALL Active Duty Military Personnel. In addition, TAXSLAYER will provide free "State" preparation and e-filing to "ALL" taxpayers. Also, TAXSLAYER agrees to pass both the IRS and State PATS for 2003, 2004, 2005. We will also consider a link to the states payment portal for taxpayers who owe additional taxes.

In consideration of this free service the state agrees not to provide free online return preparation and filing services for tax years 2003, 2004, and 2005.

The state will also provide a link on there webpage to www.TAXSLAYER.com.

Thank you in advance for accepting our participation. If you have any further questions please contact Jimmy Rhodes @ 706-868-1298 Ext 1 (jimmy@taxslayer.com), Melissa Cohrs(melissa@taxslayer.com) or Nick Srott (nick@taxslayer.com) .

Sincerely,

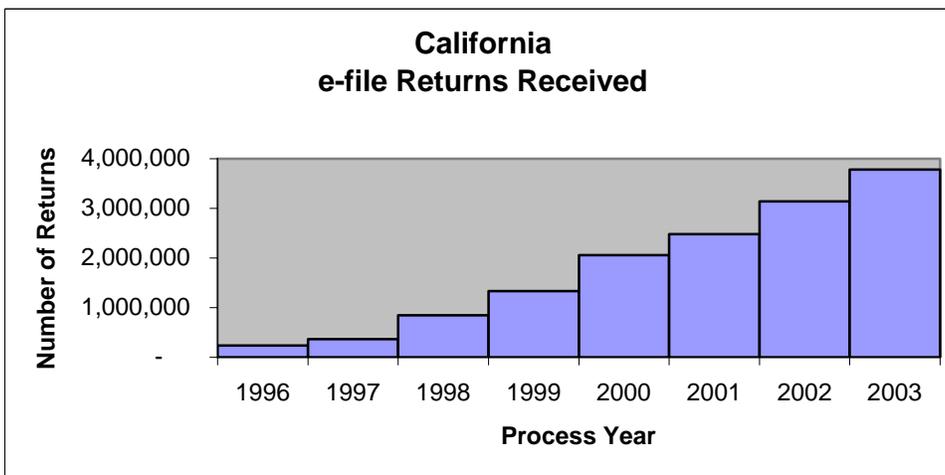
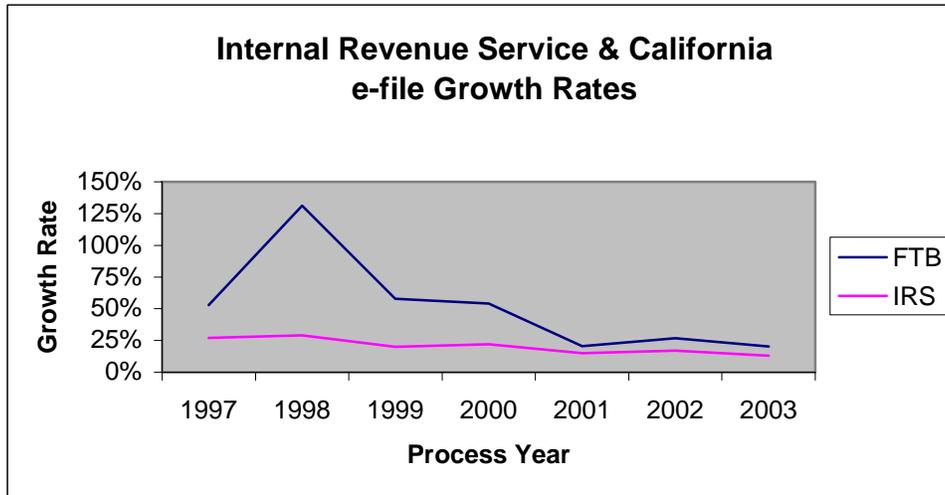
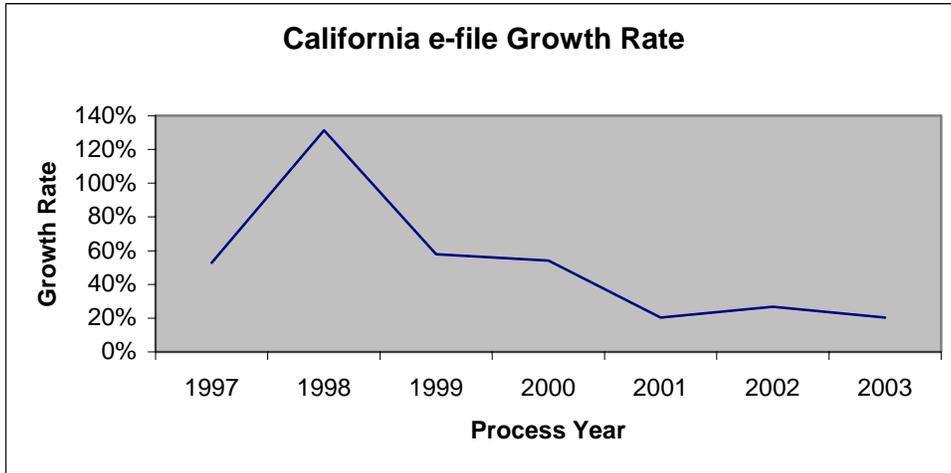
Jimmy Rhodes

Jimmy Rhodes
President
TAXSLAYER

TaxSlayer.com
Featuring online preparation
and electronic filing (e-File) of your tax return

Attachment X - e-file Growth Rates

e-file Growth Rates



Attachment XI
Recap of Responses from Industry and Interested Parties Regarding Various NetFile Issues

Company/ Organization	Privacy Issue	FFA & NetFile coexist?	NetFile Costs	Activities of Other States
CAGW	<ul style="list-style-type: none"> ▪ gov agencies get failing grades for protecting privacy ▪ keystroke issue ▪ FTB sharing info w/city and county 	<ul style="list-style-type: none"> ▪ “No inherent reason for government at any level to provide tax preparation services...” 	<ul style="list-style-type: none"> ▪ “...governments routinely hide, distort and obfuscate the true costs...” 	<ul style="list-style-type: none"> ▪ No independent knowledge of why states make the decisions they make
CCIA	<ul style="list-style-type: none"> ▪ Gov-provided services are not subject to the same privacy and security regulations (as Industry) 	<ul style="list-style-type: none"> ▪ “Creating an environment in which NetFile and the Free File Alliance coexist would be a waste of taxpayer resources...” 	<ul style="list-style-type: none"> ▪ “...reevaluate any State expenditures on the NetFile program...” 	<ul style="list-style-type: none"> ▪ “With all due respect to the Board, we do not believe it is appropriate for us to characterize the motives of individual states I making the decisions they have.”
FileYourTaxes	<ul style="list-style-type: none"> ▪ no response 	<ul style="list-style-type: none"> ▪ “...the Industry was very quick to clearly distance itself from this option since it was fundamentally incongruent with the concept of the FFA.” 	<ul style="list-style-type: none"> ▪ “Vastly contested cost of such an inefficient activity...” 	<ul style="list-style-type: none"> ▪ “...this is a question to be best answered by each of the ever-increasing number of states choosing this path...”
Intuit	<ul style="list-style-type: none"> ▪ FTB rules and regs not sufficient for addressing the interactive relationship of the tax prep process 	<ul style="list-style-type: none"> ▪ “It is inconsistent with the founding principle of the various state and Federal Free File Alliance agreements to have both free services from Industry and (<i>from gov</i>)...” 	<ul style="list-style-type: none"> ▪ “...information provided is insufficient for Intuit to determine accurate costs...” 	<ul style="list-style-type: none"> ▪ “...most appropriate for individual state tax agency officials to provide information...”
Lenny Goldberg	<ul style="list-style-type: none"> ▪ “The fundamental privacy problem with using proprietary companies is that a third party intervenes between the FTB and the taxpayer.” 	<ul style="list-style-type: none"> ▪ Could coexist 	<ul style="list-style-type: none"> ▪ “...only omission here are the future development costs of putting all the forms online...” 	<ul style="list-style-type: none"> ▪ No response
NACTP	<ul style="list-style-type: none"> ▪ ...cannot adequately answer this question...” 	<ul style="list-style-type: none"> ▪ “...the model will not work.” 	<ul style="list-style-type: none"> ▪ “With the provided information, there is no way for industry to specifically determine which cost estimates are correct and which are incorrect.” 	<ul style="list-style-type: none"> ▪ “...inappropriate for industry to speak on behalf of these agencies...”