2009 Legislative Proposals

LP	Title
A	Notification To Professional Licensing Board When Certain Penalties Are Assessed
B	Limited Partnership Revival/Account Fees, Tax Returns, And Expedited Service Fees
C	Revise Disability Standard For Homeowner And Renters Assistance Claim
D	Homeowners And Renter’s Assistance/Extend Tolling Period For Medically Incapacitated Claimants
E	Use Of IRS Data Regarding Waivers Of The Federal Statute Of Limitation

LEGISLATIVE PROPOSAL 09-16
EXECUTIVE SUMMARY

- **Title:** Notification To Professional Licensing Board When Certain Penalties Are Assessed

- **Problem:** Current state law lacks an effective method to deter tax practitioners from aiding and abetting in the understatement of a tax liability and from promoting and engaging in abusive tax shelters, which contribute to California's Tax Gap.

- **Proposed Solution:** Amend the Revenue and Taxation Code to allow FTB to disclose taxpayer information to specified licensing authorities for purposes of investigating reasons for the assessed penalties.

  Amend the Business and Professions Code to include promoter, preparer, and aiding and abetting penalties as grounds for sanctions against accountants and attorneys.

- **Major Concerns/Issues:** None.

- **Revenue:** This proposal would result in the following revenue gains:

Estimated Revenue Impact of LP 09-16 Effective On Penalties Assessed After January 1, 2010 Enactment Assumed On Or After June 30, 2009			
Tax Preparer Misconduct	2011-12	2012-13	2013-14
	+<$250,000	+<$500,000	+<$500,000

Title

Notification To Professional Licensing Board When Certain Penalties Are Assessed

Introduction

This proposal would allow the Franchise Tax Board (FTB) to disclose taxpayer information to a licensing authority as evidence of a licensee engaging in or promoting abusive tax shelters. In addition, the proposal would provide that being assessed a penalty for preparing fraudulent returns, promoting an abusive tax shelter, or aiding and abetting an understatement of tax liability may be cause for disbarment as an attorney or decertification as a certified public accountant (CPA).

Program History/Background

In 2005, FTB's Audit division established the Abusive Tax Shelter and Tax Gap section to address abusive tax shelters and the tax gap. California's income tax gap has grown over the years and now stands at an estimated $6.5 billion annually. The tax gap is defined as the difference between what taxpayers owe and what they voluntarily pay. In one effort to close the tax gap, FTB has increased enforcement efforts aimed at unscrupulous tax preparers. Auditors use modeling techniques to detect trends in questionable preparation practices, including overstating deductions on Federal Form 1040's Schedule A-Itemized Deductions and Schedule C- Business Income, or claiming credits for which taxpayers are not eligible.

FTB audits taxpayers that claim questionable deductions or credits and will issue tax assessments on understated tax liabilities or request that these taxpayers file amended returns to correct their tax liabilities. When invalid credits or deductions are claimed on returns prepared by tax preparers, FTB may assess preparer or promoter penalties on those preparers. In addition to these penalties, FTB uses other enforcement tools to address the issue, including educating tax practitioners and taxpayers about the consequences of investing in abusive tax shelters, extending the statute of limitations to eight years for a deficiency assessment on abusive tax shelters, and other state voluntary compliance initiatives. These enforcement tools have proven to be insufficient in preventing tax preparers from continuing to engage in unscrupulous conduct.

Current Federal/State Law

Federal law imposes a two-tiered preparer penalty—the first tier is for understating a taxpayer's liability and the second tier is for willful or reckless conduct in the preparation of the income tax return. The first-tier penalty is the greater of $1,000 or 50% of the income derived (or to be derived) by the preparer. The second-tier penalty is the greater of $5,000 or 50% of the income derived (or to be derived) by the preparer.

The California first-tier penalty is $250 (except for potentially abusive tax shelters) and is imposed on tax preparers if a taxpayer's liability is understated for the following reasons:

- The understatement is the result of a position where there is no reasonable belief that the tax treatment in the position was more likely than not the proper treatment.
- The tax preparer knew or should have known that the position lacked merit.
- The reason for taking the position was not disclosed in the return or there was no reasonable basis for the item's tax treatment.

The California second-tier penalty $5,000 and is imposed on tax preparers if the taxpayer's liability is understated for the following reasons:

- A willful attempt to understate the tax liability.
- A reckless and intentional disregard of the rules and regulations.

The California preparer penalty for potentially abusive tax shelters is $1,000[1].

Additionally, current federal and state law imposes a penalty for promoting an abusive tax shelter[2]. The penalty is one of the following:

1. The lesser of $1,000 or 100 percent of the income earned from the promotion of the tax shelter, or
2. Fifty percent of the income earned from promoting the abusive tax shelter where the promoter issued a tax opinion regarding the legality of the tax shelter.

Federal and state law provides for a $1,000 ($10,000 in the case of corporations) penalty for aiding and abetting a taxpayer in understating a tax liability. The penalty can be assessed if the person knows, or has reason to know, that the information being provided to the taxpayer would result in an understatement of tax liability of the taxpayer[3].

Under current state law, CPAs and attorneys must adhere to the California Business and Professions Code (B&P). The B&P provides a list of causes that could result in the licensing board revoking, suspending, or refusing to renew a professional certificate. These causes include, but are not limited to the following[4]:

- Dishonesty, fraud, gross negligence, or repeated negligent acts;
- Suspension or revocation of the right to practice before any governmental body or agency;
- Fiscal dishonesty or breach of fiduciary responsibility of any kind; or
- Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

Additionally, under current state law, FTB is generally prohibited from disclosing any confidential taxpayer information, unless a specific exception to the general disclosure law authorizes such disclosure. Confidential taxpayer information includes the following: [5]

- Social security number,
- Taxpayer return information,
- Taxpayer name and address,
- Information related to any current or potential audit/investigation activity, and
- Corporate financial information and other documents filed.

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[1] California Revenue and Taxation Code (CR&TC) section 19166: preparer penalty
[2] IRC 6700 and CR&TC section 19177: promoter penalty
[3] IRC 6701 and CR&TC section 19178: aiding and abetting penalty
[4] B&P Code sections 5100 (accountants disciplinary proceedings) and 6100 (attorney disciplinary proceedings)
[5] CR&TC sections 19542-19570: disclosure of information prohibited

Under current state law, if the United States Secretary of the Treasury has suspended or disbarred a person from practice before the United States Department of Treasury, FTB is required to, after notice and opportunity for a proceeding, suspend or disbar that person from practice before FTB during the period of federal suspension or disbarment, unless the action was clearly erroneous[6].

Problem

Current state law needs additional methods to deter tax practitioners from aiding and abetting in the understatement of a tax liability and from promoting and engaging in abusive tax shelters, which contribute to California's Tax Gap.

Proposed Solution

Amend the Revenue and Taxation Code to allow FTB to disclose taxpayer information to specified licensing authorities for purposes of investigating reasons for the assessed penalties.

Amend the B&P Code to include promoter, preparer, and aiding and abetting penalties as grounds for sanctions against accountants and attorneys.

Effective/Operative Date of Solution

If enacted in the 2009 legislative session, this proposal would be effective January 1, 2010, and specifically operative for penalties assessed on or after January 1, 2010, for activities occurring on or after January 1, 2010, and for conduct associated with the returns filed on or after January 1, 2010.

Justification

Assessing higher penalties alone has not stopped the promotion of all shelters. A promoter who markets ten different abusive tax shelters, and has only two or three abusive tax shelters identified and challenged by the taxing agencies, will continue to profit from the prohibited activities. FTB's efforts to address the Tax Gap would be more effective if the law allows FTB to work with the professional licensing entities so that the licensing entities that oversee tax professionals can revoke or suspend licensees that abuse the tax code.

Implementation

Implementing this proposal would include a one-time system enhancement that would require changes to existing notices, letters and instructions, and information systems.

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[6] CR&TC section 19523.5: FTB follows IRS suspension and disbarment

Fiscal Impact

Staff estimates a one-time cost of approximately $117,000 (1.3 PYs) to program, develop, and test a new process within existing systems and add audit staff to review amended returns. This new function would be operative in the later part of the 2009-10 fiscal year.

Economic Impact

Revenue Estimate

This proposal would result in the following revenue gains:

Estimated Revenue Impact of LP 09-16 Effective On Penalties Assessed After January 1, 2010 Enactment Assumed On Or After June 30, 2009			
Tax Preparer Misconduct	2011-12	2012-13	2013-14
	+<$250,000	+<$500,000	+<$500,000

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this proposal.

Revenue Discussion

The revenue impact of this bill would depend on the number of tax preparers that are dishonest, fraudulent, negligent or reckless in their practice, the amount of tax liability that is misstated, and the aggressiveness of licensing agencies in sanctioning licensees.
Departmental data indicate that income tax revenues lost due to misconduct by tax preparers averages approximately $25,000 per preparer subject to the preparer penalty. It is expected that, even without this proposal, FTB will be assessing penalties by 2013 on approximately 50 preparers per year. It is estimated that these preparers underreport $1.25 million in tax liability (50 X $25,000 = $1.25 million).

Under current law, it is assumed that approximately 40% of tax preparers that are dishonest, fraudulent, negligent or reckless in their practice, and are assessed a preparer penalty, will respond by halting the filing of fraudulent returns in the next year. Thus, the preparer penalty by itself under current law is expected to improve compliance so as to increase revenue by $500,000 ($1.25 million X 40%).

It is assumed that the timing of the improved compliance would depend on the timing of the penalty assessments. Penalties assessed early in tax year 2012 may affect the filing of tax year 2011 returns in tax year 2012; however, penalties assessed later in the year would only affect the filing of tax year 2012 returns in tax year 2013. It is estimated that after tax year 2012 approximately 25% of penalties issued in tax year 2012 would affect filing of returns in April of that year, and that, conversely, 75% would affect the filing of returns in April of the following year.

Tax year 2013 would be the first year that this proposal would affect the majority of cases in which tax preparer penalties are assessed. That is, it would be the first year that almost all of the preparer penalties assessed are for tax returns filed in tax year 2010 or later. For tax year 2013, it is expected that, absent the provisions in this proposal, of the $500,000 in improved compliance $125,000 ($500,000 X 25%) would be realized in fiscal year 2012-13 (returns filed in April 2013) and $375,000 ($500,000 X 75%) would be realized in fiscal year 2013-14 (returns filed in April 2014).

Under this proposal, it is assumed that approximately 60% (up from the 40% assumed under current law) of tax preparers who are negligent or reckless in their practice, and are assessed and reported to the appropriate board, will respond by not filing fraudulent returns in the next year. For tax year 2013, this would result in revenue from increased compliance of approximately $750,000 ($1.25 million X 60% = $750,000).

The timing of the assessments, as discussed above, would result in additional revenue of approximately $190,000 ($750,000 X 25% ≈ $190,000) in fiscal year 2012-13, and approximately $560,000 ($750,000 X 75% ≈ $560,000) in fiscal year 2013-14. Therefore, it is estimated that the net cash flow gain in fiscal year 2013-14 from assessments made in tax year 2013 is $185,000 ($560,000 under proposed law minus $375,000 under current law). There are additional net cash flow gains in fiscal year 2013-14 from assessments made in tax year 2012 and tax year 2014 as well as from preparers that started filing correctly in April 2013, based on tax year 2013 assessment, and continued to file correctly in tax year 2014. The total revenue gain for fiscal year 2013-14 is estimated to be approximately $400,000.

It is assumed that there would be some cumulative effect of increased compliance, under both current law and proposed law, as preparers that have become compliant, stay compliant. It is assumed that the cumulative effect would be stronger under the proposal than under current law (i.e., the proposal will lead to longer periods of compliance by preparers).

This proposal would be enacted after January 1, 2009, and would be effective for penalties assessed on conduct associated with the returns filed on or after January 1, 2010. Estimates are accrued back one year to reflect the recovery of prior year liabilities. Revenue is expected to flatten and then decline in future years.

Other Agency/Industry Impacted

This proposal would impact the California Board of Accountancy, the IRS Office of Professional Responsibility, and the California State Bar. Disclosing the penalties assessed and the reason for the penalty may result in an investigation and sanction by those agencies.

Other States

The laws of *Florida, Illinois, Massachusetts, Michigan, Minnesota,* and *New York* were surveyed because their tax laws are similar to California income tax laws. *Florida* and *Michigan* do not have preparer or promoter penalties comparable to federal or California law.

Illinois assesses a promoter penalty for promoting abusive tax shelters. *Illinois* does not refer complaints of these penalties to the licensing boards.
Massachusetts assesses a penalty for promoting abusive tax shelters. *Massachusetts* does not provide penalty information to the licensing authorities.

New York assesses a penalty for aiding and assisting in giving fraudulent returns, reports, and statements. Additionally, New York assesses a person who organizes or participates in promoting abusive tax shelters. *New York* does not provide information related to the penalties to licensing boards or registering entities.

Minnesota has a tax preparer, aiding and abetting, and abusive tax shelter promoter penalty. Minnesota's Commissioner of Revenue is directed to refer complaints received about tax preparers that are accountants to the State Board of Accountancy and attorneys to the Lawyers Board of Professional Responsibility.

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FRANCHISE TAX BOARD
PROPOSED AMENDMENTS TO LP 09-16

SEC. 1. Section 5100 of the Business and Professions Code is amended to read:

5100. After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

(b) A violation of Section 478, 498, or 499 dealing with false statements or omissions in the application for a license, in obtaining a certificate as a certified public accountant, in obtaining registration under this chapter, or in obtaining a permit to practice public accountancy under this chapter.

(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(d) Cancellation, revocation, or suspension of a certificate or other authority to practice as a certified public accountant or a public accountant, refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.

(e) Violation of Section 5097.

(f) Violation of Section 5120.

(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(h) Suspension or revocation of the right to practice before any governmental body or agency.

(i) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

(j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

(k) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses.

(l) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation.

(m) Unlawfully engaging in the practice of public accountancy in another state.

(n) The assessment by the Franchise Tax Board of a penalty pursuant to Section 19166, 19177, or 19178 of the Revenue and Taxation Code on a registered public accounting firm, any person associated with a public accounting firm, or any other holder of a permit, certificate, license, or other authority to practice in this state.

SEC. 2. Section 6106.3 is added to the Business and Professions Code, to read:

6106.3 (a) It shall constitute cause for disbarment or suspension for an attorney to engage in conduct for which a penalty is assessed pursuant to Section 19166, 19177 or 19178 of the Revenue and Taxation Code.

SEC. 3. Section 19571 is added to the Revenue and Taxation Code, to read:

19571. (a) Notwithstanding any other provisions of law, and subject to the provisions of this section, the Franchise Tax Board shall notify any and all appropriate licensing entities that issue a license to a licensee when a licensee has been assessed a penalty under either Section 19166, 19177, or 19178 .

(b) (1) The Franchise Tax Board may disclose to the licensing entity tax return and return information solely for use in an action or proceeding affecting the license of a licensee, or in preparation of the action or proceeding, but only to the extent the licensing entity determines that the return or return information is, or may be, relevant and material to the action or proceeding. Tax return and return information may be disclosed in connection with notification provided by the Franchise Tax Board to a licensing entity pursuant to this section.

(2) For purposes of this section, an action or proceeding affecting the license of a licensee means an action or proceeding arising under Chapter 5 (commencing at Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or United States Treasury Department Circular 230 (31 C.F.R.§§10.0-10.93 (2007)).

(3) Any unauthorized disclosure by a licensing entity or any officer, employee, agent, former officer, or agent of the licensing entity of

any tax return or return information disclosed to that licensing entity pursuant to this section shall be subject to criminal penalty and civil liability under this part for that unauthorized disclosure.

(c) For purposes of this section, the following definitions apply:

(1) “License” includes a license, certificate, registration, or any other authorization to engage in a profession or occupation by a licensing entity.

(2) “Licensee” means any person authorized by a license, certificate, registration, or other authorization to engage in a profession or occupation issued by a licensing entity.

(3) “Licensing entity” means State Board of Accountancy, State Bar, and the Internal Revenue Service Office of Professional Responsibility.

SEC. 4. (a) Section 19571 of the Revenue and Taxation Code, as added by section 3 of this act, shall apply with respect to any penalty assessed on or after January 1, 2010, with respect to activities occurring on or after January 1, 2010, or conduct associated with returns filed on or after January 1, 2010. All other provisions of this act shall apply on and after January 1, 2010.

LEGISLATIVE PROPOSAL 09-18
EXECUTIVE SUMMARY

- **Title:** Limited Partnership Revival-Account Fees, Tax Returns, And Expedited Service Fees

- **Problem:** Current law allows a canceled domestic limited partnership (LP) to revive without paying outstanding fees, filing required tax returns, or paying a service fee for expedited certification letter requests, which is different from the requirements for a corporation to revive, resulting in inequitable treatment of taxpayers based on entity type.

- **Proposed Solution:** Amend Corporations Code section 15902.09 to require a domestic LP to pay any fees due and file any required tax returns to receive the certification letter from the Franchise Tax Board (FTB) needed for the domestic LP to revive and amend Revenue and Taxation Code section 19591 to require payment of a service fee if a domestic LP requests expedited processing of their certification letter request. The service fee would be $100 until January 1, 2011. Thereafter, the expedited service fee amount would be established by regulation, which is consistent with how the amount of other service fees authorized by Revenue and Taxation Code section 19591 is determined.

- **Major Concerns/Issues:** None.

- **Revenue:** This proposal would result in the following revenue gains:

Estimated Revenue Impact of LP 09-18 Effective On Or After January 1, 2010 Enactment Assumed After June 30, 2009			
	2009-10	2010-11	2011-12
Domestic Limited Partnership Revival	+ <$150,000	+ <$150,000	+ <$150,000

Title

Limited Partnership Revival-Account Fees, Tax Returns, And Expedited Service Fees

Introduction

This proposal would require a canceled domestic limited partnership (LP) to pay outstanding fees, file missing tax returns, and pay a service fee for expedited revival requests, in addition to the current requirements to revive.

Current State Law

Under existing state law, the provisions of the Uniform Limited Partnership Act (ULPA) of 2008 are mandatory for a domestic LP formed on or after January 1, 2008, and are elective for a domestic LP formed before January 1, 2008. The ULPA of 2008 will govern all domestic limited partnerships, regardless of when they were formed, on or after January 1, 2010.

A domestic LP subject to the ULPA of 2008 must file a certificate of cancellation with the Secretary of State to complete the dissolution process. A domestic LP that has filed a certificate of cancellation may file a certificate of revival with the Secretary of State to revive to active status. Upon filing the certificate of revival, the domestic LP is treated as if it had not been canceled, which includes the validation of all contracts. The certificate of revival must be accompanied by certification from Franchise Tax Board (FTB) that the domestic LP has paid all of the annual tax, penalties, and interest due, including those amounts for each year between cancellation and revival. A requirement that the domestic LP pay any fees due and file any required tax returns prior to certification from FTB is absent under current law.

Additionally, present law lacks provisions for FTB to charge a service fee in instances where a domestic LP requests expedited processing of their request for the certification letter needed to file the certificate of revival.

Under current state law, FTB may suspend a corporation's powers, rights and privileges for non-payment and non-filing of tax returns. Corporations suspended by FTB may revive by filing an Application for Certificate of Revivor, filing all delinquent tax returns, and paying any balance due, which includes taxes, penalties, interest, and fees.

Corporations that request expedited processing of their revivor request must pay a service fee, currently $100.

Problem

Current law allows a canceled domestic limited partnership (LP) to revive without paying outstanding fees, filing required tax returns, or paying a service fee for expedited certification letter requests, which is different from the requirements for a corporation to revive, resulting in inequitable treatment of taxpayers based on entity type.

Proposed Solution

Amend Corporations Code section 15902.09 to require a domestic LP to pay any fees due and file any required tax returns to receive the certification letter from FTB needed for the domestic LP to revive, and amend Revenue and Taxation Code section 19591 to require payment of a service fee if a domestic LP requests expedited processing of their certification letter request. The service fee would be $100 until January 1, 2011. Thereafter, the expedited service fee amount would be established by regulation, which is consistent with how the amount of other service fees authorized by Revenue and Taxation Code section 19591 is determined.

Effective/Operative Date of Solution

If enacted in 2009, this proposal would be effective and operative January 1, 2010.

Justification

The requirements for a domestic LP to revive should be comparable to the requirements for a corporation to revive to maintain equitable treatment of taxpayers.

Additionally, aligning the requirements for a domestic LP to revive with the requirements for a corporation to revive would reduce inefficiency and confusion. A domestic LP that revives without paying the fees due on their account results in the department having to issue additional billing notices. Because a domestic LP is required to pay the annual tax, penalties, and interest prior to revival, the domestic LP may become confused by FTB issuing a billing notice for the fees due after their revival.

Finally, the imposition of a service fee when a domestic LP requests expedited processing of their certification letter is appropriate because the fee reimburses the department for the additional costs associated with providing the expedited services.

Implementation

Implementing this proposal would not significantly impact the department's programs or operations.

Fiscal Impact

This proposal would not significantly impact the department's costs.

Economic Impact

Based on data and assumptions discussed below, the revenue gain from this proposal would be as follows:

Estimated Revenue Impact of LP09-18 Effective On Or After January 1, 2010 Enactment Assumed After June 30, 2009			
	2009-10	2010-11	2011-12
Domestic Limited Partnership Revival	+<$150,000	+<$150,000	+<$150,000

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this proposal.

Revenue Discussion:

The revenue impact of this proposal depends on the number of canceled domestic LPs that revive and would pay the proposed additional fee for expedited processing of the certification letter request.

Data from the Secretary of State's office indicates that approximately 240 domestic LPs cancelled their registration in fiscal year 2007-2008. Assuming that 5% of the dissolved domestic LPs would revive and that additional fees are $100 per domestic LP, the revenue gain would be $1,200 annually (240 cancelled LPs X 5% revival rate X $100 fee).

The requirement for a domestic LP to pay any outstanding fees prior to revival would have minimal impact on the revenue estimate because the number of cancelled LPs that would revive with outstanding fees is estimated to be low.

Additionally, the requirement for a domestic LP to file any required tax return prior to revival would have minimal impact on the revenue estimate because current law requires a cancelled LP to pay any annual tax due prior to revival.

Other States

Review of *Illinois, Massachusetts, Michigan*, *Minnesota*, and *New York* laws found no comparable revival process for cancelled limited partnerships. These states were reviewed because of the similarities between California income tax laws and their tax laws.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO LP 09-18

AMENDMENT 1

SEC. 1. Corporations Code Section 15902.09 is amended to read:

15902.09. (a) A domestic limited partnership whose certificate of limited partnership has been canceled pursuant to Section 15902.03 may be revived by filing with, and on a form prescribed by, the Secretary of State a certificate of revival. The certificate of revival shall be accompanied by written confirmation by the Franchise Tax Board that all of the following have occurred ~~been paid to the Franchise Tax Board~~:

(1) All of the following have been paid to the Franchise Tax Board:

(~~1~~A) The annual tax due under Section 17935 of the Revenue and Taxation Code.

(~~2~~B) All penalties, ~~and~~ interest, and fees thereof for each year for which the domestic limited partnership failed to pay such annual tax, including each year between the cancellation of its certificate of limited partnership and its revival.

(2) All required tax returns have been filed, including returns for each taxable year between the cancellation of its certificate of limited partnership and its revival.

(b) The certificate of revival shall set forth all of the following:

(1) The name of the limited partnership at the time its certificate of limited partnership was cancelled, and if the name is not available at the time of revival, the name under which the limited partnership is to be revived.

(2) The date of filing of the original certificate of limited partnership.

(3) The address of the limited partnership's designated office.

(4) The name and address of the initial agent for service of process in accordance with paragraph (1) of subdivision (d) of Section 15901.16.

(5) A statement that the certificate of revival is filed by one or more general partners of the limited partnership authorized to execute and file the certificate of revival to revive the limited partnership.

(6) The Secretary of State's file number for the original limited partnership.

(7) The name and address of each general partner.

(8) Any other matters the general partner or partners executing the certificate of revival determine to include therein.

(c) The certificate of revival should be deemed to be an amendment to the certificate of limited partnership, and the limited partnership shall not be required to take any further action to amend its certificate of limited partnership pursuant to Section 15902.02 with respect to the matter set forth in the certificate of revival.

(d) Upon the filing of the certificate of revival, the limited partnership shall be revived with the same force and effect as if the certificate of limited partnership had not been canceled pursuant to Section 15902.03. The revival shall validate all contracts, acts, matters, and things made, done, and performed by the limited partnership, its partners, employees, and agents following the time its certificate of limited partnership was canceled pursuant to Section 15902.03 with the same force and effect and all intents and purposes as if the certificate of limited partnership had remained in full force and effect. This provision shall apply provided that third parties are relying on the acts of the partnership, its partners, employees, and agents. All real and personal property, and all rights and interests, that belong to a limited partnership at the time its certificate of limited partnership was cancelled pursuant to Section 15902.03 or that were acquired by the limited partnership following the cancellation of the certificate of limited partnership, that were not disposed of prior to the time of its revival, shall be vested in the limited partnership after its revival as fully as if they were held by the limited partnership at, and during the time after, as the case may be, the time the certificate of limited partnership was cancelled. After its revival, the limited partnership and its partners shall have all of the same liability for contracts, acts, matters, and things made, done, or performed in the limited partnership's name and on behalf of its partners, employees, and agents, as the limited partnership and its partners would have had if the limited partnership's certificate of limited partnership had at all times remained in full force and effect.

SEC. 2. Revenue and Taxation Code Section 19591 is amended to read:

19591. (a) Specialized tax services fees shall be imposed upon the following services provided by the board:

(1) Installment payment programs.

(2) Expedited services for:

(A) Corporation revivor requests.

(B) Tax clearance certificate requests.

(C) Tax-exempt status requests.

(D) Limited partnership revival confirmation letter requests.

(b) (1) For periods on or after the effective date of this section and prior to January 1, 2006, the Franchise Tax Board shall publish by notice a schedule of specialized tax services fees to be imposed, which notice shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The amounts of these fees under this paragraph shall be calculated in the same general manner as required under paragraph (2).

(2) Commencing on January 1, 2006, the amount of the specialized tax services fees shall be established by the board through regulations adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and shall be established in the manner and in the amounts necessary to reimburse the board for the costs of administering the specialized services, including the board's direct and indirect costs for providing specialized tax services.

SEC. 3. (a) The amendments to Section 15902.09 of the Corporations Code by Section 1 of this act shall apply to written confirmations made by the Franchise Tax Board on and after January 1, 2010.

(b) The amendments to Section 19591 of the Revenue and Taxation Code by Section 2 of this act, which authorize the Franchise Tax Board to impose a specialized tax service fee under that section on limited partnership revival confirmation letter requests, shall be implemented by allowing the Franchise Tax Board to charge a fee of $100.00 for periods on or after the effective date of this act and prior to January 1, 2011. Commencing on January 1, 2011, the amount of the fee in the preceding sentence shall be required to be established by the Franchise Tax Board in the same manner as set forth in paragraph (2) of subdivision (b) of Section 19591 of the Revenue and Taxation Code.

LEGISLATIVE PROPOSAL 09-24
EXECUTIVE SUMMARY

- **Title:** Homeowner’s and Renter’s Assistance (HRA)/Validate HRA Disability Claims By Requiring That Claimants Receive Disability Payments Under Specified Federal Or State Programs.

- **Problem:** For some HRA claimants, current law requires Franchise Tax Board (FTB) staff to make subjective medical determinations of whether the claimant is disabled as defined by statute—which FTB staff lacks the necessary medical expertise to make.

- **Proposed Solution:** Amend Revenue and Taxation Code section 20505 to allow validation of HRA disability claims using determinations that the claimant is disabled made by one of the following government entities:
  1. Social Security Administration,
  2. Federal Department of Veterans Affairs,
  3. California Health and Human Services Agency, or
  4. California Department of Social Services, Cash Assistance Program for Immigrants (CAPI).

  This proposal would eliminate use of a physician’s statement to prove that a claimant is disabled.

- **Major Concerns/Issues:** None.

- **Revenue**: Staff estimates that 1,080 HRA claims currently allowed will be denied. Denying 1,080 additional claims with an expected refund of $312 each would reduce General Fund expenditures by $336,960 a year, which is rounded up to $500,000 a year.

Estimated Revenue Impact of LP 09-24 Effective for Claim Years Filed On or After July 1, 2010		
2009 -10	2010 -11	2011-12
No impact	+$<500,000	+$<500,000

Title

Homeowner's And Renter's Assistance (HRA)/Validate HRA Disability Claims By Requiring That Claimants Receive Disability Payments Under Specified Federal Or State Programs

Introduction

This proposal would remove Franchise Tax Board (FTB) staff, who lack medical expertise, from the role of making determinations whether HRA claimants are disabled based on physician statements. Instead, FTB staff would validate a claimant's status as disabled by using the prior determinations of several specified federal and state disability programs.

Current State Law

Under state law, the HRA program allows a once-a-year payment from the State of California to qualified individuals based on part of the property taxes assessed and paid on their homes or taxes indirectly paid as rent. The filing period for the 2007 claim year was from July 1, 2007, to June 30, 2008. A claimant's qualification for benefits is determined as of December 31.

Individuals are eligible to receive HRA benefits if all of the following apply:

1. They own and live in their own home or live in a qualified rented residence in California and pay $50 or more per month in rent on that residence,
2. They are either a United States citizen or other prescribed designation when they file the claim,
3. They meet or are below an income threshold, and
4. They are 62 years of age or older, blind, or disabled.

The HRA statutes define disabled by reference to a federal definition. That statute provides that a person is disabled if he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of at least 12 months. An individual is disabled only if their physical or mental impairment is of such severity that they are unable to work in their previous job or engage in any other kind of substantial gainful work.[1]

Program History/Background

Each year, FTB staff denies numerous HRA claims where the basis for eligibility is that the claimant is disabled. Typically these claims are denied because the claimant fails to provide adequate documentation to support the claim that he or she is disabled. Many of the denied claimants appeal to the Board of Equalization (BOE), where the claim is likewise denied for lack of documentation.

[1] Welfare and Institutions Code Section 12050 defines disabled by using the definition of disabled in Section 1614 (a) of Part A of Title XVI of the Social Security Act.

FTB validates HRA disability claims by first running an electronic data match against the records of DHS to find claimants who receive Medi-Cal and Social Security Income benefits based on being disabled. These matches validate 96% of all HRA disability claims.

In addition, FTB accepts the following from the claimant to validate that they are disabled:

1. A finding of 100% disability or unemployability from the Department of Veterans Affairs
2. A notice of benefits issued to under the Cash Assistance Program for Immigrants (CAPI) from California Department of Social Services based on being disabled.
3. A Medicare Card, if the claimant received Social Security or Supplemental Security Income benefits based on being disabled.
4. A Social Security Award letter, notifying the claimant that he or she qualified for Social Security or Supplemental Security Income benefits based on being disabled.
5. A Supplemental Security Income (SSI) decision based on being disabled.
6. A document accepted by a local, state, or federal entity to support its determination of disability, as defined in Welfare and Institutions Code section 12050.

In addition, the claimant can prove they are disabled by submitting a statement from a physician.

By allowing physician statements to be offered to prove that the claimant meets the legal definition of disabled requires FTB staff to evaluate medical information and documentation to determine whether the claimant is eligible for HRA benefits. However, FTB lacks the education and expertise necessary to evaluate the information and make a determination. Physician statements are also problematic because often physicians are unfamiliar with the legal definition of disabled and fail to include all necessary facts needed to support a claim. As a result, FTB must request additional documentation to support the physician's statement or deny the claim.

There are also instances where the claimant submits statements that are false, belong to someone else, or have been altered in some significant manner.

In the 2007 Claim Year, 206,676 HRA claims were filed where eligibility for HRA benefits was based on disability. FTB denied 13,472 of these claims for failure to establish that the claimants were disabled as defined by law. **Staff estimates that 1,350 of the denied claims were subsequently allowed, reducing the total denied to 12,122. Of the 12,122 denied claims, 114 were appealed to BOE.** BOE found in favor of FTB and against the claimants in 15 of the appealed claims on the grounds that the claimants failed to prove they were disabled. BOE found for the claimants in 43 cases. At this time, 56 appeals are pending decision.

Problem

For some HRA claimants, current law requires FTB staff to make subjective medical determinations of whether the claimant is disabled as defined by the statute—which FTB staff lacks the necessary medical expertise to make.

Proposed Solution

Amend Revenue and Taxation Code section 20505 to allow validation of HRA disability claims using only determinations that the claimant is disabled made by one of the following government entities:

1. Social Security Administration, by one of the forms of verification:
    a. DHS data on recipients of Med-iCal and Social Security Income,
    b. Medicare Card, if the claimant received Social Security or Supplemental Security Income benefits because the claimant was disabled,
    c. Social Security award letter, notifying the claimant that he or she qualified for benefits because the claimant is disabled,
    d. Supplemental Security Income (SSI) decision,
2. Federal Department of Veterans Affairs,
3. State of California's Health and Human Services Agency, or
4. California Department of Social Services CAPI program, for certain immigrants, i.e., recipients of the Cash Assistance Program for Immigrants (CAPI).

This proposal would eliminate use of physician’s statements to prove that a claimant is disabled.

Effective/Operative Date of Solution

If enacted in the 2009 legislative session in legislation that is not immediately effective, this proposal would be effective January 1, 2010, and language in the proposal would make it specifically operative for assistance provided on or after January 1, 2010, beginning with respect to the 2010 claim year.

Justification

This proposal would remove FTB staff, who lack medical expertise, from making medical determinations that a claimant is disabled. Instead, allowance of HRA disability claims would be based on the determinations made by the Social Security Administration and the Department of Veterans Affairs at the federal level and the Department of Social Services at the state level to of whether an individual is disabled. These government entities have the expertise necessary to make the medical determination of whether the individual is disabled.

In addition, claimants would know with certainty what FTB would require to validate their HRA disability claim.

This proposal would also reduce the amount of fraudulent claims that are currently associated with the physician’s statements.

Implementation

This proposal can be implemented with minimal impact to the department’s operations.

Fiscal Impact

Relying on disability determinations made by other federal and state entities would reduce the work associated with physician statements, which would result in a savings of approximately $20,000 a year. The costs to implement this proposal would be approximately $4,000 to revise HRA forms, thus creating a savings of approximately $16,000 a year.

Economic Impact

Revenue Estimate

This proposal would result in the following annual expenditure reductions for the HRA program beginning in 2010 -11.[2]

Estimated Revenue Impact of LP 09-24 Effective for Claim Years Filed On or After July 1, 2010		
2009 -10	2010 -11	2011-12
No impact	+$<500,000	+$<500,000

This analysis does not account for changes in employment, personal income, or gross state product that could result from this proposal.

Revenue Discussion

The HRA Program is an assistance program administered by FTB. The revenue impact of the proposal would depend on the number of claims that would not be paid under the proposal that would otherwise be paid under current law.

DHS provides FTB with data used to validate that HRA claimants are disabled. FTB initially denies approximately 13,500 claims each year. HRA program staff estimates 10%, or 1,350, of the denied claims are subsequently allowed because of additional documentation. A small percentage of the additional claims allowed are based on false or fraudulent documentation.

Staff estimates that this proposal would effect the 1,350 claims that are paid only after FTB initially denies the claims and then receives additional information from the claimant ("subsequently paid claims"). Staff further estimates that 80%, or 1,080 claims, of the subsequently paid claims would be denied (1,350 x 80% = 1,080 claims) and 20%, or 270, would still be allowed (1,350 x 20% = 270).

Denying 1,080 additional claims would reduce General Fund expenditures by $336,960 a year. (1,080 additional claims denied x expected average HRA refund for claim year 2010 of $312 = $336,960), which is rounded to less than $500,000 a year.

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[2] The 2008-2009 budget did not provide funding to the HRA program for the 2008 claim year.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO LP 09-24

AMENDMENT 1

Revenue and Taxation Code Section 20505 is amended to read:

20505. "Claimant" means an individual who--

(a) For purposes of this chapter was either (1) 62 years of age or older on the last day of the calendar year or approved fiscal year designated in subdivision (b) or (c) of Section 20503, whichever is applicable, or (2) blind or disabled (as defined in Section 12050 of the Welfare and Institutions Code)), on the last day of the calendar year or approved fiscal year designated in subdivision (b) of Section 20503, who was a member of the household, and who was either: (1) the owner and occupier of a residential dwelling on the last day of the year designated in subdivision (b) or (c) of Section 20503, or (2) the renter of a rented residence on or before the last day of the year designated in subdivision (b) of Section 20503. An individual who qualifies as an owner-claimant may not qualify as a renter-claimant for the same year.

(b) For purposes of this section, a claimant shall be considered disabled only if he or she is a recipient of any of the following:

(1) The following disability benefits under the Social Security Act of 1934 as a disabled person:

(A) Social Security Disability Insurance(SSDI) benefits.

(B) Supplemental Security Income (SSI) benefits.

(2) Compensation or a pension under Title 38, United States Code, administered by the federal Department of Veterans Affairs on the basis of a disability rating of one hundred percent (100%) or on the basis of a total disability rating based on unemployability.

(3) Assistance under the Cash Assistance Program for Aged, Blind, and Disabled Legal Immigrants, Chapter 10.3 (commencing with Section 18937) of Part 6 of Division 9 of the Welfare and Institutions Code.

(c) The amendments made by the act adding this subdivision shall apply to assistance provided on or after January 1, 2010, with respect to the preceding calendar year.

EGISLATIVE PROPOSAL 09-26
EXECUTIVE SUMMARY

- **Title:** Homeowners and Renter's Assistance (HRA)/Extend Tolling Period For Medically Incapacitated Claimants

- **Problem:** A medically incapacitated HRA claimant cannot file a timely HRA claim if their incapacity extends throughout and beyond the three-year statute of limitations resulting in an otherwise valid claim being denied.

- **Proposed Solution:** Amend the Revenue and Taxation Code to do the following:

  - Allow an indefinite tolling period in cases of medical incapacity, and
  - Exclude medically incapacitated claimants from filing untimely returns if an individual is legally authorized to act on the claimant's behalf in financial matters.

- **Major Concerns/Issues:** None.

- **Revenue:**

Estimated Revenue Impact of LP 09-26 Effective for Claim Years Beginning On or After July 1, 2010		
2008-09	2009-10	2010-11
No impact	No impact	+ <$150,000

Title

Homeowners and Renter's Assistance (HRA)/Extend Tolling Period For Medically Incapacitated Claimants

Introduction

This proposal would allow an indefinite tolling period of the statute of limitations for filing HRA claims in the case of an HRA claimant that is physically or mentally incapacitated.

Program Background

In some cases, HRA claims are denied due to the lack of documentation to prove disability, or for filing untimely (late) claims. An otherwise untimely claim can be considered timely if the claimant can prove medical incapacity. The Franchise Tax Board (FTB) currently accepts signed physician statements that indicate the date medical incapacity began and ended or is ongoing; these statements must be signed under penalty of perjury by the physician. Claimants who, because of a medical incapacity, are prevented from filing a timely claim are permitted to nonetheless file a claim within six months after the medical incapacity ends or three years following the end of the fiscal year for which the assistance is claimed, whichever date is earlier. In the 2006 claim year, the department received a total of 202,252 disability claims, of which approximately 8,789 were untimely. The data for the 2007 untimely claims are unknown at this time.

Current State Law

Under state law, the HRA program allows a once-a-year payment from the State of California to qualified individuals based on a portion of the property taxes assessed and paid on their homes or taxes indirectly paid as rent. The claim filing year for a homeowner and renter assistance claim is the year after the taxable year for which the assistance is claimed. The current claim filing period for the 2008 claim year is from July 1, 2008, to October 15, 2008, (qualified as of December 31, 2007). Any claims postmarked after June 30, 2009, will not be paid unless the claimant was medically incapacitated.

Under state law, "medically incapacitated claimant" is defined as a claimant who is unable to file a timely assistance claim due to being unable to attend to personal needs and activities of daily living in an appropriate manner, such as personal hygiene or nutritional needs.

Under state law, if a claimant was medically incapacitated and unable to file a claim in a timely manner, the claimant is allowed to file a claim for a period of up to six months after the end of the incapacity or three years after the end of the fiscal year for which assistance is claimed, whichever is earlier. The claimant must submit proof of medically certified incapacitation. If funding for a particular year has been depleted, claims cannot be paid until additional funds are received.

Problem

A medically incapacitated HRA claimant cannot file a timely HRA claim if their incapacity extends throughout and beyond the three-year statute of limitations resulting in an otherwise valid claim being denied.

Proposed Solution

Amend Section 20563(c) of the Revenue and Taxation Code to allow an indefinite tolling of the statute of limitations period in cases of medical incapacity and adopt the terms of “financially disabled” as provided under the Personal Income Tax Law (PITL) by excluding medically incapacitated claimants from filing untimely claims if there is a conservatorship or someone legally authorized to act on the claimant’s behalf in financial matters.

Effective/Operative Date of Solution

If enacted in the 2009 legislative session in legislation that is not immediately effective, this proposal would be effective January 1, 2010, and would be specifically operative for assistance provided on or after January 1, 2010, with respect to the 2010 claim year and thereafter.

Justification

This proposal would allow otherwise qualified claimants that were prevented from filing a timely claim due to severe physical or mental impairments to receive assistance when they regain the ability to manage their personal affairs.

This proposal would also require that claimants with conservators, or someone legally authorized to act on a claimant’s behalf, to file timely claims in order to receive assistance.

For the 2006 claim year 8,789 claims were denied for untimely filing, 218 claimants appealed the denial with the state Board of Equalization; as a result, 15 claims were paid, 127 claims were denied and 76 claims are pending a decision. The effects of this proposal could reduce the number of appeals filed with BOE that result from the denial of claims based on late filing due to medical incapacity.

Implementation

Implementing this proposal would require changes to forms and instructions and require additional programming and system modifications as discussed in the fiscal impact discussion below.

Fiscal Impact

This proposal would not significantly impact the department’s costs.

Economic Impact

Revenue Estimate

This proposal would result in insignificant revenue gains beginning in fiscal year 2010-11.

Estimated Revenue Impact of LP 09-26 Effective for Claim Years Beginning On Or After July 1, 2010		
2008-09	2009-10	2010-11
No impact	No impact	+ <$150,000

Revenue Discussion

The revenue impact of this proposal would be determined by the amount of assistance payments that would be denied under this proposal, which would otherwise be paid under current law.

For the 2006 claim year, 8,789 claims were denied for untimely filing, 218 claimants appealed the denial with the state Board of Equalization. As a result, 15 claims were paid, 127 claims were denied, and 76 claims are pending a decision. This proposal would result in an additional 5% or 11 (218 X .05) of the appealed claims being denied under the "medically incapacitated" category. The revenue impact on the state's general fund would be a savings of approximately $3,400 (11 X $312 expected average refund for claim year 2010).

For an increase in delinquent filings to occur, there would need to be claimants that are medically incapacitated for more than three years without an individual or person legally authorized to act on their behalf. The department does not expect an increase in delinquent filings due to the extended tolling of the statute of limitations.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS LP 09-26

AMENDMENT 1

Section 20563 of the Revenue and Taxation Code is amended to read:

20563. (a) The claim on which the assistance is based shall be filed after June 30 of the fiscal year for which assistance is claimed but on or before October 15 of the fiscal year succeeding the fiscal year for which assistance is claimed. The Franchise Tax Board may thereafter accept claims through June 30 of the fiscal year succeeding the fiscal year for which assistance is claimed.

(b) The state shall assist the claimant after July 15 and before November 15 of the calendar year in which the claim is filed, except that if the claim is defective, assistance shall be made as promptly as is practicable after the claim has been perfected.

(c) A claimant who, because of a medical incapacity, is prevented from filing a timely claim, may file a claim within six months after the end of his or her medical incapacity or three years succeeding the end of the fiscal year for which assistance is claimed, whichever date is later ~~earlier~~ , except as otherwise provided in subdivision (d).

(d)(1) A claimant shall not be considered to be "medically incapacitated" unless proof of the existence thereof is furnished in such form and manner as the Franchise Tax Board may require.

(2) A claimant shall not be considered to be "medically incapacitated" during any period for which that claimant's spouse, or any other person or entity legally authorized to act on that individual's behalf in financial matters, could have filed a claim under this section.

(3) The amendments made by the act adding this subdivision shall apply to assistance provided on or after January 1, 2010, with respect to the preceding year.

LEGISLATIVE PROPOSAL 09-27
EXECUTIVE SUMMARY

- **Title:** Use Of IRS Data Regarding Waivers Of The Federal Statute Of Limitations

- **Problem:** The last day for FTB to issue a proposed assessment or pay a refund when a taxpayer has agreed to extend the federal SOL can be difficult to determine because the taxpayer and the IRS have often destroyed the agreement forms.

- **Proposed Solution:** Amend Revenue and Taxation Code Section 19065 to clarify that FTB may use IRS records that reflect the extended expiration date of the federal SOL for assessment to determine the corresponding California SOL to issue a proposed assessment or pay a refund.

- **Major Concerns/Issues:** None.

- **Revenue:** This proposal would not impact state income or franchise tax revenue because the proposal clarifies current law and applies existing practice.

Title

Use Of IRS Data Regarding Waivers Of The Federal Statute Of Limitations

Introduction

This proposal would amend existing law to clarify that the Franchise Tax Board (FTB) may use IRS records to verify the date of expiration of the federal statute of limitations (SOL).

Current State Law

Under current state law, when a taxpayer agrees with the IRS to extend the federal SOL for assessments, it automatically extends the California SOL for FTB to issue a proposed assessment. The extended SOL is the later of four years from filing the state tax return or six months after the agreed period for assessing federal deficiencies expires.[1] Additionally, when a taxpayer agrees with the IRS to extend the federal SOL for assessments, the California SOL for FTB to issue a **refund** extends to the same date FTB may issue a proposed assessment.[2]

Background

Traditionally FTB has relied on the date typed or printed on the paper federal extension form as evidence of a taxpayer's agreement with the IRS to extend the federal SOL for assessments. If FTB is unable to obtain a copy of the agreement document from the IRS or the taxpayer, the department requests an IRS transcript, which indicates the agreed SOL extension date. FTB determines the California SOL for issuing a proposed assessment or refund using the IRS transcript in the same manner as if the paper document were available.

Problem

The last day for FTB to issue a proposed assessment or pay a refund when a taxpayer has agreed to extend the federal SOL can be difficult to determine because the taxpayer and the IRS have often destroyed the agreement forms.

Proposed Solution

Amend Revenue and Taxation Code Section 19065 to clarify that FTB may use IRS records that reflect the extended expiration date of the federal SOL for assessment to determine the corresponding California SOL to issue a proposed assessment or pay a refund.

Effective/Operative Date of Solution

If enacted in 2009 in legislation that does not take effect immediately, this proposal would be effective January 1, 2010, and specifically operative for taxable years in which the period for mailing a proposed assessment has not expired.

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[1] Revenue and Taxation Code Section 19065
[2] Revenue and Taxation Code Section 19308

Justification

This proposed law change is needed so that FTB can ascertain the extended last day to issue a proposed assessment or pay a refund resulting from the taxpayer's agreement with the IRS to extend the federal SOL.

Implementation

Because this proposal would clarify existing law and would apply to existing practice, implementing it would not impact the department's programs or operations.

Fiscal Impact

This proposal would not significantly impact the department's costs.

Economic Impact

This proposal would not impact state income or franchise tax revenue because the proposal clarifies current law and applies existing practice.

Other States

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws.

The statutes of each of these states contain provisions that provide for agreements with a taxpayer to extend the state SOL. Minnesota is the only state with a statute that specifically refers to federal extensions, in which the term "extended federal period" is used.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO LP 9-27

AMENDMENT 1

Section 1.Section 19065 of the Revenue and Taxation Code is amended to read:

19065. (a) If any taxpayer agrees with the United States Commissioner of Internal Revenue for an extension or renewals thereof of the period for proposing and assessing deficiencies in federal income taxes for any year, the period for mailing a notice of a proposed deficiency shall be the later of:~~four years after the return was filed or six months after the date of the expiration of the agreed period for assessing deficiencies in the federal income tax, whichever period expires the later.~~

(1) Four years after the return was filed,

(2) Six months after the date of the expiration of the agreed period shown on the extension or renewal, or

(3) Six months after the expiration of the federal statute of limitations for assessment reflected in the United States Commissioner of Internal Revenue records for assessing deficiencies in the federal income tax.

(b) The amendments to this section by the act adding this subdivision shall apply to all taxable years for which the period for mailing a notice of proposed deficiency has not expired.