

**TAXPAYERS' BILL OF RIGHTS HEARING
FRANCHISE TAX BOARD
MINUTES
November 26, 2002**

The Franchise Tax Board met in open session at 11:00 a.m. at the State Board of Equalization, 450 N Street, Hearing Room 121, Sacramento, California. Present were Hon. Kathleen Connell, Hon. John Chiang, and Annette Porini representing Hon. B. Timothy Gage.

Franchise Tax Board

Staff Participating: Gerald H. Goldberg, John W. Davies, Benjamin F. Miller, Patrick J. Kusiak, Debbie Newcomb, and Claudette Romo.

Others Participating: Roland A. Boucher, Senior Senator, California Senior Legislature; Gina Rodriquez representing Spidell Publishing; Dave Doerr, representing the California Taxpayers Association; and Richard E. V. Harris, attorney.

Item 10. – Taxpayers' Bill of Rights Hearing

Chair Connell read the opening statement as required by law, and introduced Franchise Tax Board staff members who were present and able to respond to questions.

Roland A. Boucher, Senior Senator, California Senior Legislature

Mr. Boucher requested the elimination of restrictions that limit use of the short tax form (540 2EZ) by senior taxpayers. He informed the Board of his similar requests at the federal level. He also provided information to the Board regarding SB 831 (Poochigian) and AB 1370.

Gina Rodriquez

Ms. Rodriquez expressed appreciation for the Chair's support over the last eight years and the support and assistance received from FTB staff resolving technical issues.

AB 1115 Clean Up. Ms. Rodriquez addressed this matter in connection with LP 03-12, AB 1115 Clean Up, under Agenda Item 3, Legislative Matters.

Uniformity of OIC Procedures and Practices of Tax Agencies. Ms. Rodriquez requested that uniform procedures and practices be employed by the various state tax agencies with respect to their offer in compromise (OIC) programs.

Nanny Tax/Employment Taxes for Other Domestic Workers. Ms. Rodriguez requested the FTB continue to look at how to simplify so-called 'nanny' tax, elder tax, and domestic employment taxes in general, and how to cooperate with the Employment Development Department to get this type of tax information on the personal income tax form.

Use Tax. Ms. Rodriguez indicated satisfaction with the inclusion of a use tax form in the personal income tax booklet. She requested that the income tax form be revised to include a line for use tax self-assessed by taxpayers.

Legislative Drafting Style. Ms. Rodriguez expressed consternation with a particular style of legislative drafting that refers to sections of federal acts rather than sections of codified federal law. She indicated this drafting style complicates practitioner understanding of the law.

Regulations Drafting Style. Ms. Rodriguez expressed consternation with a style of regulation drafting that does not explicitly identify operative and effective dates.

Real Estate Withholding. Ms. Rodriguez provided comments from practitioners and academics that question the soundness and propriety of recently enacted legislation that could operate to require over withholding of income tax and requested the Board sponsor legislation to reinstate a procedure that would permit individual taxpayers to request reduced withholding or a waiver from withholding.

Staff indicated that legislation to remedy difficulties related to real estate withholding was expected to be introduced early in the next session of the Legislature.

Ms. Rodriguez submitted written materials.

Dave Doerr, from the California Taxpayers Association, expressed support for the proposals of Ms. Rodriguez.

Richard E. V. Harris

Access to Complete Audit File. Mr. Harris reiterated and referred to comments made earlier under Agenda Item 4, Regulation Matters, sub-item a., Proposed Regulation 19032, Audit Procedures, regarding transparency and taxpayer access to all information in an audit file.

Federal "Technical Advice Memorandum" Practice. Mr. Harris recommended that FTB adopt procedures comparable to current IRS practice whereby

taxpayers are advised and offered an opportunity to participate when an auditor seeks legal advice.

Regulation Procedures. Mr. Harris complimented staff on the exchange of information and procedures used to get public input with respect to the audit regulation. He recommended that other program areas should use a similar approach.

Mr. Harris also thanked the Chair for her efforts at increasing transparency of government and decreasing government inefficiency.

Mr. Harris submitted written materials.

The meeting adjourned at 12:30 p.m.

Board Secretary

Date