

TAXPAYERS' BILL OF RIGHTS HEARING  
FRANCHISE TAX BOARD  
MINUTES  
December 7, 2005

The Franchise Tax Board met in open session at 1:30 p.m. at the State Board of Equalization, 450 N Street, Hearing Room 121, Sacramento, CA Present were Hon. Steve Westly, Hon. John Chiang, and Hon. Michael C. Genest. During the hearing, as noted in the Franchise Tax Board Minutes, the Controller was represented by Deputy Controller Marcy Jo Mandel.

**Franchise Tax Board**

**Staff Participating:** Will Bush, John W. Davies, Patrick Kusiak, Brian Putler, and Debbie Newcomb.

**Others Participating:** Richard E. V. Harris, Attorney at Law, Gina Rodriguez, Spidell Publishing, Lenny Goldberg, Lenny Goldberg and Associates and California Tax Reform Association, Teresa Casazza, California Taxpayers' Association, and William Lowell, former FTB employee.

**Taxpayers' Bill of Rights Hearing**

Deputy Controller Mandel read the opening statement regarding this annual hearing required by law and introduced Franchise Tax Board staff members who were present and able to respond to questions.

**William Lowell**

Mr. Lowell provided oral comment to the Board on the following matter:

The FTB should audit tax returns prepared by professional tax preparers. According to the June 27, 2006 newsletter published by the Service Employees International Union, the State loses \$6.5 billion per year because this is practice.

The FTB should hire and train adequate auditors to audit professionally prepared tax returns.

Mr. Bush indicated that professionally prepared returns are not exempt from audit.

**Gina Rodriguez**

Ms. Rodriguez thanked Rose Anderson, Bruce Langston, and Patrick Kusiak of the Legal staff, Cathy Cleek and her staff, and Brian Putler and his staff for their outstanding

service during 2005. Ms. Rodriguez then presented written materials and provided oral comment to the Board on the following seven issues:

Issue #1: Conformity with respect to Health Savings Accounts

Issue #2: 50% interest penalty

Issue #3: Household employer tax simplification proposal

Issue #4: Mandatory real estate withholding problem

Issue #5: Late payment penalty

Issue #6: LLC fee based on total income

Issue #7: Voluntary disclosure program for trusts

### **Richard Harris**

Mr. Harris provided oral comment to the Board on the following matters:

A recommendation that was proposed at the 2004 Taxpayer Bill of Rights Hearing to provide a deemed denied provision for protests of taxpayers so that a taxpayer trapped in the protest process would be able to get out and get to the State Board of Equalization without making payment after 24 months. FTB staff had responded and Mr. Harris is reviewing the response.

Mr. Harris commented that the FTB website was greatly improved and was pleased that the litigation rosters are now available on the website making it easier to track prior cases. He would like to see previous rosters on the website; not just the last 12 months. Mr. Harris suggested that more information be made available on the website and urged staff to look at the website of the Antitrust Division of the U.S. Department of Justice as an example.

Mr. Harris commented on the Spanish portal of the FTB website. It appears that when you go to this portal, sometimes you get Spanish and sometimes you get English. Ms. Mandel suggested that Mr. Harris get with the webmaster to resolve the glitches.

Mr. Harris was also pleased that manuals were now available on the website and commented on areas of the Strategic Plan. He would like to see the operations reports made available on the website. Mr. Bush encouraged Mr. Harris to provide a list of detailed items he would like to see to FTB staff. He identified transparency as an issue he was interested in pursuing. Mr. Chiang requested a report on the matter. Mr. Bush indicated staff would provide a status report at a future meeting.

## **Lenny Goldberg**

Mr. Goldberg congratulated Mr. Genest on his appointment and then provided oral comment to the Board on the following matters:

Although the website has improved, there should be a full functionality and full expansion of free direct online tax filing. The number of the forms available to taxpayers should continually be expanding in terms of the ability of taxpayers to fill out and file their own taxes directly online.

The ReadyReturn Program should make available precisely what information FTB has on taxpayers, particularly with regard to wage and salary data. Mr. Bush responded and stated FTB's goal is to reduce the number of error notices sent out each year by providing taxpayers access to their data so that they can reduce error and file returns easier.

## **Teresa Casazza**

Ms. Casazza provided oral comment to the Board on the following six issues:

Issue #1: Treatment of victims for disasters

Issue #2: Treatment of disabled persons

Issue #3: Statute of limitations for collections of 20 years is too long

Issue #4: Recordkeeping

Issue #5: FTB to follow BOE decisions

Issue #6: Scheduling of Bill of Rights Hearings on the Agenda

Debbie Newcomb, FTB Taxpayer Advocate's Office, advised the Board that three written comments were submitted by people who could not attend the Hearing: Mr. Roland Boucher; Mr. William Taggart, Taggart and Hawkins; and a comment submitted anonymously.

The hearing adjourned at 3:37 p.m.

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Board Liaison

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Date