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February 11, 2000

FTB NOTICE 2000-2

SUBJECT: ANNOUNCEMENT OF A SYMPOSIUM TO DISCUSS PROPOSED REGULATIONS 19041 AND 19044 RELATING TO PROTESTS AND PROTEST HEARINGS TO BE HELD ON MARCH 3, 2000

The staff of the Franchise Tax Board, at the direction of the Board, will hold a symposium to discuss proposed regulations relating to protests and protest hearings on March 3, 2000 at 10:00 a.m. The symposium will be held in Room 1040 in the Phase II building at the Franchise Tax Board's central office at 9645 Butterfield Way, Sacramento. The central offices of the Franchise Tax Board are located near the Butterfield station of the Sacramento Light Rail system.

The two regulations are currently in the formal rule-making process. A hearing on the proposed regulations was held on August 6, 1999, and comments were received. Staff of the Franchise Tax Board has reviewed the comments on the original drafts of the regulations and has prepared revisions to the proposed regulations based upon those comments. Copies of the staff generated revisions to the proposed regulations are attached or can be accessed at the Franchise Tax Board's website at www.ftb.ca.gov. For further information regarding this notice, contact Colleen Berwick at the Franchise Tax Board Legal Branch, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Tel.: (916) 845-3306; Fax: (916) 845-0770; E-Mail: colleen_berwick@ftb.ca.gov.

Among the significant issues raised at the hearing on the proposed regulations are the following:

Whether the department can limit the filing of protests to mail, or comparable delivery, and require delivery to a specific address or location.

The proposed revisions allow for hand-delivery to any Franchise Tax Board office. Requirements for mail delivery to a specific address are maintained.

Whether any restraints on the ability of a taxpayer to raise issues after the closing of the statutory 60-day period for the filing of a protest are proper.

The restraints are retained. The exceptions that allow for the raising of new grounds have been slightly broadened. A general statement regarding the application of discretion in the protest process has been included in addition to a statement of intent to resolve matters at the lowest level possible.

Whether any restraints on the ability of a taxpayer to request an oral hearing after the filing of a protest are proper.

The restraints are retained. The exceptions that allow for the raising of new grounds have been slightly broadened. A general statement regarding the application of discretion in the protest process has been included in addition to a statement of intent to resolve matters at the lowest level possible.

The ability of the department to request additional information at the protest level.

No changes were made other than a further delineation of time periods.

The duty of a taxpayer to respond to department requests for information and the statement of possible consequences of a failure to respond.

No changes were made.

The ability of the department to raise "new" issues in considering a protest.

No changes were made.

The symposium will provide another opportunity for interested parties to discuss with staff the proposed regulations and explore alternative procedures and language. The Franchise Tax Board has directed that any suggestions for change be accompanied by proposed language. It is anticipated that agreement might be reached with respect to some changes and that there will not be agreement in other areas. It would be helpful to the participants at the symposium if any proposals were available at the time of the symposium. Materials submitted to staff prior to the symposium will be duplicated so that they will be available to other participants. (Please contact Ms. Berwick to submit materials.) It is recognized, however, that proposals may be developed and shaped as a result of discussions at the symposium and therefore will not necessarily be available during the course of the symposium. Drafts of alternatives should be submitted to staff as soon as possible after the symposium so that they may be distributed to interested parties.

It is staff's understanding that it is the intent of the Franchise Tax Board to consider the changes proposed by staff and by commentators and to make a selection between any alternatives proposed so that the proposed regulations can proceed to a second hearing. Materials for consideration by the Franchise Tax Board are normally forwarded to the members along with an agenda so that they have an opportunity to review and consider alternatives prior to the meeting. Preparation of this distribution occurs approximately two weeks prior to the meeting. Staff anticipates that the Board will wish to operate in this matter with respect to the report on this symposium and in considering alternatives.

A hearing on the proposed regulations will be scheduled as soon as possible, consistent with the requirements of the Administrative Procedure Act, after the report of the

symposium has been considered by the Board and direction given to staff as to how it should proceed.