



STATE OF CALIFORNIA  
**FRANCHISE TAX BOARD – Legal Department**  
PO Box 1720  
Rancho Cordova, CA 95741-1720  
Telephone (916) 845-3306  
FAX (916) 845-3648

JOHN CHIANG  
Chair

BETTY T. YEE  
Member

MICHAEL C. GENEST  
Member

**February 23, 2007**

**FTB NOTICE 2007- 1**

**SUBJECT: California's Compliance Resolution Program for Employers Participating, or Intending to Participate, in the IRS Compliance Resolution Program Regarding Internal Revenue Code Section 409A**

The purpose of this Notice is to provide advice to employers participating, or intending to participate, in the Internal Revenue Service (IRS) Compliance Resolution Program - Announcement 2007-18 (IRS Program), that they may also participate in the corresponding California Compliance Resolution Program (California Program).

The IRS Program permits employers to pay the additional taxes arising under Internal Revenue Code (IRC) section 409A due to the exercise of certain discounted stock options and stock appreciation rights in 2006. Pursuant to Revenue and Taxation Code section 17501, IRC section 409A is applicable for California purposes.

The California Program requirements will parallel the IRS Program requirements. However, the Interest Tax component of section 409A will be calculated using California's highest marginal tax rate in effect rate for 2005 (9.3%), and the interest rate applicable for underpayments under California law plus one percent (1%).

Like the IRS Program, the California Program requires the employer to submit to the Franchise Tax Board (FTB) a notice of the employer's intent to participate in the California Program. Employers choosing to participate in the California Program must file with the FTB a notice of intent to participate by March 15, 2007.

Specific details regarding FTB's requirements for employer participation in the California Program will be available at [www.ftb.ca.gov/](http://www.ftb.ca.gov/).

The principal author of this notice is Jeanne M. Sibert of the Franchise Tax Board Legal Department. For further information regarding this notice, contact Ms. Deirdre O'Connor at (916) 845-7335. You may also contact Ms. Sibert at (916) 845-5554, or by mail at the Franchise Tax Board, Legal Department, P.O. Box 1720, Rancho Cordova, CA 95741-1720.