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June 16, 1989

FTB Notice 89-364
410:BRL:CN-89-364

Re: Homeowners Associations, California - Federal Differences

Chapter 4 of the Revenue and Taxation Code [§23701 et.seq.] allows exemption from California franchise and corporate income taxes to certain specified organizations as set forth in Revenue and Taxation Code §§23701a-23701w. Generally, a similar federal exemption is allowed for such organizations. However, the procedure for obtaining exemption under Revenue and Taxation Code §23701t as a homeowners association is different than that required under Internal Revenue Code §528.

Under California law, an organization desiring exemption under §23701t must first submit an application for exemption [Form 3500] together with a \$25.00 filing fee to the Franchise Tax Board. Only after the Franchise Tax Board issues a determination of exempt status will the organization be considered exempt for California purposes. In contrast, an organization can elect to be exempt for federal purposes under Internal Revenue Code §528 merely by filing Form 1120H for any year. The federal election can then be reversed by filing Form 1120 for any year.

Once an organization receives its exemption from the Franchise Tax Board, it remains exempt unless and until the exemption is revoked. Unlike the federal practice for certain organizations such as homeowners associations, an organization may not elect in and out of exempt status for California purposes from year to year by filing different returns.

DRAFTING INFORMATION

For further information regarding this notice, contact Mr. Ron Maddox at the Franchise Tax Board Compliance Division, P.O. Box 1468, Sacramento, CA 95812-1468.

NOTE: ((---)) = Indicates obsolete information.