

# **LEGISLATIVE PROPOSAL D**

## **EXECUTIVE SUMMARY**

### **Title**

Taxpayers' Bill Of Rights Annual Report to the Legislature/Change Due Date From December 1<sup>st</sup> to January 15<sup>th</sup>

### **Problem**

The existing statutory due date of December 1<sup>st</sup> for the report, which must include information on changes in statutes, provides insufficient time for Franchise Tax Board (FTB) staff to include Legislative Proposal's (LP's) for the current fiscal year in the report because the statutory due date of the report is before the date when the LP's are presented to the three-member Board for approval. As a result, the legislature does not have information on the most current issues and the opportunity to discuss those issues is missed.

### **Proposed Solution**

Amend existing law by changing the Taxpayers' Bill of Rights Annual Report statutory due date to January 15<sup>th</sup>.

### **Fiscal Impact**

This bill would not significantly impact the department's costs.

### **Economic Impact**

This proposal would not impact revenue.

## **Title**

Taxpayers' Bill Of Rights Annual Report to the Legislature/Change Due Date From December 1<sup>st</sup> to January 15<sup>th</sup>.

## **Introduction**

This proposal would change the due date of the statutorily-required Taxpayers' Bill of Rights Report.

## **Problem**

The existing statutory due date of December 1<sup>st</sup> for the report, which must include information on changes in statutes, provides insufficient time for FTB staff to include LP's for the current fiscal year in the report because the statutory due date of the report is before the date when the LP's are presented to the three-member Board for approval. As a result, the legislature does not have information on the most current issues and the opportunity to discuss those issues is missed.

## **Proposed Solution**

Amend existing law by changing the Taxpayers' Bill of Rights Annual Report statutory due date to January 15<sup>th</sup>.

## **Background**

Taxpayers' Bill of Rights Report

By December 1<sup>st</sup> of each year, the FTB is required to submit to the Legislature an annual report that includes the following:

- Identifies recurrent areas where taxpayers are not complying with the tax law.
- Shows the volume of assessments for both personal income taxes and franchise bank and corporation taxes taken from sample data from the audit process.
- Identified reporting errors that were detected during the initial processing of the previous year's tax returns.
- Includes strategies to improve taxpayer compliance through changes in the law, improved training of staff, enhanced communications with taxpayers and tax practitioners, and increased enforcement capabilities.

It is specifically the last item to which this proposal relates (i.e. strategies to improve taxpayer compliance through law changes) and our ability to timely report on those items.

## Departmental Legislative Proposals

Each year, FTB identifies LPs that can ease tax administration, including possible ways to improve compliance. These LPs are typically presented for approval at the December three-member Board meeting. This year's meeting will be held on Friday, December 18, 2020. Below are the last five years of meeting dates.

Prior year's board meetings:

<b>LPs Presented</b>	<b>Board Meeting Date</b>
2020 LP's	December 3, 2019
2019 LP's	December 18, 2018
2018 LP's	December 7, 2017
2017 LP's	December 8, 2016
2016 LP's	December 15, 2015

Once an LP is approved by the three-member Board, FTB staff will seek out authors to carry the proposals through the legislative process.

### **Current State Law**

The FTB is required to provide an annual Taxpayers' Bill of Rights Report (report) to the Legislature no later than December 1<sup>st</sup>. The report is required to include recommendations for improving taxpayer compliance and uniform administration, including changes in statutes.

### **Effective/Operative Date of Solution**

If enacted in the 2021 legislative session, the provision would be effective and operative beginning January 1, 2022.

### **Justification**

Changing the report's due date to January 15<sup>th</sup> allows needed time to provide a complete and accurate report. Action taken on LPs, which occurs after the December 1<sup>st</sup> due date, cannot be included in the current year's report because the LPs have not yet received formal approval from the three-member Board at that time. Changing the due date would account for this timing.

This proposed due date change would not significantly affect FTB's ability to seek authors in the Legislature or otherwise negatively impact the LP process. It also provides the Legislature a more accurate picture of potential proposals for consideration each year.

### **Implementation**

Implementing this proposal would not significantly impact the department's programs or operations.

### **Fiscal Impact**

This bill would not significantly impact the department's costs.

### **Economic Impact**

This proposal would not impact revenue.

### **Policy Considerations**

In moving the report due date to January 15<sup>th</sup> of each year, this would allow departmental staff sufficient time to include in the report current LP's that otherwise would not be included until the following year's report, which in turn could give the impression that the report is not current.

### **Other Agency/Industry Impacted**

None noted.

### **Legislative Staff Contact**

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## Franchise Tax Board's Draft Proposed Amendments for LP D

**Subject:** Taxpayers' Bill Of Rights Annual Report to the Legislature/Change Due Date From December 1<sup>st</sup> to January 15<sup>th</sup>.

21006. (a) The board shall perform annually a systematic identification of areas of recurrent taxpayer noncompliance and shall report its findings to the Legislature ~~on December 4~~ *by January 15* of each year.

(b) As part of the identification process described in subdivision (a), the board shall do both of the following:

(1) Compile and analyze sample data from its audit process, including, but not limited to, all of the following:

(A) The statute or regulation violated by the taxpayer.

(B) The amount of tax involved.

(C) The industry or business engaged in by the taxpayer.

(D) The number of years covered in the audit period.

(E) Whether professional tax preparation assistance was utilized by the taxpayer.

(F) Whether income tax or bank and corporation tax returns were filed by the taxpayer.

(2) Conduct an annual hearing before the board itself where industry representatives and individual taxpayers are allowed to present their proposals on changes to the Personal Income Tax Law or the Corporation Tax Law which may further facilitate achievement of the legislative findings.

(c) The board shall include in its report recommendations for improving taxpayer compliance and uniform administration, including, but not limited to, all of the following:

(1) Changes in statute or board regulations.

(2) Improvement of training of board personnel.

(3) Improvement of taxpayer communication and education.

(4) Increased enforcement capabilities.

(d) The board shall include in its report a summary of cases where relief was granted pursuant to subdivision (c) of Section 21004, including the nature of the error or delay, and the steps taken by the board to remedy systemic issues that caused the error or delay.