

FRANCHISE TAX BOARD MEETING & TAXPAYERS' BILL OF RIGHTS HEARING MINUTES

December 18, 2020

The Franchise Tax Board virtually met in open session at 1:30 p.m. Present were Controller Betty T. Yee (via video conference), Deputy Controller Yvette Stowers (via video conference), Hon. Antonio Vazquez (via video conference), and Deputy-Member Gayle Miller (via video conference), Department of Finance, for Member Bosler.

Franchise Tax Board Staff Participating:

Selvi Stanislaus, Jozel Brunett, Shane Hofeling, Dawn Casey, Annette Kunze, Adam Susz, Jeanne Harriman, Michael Banuelos, Chris Smith

Others Participating:

Joyce Cheng, Lynn Freer, Christine Grab

Item 1. – Approval of Minutes

The minutes of the September 18, 2020 Franchise Tax Board meeting were approved 3-0.

Item 2. – Legislative Matters

The Board received a presentation on the following five legislative proposals:

1. LP A. Modified Conformity to the Federal Alternative Simplified Credit (ASC) and Elimination of the Alternative Incremental Research Credit (AIRC)
2. LP B. Real Estate Withholding/ Internal Revenue Code (IRC) section 1031 Deferred Like-kind Exchange/Failure to Withhold by Qualified Intermediaries (QI)/ Cash-Poor Exchange
3. LP C. Taxation of Income from an Incomplete Gift Non-Grantor (ING) Trust
4. LP D. Taxpayers' Bill Of Rights Annual Report to the Legislature/Change Due Date From December 1st to January 15th
5. LP E. FTB/SCO Unclaimed Property Checkbox Data Sharing

The Board voted 2-0 to approve all five proposals, with Deputy Member Miller abstaining.

Item 3. – Regulation Matters

The Board received a presentation on the proposed 2021 Rulemaking Calendar.

The Board voted 3-0 to approve the proposed 2021 Rulemaking Calendar.

Item 4. – Administrative Matters

- A. 2021-2022 Budget Change Proposals

The Board received a presentation on the following two budget change proposals:

- 1.SB 1447 – Main Street Small Business Tax
- 2.AB 1876 – Earned Income Tax Credit/ITINs

The Board voted 2-0 to approve the two proposals, with Deputy-Member Gayle Miller abstaining.

B. Contracts Over \$1 Million

The Board received a presentation on the following two proposed contracts for approval:

- 1.Scanner Refresh
- 2.eTime Consulting Services

The Board voted 3-0 to approve the proposed contracts items.

Item 5. –Taxpayers' Bill of Rights Hearing

Chairperson Yee provided opening remarks describing this annual hearing, which is required by law, and introduced Franchise Tax Board staff members who were present to respond to questions.

Chris Smith, Taxpayers' Rights Advocate, providing opening comments and reviewed issues raised at the last Taxpayers' Bill of Rights Hearing. He promised to ensure a written response from the department to all of the issues raised at the hearing by February 1, 2021. The responses will also be posted on FTB's website.

Lynn Freer – Spidell

Ms. Freer provided comments on the following items:

- Payment of the estimated taxes and the e-pay penalty for California taxpayers. Ms. Freer requested that anyone who made a payment of estimated taxes over the threshold amount in 2020 be exempt from the imposition of the e-pay penalty.
- Information provided to the California Society of Enrolled Agents by the FTB regarding an Office of Tax Appeal case Spidell would like clarification on the answer that was provided by the FTB.

Joyce Cheng – California Society of Enrolled Agents (CSEA)

Ms. Cheng provided the following comment:

- CSEA requested that the FTB continue to work with the tax practitioner organizations to expeditiously disseminate information to taxpayers regarding California Individual Health Insurance Mandate related penalties and the subsidies available to them. The CSEA encouraged the FTB to provide more resources that help explain to taxpayers what to do if they cannot pay their tax liabilities, both in print and on the FTB website.

Christine Grab

Ms. Grab shared her proposed policy change requests with the Board, including:

- To end the policy of withholding estimated tax payments via credit elect until the taxpayer files a return.
- To end the policy of withholding estimated tax payments from married couples.
- Put amortization schedules on each bill showing how the interest for the billing period was calculated.

Item 7. – Executive Officer’s Time

Selvi Stanislaus provided an overview of the challenges and changes that were faced by FTB due to the pandemic in 2020. Selvi thanked the Board, the FTB employees and the taxpayer community.

Item 8. – Board Members' Time

Chairperson Yee thanked Selvi for her leadership during this extraordinary time and the ongoing dedication of the FTB family and team.

Member Vazquez expressed interest for possible outreach dealing with the COVID-19 tax issues along with Member Miller, and their concern for outreach and assistance working with small businesses.

Chairperson Yee congratulated Member Vazquez on his reelection to chair of the Board of Equalization.

And so, with that, Chairperson Yee adjourned the meeting at 2:43 p.m.

Dawn Casey

Board Liaison

Date