STATE OF CALIFORNIA
Taxpayers' Rights Advocate Office MS F385
FRANCHISE TAX BOARD
PO BOX 157
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02.01.2024

California Society of Enrolled Agents

Dear David Hilliard, EA:

I thank the California Society of Enrolled Agents (CSEA) for presenting concerns at the December 2023 Taxpayers' Bill of Rights Hearing. As the Taxpayers' Rights Advocate, CSEA's concerns are important to me.

The following responses are provided by the appropriate program areas within the department:

Question 1 – California Conformity

On September 30, 2015, Assembly Bill 154, the Conformity Act of 2015 was enacted. The Act changed California's specified date of conformity to the IRC from January 1, 2009, to January 1, 2015. Since then, there have been countless federal tax law changes ushered in with increasing complexity, and California has not conformed or has only partially conformed to those federal changes. In fact, the FTB's Supplemental Guidelines to California Adjustments (Publication 1001) provides 24 pages of the nonconformity or modified conformity between federal and California tax law.

CSEA understands the magnitude of the work to create a new date for conformity, however such conformity would resolve many tax preparation issues and the necessity for double books to track federal and state differences. The more nonconformity, the greater the opportunity for errors in reporting. The result could be costly to California to audit and collect additional taxes due to such errors.

The California Society of Enrolled Agents supports conformity to tax reforms that would relieve any additional tax burden on California taxpayers and opposes any conformity that would create or add to the tax burden of California taxpayers. CSEA is available as a resource to discuss tax conformity issues or any other tax matters.

Response 1

Thank you for your input on this item. FTB is available to provide technical support and guidance to assist in any efforts by our legislative partners to pursue conformity to tax reforms.

Question 2 – Creating a Business-Friendly California

California has seen the exodus of large businesses (Tesla, Oracle, HP Enterprise, Starlink, VRBO, File Trail, etc.) from this state to either tax free or tax/business friendly states. When such businesses leave it is no secret that the decision is at least partially based on California tax policies. Other factors include the high cost of living and ability to grow their business. California continues to add taxes to the statutes and delays or fails to conform to many federal tax changes. These taxes are driving away huge sources of revenue with no replacement to fill the gap.

As an example, the California deduction amounts/limits are significantly less than the federal as seen in IRC §179(b)(1) and (b)(2). The California maximum is $25,000 with a phase-out at $200,000. (R&TC §17255, 24356). The current federal amounts under §179(b)(1) and (b)(2) are $1 million and $2.5 million, respectively. The California amounts are .025% and 8%, respectively, of the federal amounts. This is dismal. These limits were implemented by California in 2017, eight years ago. There is no indexing for inflation, and what can be purchased for $25,000 is drastically less in 2023.

Year one of the 2023-2024 legislative session gave rise to billions of dollars of new or extended taxes. If businesses are being pummeled with new taxes, there is always the potential, and likelihood, that those costs will be passed on to the consumers. Not only are businesses leaving the state, but how long before there is a mass exodus of individuals?

An exodus of large businesses is serious and certainly does nothing to entice out-of-state business to move to California. The tax issues come from all California state tax agencies and the legislature needs to pay attention.

CSEA understands that the FTB does not create the legislation and CSEA intends to remind legislators that there is peril in their rush to create new taxes to cover California's extraordinary expenses.

CSEA is available to discuss both issues in greater depth and to support FTB in any way. As always, we thank the Franchise Tax Board for its attention to the issues presented and look forward to its response.

Response 2

FTB appreciates and values feedback from the tax practitioner community and CSEA. As you note, the suggestions in your proposal would require legislative changes to existing statutes.

Sincerely,

Angela Jones

Taxpayers' Rights Advocate

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