



STATE OF CALIFORNIA
Taxpayers' Rights Advocate Office MS F385
FRANCHISE TAX BOARD
PO BOX 157
SACRAMENTO CA 95741-0157

02.03.2025

California Tax Reform Association

Dear Lenny Goldberg:

Thank you for submitting your issues for the December 2024 Taxpayers' Bill of Rights Hearing. As the Taxpayers' Rights Advocate, your concerns are important to me.

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

1. Sales Factor

From various sources, it appears that reporting of the sales factor in certain industries has been understated, leading to substantial underpayments of tax. In your data for C corporations, the average sales factor is 7.81. In your assessments, you mention that one of the largest areas of tax underpayment is in the sales factor. We would like the FTB to provide information with regard to the average sales factors reported by industry and by company size. That data may be readily available, but we did not find it in the data portal. Thank you for providing that information.

Response

After searching our records, we were unable to locate any information regarding the average sales factors reported by industry and by company size.

2. Water's-Edge

We would also like information with regard to the use of the water's edge election by industry and company size. While this may be in the data portal, we were unable to find it. Thank you for providing that information.

Response

After searching our records, we were unable to locate any information about the use of the water's edge election by industry or company size.

3. Out of State Like-Kind Exchanges

Ten years ago, based on our advocacy, the legislature required reporting on out-of-state like-kind exchanges so that they can be enforced when the property is disposed of. We would like a report on the success of the program, and the data on the reported exchanges.

Response

Each year we continue to receive an increase in Forms 3840, *California Like-Kind Exchanges*, when California real property is exchanged for like-kind property located outside the state, under Internal Revenue Code section 1031. Taxpayers must file this form for the taxable year of the exchange and for each subsequent taxable year until the California source deferred gain or loss is recognized. In taxable year 2022, we received approximately 30,000 forms.

Sincerely,

A handwritten signature in black ink that reads "Angela Jones". The signature is written in a cursive, flowing style.

Angela Jones

Taxpayers' Rights Advocate

cc: Malia M. Cohen

Ted Gaines

Joe Stephenshaw

Selvi Stanislaus

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