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State of California
Franchise Tax Board

05.30.08

FTB NOTICE 2008 - 3

SUBJECT: AB 897 Implementation – Issuance of Exempt Acknowledgement Letter

Purpose

The purpose of this Notice is to explain how the Franchise Tax Board (FTB) will implement the provisions of AB 897, Stats. 2007, ch. 238, which changed the rules for California income and franchise tax purposes for organizations that are exempt under Internal Revenue Code (IRC) section 501(c)(3). Specifically, AB 897 added a new subdivision to Revenue and Taxation Code (RTC) section 23701d that provides generally that IRC section 501(c)(3) exempt organizations will be exempt for California purposes upon submission of a copy of the organization's IRC section 501(c)(3) federal determination letter to the FTB. This change specifically applies to requests for tax-exempt status in California filed by organizations with the FTB on or after January 1, 2008.

Background

Prior to the enactment of AB 897, the only way an organization could obtain an exemption from income or franchise taxation under RTC section 23701d was to file FTB Form 3500 (Exemption Application) with the FTB. Following the enactment of AB 897, which is specifically operative for requests for tax-exempt status in California filed by organizations with the FTB on or after January 1, 2008, organizations previously granted a federal income tax exemption under IRC section 501(c)(3) by the Internal Revenue Service are now able to obtain California income or franchise tax exemption by submitting a copy of their federal determination letter of exemption under IRC section 501(c)(3) to the FTB.¹

Exempt Acknowledgement Letter

The FTB has created California Form 3500A (Submission of Exemption Request: Exemption Based on 501(c)(3) Federal Determination Letter). Organizations that wish to obtain California income tax exemption based on RTC section 23701d(c)(1), as added by AB 897, should submit a copy of their federal determination letter of exemption under IRC section 501(c)(3) and a completed copy of Form 3500A to the FTB at the following address:

¹ RTC § 23701d(c)(1).

Exempt Organizations Unit MS F120
Franchise Tax Board
PO Box 1286
Rancho Cordova, CA 95741-1286

Upon receipt of a completed copy of the organization's Form 3500A and copy of the federal determination letter of exemption under IRC section 501(c)(3), the FTB will issue an "Exempt Acknowledgement Letter" advising the organization that the Franchise Tax Board has received the organization's submission. The Exempt Acknowledgement Letter will also identify the effective date of the organization's California tax-exempt status, which will generally be the same date as the effective date of the federal tax-exempt status under IRC section 501(c)(3).²

Pursuant to RTC section 23701d(c)(1), the submission by the organization of the copy of the federal determination letter of exemption under IRC section 501(c)(3) to the FTB results in the organization becoming exempt for California purposes by operation of law, without any separate determination by the FTB. As a result, the Exempt Acknowledgement Letter shall not be treated as a "Determination Letter" within the meaning of RTC section 21012(a)(2) and FTB Notice 89-277 (May 10, 1989). Instead, the Exempt Acknowledgement Letter is intended to acknowledge the FTB's receipt of the organization's submission of the copy of the federal determination letter of exemption under IRC section 501(c)(3) and identify the period for which the organization is exempt for California purposes.

However, it should be noted that under AB 897, any changes to the organization's operation, character, or purpose that have occurred since the federal exemption was originally granted must be reported immediately to the FTB. Organizations are required to be organized and operating for nonprofit purposes to retain California tax-exempt status, and AB 897 specifically provides that the FTB retains the right to revoke the exemption of an organization that is not organized or operated in accordance with this Chapter 4 of Part 11 of the RTC or IRC section 501(c)(3).³

The principal author of this notice is Adam J. Susz of the FTB, Legal Division. For further information regarding this notice, contact Mr. Susz at P.O. Box 1720, Rancho Cordova, CA 95741-1720.

² RTC § 23701d(c)(1).

³ RTC § 23701d(c)(3).