

## Assembly Bill 911 becomes law

### New Amnesty law amends penalty provisions; establishes 20-year collection Statute of Limitations

Assembly Bill (AB) 911 became law on September 29, 2005. AB 911 makes significant changes in how the Franchise Tax Board (FTB) manages and collects accounts, and breaks new ground in California tax law. For the first time in history, certain debts will be permanently removed from California's income and franchise tax records.

#### Highlights of the new law:

- Taxpayers that successfully resolve their Amnesty debts are no longer at risk for reassessment of previously waived penalties and fees, if they fail to file their 2005 or 2006 tax returns or pay in full the amounts due for those years. However, normal late filing and underpayment penalties will apply.

**Note:** Additional assessments or liabilities on a year that was eligible for Amnesty are still subject to the Amnesty Penalty, even if the year had previously been successfully resolved under Amnesty.

- Taxpayers may file a claim for refund of the Amnesty Penalty, but only on the grounds that the penalty was incorrectly calculated.
- The computation of the Amnesty Penalty will take into account overpayments from tax years that were or were not eligible for Amnesty, to reduce the amount of underpayment on which the amnesty penalty is computed for any amnesty-eligible tax year.

CONTINUED ON PAGE 2

## Top audit issues:

### What's New in the Franchise Tax Board Audit Program?

Recently appointed Audit Chief Debbie Langsea shares highlights of the Franchise Tax Board Audit Program:

- **What is the scope of the FTB Audit Program?**  
The Audit Program examines approximately 300,000 income tax returns filed by individuals or business entities each year. Audits are conducted by desk or field auditors through correspondence or at the taxpayer's or representative's location or place of business.
- **How many Audit staff members are there and where are they located?**  
The Audit Program has about 900 employees located at its Sacramento headquarters or at field offices in California, Illinois, New York, and Texas.

CONTINUED ON PAGE 5

## Inside

*Franchise Tax Board  
2006 Information  
Directory*

*Field office closures  
Page 2*

*Criminal corner  
Page 4*

*2005 Chaptered  
Legislation  
Page 6*

*Nonfilers will receive  
notices in December  
Page 7*

*New law affects  
unregistered tax  
preparers  
Page 10*

*e-Filing business  
entities tax returns  
Page 11*

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**Tax News** is a bimonthly publication of the Communications Services Bureau of the California Franchise Tax Board. Our primary objective is to provide information to income tax practitioners about state income tax laws, regulations, policies and procedures.

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## Assembly Bill 911 becomes law

CONTINUED FROM PAGE 1

- Government Code Section 13943.1 was amended to require FTB to extinguish certain inactive taxpayer debts.
- Revenue and Taxation Code Section 19255 was added, establishing a 20-year statute of limitations for collecting income tax or franchise tax balances due from taxpayers. When the 20-year statute has been reached, FTB abates the remaining balance due.

**Note:** Abatement of debts under Revenue and Taxation Code Section 19255 is effective July 1, 2006.

**Protective claim tax deposit payments**

The enactment of AB 115, the federal conformity bill (Stats. 2005, Ch. 691) converted advance payments made outside the Amnesty Program, including payments made under FTB's "protective claim" procedure, to statutory tax "deposits." Certain taxpayers made these tax deposit payments as estimates of amounts that they might owe in connection with ongoing or anticipated audits, protests, appeals, or settlements. Taxpayers that chose not to apply for amnesty made these deposits by the end of the amnesty period to avoid imposition of the amnesty penalty on any later-determined deficiencies. As of September 2005, 830 individual and corporate taxpayers had made tax deposit payments in the amount of approximately \$3.5 billion. Processing these cases is a top priority in the audit program.

- FTB has made a commitment to expedite the audit examination of cases involving tax deposit payments made outside the amnesty program, and complete them by May 2006. However, audits may not be expedited on those cases that involve pending federal audit adjustments, abusive tax shelters, or taxpayers that request additional time. FTB will annually follow up with each taxpayer on cases involving pending federal adjustments, to check the status. Taxpayers receiving a final federal determination letter should contact FTB within 15 days to ensure their claims are quickly resolved.

We have contacted most taxpayers who made a tax deposit payment during the amnesty program period. If you or any of your clients have not been contacted about a payment or protective claim filed for a payment made outside the amnesty program, please see [www.ftb.ca.gov/amnesty/Protect\\_claims](http://www.ftb.ca.gov/amnesty/Protect_claims) for more information.

## Field office closures

FTB will permanently close its field offices in Fresno, San Bernardino, Santa Rosa, Stockton, and Ventura between October 2005 and December 31, 2005. The office in San Jose will also be closed to the public, although a portion of its space will continue to be used by audit staff.

This is the second and final step in a closure process to reduce costs that began in February 2004. At that time, FTB replaced in-person customer assistance at these locations with self-service options like auto dial telephones, tax forms, and Homeowner and Renter Assistance forms in the field office lobbies. While these services are being eliminated, people can receive forms and assistance from the FTB Website at [www.ftb.ca.gov](http://www.ftb.ca.gov) and by calling our toll-free telephone service. FTB will continue to offer in-person assistance for the foreseeable future at the Los Angeles, Oakland, Sacramento, San Diego, San Francisco, and Santa Ana field offices.

# More about reporting real estate commissions

In our September/October issue of *Tax News*, we brought you some general information about filing Form 1099-MISC to report real estate commission payments (*Report real estate commissions on Form 1099-MISC*). We are following up in this issue, with a couple of examples of real estate transactions showing when Form 1099-MISC should be filed.

Real Estate Brokers are required to report real estate commission payments of \$600 or more to brokers and agents on Form 1099-MISC in Box 7 - Nonemployee Compensation. The following two scenarios describe who is obligated to report commission payments.

## Scenario 1

Mr. Smith is selling his residential property and lists his house with Agent Jones, an agent with XYZ Realtors. Mr. Brown makes an offer to purchase the home using Agent White, an agent with HJK Realty. The offer is accepted and escrow closes.

Here are the Form 1099-MISC reporting obligations for the commission payments:

- Mr. Smith (seller) does not have a reporting obligation since he has not engaged in the course of a trade or business.
- XYZ Realtors (listing broker) has an obligation to report commission payments made to HJK Realty (buyer's broker).
- XYZ Realtors (listing broker) has an obligation to report commission payments made to Agent Jones (listing agent).
- HJK Realty (buyer's broker) has an obligation to report commission payments made to Agent White (buyer's agent).
- Mr. Brown (buyer) does not have a reporting obligation.

The listing broker must report the commission payments made to the buyer's broker and the listing agent. Also, the buyer's broker must report the commission payments made to the buyer's agent.

## Scenario 2

Mr. Green is selling his residential property and lists his house with Agent House, a broker/agent with SSS Realtors. Ms. Baker makes an offer to purchase the home using Agent Lewis, an agent with QRS Realty. The offer is accepted and escrow closes.

Here are the Form 1099-MISC reporting obligations for the commission payments:

- Mr. Green (seller) does not have a reporting obligation since he has not engaged in the course of a trade or business.
- SSS Realtors (listing broker/listing agent) has an obligation to report commission payments made to QRS Realty (buyer's broker).
- QRS Realty (buyer's broker) has an obligation to report commission payments made to Agent Lewis (buyer's agent).
- Ms. Baker (buyer) does not have a reporting obligation.

The listing broker must report the commission payments made to the buyer's broker. Also, the buyer's broker must report the commission payments made to the buyer's agent.

## Where to get help:

You can contact FTB and the IRS Monday through Friday to answer questions related to information returns.

FTB: (916) 845-6304

Hours of Operation: 7:00 a.m. to 4:00 p.m.  
(Pacific Standard Time)

Email address: [IRPhelp@ftb.ca.gov](mailto:IRPhelp@ftb.ca.gov)

Form 1099 Information Reporting Website:  
[www.ftb.ca.gov/forms/misc/4227.html](http://www.ftb.ca.gov/forms/misc/4227.html)

IRS: (866) 455-7438

Hours of Operation: 8:30 a.m. to 4:30 p.m.  
(Eastern Standard Time)

Email address: [mccirp@irs.gov](mailto:mccirp@irs.gov)

FTB also has an informational brochure entitled, FTB 4201RE, *1099 Reporting for Real Estate Brokers* that you can download from the FTB Website. Go to [www.ftb.ca.gov](http://www.ftb.ca.gov) and enter 4201RE into the search engine.

# Criminal Corner

FTB's Investigations Bureau's special agents identify and investigate cases of tax evasion, fraud, and employee misconduct. They bring cases to the various county district attorneys for prosecution, working closely with the district attorneys and various task forces on felony cases involving embezzlement, grand theft, Medi-Cal fraud, insurance fraud, and other charges.

Informing the public of these successful prosecutions through local media encourages compliance with the income tax laws and maintains the public's trust in the tax system. *Tax News* will include short descriptions of recently completed court cases as a periodic feature in *Criminal Corner*.

FTB cases that resulted in sentencing in September:

- A fraud and embezzlement ring was broken up when several individuals were arrested for embezzling more than \$2.2 million from the The Gas Company in Southern California. According to court documents, the scheme involved more than 300 fraudulent invoices, issued between December 1995 and January 2002. The payments on the invoices were to an individual, a legitimate corporation and five sham corporations. The parties involved allegedly split the proceeds or paid the personal expenses of Clarence Bonner, the lead defendant in the case and former employee of The Gas Company.

Bonner, 53, was sentenced on October 14, 2005, to six years in state prison for grand theft and tax evasion. Bonner was also ordered to pay \$2.2 million to his former employer and \$176,589 to FTB.

Bonner's wife, Sharon, 52, was sentenced to 16 months in state prison on one count of filing a false state income tax return. She was also ordered to pay FTB \$176,589 in back taxes.

Another defendant in the same case, Anita L. Orme, 50, was sentenced to one year in county jail and three years of formal probation for her role in stealing more than \$2.2 million from The Gas Company.

Orme set up J.C. Hill Management, Inc., a sham corporation, to fraudulently bill her employer. In 1999, Orme received more than \$90,000 for her part in the scheme, and failed to claim the money on her 1999 state income tax return.

In addition to the jail time, Orme paid \$55,865 restitution to her former employer, and \$4,454 to FTB representing the unpaid tax, penalties, interest, and cost of the investigation.

Joseph Pierro, 66, appeared in Los Angeles County Superior Court, Division 103, and pleaded no contest to one count of grand theft and tax evasion. His wife, Haydee, 56, pleaded no contest to tax evasion and was sentenced to three years felony probation. The Pierros operate IDI Technologies, which was involved with more than \$400,000 in fraudulent invoices.

The Pierros were ordered to pay restitution of more than \$436,000 to The Gas Company. A hearing to determine restitution to FTB is pending.

This was a joint investigation with the Los Angeles County District Attorney's Major Frauds Division.

- Rogelio Silva, aka Roy Silva, of Salinas, pleaded no contest October 14, 2005, to 11 counts of state income tax evasion.

Silva, 58, owner and operator of Drop Deck Specialists, Inc., pleaded no contest to six counts of failing to file his personal state income tax returns and five counts of failing to file his corporation's state income tax returns. According to court documents, Silva earned more than \$1.3 million between 1998 and 2003, and owes the state more than \$250,000 in unpaid tax, penalties, and interest, plus the cost of the investigation and prosecution. The exact amount of restitution will be determined when Silva is sentenced on January 13, 2006. He faces a maximum sentence of 13 years in state prison.

- Eddie R. Salvacion, 55, a self-employed Vallejo tax preparer, was sentenced to 15 months in federal prison for preparing false state income tax returns.

Salvacion solicited clients by promising them greater refunds. He obtained the promised refunds by filing amended returns and overstating deductions. He was ordered to pay \$90,000 in restitution to FTB, was assessed a \$10,000 fine payable to the court, and will be placed on three years probation after serving his time of 15 months in jail.

# Top audit issues:

CONTINUED FROM PAGE 1

- **What are the top audit issues?**

Taxpayers and tax practitioners have expressed an interest in the specific audit issues looked at by FTB auditors. Sharing California's top audit issues is in line with FTB's Strategic Goal 2, *Promote Fair and Effective Tax Administration*. The following audit issues cover both personal income tax and business entities tax.

1. **Abusive tax shelters** – Abusive tax shelters have become a major issue not only in California, but throughout the country. Abusive tax shelters have resulted in billions of dollars in lost tax revenue. FTB has joined forces with other state agencies and the Internal Revenue Service (IRS) to actively exchange information related to audit activity, and leads to identify abusive tax schemes. FTB will continue to aggressively pursue those taxpayers who use abusive tax shelters. In addition, taxpayers who do not fulfill the new California reporting requirements can expect the assessment of penalties for the failure to disclose the appropriate information. Abusive tax shelters are a top priority for both personal income tax and business entities tax.
2. **Enterprise zone credit** – Over the last year, we worked with other state agencies to address the issuance of invalid hiring vouchers. FTB will review supporting documentation for those vouchers determined to be inappropriately issued, and will give taxpayers an opportunity to obtain a valid voucher.

## Personal Income Tax

3. **Bad debt/worthless stock** – We continue to see Schedule D losses where the debt reported was not worthless in the year claimed, was not a valid debt, payments were never received, and no attempt made to collect the debt. Worthless stock is often not worthless in the year claimed, so it often becomes a timing issue with large tax implications.
4. **State Adjustments from IRS examinations** – California law requires taxpayers to notify us within six months of receipt of a final federal determination. The IRS sends FTB results of over 184,000 examinations each year. We issue notices for all IRS adjustments to which California conforms.
5. **Sale of property through an IRC §1031 exchange** – The sale of property through an IRC §1031 exchange raises questions regarding basis and related party transactions. Taxpayers continue to report transactions as IRC §1031 exchanges that do not meet such basic code requirements as items exchanged must be similar and adhere to the transaction's timing, and the basis must be correctly calculated.

6. **Sourcing of income and residency determination** –

The sourcing of deferred compensation, such as stock options, continues to be an audit issue. The accrual provision under California Revenue and Taxation Code Section 17554 was repealed effective January 1, 2002. Another ongoing focus of the Residency Program is determining whether a taxpayer actually changed their domicile and residency status shortly before receiving a large amount of income. It is important for taxpayers who change their residency status to retain documentation to support their residency change.

## Business entities tax

7. **Sales factor** – This is the most frequent audit issue for business entities. Common audit issues include defining gross receipts, distortion of income, and whether or not receipts should be assigned to California, particularly receipts from intangible income. In two recent cases, the Court of Appeal found in favor of the FTB on sales factor issues. The California Supreme Court accepted one case, *General Motors vs. FTB*, for review. A decision is likely by Summer 2006.
8. **Unity** – When do the parent and newly acquired subsidiary become unitary? Often there is no arbitrary benchmark to determine this date. Resolving this issue involves applying the taxpayer's facts and circumstances to unitary case law. Combination and decombination of corporations within the unitary group are based on the specific facts of the case and the three unity tests (unity of ownership, unity of operations, and unity of use).
9. **Business/nonbusiness** – Analyzing excess cash or liquid investments to determine whether the resulting income is business or nonbusiness income is frequently an audit issue. In addition, the sale of assets such as stock and partnership interests often raises the question of whether or not the income from the sale of such assets is business or nonbusiness income to the corporation. When a business asset is sold, the resulting income is most likely business income. Transactional and functional tests are used to determine the business versus nonbusiness income classification.
10. **Manufacturers' Investment Credit (MIC)** – Although the MIC was repealed as of January 1, 2004, we have audits for tax years prior to 2004. Our audit issues include qualified property, qualified costs, and payment of sales tax. We encourage auditors to use statistical sampling where it would be costly and time consuming to review all qualifying purchases. This is an efficient audit tool, and reduces the burden on taxpayers.

If you have suggestions for future articles about the FTB Audit Program, please e-mail us at [taxnews@ftb.ca.gov](mailto:taxnews@ftb.ca.gov).

# 2005 Chaptered Legislation

## **AB 18 (LaMalfa, Stats. 2005, Ch. 624).**

This act allows taxpayers special tax treatment, called disaster loss treatment, for losses sustained as a result of the Shasta County wildfires.

## **AB 115 (Klehs, Stats. 2005, Ch 691).**

This bill would change the specified date from January 1, 2001, to January 1, 2005, for taxable years beginning on or after January 1, 2005. Changing the specified date automatically conforms state law to all changes from January 1, 2001, through December 31, 2004, to IRC sections that have been previously incorporated by reference. Thus, California law would conform to most of the changes made to the federal income tax during that four-year period. Also, this bill would waive any penalty for underpayment of estimated tax for the 2005 taxable year resulting from the changes made by this bill.

In addition, this bill would make numerous changes to specifically not conform to or modify certain items in the IRC. Also, numerous technical changes regarding cross references and the deletion of unnecessary language that was used to conform to federal law changes subsequent to January 1, 2001, and prior to January 1, 2005, are being made by this bill.

**AB 139 (Assembly Budget Committee, Stats. 2005, Ch. 74).** This act provides the necessary statutory changes in the area of general government in order to implement the 2005 Budget Act.

Provisions of this act also:

1. Enhance information reporting applicable to third-party check cashing businesses.
2. Conform to federal law so that tax representatives who are suspended or disbarred by the Internal Revenue Service (IRS) would be likewise prevented from representing taxpayers in matters before the Franchise Tax Board (FTB).

3. Restrict the authority of FTB to pursue misdemeanor prosecution of tax scofflaws by revising prior law to confine prosecutions to a higher level of debt, an extended period of unresponsiveness, and stipulation that the taxpayer not suffer from a mental impairment.

## **AB 164 (Nava, Stats. 2005, Ch. 623).**

This act allows taxpayers special tax treatment, called disaster loss treatment, for losses sustained as a result of the severe rainstorms and related events that occurred in Kern, Los Angeles, Santa Barbara, and Ventura Counties.

**AB 190 (Negrete-McLeod, Stats. 2005, Ch. 160).** This act establishes the California Sexual Violence Victim Services Fund for taxpayers to designate a contribution on the personal income tax return.

## **AB 241 (Harman, Stats. 2005, Ch. 286).**

This act permits the Secretary of State to file an agreement of merger of two or more business entities without the receipt of the certificate of satisfaction from FTB if certain requirements are met. The surviving entity is deemed to have assumed the tax obligations of the disappearing entity.

## **AB 277 (Mountjoy, Stats. 2005,**

**Ch. 288).** This act permanently allows state bodies to hold closed sessions when discussing certain security related issues.

## **AB 346 (Chu, Stats. 2005, Ch. 184).**

This act appropriates funds for payments of claims against state entities, provides for waivers of required fees in certain circumstances, and charges the public entities for fees waived on approved claims.

## **AB 357 (S. Horton, Stats. 2005,**

**Ch. 143).** This act establishes the Veterans' Quality of Life Fund for taxpayers to designate a contribution on the personal income tax return.

## **AB 483 (Nunez, Stats. 2005, Ch. 161).**

This act extends the sunset dates of the California Firefighters' Memorial Fund and the California Peace Officer Memorial Foundation from January 1, 2006, to January 1, 2011.

## **AB 671 (Klehs, Stats. 2005, Ch. 308).**

This act requires FTB to inform taxpayers of their obligation to report and pay use tax to the Board of Equalization (BOE).

## **AB 780 (Chu, Stats. 2005, Ch. 188).**

This act aligns FTB open meeting procedural requirements with those applicable to BOE open meetings.

**AB 819 (Ridley-Thomas, Stats. 2005, Ch. 697).** This act establishes the California Colorectal Cancer Prevention Fund for taxpayers to designate a contribution on the personal income tax return.

## **AB 843 (Nunez, Stats. 2005, Ch. 396).**

This act prescribes guidelines to regulate income tax refund anticipation loans (RALs).

## **AB 911 (Chu, Stats. 2005, Ch. 398).**

This act addresses consequences of the income tax amnesty program administered by the department as follows:

1. Allows underpayments for amnesty-eligible years to be offset by overpayments from other years for purposes of computing the amnesty penalty.
2. Establishes a 20-year statute of limitations to collect income or franchise tax balances due from taxpayers, and thereafter extinguish the liability to pay such balances by abating the tax.
3. Allows the FTB to extinguish certain inactive taxpayer debts.
4. Repeals the provision of law that requires taxpayers that participate in amnesty to pay any tax due for the 2005 and 2006 taxable years to avoid having the benefits of amnesty revoked and the amnesty penalty imposed.

# Nonfilers will receive notices in December

Starting in December, FTB will mail over 750,000 notices to people we believe should have filed personal income tax returns for the 2004 tax year. The notices are based on income information we receive from a variety of sources including but not limited to: banks, financial institutions, the Employment Development Department and the Internal Revenue Service.

An individual who receives a notice is informed that we are unable to locate a tax return under the name and social security number shown on the notice.

**Remember** — if we identify any of your clients as nonfilers, we will automatically send you a copy of the original notice if you have filed a valid Power of Attorney with us for the 2004 tax year.

The quickest way to respond to a nonfiler notice is to log on to our secure public Website ([www.ftb.ca.gov/INC](http://www.ftb.ca.gov/INC)), or call our Interactive Voice Response phone system at (866) 204-7902. With both of these options you can request more time, resolve problems, get information, and request or download forms.

CONTINUED ON PAGE 10

## 2005 Chaptered Legislation

CONTINUED FROM PAGE 6

5. Makes technical clarifications of certain amnesty provisions.
6. Clarifies that taxpayers may file a claim for refund of the amnesty penalty, but limit the grounds to whether the penalty was properly computed.

**AB 961 (Assembly Higher Education Committee, Stats. 2005, Ch. 318).** This act requires the Golden State Scholarshare Investment Board (the board) to provide an annual listing of distributions to individuals with an interest in a participation agreement to FTB in a manner agreed upon by FTB and the board.

**AB 1027 (J. Horton, Stats. 2005, Ch. 428).** This act requires FTB to share information about certain criminal filings with specified state agencies.

**AB 1767 (Assembly Revenue & Taxation Committee, Stats. 2005, Ch. 349).** This act:

1. Clarifies current state law by conforming more closely to federal law with regard to the claim of right deduction.
2. Requires financial institutions, upon request, to liquidate a taxpayer's securities to satisfy the taxpayer's tax liability.
3. Provides an exception to the underpayment of estimated tax penalty due to an erroneous action by FTB.

4. Incorporates into the Revenue and Taxation Code (R&TC) a provision of the Penal Code that provides an exception to FTB's general disclosure law.
5. Allows reimbursement to persons for third-party charges and fees caused by an erroneous action by FTB.

**SB 13 (Bowen, Stats. 2005, Ch. 241).** This act amends the Civil Code and the Welfare and Institutions Code to provide limitations on the personal information a state agency may disclose for statistical research and reporting purposes.

**SB 14 (Campbell, Stats. 2005, Ch. 242).** This act provides an exception to the estimated tax underpayment penalty.

**SB 50 (Campbell, Stats. 2005, Ch. 5).** This act accelerates the income tax benefits for charitable cash contributions made for the relief of victims of the Indian Ocean tsunami.

**SB 157 (Ackerman, Stats. 2005, Ch. 211).** This act conforms to federal law by allowing taxpayers, including business entities, to enter into partial payment installment agreements to satisfy a tax liability.

**SB 158 (Machado, Stats. 2005, Ch. 251).** This act removes the social security number from the Uniform Statutory Power of Attorney Form.

**SB 229 (Figueroa, Stats. 2005, Ch. 658).** This act imposes a penalty on tax preparers who fail to register with the California Tax Education Council (CTEC).

**SB 457 (Kehoe, Stats. 2005, Ch. 622).** This act allows taxpayers special tax treatment, called disaster loss treatment, for losses sustained as a result of the severe rainstorms and related events that occurred in Orange, Riverside, San Bernardino, and San Diego Counties.

**SB 555 (Machado, Stats. 2005, Ch. 264).** This act coordinates the tax payment and withholding requirements applicable to nonresident members of certain limited liability companies (LLCs) by providing FTB with the tools to eliminate duplicate withholding.

This act repeals an obsolete provision relating to savings and loan associations. AB 2065 (Stats. 2002, Ch. 488) conformed California law to federal bad debt deduction rules for savings and loan associations, thereby making this section obsolete.

**SB 796 (Figueroa, Stats. 2005, Ch. 686).** This act requires links on state agency Websites to assist taxpayers to participate in government activities and obtain better customer service.

# Watch for FTB's new and improved Website

FTB is poised to roll out its new, "usability tested," redesigned Website in January 2006. The redesign includes a new *Tax Professionals Corner* on the homepage. We have taken usability seriously for quite some time (see related article). We have worked closely with Human Factors International (HFI), a well-regarded usability consultant, to professionally analyze, diagnose and change our Website – all based on understanding the information needs of real people – taxpayers and tax professionals.

HFI first tested FTB's current Website design by observing how people use the site, asking what kind of information they rely on us to provide, how easy is it to navigate, use the search function, and generally find what you need. The results of the usability study, along with an expert site review, gave us the information we needed to develop a prototype Web page. HFI tested our prototype, again with "real people," and that testing told us we are headed in the right direction.

At the same time, FTB worked with the State of California Chief Information Officer to get approval for deviating from the state design template in order to fully follow through with HFI's recommendations. We received approval to move forward with our customer-centric design.

Before the new Website is officially unveiled early next year, you can expect a few previews – possibly as soon as November. The layout of the Forms Web page and our FAQs will change, and we will introduce a new glossary feature. We are taking advantage of the redesign effort to "clean house." We're seeking out and updating obsolete information and links, identifying "content holes," and generally tightening the Website's efficiency and ease of use.

As mentioned earlier, one feature will be a *Tax Professionals Corner* located on the home page. Its design and content are based on interviews conducted with tax professionals – we asked you what you want and need, and responded accordingly. We plan to keep making changes based on usability principles, and look forward to getting your feedback.

## FTB has state government's first certified usability analysts

FTB is the first state agency in California to have, not one but two "certified usability analysts." These two employees are part of the FTB Website redesign project. Both completed a rigorous eight-month training program, and successfully passed the two-hour exam to achieve certification. This accomplishment is an outcome of FTB's commitment to designing and laying out its Website with a user experience focus.

The intensive training course covers four broad categories of usability concepts and tools:

*User research* – Before any changes are even contemplated, usability analysts conduct in-depth research on best practices for Websites, based on purpose, user needs, etc.

*Website design and layout* – The certified analysts learn how to lay out and design applications, pages, and all the myriad components of a complex Website, all from the user's perspective.

*Usability testing* – This is the heart of the program. Assumptions as well as actual designs and navigation methods are tested by users who "road test" the proposed Website.

*Putting research into practice* – In case you haven't noticed, usability research and testing is white hot in the Web world, with a corresponding glut of research from which to pick and choose. FTB's certified analysts have acquired methods and tools permitting them to sift through the

volume and determine which research is most relevant and useful to our Website users.

We at FTB care about the experience you have with our Website. We have taken steps to institutionalize good usability practices. As these practices become integrated throughout our business areas, we will become more efficient, saving time, and taxpayer money.

### *So exactly what is "usability?"*

Usability is the measure of the quality of a user's experience when interacting with a product or system — whether a Web site, a software application, mobile technology, or any user-operated device.

Usability is a combination of factors that affect the user's experience with the product or system, including:

Scannability - Users can quickly scan page and find relevant content.

Navigation - Users can easily locate links and follow how information is grouped.

Relevance - Content relates to user's situation or need.

Comprehension - Most users derive similar meaning from the words/ terms.

Minimal Scrolling - Content does not spill over to second or third screen, etc.

# IRS and CSEA host seminars in Southern California

In January 2006, the IRS and five Southern California chapters of the California Society of Enrolled Agents (CSEA) will present the IRS/CSEA Practitioner Seminar. This annual event is an opportunity for practitioners to hear from people directly involved in the following programs:

- IRS, BOE, FTB, and SSA e-File/e-Services.
- Ethics by TIGTA.
- IRS Civil Investigation into Abusive Schemes.
- IRS and the Bank Secrecy Act.
- IRS Taxpayer Advocate.

The seminar will be offered in five locations. See the schedule below for details on where and when you can attend the seminar. Attendance is worth up to seven hours of continuing professional education (CPE) credits: five hours Federal credit and two hours State credit.

To register, select the location below and send a check for \$85 to the contact person listed. Provide your name, company, address, phone, e-mail, and EA/CPA/CTEC number with your check. Submit one registration request per person. If you prefer a vegetarian lunch, please indicate that on your request.

Requests postmarked after December 9, 2005, and walk-in registration (if available) will be charged \$100. Your canceled check is your registration confirmation.

All workshops run from 8:00 a.m. to 4:30 p.m. Walk-in registration will open at 7:00 a.m.

## **01/09/06**

California Center for the Arts  
340 North Escondido Blvd.  
Escondido, CA

### **Escondido Contact:**

Sue Reed, EA  
1102 S. Main  
Fallbrook CA 92028-3325

## **01/10/06**

Courtyard by Marriott  
14635 Baldwin Park Towne Ctr  
Baldwin Park, CA

### **Baldwin Park Contact:**

Maria Mak, EA  
P.O. Box 4778  
West Covina CA 91791-0778

## **01/11/06**

Sheraton Universal  
333 Universal Hollywood Dr.  
Universal City, CA

### **Universal City Contact:**

Mary Louks, EA  
18650 Sunburst Street  
Northridge CA 91324-3928

## **01/12/06**

Hilton Hotel  
285 E. Hospitality Lane  
San Bernardino CA

### **San Bernardino Contact:**

Paul Cheatham, EA  
8480 Red Oak St.  
Rancho Cucamonga CA 91730-3815

## **01/13/06**

Hilton Hotel  
18800 MacArthur Blvd.  
Irvine, CA

### **Irvine Contact:**

Joni Terens, EA  
17632 Irvine Blvd., Suite 150  
Tustin CA 92780-3160

# New law affects unregistered tax preparers

Recent passage of Senate Bill 229 (Stat. 2005, Chap. 658) cracks down on tax preparers who do not register with the California Tax Education Council (CTEC). This law, which becomes effective in January 2006, follows on the heels of earlier law (SB 1543, Stat. 2004, Chap. 921), which required FTB to notify CTEC when we discover an unregistered preparer.

FTB is now authorized to issue a \$2,500 penalty (instead of a fine) to preparers who are not properly registered with CTEC. The penalty can be waived if the preparer registers within 90 days.

CTEC must reimburse FTB for this enforcement activity.

In 2004/2005 CTEC reimbursed FTB \$25,000 for salary and travel, and a one-time change to our information system to

accommodate recording the penalty. During this period FTB conducted 327 office visits, covering 405 preparers, and identified 30 preparers who were not CTEC-registered. FTB sent letters to these noncompliant preparers to officially notify them of their legal requirements.

- As of June 30, 2005, 11 of the 30 preparers had registered. FTB will verify the status of the remaining 19 preparers after January 1, 2006, and issue penalties if these preparers are not registered after that date.

In 2005/2006 the stakes go up: CTEC will reimburse FTB \$125,000 for salary, travel, and other costs associated with the program.

## REMINDER

*Tax News* will be going totally online beginning with the May issue. If you are currently a subscriber, you don't need to re-subscribe. And, if you have paid in advance beyond May for the print version of *Tax News*, we will issue you a prorated refund.

# Nonfilers will receive notices in December

CONTINUED FROM PAGE 7

You may also ask questions or provide information to us by using the secure email feature on our Website. Our Website and Interactive Voice Response phone systems are both available seven days a week, 24 hours a day for your convenience.

If you prefer to respond to our notices by writing or sending a fax, instructions for both of these options are printed on the notices.

### Did you know?

- FTB may contact nonresidents if they file a federal return with a California address.

- We may also contact nonresidents if they possess a California Occupational License that shows a California address. Nonresidents should update their addresses with the appropriate licensing board.
- Individuals should notify the FTB, wage payers, banks, financial institutions, and any other potential income reporters of social security number changes or if the IRS assigns an Individual Taxpayer Identification Number.
- When filing an electronic return, you should check whether the return was accepted or denied before leaving the online site. Many people leave the Website without realizing their returns were not accepted.

# e-filing business entities tax returns

Don't forget, you may be able to e-file your client's corporate return starting in January. See below for information.

## Franchise Tax Board Business e-file Overview

Business e-file Arrives January 2006

### Business e-file Participant Requirements

To participate in the California Business e-file Program you will need to:

- Be accepted in the IRS e-file program.
- Enroll in the California e-file program.

If you are already enrolled in the California e-file program, you do not need to enroll again for Business e-file.

If your office will have different contact information for Business e-file, please add this information using our online enrollment form. Go to our Website at [www.ftb.ca.gov](http://www.ftb.ca.gov) and search for: **join e-file**.

Currently there is no mandate for Business e-file. The e-file mandate only applies to certain individual income tax returns.

### Types of Returns, Forms, and Schedules for Tax Year 2005:

Beginning in January 2006, you can e-file the following California forms and schedules:

- Form 100 (including all attached schedules)
- Form 3523 – Research Credit
- Form 3540 – Credit Carryover Summary
- Form 3548 – Disabled Access Credit for Eligible Small Businesses
- Form 3805E – Installment Sale Income
- Form 3805Q – Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitation – Corporation
- Form 3805Z – Enterprise Zone Deduction and Credit Summary
- Form 3806 – Los Angeles Revitalization Zone Deduction and Credit Summary
- Form 3807 – Local Agency Military Base Recovery Area Deduction and Credit Summary
- Form 3809 – Targeted Tax Area Deduction and Credit Summary
- Form 3834 – Interest Computation Under the Look-Back Method for Completed Long-Term Contracts
- Form 3885 – Corporation Depreciation and Amortization
- Form 5806 – Underpayment of Estimated Tax by Corporations
- Schedule D-1 – Sales of Business Property
- Schedule H (100) – Dividend Income Deduction
- Schedule P (100) – Alternative Minimum Tax and Credit Limitations - Corporations
- Schedule R – Apportionment and Allocation of Income

Note: We will not support combined reporting for Tax Year 2005.

We will accept all corresponding IRS forms and schedules. Please check with your software provider for a specific list of forms and schedules they support.

### Business e-file Resources

All the information you will need for Business e-file will be available on our Website, including:

- e-file Publications
- Business Rules
- Schemas for Software Developers
- Approved Software Providers

### Business e-file Contact Information

e-Programs Customer Service

Phone: (916) 845-0353

Email: [e-file@ftb.ca.gov](mailto:e-file@ftb.ca.gov)



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