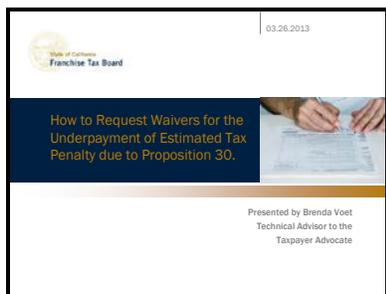


Franchise Tax Board's Free Webinar: How to Request Waivers for the Underpayment of Estimated Tax Penalty Due to Proposition 30

Slide #1



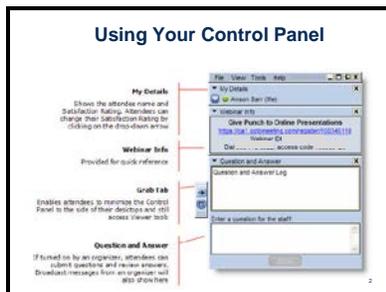
Welcome to the Franchise Tax Board's Free Webinar: How to Request Waivers for the Underpayment of Estimated Tax Penalty Due to Proposition 30.

During today's webinar, I will show you:

- How to request a waiver or reduction of the underpayment of estimated tax penalty.
- Examples of how to compute the waiver or reduction amount.
- Helpful tips for completing Form FTB 5805, *Underpayment of Estimated Tax by Individuals and Fiduciaries*.

This webinar will last about 30 minutes. So, for the tax professionals attending today, unfortunately this means the webinar does not meet the 50-minute class hour requirement for continuing education.

Slide #2



Before we get started, I want to take a moment to explain how the control panel on your screen works. In the upper right corner of your screen, you should see a tab. Just click on the arrow on the tab to expand out your control panel.

This slide shows an image of a control panel that is similar to the one on your screen. On it are the various parts of the control panel and their function. Please use it as a reference to guide your use of the control panel during the presentation.

Notice that your control panel has a dial-in number and access code on it. If at any point during the presentation you lose our signal, or if you can't hear the audio, please call the number listed on your screen to hear this webinar over the phone.

Franchise Tax Board's Free Webinar: How to Request Waivers for the Underpayment of Estimated Tax Penalty Due to Proposition 30

At the bottom of your control panel, there's a place for you to type in questions. Please feel free to type in your questions at any time during the webinar. I'll do my best to answer those questions at the end of the presentation or respond back to you directly as soon as possible after the webinar.

Slide #3

Today's Presenter

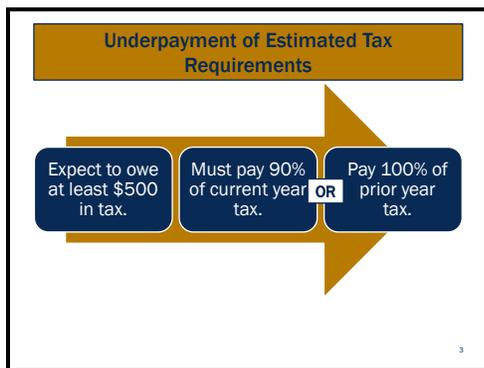
- Over 25 years experience with the Franchise Tax Board (FTB)
- Spent 20 years as an auditor, hearing officer and subject matter expert with the FTB including:
 - Nonresident taxation and residency determinations
 - Personal income taxation
 - Partnerships
 - S corporations
 - Limited Liability Companies (LLCs)
- Masters of Science degree in Taxation

Brenda Voet
Franchise Tax Board

Now, let me introduce myself. My name is Brenda Voet. I have more than 25 years of experience with the Franchise Tax Board. I spent 20 years as an auditor, hearing officer and subject matter expert, and even earned a Master's degree in taxation. I am now a technical advisor to the Taxpayers' Advocate.

Well, that's enough about me. Let's talk taxes!

Slide #4



So, as you know, both California and federal taxes are “pay-as-you go” which means that taxes must be paid as income is earned or received during the year. This can be done either through wage withholdings or by making estimated tax payments.

For wage earners, the prepayment of tax is withheld from each paycheck and then forwarded to the proper governmental agency by the employer.

Franchise Tax Board's Free Webinar: How to Request Waivers for the Underpayment of Estimated Tax Penalty Due to Proposition 30

Estimated tax is the method used to pay tax on income that is not subject to withholding. This includes income from:

- self-employment
- interest
- dividends
- alimony
- rent
- gains from the sale of assets
- prizes, and awards

Estimated taxes may also need to be paid if the amount of income being withheld from salary, pension, or other income is not enough.

Presently for California tax purposes, individuals may pay 100% of their estimated payments in 3 installments directly to the Franchise Tax Board. You must prepay:

- 30% of your estimated taxes by April 15th
- 40% by June 15th
- And, again 30% by January 15th

For California, there is no installment payment due on September 15th.

So, when at least 90% of the current year's tax or 100% of the prior year's tax is not paid throughout the year, either through withholding or by making estimated tax payments, a penalty may be imposed.

The penalty is equal to the interest that is due on the underpayment amount for the period of the underpayment.

Slide #5

Generally no underpayment penalty when:				
Total tax due less credits and withholding is less than \$500.	No tax liability on prior full year's tax return.	100% of prior year's tax prepaid.	90% of current year's tax prepaid.	<small>2012 Only</small> Penalty due to Prop. 30 tax increase.

Franchise Tax Board's Free Webinar: How to Request Waivers for the Underpayment of Estimated Tax Penalty Due to Proposition 30

The total amount that needs to be paid varies, but generally, there is no “underpayment penalty” when:

- The total tax due minus credits plus withholding is less than \$500
- There was no tax liability on the prior full year's tax return
- 100 percent (or 110% for high income earners) of the prior year's tax was prepaid. Because the Proposition 30 tax rate increases are to high-income earners, today we will be using the 110%
- 90 percent of the current year's tax was prepaid
- Or, for tax year 2012, the penalty was due to the Proposition 30 tax increase

Fortunately, the Form FTB 5805 is designed to guide us through each of these tests to determine if a penalty is due.

Slide #6

Proposition 30 raised the tax rate for individuals making more than:		
\$250,000	\$340,000	\$500,000
Filing: Single or Separate	Filing: Head of Household	Filing: Joint

For the next seven years, Proposition 30 raises the personal income tax rate on:

- Individuals filing a separate return or using the single filing status who make more than \$250,000 per year,
- Individuals using the Head of Household filing status with income of more than \$340,000 per year, or
- Couples filing a joint return with income of more than \$500,000 per year

But, you don't have to request a waiver for the next seven years. The waiver relief is only for tax year 2012, the first year of this increase, because Proposition 30 was approved by voters in November of 2012, yet the tax was effective January 1, 2012. This caused an 11 month period where we didn't exactly know what the actual tax rate was.

So, 2012 is the only year that a portion of the underpayment of estimated tax may be due to the Proposition 30 tax increase, and qualify to be waived.

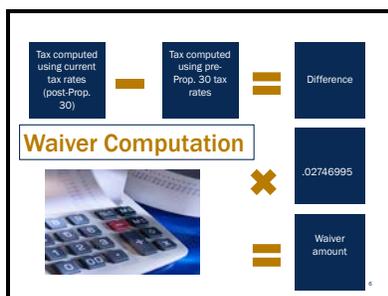
Franchise Tax Board's Free Webinar: How to Request Waivers for the Underpayment of Estimated Tax Penalty Due to Proposition 30

During this webinar, I will only be providing examples of how to compute and request a waiver of the penalty for high-income individuals for their 2012 tax year.

Please be aware that in many cases the underlying penalty is still imposed regardless of the Proposition 30 tax increase.

Generally, Form FTB 5805 does not need to be submitted when the penalty is due. FTB will figure the penalty and send a bill. However, the 5805 is used to request a waiver.

Slide #7



The amount of the waiver is just the difference between the tax computed using the current, or post-Proposition 30 tax rate, less the tax that results from using the pre-Proposition 30 tax rate. Just like when the waiver computation is done when there is a casualty, disaster, or other unusual circumstances.

The difference is then multiplied by .02746995 which is the penalty rate used to compute the penalty amount for tax year 2012.

The result is the amount of the penalty that should be waived.

I believe that the best way to show this computation is through examples.

For purposes of this webinar, I will be presenting a manual computation of the waiver amount using the Form FTB 5805 to show you the steps of this process.

If you are using a software program to prepare a tax return, you will need to follow your software instructions.

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Slide #8

Example 1

Filing Status: Single	2012 Taxable Income: \$475,000
	2011 Tax: \$41,823
Estimated Tax Payments: \$38,000	

This is James.

He is single and had taxable income of \$475,000 in 2012.

James made estimated tax payments totaling \$38,000 during 2012 and had a tax liability of \$41,823 in tax year 2011.

Slide #9

Line	Description	Amount
1	90% of 2012 tax liability	\$41,200
2	110% of 2011 tax liability	\$45,778
3	Estimated tax payments	\$38,000
4	Amount on line 2 minus amount on line 3	\$7,778

The first step in computing James' waiver is to calculate the underpayment penalty using the "current tax rates," which are also the "post-Proposition 30 rates."

So, for this example the tax on \$475,000 is \$45,788.

90% of the \$45,788 equals \$41,200 and James reports this on line 2.

James only made estimated payments, so there is no withholding to report on Line 3.

Since the amount on line 4 is greater than \$500, James must continue on to the next test.

For line 5, James had California adjusted gross income of more than \$150,000. So, he must figure his estimated tax based on the lesser of 90 percent of his tax for 2012 or 110 percent of his tax for 2011. In this example, 110 percent of his tax for tax year 2011 of \$41,823 is \$45,778.

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Next, on Line 6 James would enter the lesser of 90 percent of tax for 2012 or 110 percent of tax for 2011 which in this example is \$41,200 or 90% of his tax for 2012.

So, since James only paid \$38,000 in estimated taxes, which is less than \$41,200, he has an underpayment of \$3,200.

The \$3,200 underpayment in this example results in a penalty of \$88.

The next step is to compute the penalty again using the pre-Proposition 30 tax rates.

Slide #10

2012 Form FTB 5805
 State of California
 Franchise Tax Board
 Computed Using Pre-Prop. 30 Tax Rates
 Provided on Page 5 of Instructions for Form FTB 5805

Part 9 - Recalculate Penalties. All items listed on this page.

1	Underpayment for 2012 (see Part 8, line 10)	32,000	21,700
2	Underpayment for 2011 (see Part 8, line 10)	0	0
3	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater	32,000	21,700
4	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 90%	28,800	19,530
5	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 110%	35,200	23,870
6	Enter the tax amount on line 5 if the amount on line 4 is greater than the amount on line 6. Otherwise, enter the amount on line 6.	28,800	19,530
7	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 90%	28,800	19,530
8	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 110%	35,200	23,870
9	Enter the tax amount on line 6 if the amount on line 7 is greater than the amount on line 8. Otherwise, enter the amount on line 8.	28,800	19,530
10	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 90%	28,800	19,530
11	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 110%	35,200	23,870
12	Enter the tax amount on line 9 if the amount on line 10 is greater than the amount on line 11. Otherwise, enter the amount on line 11.	28,800	19,530
13	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 90%	28,800	19,530
14	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 110%	35,200	23,870
15	Enter the tax amount on line 12 if the amount on line 13 is greater than the amount on line 14. Otherwise, enter the amount on line 14.	28,800	19,530

Following the same process, but using the pre-Proposition 30 rates as found on the Tax Rate Tables provided on Page 5 of the instructions for the Form FTB 5805, we find that the tax is \$41,778 and that 90% of this is \$37,600.

So, in this example, there is no penalty since James made estimated payments of \$38,000.

Slide #11

2012 Form FTB 5805
 State of California
 Franchise Tax Board
 Computation of Waiver Amount

1	Underpayment for 2012 (see Part 8, line 10)	32,000	21,700
2	Underpayment for 2011 (see Part 8, line 10)	0	0
3	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater	32,000	21,700
4	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 90%	28,800	19,530
5	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 110%	35,200	23,870
6	Enter the tax amount on line 4 if the amount on line 5 is greater than the amount on line 6. Otherwise, enter the amount on line 5.	28,800	19,530
7	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 90%	28,800	19,530
8	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 110%	35,200	23,870
9	Enter the tax amount on line 7 if the amount on line 8 is greater than the amount on line 9. Otherwise, enter the amount on line 9.	28,800	19,530
10	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 90%	28,800	19,530
11	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 110%	35,200	23,870
12	Enter the tax amount on line 10 if the amount on line 11 is greater than the amount on line 12. Otherwise, enter the amount on line 12.	28,800	19,530
13	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 90%	28,800	19,530
14	Underpayment for 2012 (see Part 8, line 10) or 2011 (see Part 8, line 10), whichever is greater, multiplied by 110%	35,200	23,870
15	Enter the tax amount on line 13 if the amount on line 14 is greater than the amount on line 15. Otherwise, enter the amount on line 15.	28,800	19,530

Request waiver on Line 1 of Part 1 of Form FTB 5805:

Enter waiver amount on Line 13 of Part II of Form FTB 5805:

Waiver Amount: \$88 - 0 = \$88

The final step in computing the waiver amount is to subtract the pre-Proposition 30 penalty from the penalty computed using the current tax rates.

In this example, the entire penalty was caused by the increase in the tax rates due to Proposition 30. Accordingly, a Form FTB 5805 should be filed to request a waiver of the entire \$88 underpayment penalty amount.

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James should check the "Yes" box on Line 1 of Part 1 of the 5805 and include "Underpayment due to Proposition 30" as the explanation.

Then on Line 13, in Part II, James would enter the \$88 he wants waived in parentheses on the dotted line as shown.

Slide #12

The image shows a screenshot of the 2012 Form FTB 5805. The title is "Final 2012 Form FTB 5805 Attach to back of 2012 tax return". The form is divided into several sections. Section 1, "Part I - General Information", includes a checkbox for "Underpayment due to Proposition 30" which is checked. Section 2, "Part II - Request Waiver Request", includes a table with columns for "Amount" and "Description". Line 13 shows a value of \$88 in parentheses in the "Amount" column. The "Description" column for line 13 is blank.

This is the 5805 that James would attach to his 2012 state tax return. Please note that this is the 5805 that reflects the current year tax rates or post-Proposition 30 to compute the penalty with the amount of waiver also shown on Line 13.

Let's go through one more example.

Slide #13

The image shows a slide titled "Example 2" with a small photo of a woman. The slide is divided into four quadrants by a central vertical line and a horizontal line. The top-left quadrant contains "Filing Status: Single". The top-right quadrant contains "2012 income: \$1,475,000". The bottom-left quadrant contains "Tax Withheld: \$26,000" and "Estimated Tax Paid: \$12,000". The bottom-right quadrant contains "2011 Tax: \$22,758".

This is Betty. She is also single. In 2012, Betty had taxable income of \$1,475,000 from wages and the sale of stock.

Betty had \$26,000 withheld from her wages and made estimated payments of \$12,000.

Her 2011 tax was \$22,758.

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Slide #14

Line	Description	Amount
1	Withholding tax on wages	\$26,000
2	Estimated tax payments	\$155,590
3	Total tax liability	\$173,278
4	Underpayment	\$117,950
5	Estimated tax penalty	\$3,240
6	Total tax liability including penalty	\$176,518

Following the same steps as in the first example, Betty starts by first computing the tax using the current tax rates. In this example, the tax is \$173,278. This includes the 1% Mental Health Service Tax on taxable income of more than \$1 million.

90% of the tax is \$155,590 and Betty reports this on line 2.

On line 3, Betty would report the \$26,000 withheld from her wages. Since the \$26,000 withheld does not exceed the taxes shown on line 1, and the resulting difference reported on line 4 is more than \$500, Betty must continue on to the next test.

Because Betty's California adjusted gross income was more than \$1 million, the prepayment test of 100 or 110% of the prior year's tax exception is not available. So, Betty will need to have paid 90% of her current year's tax to avoid the penalty.

In this example, Betty did not. Her total underpayment is \$117,950, the result of the 90% of the current year's tax of \$155,590, less her combined withholding and estimated tax payments totaling \$38,000. Consequently, she has a potential underpayment penalty of \$3,240.

Slide #15

Line	Description	Amount
1	Withholding tax on wages	\$26,000
2	Estimated tax payments	\$155,590
3	Total tax liability	\$173,278
4	Underpayment	\$117,950
5	Estimated tax penalty	\$3,240
6	Total tax liability including penalty	\$176,518

Franchise Tax Board's Free Webinar: How to Request Waivers for the Underpayment of Estimated Tax Penalty Due to Proposition 30

To see if any of this penalty is due to the Proposition 30 tax rate increase, Betty must now compute the penalty using the pre-Proposition 30 rates as found on the Tax Rate Tables provided on Page 5 of the instructions for the Form FTB 5805.

In doing so, she finds that the tax is now \$139,528, including the 1% Mental Health Service Tax, which produces a 90% test of \$125,575, that she reports on line 2. Again, the prepayment test of 100 or 110% of prior year's tax exception is not available since her California adjusted gross income is over \$1 million.

Betty's combined withholding and estimated tax payments totaling \$38,000 still does not pass the 90% test. However, her penalty amount is now \$2,406.

Slide #16

The screenshot shows the 'Computation of Waiver Amount' section of the 2012 Form FTB 5805. It compares two tax computations for a taxpayer with a 2011 tax liability of \$139,528. The first computation uses current tax rates (post-Proposition 30) and results in a tax liability of \$139,528. The second computation uses pre-Proposition 30 tax rates and results in a tax liability of \$138,694. The difference between the two is \$834, which is the amount for which a waiver should be requested. The form includes instructions for requesting a waiver on Line 1 of Part 1 and for entering the waiver amount on Line 5.3 of Part II.

Line	Amount	Line	Amount
1	2011 Tax Liability	1	2011 Tax Liability
2	2011 Tax Liability	2	2011 Tax Liability
3	2011 Tax Liability	3	2011 Tax Liability
4	2011 Tax Liability	4	2011 Tax Liability
5	2011 Tax Liability	5	2011 Tax Liability
6	2011 Tax Liability	6	2011 Tax Liability
7	2011 Tax Liability	7	2011 Tax Liability
8	2011 Tax Liability	8	2011 Tax Liability
9	2011 Tax Liability	9	2011 Tax Liability
10	2011 Tax Liability	10	2011 Tax Liability
11	2011 Tax Liability	11	2011 Tax Liability
12	2011 Tax Liability	12	2011 Tax Liability
13	2011 Tax Liability	13	2011 Tax Liability
14	2011 Tax Liability	14	2011 Tax Liability
15	2011 Tax Liability	15	2011 Tax Liability
16	2011 Tax Liability	16	2011 Tax Liability
17	2011 Tax Liability	17	2011 Tax Liability
18	2011 Tax Liability	18	2011 Tax Liability
19	2011 Tax Liability	19	2011 Tax Liability
20	2011 Tax Liability	20	2011 Tax Liability
21	2011 Tax Liability	21	2011 Tax Liability
22	2011 Tax Liability	22	2011 Tax Liability
23	2011 Tax Liability	23	2011 Tax Liability
24	2011 Tax Liability	24	2011 Tax Liability
25	2011 Tax Liability	25	2011 Tax Liability
26	2011 Tax Liability	26	2011 Tax Liability
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28	2011 Tax Liability	28	2011 Tax Liability
29	2011 Tax Liability	29	2011 Tax Liability
30	2011 Tax Liability	30	2011 Tax Liability
31	2011 Tax Liability	31	2011 Tax Liability
32	2011 Tax Liability	32	2011 Tax Liability
33	2011 Tax Liability	33	2011 Tax Liability
34	2011 Tax Liability	34	2011 Tax Liability
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36	2011 Tax Liability	36	2011 Tax Liability
37	2011 Tax Liability	37	2011 Tax Liability
38	2011 Tax Liability	38	2011 Tax Liability
39	2011 Tax Liability	39	2011 Tax Liability
40	2011 Tax Liability	40	2011 Tax Liability
41	2011 Tax Liability	41	2011 Tax Liability
42	2011 Tax Liability	42	2011 Tax Liability
43	2011 Tax Liability	43	2011 Tax Liability
44	2011 Tax Liability	44	2011 Tax Liability
45	2011 Tax Liability	45	2011 Tax Liability
46	2011 Tax Liability	46	2011 Tax Liability
47	2011 Tax Liability	47	2011 Tax Liability
48	2011 Tax Liability	48	2011 Tax Liability
49	2011 Tax Liability	49	2011 Tax Liability
50	2011 Tax Liability	50	2011 Tax Liability

So, in comparing the two computations, we see in this example that a request to waive the Underpayment Penalty by \$834 should be made due to the Proposition 30 tax increase.

Slide #17

The screenshot shows the 'Final 2012 Form FTB 5805 Attach to back of 2012 tax return' section of the 2012 Form FTB 5805. It displays the final tax liability of \$139,528 and the estimated tax payments of \$38,000. The resulting underpayment penalty is \$2,406. The form includes instructions for attaching the form to the back of the 2012 tax return and for requesting a waiver on Line 1 of Part 1.

Line	Amount	Line	Amount
1	2011 Tax Liability	1	2011 Tax Liability
2	2011 Tax Liability	2	2011 Tax Liability
3	2011 Tax Liability	3	2011 Tax Liability
4	2011 Tax Liability	4	2011 Tax Liability
5	2011 Tax Liability	5	2011 Tax Liability
6	2011 Tax Liability	6	2011 Tax Liability
7	2011 Tax Liability	7	2011 Tax Liability
8	2011 Tax Liability	8	2011 Tax Liability
9	2011 Tax Liability	9	2011 Tax Liability
10	2011 Tax Liability	10	2011 Tax Liability
11	2011 Tax Liability	11	2011 Tax Liability
12	2011 Tax Liability	12	2011 Tax Liability
13	2011 Tax Liability	13	2011 Tax Liability
14	2011 Tax Liability	14	2011 Tax Liability
15	2011 Tax Liability	15	2011 Tax Liability
16	2011 Tax Liability	16	2011 Tax Liability
17	2011 Tax Liability	17	2011 Tax Liability
18	2011 Tax Liability	18	2011 Tax Liability
19	2011 Tax Liability	19	2011 Tax Liability
20	2011 Tax Liability	20	2011 Tax Liability
21	2011 Tax Liability	21	2011 Tax Liability
22	2011 Tax Liability	22	2011 Tax Liability
23	2011 Tax Liability	23	2011 Tax Liability
24	2011 Tax Liability	24	2011 Tax Liability
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27	2011 Tax Liability	27	2011 Tax Liability
28	2011 Tax Liability	28	2011 Tax Liability
29	2011 Tax Liability	29	2011 Tax Liability
30	2011 Tax Liability	30	2011 Tax Liability
31	2011 Tax Liability	31	2011 Tax Liability
32	2011 Tax Liability	32	2011 Tax Liability
33	2011 Tax Liability	33	2011 Tax Liability
34	2011 Tax Liability	34	2011 Tax Liability
35	2011 Tax Liability	35	2011 Tax Liability
36	2011 Tax Liability	36	2011 Tax Liability
37	2011 Tax Liability	37	2011 Tax Liability
38	2011 Tax Liability	38	2011 Tax Liability
39	2011 Tax Liability	39	2011 Tax Liability
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43	2011 Tax Liability	43	2011 Tax Liability
44	2011 Tax Liability	44	2011 Tax Liability
45	2011 Tax Liability	45	2011 Tax Liability
46	2011 Tax Liability	46	2011 Tax Liability
47	2011 Tax Liability	47	2011 Tax Liability
48	2011 Tax Liability	48	2011 Tax Liability
49	2011 Tax Liability	49	2011 Tax Liability
50	2011 Tax Liability	50	2011 Tax Liability

Here is the 5805 Betty would attach to her 2012 state tax return. It is the 5805 that used the current year tax rates, post-Proposition 30, to compute the penalty.

Betty should remember to check the "Yes" box on Line 1 of Part 1 of the 5805 and include "Underpayment due to Proposition 30" as the explanation.

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On line 13, Betty will enter the amount she wants waived in parentheses, in this example, \$834. The difference between the \$3,240 shown on line 11 and the \$834 waiver amount entered in the parentheses on the dotted portion of line 13 equals \$2,406, or the pre-Proposition 30 Underpayment Penalty amount.

Slide #18

Taxable Income	Current Tax Liability	Tax Using		Waiver Amount
		Pre-Prop. 30 Rates	Tax Difference	
\$7,400	\$74	\$74	\$0	\$0
\$17,000	\$265	\$265	\$0	\$0
\$27,000	\$652	\$652	\$0	\$0
\$38,000	\$1,294	\$1,294	\$0	\$0
\$48,000	\$2,079	\$2,079	\$0	\$0
\$250,000	\$20,853	\$20,853	\$0	\$0
\$300,000	\$26,003	\$25,503	\$500	\$14
\$500,000	\$48,603	\$44,103	\$4,500	\$124
\$1,500,000	\$176,603	\$142,103	\$34,500	\$948

This chart shows potential waiver amounts for various income levels. As you can see, in most cases the waiver amount may be minimal.

So, I really hope that you are able to use a software program that will do this computation for you, so that you do not need to manually go through the numerous steps that we have shown that are required to compute the waiver amount.

Although not covered in the examples in this webinar, when the annualized income installment method is used because income varied during the year, the process for computing the waiver amount is the same. Specifically, you would first compute the underpayment penalty using the current year tax rates, and then you would compute it a second time using the pre-Proposition 30 tax rate found on the Tax Rate Tables provided on Page 5 of the instructions for the Form FTB 5805. A comparison of the results will indicate if any of the penalty was caused by the increase in the tax rate due to Proposition 30.

Slide #19

MyFTB | ACCOUNT

After completing a one-time registration process, you and your authorized tax representatives can:

Get wage information.

Verify California withholding.

Verify estimated tax payments.

Change a mailing address.

View balances due.

View FTB-issued 1099 forms.

Franchise Tax Board's Free Webinar: How to Request Waivers for the Underpayment of Estimated Tax Penalty Due to Proposition 30

Finally, information about withholding, estimated payments, and more is available online at **ftb.ca.gov** by using MyFTB Account.

You will need to complete a one-time registration process to gain access to MyFTB Account. This process is simple. You just answer a series of questions and select a user name and password.

Individuals register with:

- A valid email address
- Their social security number
- The first and last name from the most recently filed California tax return, and
- Information from one of their previously filed California tax returns

Tax Professionals register with:

- A valid email address
- Social security number or Federal Employer Identification Number
- One of the following ID numbers:
 - Preparer Tax Identification Number
 - Electronic Filer Identification Number
 - California Tax Education Council Number, *or*
 - Certified Public Accountant Number

You cannot register as a tax professional if you do not have one of these ID numbers.

Well, that concludes the main presentation, but it looks like we have time now for a few questions. If at any time during the presentation you submitted a question, I'll do my best in the next few minutes to answer them. And if I don't get to them, I'll work on getting you a direct response as soon as possible.

How can I get a copy of this presentation?

We usually get asked this question a lot after our webinars. We hope to have this webinar available on our website at **ftb.ca.gov** as soon as possible. I believe if you search for "**5805 proposition 30 waiver**," you should be able to locate it.

If you request a copy during this webinar, I will do my best to email a copy directly to you within a week.

Here is another one. Why can't I just compute the penalty once and use the pre-Proposition 30 rates and attach that 5805 to the return?

Although it would reflect the penalty amount that would most likely be imposed, it doesn't properly request the waiver. Instead, it may just appear that the penalty amount was not properly computed.

However, if you check the "Yes" box on Part 1 of the 5805 and put the explanation that the "Underpayment was due to Proposition 30", this should be enough to put us on notice to compute this penalty accordingly.

Here's another question. Do you need a power of attorney?

Well you probably don't need a power of attorney to file the return or the waiver. However, if you are going to be talking with us, if you have any questions, or anything that you would like to know specifically about your client's account, you would most definitely need a power of attorney because we need authorization to be able to talk with you about confidential information. We just had a webinar earlier this month that talked about the power of attorney.

Our new power of attorney form is available online at ftb.ca.gov and there are really good instructions on how to complete the form. So, if you want to talk about confidential information, you need a power of attorney and I would encourage you to do that.

Another question is an individual made over \$1 million dollars in 2012 (first year over \$1 million). His estimated tax payments for 2012 were based on 110% of his 2011 taxes. Is some kind of waiver available?

Well, that depends... Actually, the prior year's tax test is not available when AGI is more than a million dollars, by law. So, it's going to be based on 2012 tax for the Proposition 30 amount. But, waivers also are available if there was some sort of casualty/disaster loss or some sort of unexpected event. So, I'm wondering if this may be, deemed to be an unexpected event? I have to be honest with you right now. I don't know off the top of my head the qualifications for that, but I would encourage you to look into that to find out if this was a one-time event that may qualify as an unexpected event.

Can you annualize the underpayment penalty?

Yes. As I said earlier, the annualized income installment method can be used. It's a more complicated process. I didn't choose to go over it with this webinar because I wanted to give you the foundation so that you would have an understanding as to how to arrive to the waiver amount due to the Proposition 30. You can annualize the underpayment penalty following the instructions in our 5805. The thing to know about Proposition 30 is that you will go through it the same as we showed in the webinar.

First you will go through it using the current tax rate and then you will go ahead and go through the computation once more using the pre-Proposition 30 tax rates. Then compare those figures to see if the fact that the income varying throughout the year will cause the penalty to be there if a portion of it can be relieved due to the Proposition 30.

Are EAs authorized tax reps? You've mentioned PTIN, CTEC, EFIN, or CPA.

You are right. I did. In creating the account for tax professionals, unfortunately, we don't get the enrolled agents number from the IRS but we do know that you have a Preparer's Tax Identification number and we do get that information. We definitely recognize enrolled agents. I got to tell you that I passed part one of the test and I admire all those that have gone through that test. So, it has nothing to do with the fact that you are an enrolled agent and we don't recognize you. We do very much and we greatly understand what you have gone through. We just don't get your enrolled agent's number and we need you to use the Preparer's Tax Identification number.

Does FTB refund automatically if the client overpays the penalty?

If you overpay the penalty, we will go through the computation and yes, it will be refunded. Automatically? It all depends. If there is an outstanding balance due, it may be used to pay this. However, in most cases, the difference should automatically back to you without having to request that.

You mentioned 5805 is for a waiver and FTB would calculate the penalty. What would need to be completed on the 5805 to request a waiver and not calculate the penalty?

If you don't submit a 5805 we will automatically compute the penalty. We are going to compute the penalty using the current tax rates. If you are in a high income situation and you do know that Proposition 30 is impacting you, I would encourage you to submit the 5805 and use that as a request for waiver relief from the tax increase. So if you know there is a penalty and you don't believe there is a waiver that can be done for the Proposition 30 you don't need to complete the 5805. We will do that for you. But, if there is a situation you want to request a waiver, that's when we are asking you to complete the 5805. Indicate on line 1, by the box, that you are requesting a waiver. Give us an explanation as to why and then show us the amount you believe that should be waived.

Well, it looks like we are done with most of the questions. If some others come on in I didn't have the opportunity to answer like I promised, I will do so directly to you.

That's it for this presentation. Thank you for watching, and I hope you have a nice day!