



STATE OF CALIFORNIA
TAXPAYERS' RIGHTS ADVOCATE'S OFFICE MS F280
FRANCHISE TAX BOARD
PO BOX 1468
SACRAMENTO CA 95812-1468

01.31.2020

CHRISTINE GRAB

DEAR MS. GRAB:

Thank you for attending and presenting your issues at the December 2019 Taxpayers' Bill of Rights Hearing. The following responses were provided by the appropriate program areas within the Department. As Taxpayers' Rights Advocate, your concerns are important to me. During the year, I will keep track of issues requiring longer-term solutions and may report on these in the future as part of the Annual Report to the Legislature.

1. End Policy of withholding estimated tax payments made via credit elects

FTB Response:

The Franchise Tax Board previously addressed this issue in the 2018 Taxpayer Bill of Rights response to you, dated January 25, 2019. Please see link below.

https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2018_grab_response.pdf

2. End policy of withholding estimated tax payments from married couples

FTB Response:

The Franchise Tax Board previously addressed this issue in the 2018 Taxpayer Bill of Rights response to you, dated January 25, 2019. Please see link below.

https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2018_grab_response.pdf

3. Implement a policy whereby fees may not be assessed when the fee was implemented as a result of FTB breach of duty

FTB Response:

The notice and demand penalty is assessed without regard to timely payments. (Revenue and Taxation Code section 19133). This means the timing and application of payments to a year where a taxpayer has failed to file a return in response to a demand notice is irrelevant for purposes of computing the penalty.

4. Disclosure that the annual Taxpayer Bill of Rights meeting requests can be submitted online

FTB Response:

Currently the Taxpayers' Bill of Rights §21006 requires that the FTB conduct a hearing before the three-member Board where industry representatives and individual taxpayers are allowed to present their proposals for change in a public forum.

We will review and analyze the feasibility of your request to allow proposals specific to the hearing to be submitted online.

5. Create a public, online database of all the FTB's policies and procedures that are searchable by key word

FTB Response:

FTB has placed nine of its manuals/procedures on its public webpage. These manuals can be located at the link below. FTB's webpage is searchable by key words based on the best technology currently available and is continuing to improve. Also, each page has a link entitled "Is there something wrong with this page" for taxpayers to contact FTB about issues they may have with the webpage. We have received a lot of helpful feedback about what should be included on the public webpage, and we are happy to consider this suggestion as well.

<https://www.ftb.ca.gov/tax-pros/procedures/index.html>

6. Clear guidelines of what constitutes an abatement and claim for refund requests

FTB Response:

We have a webpage devoted to claims for refund.

<https://www.ftb.ca.gov/help/disagree-or-resolve-an-issue/claim-for-refund.html>

As explained on this webpage, FTB accepts claims for refund through:

- Amended returns
- Letters
- Reasonable cause forms –FTB Forms 2917 and 2924

To be valid, a claim must be:

- In writing
- Signed by the taxpayer or the taxpayer's authorized representative
- Include the specific reason[s] for the claim
- Filed within the statute of limitations (SOL)

For penalty relief, a taxpayer may file a claim for refund after the taxpayer has paid the penalty in full. If the FTB denies the claim or it is deemed denied pursuant to Revenue and Taxation Code section 19331, the taxpayer may appeal to the Office of Tax Appeals or file suit in Superior Court. If a taxpayer files FTB Form 2917 (Reasonable Cause – Individual and Fiduciary Claim for Refund) before paying the penalty, FTB will consider this a request for penalty abatement. If FTB rejects the request for penalty abatement, the taxpayer must pay the penalty and file a claim for refund to challenge the penalty before the Office of Tax Appeals or Superior Court.

7. Post the questions submitted to the annual Taxpayer Bill of Rights meeting along with the answers

FTB Response:

The Taxpayers' Bill of Rights requires that FTB conduct an annual hearing before the three-member Board to allow industry representatives and individual taxpayers to present their proposals. FTB responds in writing to proposals raised at the meeting. The written response contains a brief summary of the issue or proposal and is sent to the presenter. Taxpayers' Bill of Rights Hearing responses are also posted to FTB's website for transparency purposes. Transcripts of the meeting are available online, should any member of the public be interested in the presentations made at the Bill of Rights Hearing.

8. Timely re-application of misapplied payments

FTB Response:

If payments have been misapplied and we discover it, those payments are moved and given the same effective date so as not to disadvantage the taxpayer.

9. The FTB should only utilize standard use English

FTB Response:

The FTB strives to use plain and clear language in all of our communications, written and oral, in order to make communication easier to read, easier to understand, and to help educate the general public. FTB works hard to ensure all communication follows best practices with regard to using plain language, to ensure the FTB's oral and written communications are clear, concise, and helpful.

10. Issuing of denial letters

FTB Response:

FTB strives to respond to all claims for refund as required under Revenue and Taxation Code section 19323(a). If FTB does not respond to a taxpayer's refund claim within six months, the taxpayer may consider that a denial and move forward with due process pursuant to Revenue and Taxation Code section 19331. However, it is not FTB's practice to ignore claims.

11. Move the Taxpayer Advocate to work under GovOps

FTB Response:

The Franchise Tax Board previously addressed this issue in the 2018 Taxpayer Bill of Rights response to you, dated January 25, 2019. Please see link below.

https://www.ftb.ca.gov/about-ftb/meetings/taxpayer-bill-of-rights/2018_grab_response.pdf

12. FTB staff should only sign letters they wrote themselves

FTB Response:

In general, a letter to any person from FTB contains either a signature or the name of the writer, authorized representative, or contact person familiar with the subject area. For computer-generated letters, a telephone number and an address is provided to contact a person familiar with the subject.

13. Stop harassing people online

FTB Response:

Only authorized employees can respond on social media websites or other online forums on FTB's behalf. FTB has never authorized any employee to respond or post on Reddit on FTB's behalf.

Your personal information is protected under various California laws, including Revenue and Taxation Code section 19542 and the Information Practices Act (Civil Code section 1798, et seq). FTB will not disclose your personal information without your consent, unless authorized by law.

Sincerely,

Susan Maples

Susan Maples
Taxpayers' Rights Advocate

cc: Irena Asmundson
Karessa Belben
Juan Flores
Kari Hammond
Gayle Miller
Yvette Stowers