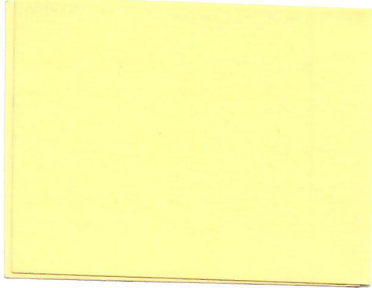


Christine Grab



Franchise Tax Board Taxpayer Advocate Office

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

Fax: (916) 843-8330

Re: Eleven (11) Requests for Annual Taxpayer Bill of Rights Meeting

Hello Taxpayer Advocate Staff.

Here are my eleven (11) requests for the 2020 Annual Taxpayer Bill of Rights Meeting. I know you would have preferred to have gotten these requests on Tuesday, December 15. Unfortunately, I had to file a Motion to Compel Further Responses for Demand for Documents against FTB, which took precedence over these requests.

I'll send these requests directly to the Board Members myself. Since I've had several people tell me that my emails are going to their junk folders, I am also sending this request via fax, too.

In January 2021, I'll send you and the Board an update on the lawsuit. It will include a copy of the Motion to Compel. I'll also send you proof of the four schemes to overcharge interest that I reference below. Please keep in mind that I worked in the mortgage industry for 11 years; calculating interest was what I did for a living. I am certain that my numbers are correct.

**1. End the policy of withholding estimated tax payments made via credit elects.**

This policy violates R&TC 19363, which says "Any amount paid as estimated tax for any taxable year shall be deemed to have been paid on the last day prescribed for filing the return for the taxable year (determined without regard to any

extension of time for filing the return),” which in simple English means that no matter what date you filed the previous year’s return, the credit elect payment must be credited on tax day, which is usually April 15.

However, the FTB does not apply these payments in accordance with the law; instead, the FTB puts the credit elect money into “suspense,” which is a fancy word for the general slush fund. The credit elect money does not get moved from the slush fund until the taxpayer files that year’s return. The FTB claims this policy is in line with federal practices, but that is a lie; the IRS does not withhold payments made via credit elects. I believe that not applying monies timely in accordance with the taxpayer’s designation is the federal crime of embezzlement per US federal code 18 section 654.

Demand Notices are only sent to taxpayers whom FTB believes have underpaid their tax liability as estimated by the FTB. The accompanying Demand Penalty is a crippling 25% of extra additional taxes beyond what the taxpayer actually owes.

By withholding the credit elect payment, it falsely appears that the account was underfunded and thus a Demand Notice is issued and a Demand Penalty is assessed. However, had the credit elect payment been applied in accordance with the law, the account would not have been underfunded and the Demand Notice and Penalties would not have been applied.

This practice of withholding credit elects in order to improperly impose Demand Penalties is the Federal Crime of Racketeering per the RICO act 18 USCA section 1961 et seq [1970].

The FTB has recently updated their policy so that if a taxpayer is single, the FTB will apply the credit elect to the taxpayer’s account AFTER the Demand Notice has gone out, so they are only on the hook for the false penalties.

However, married taxpayers get double racketeered. The FTB refuses to apply monies to married people’s account until the return is filed. The FTB then demands additional payments of monies for estimated taxes that would not have been due had the original payments been applied in accordance with the law. This second ploy to collect extra funds from married people is also the federal crime of racketeering per the RICO act 18 USCA section 1961 et seq [1970].

I have been asking for legal justification of this policy since 2016. FTB staff have repeatedly committed the federal crimes of Collusion to Cover Up Embezzlement



and Racketeering by misrepresenting what the law says by citing inapplicable tax codes taken out of context. They have yet to provide one valid legal code.

In my OTA appeal that was heard in August of 2019, FTB never denied that this withholding practice is unlawful. FTB has yet to deny it in the court case that is pending now in Superior Court.

FTB's Disclosure Department consistently denies that this practice exists. I would like an explanation as to why the different departments give me conflicting information.

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

It is not only estimated tax payments made via credit elects that are withheld from married couples -- ALL estimated tax payments made by married couples are withheld. If a married couple files late, they are double-racketeered as I just described.

The FTB claims this policy is in line with federal practices, but that is a lie; the IRS does not withhold estimated tax payments made by married couples.

The FTB's reasoning is: "we don't know how much to apply to each spouse so we won't apply any money at all!" This is ludicrous, especially since the tax code that the FTB uses to justify this policy clearly says that joint estimated tax payments can be apportioned in any manner that the spouses agree upon. By not giving the spouses the opportunity to designate how much of the money is to be applied to each spouse, and instead withholding the payment altogether, I believe the FTB is committing the federal crimes of embezzlement per US federal code 18 section 654. Falsely making the taxpayers' account appear underfunded in order to falsely impose penalties is the federal crime of racketeering per the RICO act 18 USCA section 1961 et seq [1970].

In their efforts to justify this practice, FTB staff have repeatedly committed the federal crimes of Collusion to Cover Up Embezzlement and Racketeering by misrepresenting what the law says by citing inapplicable tax codes taken out of context. When read in context, the laws say the exact opposite of what the FTB claims.

FTB's Disclosure Department consistently denies that this practice exists. I would like an explanation as to why the different departments give me conflicting information.

**3. Put amortization schedules on each bill showing how the interest for the billing period was calculated.**

It appears that FTB has four schemes in place to charge taxpayers excess interest beyond what is due:

1. The FTB's accounting system seems to systematically add small amounts of excess interest.
2. FTB staff can apparently manually override the system to artificially inflate interest due.
3. FTB unlawfully does not credit every estimated tax payment made by taxpayers, thus making it appear that the underpaid liability has a higher balance than it does. This appears to be executed in the same manner that I identified above in the racketeering schemes.
4. FTB falsifies the amount of payments collected by taxpayer's employer(s), thus making it appear the underpaid liability has a higher balance than it does.

The easiest way for FTB to restore credibility would be to start putting complete amortization schedules on the bills, including the interest rate and the dates that interest began accruing. This way, the taxpayer can check for themselves if the information is correct. If FTB stands by their principals of managing taxpayer accounts with accuracy and financial integrity, operating with transparency, and conducting business in accordance with the Statement of Principles of Tax Administration, they will not hesitate to do so.

**4. Fix flaws in the software which facilitate accounting irregularities**

As I documented in my CA Supreme Court Accusation that I filed against FTB employee Eric Yadao earlier this year, I have caught a third racketeering scheme.



Three of the estimated tax payments that I made were applied to bills that never existed on previous tax years that had already been zeroed out and closed. The money was then refunded to me, leaving the years that the payments had been intended for underfunded. Penalties were imposed on me for underpaying, even though my account would not have been underfunded had FTB not breached its duty to accurately apply payments.

Back in 2018, I sent FTB proof that I was overcharged interest by FTB employee Carry Burton-Beilby, who ordered me to send in more money than the bill said was due. Instead of refunding the overpayment to me, FTB manually overrode their system to make it appear that I owed more in interest than I did, then applied the overpayment to this newly created interest. I have caught a second instance of a FTB employee ordering me to send more money than the bill said was due, in a manner similar to the one that I documented with Ms. Burton-Beilby.

For each year that I checked, the system has added more interest than had accrued. This appears to be automated,

In 2014, FTB falsified the amount of money collected by my husband's employer, making it appear they had received about \$1,500 less than they did. It appears this falsified number was only for the purpose of calculating interest as the number is correct in other FTB records.

- FTB's software should not allow payments to be made on bills that don't exist, especially on a year that has already been closed.
- FTB's software should not allow interest due to be manually altered upwards.
- FTB's software should not be automatically adding excess interest.
- FTB's software should not allow portions of payments to vanish.

I am asking that you immediately correct all of these flaws in your software, as well as any other software flaws that facilitate accounting "errors."

## **5. Institute a policy requiring timely re-application of "misapplied" payments.**

Last year, I asked FTB to end its practice of waiting six weeks between locating a "misapplied" payment and moving it to the correct tax year. Their answer was no.

They said that it didn't matter if there was a lag since the payment would be retroactively applied to the correct date. But as discussed above, that statement was false. The six-week lag may cause a Demand Penalty to be falsely imposed.

I asked the Disclosure Department for all policies regarding misapplied payments. They only sent me one item, policy 9300, which says: "All user initiated monetary adjustments that affect taxpayer information within any of the accounting systems that generate collection action or refunds should be necessary, timely, accurate, and consistent with departmental policies and procedures."

I would like an explanation as to why waiting six-weeks for a correction is considered timely? When FTB's collections agents are aggressively harassing people for money that is not actually owed, this lag creates massive undue stress for taxpayers.

I would also like an explanation for why there is no policy in place regarding correcting misapplied payments if a taxpayer is not yet in collections or is not due a refund. From this policy, it appears that FTB does not require misapplied estimated tax payments to be corrected until **after** a taxpayer goes into collections.

**It appears that it is FTB's official policy is to falsely send taxpayers into collections.** As I detailed above in Items 1 and 2, once in collections, penalties are then falsely imposed. Not correcting misapplied payments timely is a breach of FTB's duty to accurately and timely apply payments in accordance with the Standards of Principals of Tax Administration. It also violates FTB's Principal of managing taxpayer accounts with accuracy and financial integrity.

I am requesting that FTB's policies be immediately updated to ensure that **all** misapplied payments are corrected the **same day** that the breach is identified.

## **6. Offer More Methods of Sending Information to FTB**

In my CA Supreme Court Accusation, I detailed that another critical component of the three racketeering schemes is to limit written communications from taxpayers to be only via fax. Here is an excerpt from page 19 of my brief:



The taxpayer was only allowed to send this proof via fax, which is an antiquated technology that is difficult and expensive for the majority of people to access. Most of us have to make a special trip to a venue with fax services, such as Staples, and pay an exorbitant \$1.00 per page to transmit the information. For people who don't have fax venue nearby, or have limited access to transportation, or have limited funds, it may be impossible to send a fax. This fax-only policy disproportionately affects those of low socio-economic status – the group that can least afford to pay false penalties.

FTB's fax machine was often busy and it would often take a long time to get the fax to transmit. I imagine many people would have to give up and leave the venue if they had other obligations preventing them from being able to stay at the fax venue for prolonged periods of time.

Even though I always left the fax venue with a fax confirmation in hand, when I would call in at least a week later to follow up as instructed by FTB representatives, FTB would frequently tell me that the fax was never received and I needed to send it again. Meanwhile, the clock was ticking on the imposition of penalties, fees and interest.

Regular mail was not an option, as FTB usually does not respond to correspondence sent via mail (exhibit 17, page 5, exhibit 14, pages 6 - 7). As FTB's Taxpayers' Bill of Rights Annual Report to the Legislature 2018 discloses on page 16 (exhibit 16), FTB has a 90-day backlog on responding to mail, so for most matters, by the time FTB addressed the correspondence, the time deadline had already expired. And yet this "missed deadline" is considered the taxpayer's fault even though the correspondence had been sent timely.

I am requesting that FTB open and process USPS/express mail the same day that it arrives. I am also requesting that they make it easier for taxpayers to use the secure email service that FTB already has in place.

## **7. Remove “Final and Payable” Clause from the Notice of Proposed Assessment**

In the speech that I made last year, I mentioned that FTB has a strange internal vocabulary that does not match standard-use English. One of the examples that I cited was that FTB calls a protest (dispute) to a NPA a “No Response.”

As I documented in my OTA hearing, I protested every NPA issued to me and my husband on the basis that they did not reflect all of the payments that we had made to FTB. FTB never acknowledged any of these protests. FTB imposed penalties. FTB violated its own policies and procedures by not acknowledging and responding to NPA protests.

As I was preparing my Motion to Compel that I just filed, I noticed that the NPA contains a clause that says "This proposed assessment becomes due and payable on (date), unless we receive your tax return or your protest of this proposed assessment."

I realized that FTB had deliberately misclassified my disputes as “no responses” in order to falsely and unlawfully impose those penalties. Those penalties could not have been legally be imposed had FTB properly acknowledged my protests.

This “strange vocabulary word” is actually a key tool to implementing the above-mentioned racketeering schemes.

Rather than simply asking FTB to properly identify and respond to NPA protests, I am asking that this clause be removed from the NPA entirely. This clause is unfair for many reasons. The first reason is that FTB has an established track record of sending mail to old addresses. The taxpayer either doesn't receive the notice timely or never gets the notice at all, rendering them unable to dispute it timely. The second reason is that, as I mentioned above, FTB makes it unbelievably difficult to file a protest. FTB doesn't open their own mail timely and they habitually “lose” faxes. So even when the taxpayer does respond timely, penalties are still falsely imposed because of FTB's own “incompetence.”



**8. FTB's policy should be that all requests are approved unless a written denial is formally issued**

In the speech that I made last year, I mentioned that FTB has a strange internal vocabulary that does not match standard-use English. One of the examples that I cited was that when FTB ignores written correspondence, they call it "turning down" the correspondence.

Last year, I also requested that FTB make it a policy to always issue denial letters on correspondence. FTB's official policy is that issuing a denial letter is unnecessary because if FTB don't respond to the request timely, then the taxpayer should know that the request was deemed a turn down by FTB.

In FTB's Response to my request, they wrote. "FTB strives to respond to **all claims for refund...**"

I was speaking broadly about all turn downs letters on all correspondence, including protests to Notices of Proposed Assessments. As already addressed above, it is FTB's business practice to mischaracterize these protests as "no responses" and to not respond to NPA protests at all.

These deceptive-word games that FTB plays have gotten old. Last year, instead of adequately addressing the issue that I brought up, FTB instead attempted to change the narrative from revising their general business practice to focusing on only one aspect of their business practices.

It is clear now that FTB's lack of issuance of denial letters to correspondence is yet another tool in their vast toolbox of ways to falsely impose penalties. By not responding to correspondence timely, taxpayers are unclear about what is happening on their account. By the time the taxpayer has figured out their request was denied, the clock has run out on the follow up steps, i.e. filing an appeal.

FTB is financially incentivized to run out the clock. I am requesting that you eliminate FTB's financial incentive to treat taxpayers unfairly by immediately changing FTB's policy to be that if a denial letter is not formally issued in writing, then the request is considered granted.

If FTB stands by their principals of managing taxpayer accounts with accuracy and financial integrity; operating with transparency; and conducting business in accordance with the Statement of Principles of Tax Administration, then FTB will be happy to make this requested change.

## **9. Move the Taxpayer Advocates to Work Under GovOps.**

Having the Taxpayer Advocates employed by the Taxation Agencies they are supposed to be protecting taxpayers from is a conflict of interest.

The Taxpayer Advocate is employed by the FTB. "Protecting the revenue" is this person's employer's number one priority. While the Taxpayer Advocate does have the power to make changes to favor the Taxpayers, doing so would reduce the revenue that her employer generates. It is not fair to this person to be in a position of divided loyalties.

I understand that this Request requires a change in legislature. I am requesting that the Taxpayer Advocate and the FTB Board of Directors work together with my State Representatives, Assemblyman Brian Maienschein and Senator Toni Atkins, to put together a bill to propose in the next legislative session with the following structural changes:

A. Instead of one Advocate per Taxation Agency, there should be one Advocate per district that works with all the Taxation Agencies. Then, the Advocate would clearly be working for the Taxpayers, with no divided loyalties.

B. The Advocates should work under GovOps. The Advocates should each have a support staff.

C. The Tax Appeals Assistance Program (TAAP) should stay with the Advocates at GovOps. Currently, this crucial free student attorney program is being administered by the Agencies that they are fighting against in court. This is an inherent conflict of interest.

D. GovOps needs to be given some "teeth." I have complained to GovOps many times about the various unlawful practices. GovOps tells me that, even



though they are the FTB's oversight agency, they are unable to make the FTB do anything at all — even stop unlawful practices!

E. The Advocates must have authority and power to make changes to unfair policies. The assorted Advocates would have to regularly meet to discuss potential policy changes and vote on whether to make said changes

## **10. Re-record your automated system with a more pleasant voice and music**

The voice on your automated system which gives prompts is grating and annoying. The music you have chosen is irritating and repetitive. Between the unpleasant voice and unpleasant music, waiting on hold can be maddening, especially when it is a long wait. By the time a FTB representative gets on the line, the taxpayer is already aggravated. It starts the conversation off on the wrong foot.

## **11. Stop your employee from online harassment**

Last year I informed you that I was being harassed on the website Reddit by a user named FramedDarthPlagueis. U/FramedDarthPlagueis inadvertently identified himself as a FTB or OTA insider when he disclosed that he knew that the OTA judges had rendered their verdict early and that I already had the verdict in hand. Since that information had not been publicly available, only a FTB or OTA insider could have known that. I don't believe an OTA insider would harass me so aggressively, so I believe he must be a FTB insider.

Last year I only sent a screenshot of a portion of the harassment, but I can send you the entire chain if you would like to see it all. In my request, I formally requested that you stop all of your employees from online harassment, including U/FramedDarthPlagueis.

In FTB's Response to my request, FTB claimed to be unable to identify him as a FTB employee.

I am still being harassed by u/FramedDarthPlagueis. Attached is a screenshot of his two most recent harassing messages. In these messages, he repeatedly insulted my intelligence and denied that the suits that I filed against FTB and Eric Yadao are

real. I can send you lots more of his harassing messages from this year, if you would like to see them.

We all know that any good Private Investigator will be able identify and locate him by contacting Reddit to get the IP addresses that he uses. I expect you to find him and stop him. If he is not a FTB employee or contractor, you need to find out which FTB employee shared my private information with him and reprimand the person who violated FTB rules by sharing private information.

As you all are aware, I have ample grounds to file another lawsuit against FTB for damages incurred from all of FTB's wrongful actions towards me and my husband over the last 10 years. I don't particularly want to engage in another lawsuit, but if you do not put a stop to your insider's harassment, I will file a Superior Court civil lawsuit for damages.

**In closing, I want to make it clear that I expect to be allowed to speak at this year's virtual Annual Taxpayer Bill of Rights Meeting. I am concerned that FTB will experience "technical problems" that will prevent me from speaking, and/or you will cut my time short.** There are already red-flags to indicate this will happen. For example, there are no directions about what time to call in on the ten-day notice. The ten-day notice says if you have questions to email them, but the email address listed is invalid. When I emailed Dawn Casey about the time to call in, she didn't answer my question and instead repeated the same information already posted on the 10-day notice. She did eventually answer my question after I got demanding.

**If I am not permitted to speak for my full time, there will be consequences.**

Thank you for your attention to my requests. I look forward to speaking at the meeting and reading your Formal Responses to my requests.

Regards,

Christine Grab