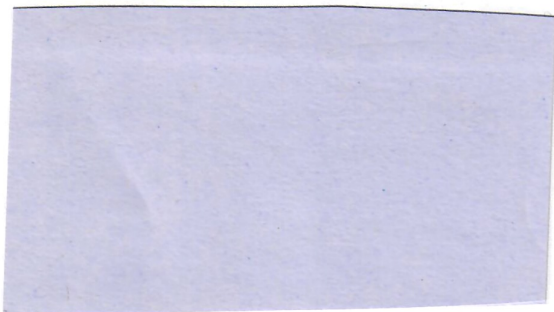


CG

From: Christi Grab [REDACTED]
Subject: Eleven (11) Requests for Annual Taxpayer Bill of Rights Meeting (the three previous emails re: legislation changes are referenced in this one)
Date: November 29, 2022 at 8:44 AM
To: [REDACTED], Brunett, Jozel@FTB [REDACTED], [REDACTED]
Cc: FTBBoardLiaison@ftb.ca.gov, FTB Advocate@FTB FTBAdvocate@ftb.ca.gov, Voet, Brenda@FTB [REDACTED]

Christine Grab



November 29, 2022

Franchise Tax Board Taxpayer Advocate Office

Email: FTBAdvocate@ftb.ca.gov.

CC: FTB Board Members and Executives

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

Hello Taxpayer Advocate Staff:

Here are my eleven (11) requests for the 2022 Annual Taxpayer Bill of Rights Meeting. I've included the Board Members on this email, as well. Since I know most of you are too busy to read long letters, I have highlighted the key sentence of each item.

- 1. Conform To IRS Guidelines by Considering Married Couples as One Tax Entity**

The IRS treats married couples as one tax paying entity from the moment the

ORIM exhibit 13- 1 of 14

The IRS treats married couples as one tax paying entity from the moment the couple notifies IRS of marriage until the couple notifies IRS that the marital status has changed. FTB does not follow this precedent. FTB readily admits it treats married people differently than single people, in a manner which penalizes people for being married. I believe that this is a violation of the 14th Amendment of the US Constitution. California law should be immediately changed to conform with federal guidelines. For details, see email to legislators titled: *Legislative Change Request for 2023: Close the Married Loophole* that you were copied on today.

Last year, I made this same Request. In FTB's Response, Brenda Voet stated that she was not required to address this Request since I had litigation pending against FTB. I believe that not addressing my Request was a violation of R&TC Section 21006(b)(2). I believe that alluding that there was some law that stated a lawsuit voided my rights R&TC Section 21006(b)(2) to be the federal crime of Federal Criminal Codes 18 USC 242; Color of Law, which states:

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both...

2. Close the Loophole That Allows FTB To Evade Due Process for Implementation of Collection Tools

Prior to implementation of Collection tools, including wage garnishments, levies and liens, FTB appear before a Superior Court judge to procure a proper judgment in accordance with the laws of the State of California.

Last year, I made this same Request. In FTB's Response, FTB gave no legal codes to justify how they are legally evading compliance with California State law. I expect FTB to disclose the legal codes which FTB utilizes as

justification to conduct business in this manner. If FTB has not been granted legal authority to evade California laws, I demand FTB to immediately halt and desist these practices.

Please see email to legislators titled: *Legislative Change Request #2: FTB to Comply with Due Process Laws* that you were copied on today. In it, I describe how FTB unlawfully filed not one, but two, fraudulent wage garnishments against my husband. Both garnishments stemmed from FTB's own egregious accounting irregularities.

3. Repeal R&TC 19179(c)(2)

Revenue and Tax Code 19179(c)(2) violates both the California and US Constitutions. This law allows the Franchise Tax Board (FTB) to penalize a taxpayer \$5,000 for exercising their right to Protest. This law directly violates R&TC Sections 21010 and 20102, which guarantees the Right to Protest as a part of the California Taxpayer Bill of Rights. It is unconscionable that a law that allows the taxation agency to punish someone for exercising their legal rights was enacted in the first place.

The manner in which FTB institutes these penalties do not follow proper policy and procedure, which violate multiple federal criminal codes, including 18 USC §1512, Tampering with a witness; 18 USC §872 and §1951(b), Extortion; 18 USC §876 and §1341, Mailing threatening communications, and Conspiracy against rights per 18 USC §241. Please see email to legislators titled: *Legislative Change Request #3 -- Repeal R&TC 19179(c)(2)* that you were copied on today for specific details.

4. Disclosure of Protocols Regarding Withheld Payments

One of FTB's Foundational Principals is "Operate with transparency to maintain public trust and confidence." As such, I request that FTB provide full public disclosure of FTB's policies, procedures and protocols surrounding withheld payments. Information should include:

- FTB has already disclosed that credit elect payments and estimated tax

ORIM exhibit 13 - 3 of 14

FTB has already disclosed that credit elect payments and estimated tax payments made by married couples are withheld until that year's return is filed. From the records submitted by FTB in the Grab vs. FTB court case, it appears that many other payments are withheld, too. Please provide an exhaustive list of every type of payment that is not applied to the taxpayers account immediately upon receipt by FTB, how long that type of payment is withheld, and the Revenue and Tax Code that is used to justify each of the types of payments withheld.

- Please provide FTB's official definition of the word "timely."
- If a payment is made in full by the prescribed due date but withheld by FTB per FTB's above withholding practices, is that payment considered "timely" by FTB? If this payment is not considered timely, please provide the Revenue and Tax Code that is used to justify this practice.
- Please disclose the procedures for moving the withheld funds into the taxpayers account at the appropriate time. For example, FTB received the hard copy of my 2011 tax returns on 03-06-2014. Per FTB's policy of withholding estimated tax payments made via credit elect and by married couples until the day that year's return is filed, our two withheld payments that had been made for tax year 2011 should have been removed from suspense and applied to our account on 03-06-2014. Who is the person responsible for moving the funds? Is it the person who opens the mail? If not, is there a system in place to ensure that the person who opens the mail gets the return to the person whose job it is to move the funds?
- Please specify exactly when these withheld estimated tax payments are counted in the revenue totals for the State of California for that year. Are they counted as revenue as soon as FTB receives the funds? Or are they counted as revenue when the payments have been applied to the taxpayer's account? Or are they counted as revenue at another point in time? If it is a different point in time, please provide the calculation for which date that type of payment is classified as revenue. If different types of payments are counted as revenue on different dates, please clarify which types of payments are applied on which dates.

ORIM exhibit 13-4 of 14

payments are applied on which dates.

- Who is the custodian of the suspense accounts in which the withheld payments are placed for the interim? Is it a department within FTB, or are the funds held by another agency, such as the Department of Finance or the State Controller?
- Are there provisions in the protocols which allow for any type of spending, borrowing or other utilization of the funds held in the suspense account for any purpose, whether routinely or sporadically?
- If spending, borrowing or other utilization of the funds is authorized by the protocols, whether routinely or sporadically, what are the guidelines under which the monies can be utilized? Who is authorized to make these expenditures?

Last year, I made this same Request. In FTB's Response, Brenda Voet stated that she was not required to address this Request since I had litigation pending against FTB. I believe that not addressing my Request was a violation of R&TC Section 21006(b)(2).

I believe that alluding that pending litigation voided my right to be a violation of Federal Criminal Code 18 USC §242; Color of Law.

Furthermore, how, when and where payments are applied are material facts, and refusing to disclose this information is a violation of 18 USC §1001 (a) (1), which states in part:

it is a federal crime, in a matter within the jurisdiction of a government agency, to (1) falsify, conceal or cover up a material fact.

5. Disclosure of All Payments Which Are Immediately Applied

ORIM exhibit 13 - 5 of 14

In accordance with FTB's Foundational Principal to "Operate with transparency to maintain public trust and confidence," please provide an exhaustive list of all types of payments that are applied to the taxpayers account immediately upon receipt of the funds from the taxpayer/on behalf of the taxpayer.

Last year, I made this same Request. In FTB's Response, Brenda Voet stated that she was not required to address this Request since I had litigation pending against FTB. I believe that not addressing my Request was a violation of R&TC Section 21006(b)(2). I believe that alluding that pending litigation voided my right to be a violation of Federal Criminal Code 18 USC §242; Color of Law. Furthermore, how, when and where payments are applied are material facts, and refusing to disclose this information is a violation of 18 USC §1001 (a)(1).

6. Disclosure of Guidelines Used for Calculating Interest

As FTB disclosed in the records submitted in my court case, for the purpose of calculating interest, FTB only recognizes some of the payments that had been made and only portions of other payments that had been made. Please provide the criteria and guidelines utilized for determining which payments and portions of payments are withheld from/applied to the totals of payments collected by FTB for the purpose of calculating interest.

Last year, I made this same Request. In FTB's Response, Brenda Voet stated that she was not required to address this Request since I had litigation pending against FTB. I believe that not addressing my Request was a violation of R&TC Section 21006(b)(2). I believe that alluding that pending litigation voided my right to be a violation of Federal Criminal Code 18 USC §242; Color of Law. Furthermore, how, when and where payments are applied are material facts, and refusing to disclose this information is a violation of 18 USC §1001 (a)(1).

7. 24-Hour Processing of Correspondence and Payments

In 2020, one of my ATBOR requests was: “Offer More Methods of Sending Information to FTB.” I had complained that FTB only processed correspondence timely if the information was sent via fax, which is an antiquated technology that is difficult and expensive for the average person to access. I complained that sending documents via regular mail was not an option since FTB has 90-day backlog on responding to mail. I had specifically requested that secure email options be offered and that regular mail be processed within 24-hours.

Here is part of FTB’s response to my 2020 Request: “We generally open express mail within 24 hours of receipt... and paper correspondence sent via USPS/express mail can take up to 90 days to process.”

On January 31, 2021, I sent a rebuttal to FTB’s 2020 ATBOR Response. In that rebuttal, I stated that this differentiation in turn times between different methods of delivery penalizes the people who do not have the financial resources to utilize the more expensive forms of delivery. The slow turn times guarantees that penalties, fees and excess interest will be imposed on people of low socio-economic status – not because the taxpayers didn’t respond timely, but because FTB did not process the correspondence timely (for your convenience, the email will be re-sent today. The relevant item in that email is #6).

In 2021, I submitted a Request where I wrote:

“I believe that FTB’s policy of opening express mail within 24-hours of receipt is a violation of R&TC Section 21027... From the response FTB provided, it sounds like FTB opens all express mail packages within 24-hours and cherry picks which mail it wants to process timely and which mail it will be ignore for 90-days...”

I am requesting that ALL correspondence that FTB receives, no matter which delivery method is used, is processed within 24-hours. There should be no differentiation in turn times between express mail, regular mail, fax, or MyFTB submissions.

In FTB's Response to my 2021 Request, Brenda Voet falsely stated that the Taxpayer Advocate's Office had already addressed these issues in their 2020 Response to me. At no point did Mr. Smith (2020) or Ms. Voet (2021) address the facts that FTB's standard operating procedures clearly violate both state and federal laws.

R&TC Section 21027 states "mail shall be treated as including a reference to any designated delivery service, and any reference in that section to a post office cancellation mark shall be treated as including a reference to any date recorded electronically by a designated delivery service, kept in the regular course of the designated delivery service's business, or marks on the cover in which any item is to be delivered to the board that indicate the date on which the item was given to the designated delivery service for delivery.."

This law clearly states that all correspondence, whether delivered via USPS, private delivery service or electronically (which includes fax and MyFTB) are to be processed in order of date *submitted*. This means all correspondence, no matter which delivery method is utilized, are required by law to have the same processing turn times.

Furthermore, this differentiation of turn times in a manner which penalizes the poor qualifies as a violation of the 14th amendment of the US Constitution, which states that all classes of constituents are to be treated the same by the government.

I believe that Ms. Voet's failure address the issues constitutes the federal crime of *covering up unlawful activity*. Furthermore, I believe that her response violated her *oath of affirmation* and *position duty statement*. I believe that this constitutes the federal crimes of *willful negligence of her job*

ORIM exhibit 13 - 8 of 14

...and that this constitutes the federal crime of *covering up* her job duties, *malfesance* and *treason of oath*.

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

I believe that the statements/bills currently issued by FTB do not comply with R&TC 19117 (a), which states:

The Franchise Tax Board shall include with each notice to an individual taxpayer which includes an amount of interest required to be paid by the taxpayer under this part information with respect to the section under which interest is imposed and a description of how the interest is computed

The current bills omit pertinent information that is necessary for the taxpayer to check accuracy. Putting complete amortization schedules on the bills, including the principal balance, interest rate, and the dates that interest began accruing is essential for proper compliance.

Most importantly, though, is an explanation on the bill as to why some payments/portions of payments are not included into the principal balance, which was already discussed in Item #6 above, Disclosure of Guidelines Used for Calculating Interest.

In 2020 and 2021, I made this same Request. In FTB's Response to my 2021 Request, Brenda Voet falsely stated that the Taxpayer Advocate's Office had already addressed these issues in their 2020 Response to me. At no point did Mr. Smith (2020) or Ms. Voet (2021) address the facts that FTB's standard operating procedures clearly violate R&TC 19117.

I believe that Ms. Voet's failure address the issues constitutes the federal crime of *covering up unlawful activity*. Furthermore, I believe that her response violated her oath of affirmation and position duty statement. I

ORIM exhibit 13 - 9 of 14

believe that this constitutes the federal crimes of *willful negligence of her job duties, malfeasance and treason of oath.*

9. Disclose Tax Codes That Justifies Not Including Payments Into NPA Totals/Denying Protests on the Grounds of FTB Underreporting Collected Amounts

Here is an excerpt from a document that FTB submitted to the court in Grab vs. FTB. It is the Declaration of Christine N. Grab in Support of Motion to Compel Further Response to Specially Prepared Interrogatories, Set #1: Clarification of Policies and Procedures,

SPECIAL INTERROGATORY NO. 3C: It appears there are many categories for protesting the amount of income FTB assessed in calculating the tax liability (please see the examples attached as pages 2 - 5); however, it appears there is no category to Protest the amount of money that FTB has collected in payments towards that year's liability. Is it possible for a taxpayer to file a Protest to a NPA on the basis that FTB has underreported the amount of payments FTB has collected?

FTB RESPONSE TO SPECIAL INTERROGATORY NO. 3C:
...Therefore, any protest on the ground that FTB did not include the prepayments or credits is not supported by legal authority.

As has been established by Revenue and Tax Code 19087, a Notice of Proposed Assessment can only be issued on accounts that have an outstanding tax liability due for the year as assessed by FTB using a status of single, filing 0 exemptions.

In my own case, I have documented via court records that FTB issued Notices of Proposed Assessments (NPA) to me and my husband for multiple tax years which had not included all of the prepayments and credits collected

DRIM exhibit 13 - 10 of 14

by FTB into the revenue totals.

We filed Protests to these NPAs. As has already been established in Item #2 via the email that was sent on November 26, 2021, FTB "misclassified" all of our Protests to these NPAs and thus denied us our right to Protest under R&TCs 21010 and 20102.

However, as FTB employee Keith Swank stated under penalty of perjury, even if our Protests had not been "misclassified," the Protests would have been denied on the grounds that FTB does not legally have to include all prepayments and credits received into the calculations. I believe that the denial of the right to Protest on these grounds is a violation of the Taxpayer Bill of Rights Sections 21010 and 20102.

Mr. Swank refused to provide any Revenue and Tax codes to justify this practice, which is one of the reasons that I filed a Motion to Compel. While the judge did not order Mr. Swank to provide the R&TC codes, I believe that FTB has a responsibility to disclose these legal codes in order to comply with its own Foundational Principals:

- Operate with transparency to maintain public trust and confidence.
- Conduct our business in accordance with the Statement of Principles of Tax Administration, Taxpayers' Bill of Rights, and our organizational values.

As such, I request that the Taxpayer Advocate provide all of the relevant legal codes which justify not applying all prepayments and credits that have been collected by FTB into the taxpayer's NPA totals. I also request all legal codes that justify not allowing Protests on the grounds that FTB had underreported the totals collected.

I am sure that you will want to review the full context of the quote above for your response. Please download the Declaration from the court: <https://roa.sdcourt.ca.gov/roa/faces/CaseSearch.xhtml>. The case year is 2020 and the case number is 00005100. The Declaration is Item #39. Item #3C, the quote referenced above, encompasses pages 10 – 16.

ORIM exhibit 13 - 11 of 14

Last year, I made this same Request. In FTB's Response, Brenda Voet stated that she was not required to address this Request since I had litigation pending against FTB. I believe that not addressing my Request was a violation of R&TC Section 21006(b)(2). I believe that alluding that pending litigation voided my right to be a violation of Federal Criminal Code 18 USC §242; Color of Law. Furthermore, how, when and where payments are applied are material facts, and refusing to disclose this information is a violation of 18 USC §1001 (a)(1).

10. Taxpayer Advocate to Address Issues of Constitutionality of Tax Laws

On the FTB website page titled "California Taxpayers Bill of Rights Information for Taxpayers" it states: "The Advocate or designee coordinates the resolution of taxpayer complaints and problems."

On the Taxpayer's Advocate page, it states that "The Taxpayer Rights Advocate (TRA) will not accept your case if... it questions the constitutionality of the tax system or tax laws."

This contradiction is unconscionable. The whole point of the job of the Taxpayer Advocate is to ensure that the taxation agencies are properly following the federal and local laws as written to prevent predatory behavior.

Last year, I made this same Request. Ms. Voet's Response was that was that she is not required to interpret the law. I believe that is a fair statement for issues that are in a grey area. However, some laws are clear, such as the aforementioned R&TC 19117 and R&TC Section 21027.

Furthermore, as detailed above, the Taxpayer Advocate's Office goes beyond merely refusing to "interpret" laws accurately and goes so far as to obfuscate the laws which FTB utilizes to justify their questionable business practices. If Ms. Voet were doing her job, she would identify each of FTB's questionable

DRM exhibit 13-12 of 14

business practices and make sure that each has a law justifying said practice to ensure that taxpayers were being treated fairly under the law. I believe the only purpose for obfuscation is to knowingly covering up unlawful behavior.

Over the last 5 years that I have been dealing with the Taxpayer's Advocate Office, Susan Maples, Chris Smith and Brenda Voet have all repeatedly conspired with FTB to cover up FTB's unlawful business practices.

Ms. Voet has sworn an oath to "...bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California..." I believe that Ms. Voet refusing to address issues of proper application of the laws violates her oath of affirmation and position duty statement. I believe that this constitutes the federal crimes of *willful negligence of her job duties, malfeasance and treason of oath.*

I request that FTB immediately change this guideline of the Taxpayer Advocate not accepting complaints that question the constitutionality of the tax system or tax laws so that Ms. Voet can properly do her job in accordance with her sworn oath.

11. Refer to Taxpayers as "Constituents," Not as "Clients."

The word "client" indicates that FTB is a business that offers a service that individuals may choose to utilize. The reality is that government entities are civil servants who serve at the authorization of their constituents. This means that *taxpayers are your employers*, not your clients. FTB's vocabulary should accurately reflect FTB's status as civil servants.

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

ORIM exhibit 13- 13 of 14

Regards,

Christine Grab

Psalm 64

Drum exhibit 13 - 14 of 14