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Subject: December 10 Speech to Betty Yee and Other Government Officials
Date: December 3, 2018 at 8:46 PM
To: [REDACTED]

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December 10 FTB Meeting Speech

1. End the Policy of Withholding Estimated Tax Payments Made Via Credit Elects Until the Taxpayer Files a Return.

This policy violates R&TC 19363, which states that credit elects must be applied effective April 15, YEAR, regardless of filing date. If a taxpayer files late, the FTB then demands payments of monies that would not have been due had the credit elect been applied in compliance with the law, as well as late fees, penalties and interest. **This is the Federal Crime of Racketeering.**

As you know, I made this Request at last year's meeting. In the Resolution that Ms. Maples signed off on, the FTB ignored this Request. Instead, they addressed a topic that I had not asked about: married couples. In so doing, they violated my State's Rights and also committed the Federal Crime of Collusion to Cover Up Racketeering. I expect this Request to be addressed this year.

2. End the Policy of Withholding Estimated Tax Payments Made By Married Couples Until the Married Couple Files a Return.

As I detailed in my letter the FTB's Board of Directors dated April 9, 2018, the tax codes and council advice that the FTB uses to justify this policy are invalid; in fact, when read in context, the codes and advice cited say the exact opposite of what the FTB claimed. As such, this withholding practice is illegal. If a taxpayer files late, the FTB then demands payments of monies that would not have been due had the payment(s) been applied in compliance with the law, as well as late fees, penalties and interest. **This is the Federal Crime of Racketeering.** The FTB committed a second count of Collusion to Cover Up Racketeering in their Formal Resolution to me by deliberately misrepresenting what the law says.

3. Disclosure of Annual Taxpayer Bill of Rights Meeting to the General Public.

This Annual Taxpayer Bill of Rights Meeting that we are at right now is a California State Right, pursuant to Revenue and Taxation Code section 21006(b)(2). Even though the FTB does *technically* meet the minimum required by law to inform the public of these meetings, the reality is the FTB goes to great lengths to hide this Right from the general public.

FTB representatives are trained to tell Taxpayers that if they are unhappy with the FTB's policies or procedures, the Taxpayer needs to contact their State Level Legislators to complain; that there is nothing the FTB can do about changing policies or laws. This, of course, is a lie.

When the FTB sends out written correspondence, they will frequently include Form 4058, called *California Taxpayer's Bill of Rights*. Form 4058 conveniently omits information about the Annual Taxpayer Bill of Rights Meeting. The Taxpayer has to carefully read form 4058 to find out that form 4058C exists. The Taxpayer then has to go out of their way to find 4058C and read it to find out that the Annual Taxpayer Bill of Rights Meetings exists.

Please note that form 4058 and form 4058C are both called *California Taxpayer's Bill of Rights*, and the brochure covers are almost identical. I believe this was deliberately designed in order to confuse Taxpayers into thinking that 4058 and 4058C are the same brochure so that the Taxpayer never bothers to actually read 4058C and find out this right exists.

It is also important to note that Form 4058C contains no directions given on how to submit a request to the Annual Taxpayers Bill of Rights Meeting; it just discloses that you have the right to submit one. As far as I could find – and I did look – there are no instructions anywhere on the FTB's website on how to submit a request.

As all of you Board Members know, I made this request for disclosure at last year's meeting. In the Formal Resolution that Ms. Maples signed off on, the FTB responded with "...Meeting with a representative cross-section of industry and tax professionals allows us to hear the concerns of taxpayers, the majority of which now engage tax professionals. Additionally, we contact our Trade Media partners and others prior to the annual meeting to also gauge their concerns and those of the individuals and businesses they represent."

This answer is unacceptable. Hiding this Right from the Taxpayers at large, then assigning this right to a proxy without informing the Taxpayer of this proxy system, and choosing a proxy who only represents the upper classes, thus leaving the working poor taxpayers unrepresented, is a clear violation of California State Taxpayer Rights.

I am asking the Board to implement the following Policy changes:

- A. Add information about how to submit a request to the Annual Taxpayers Bill of Rights Meeting to Form 4058C
- B. Whenever brochure 4058 is sent, 4058C should also be sent with it.
- C. Brochure 4058 Should be re-named "California Taxpayer's Bill of Rights Part 1 of 2" and 4058C should be re-named "California Taxpayer's Bill of Rights Part 2 of 2."
- D. FTB Reps should be trained to tell Taxpayers who are complaining about a policy or law that they can submit a request for policy/law change to the Annual Taxpayers Bill of Rights Meeting. The Rep can then give them the website address for form 4058C or, for those who don't have Internet access or aren't Internet savvy, can offer to mail them the brochure.

4. 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.

I have already cited three examples above of how this conflict prevented Susan Maples from fulfilling her job duty of protecting the Taxpayers. Ms. Maples works for the FTB, and clearly, her loyalty is to her employer. "Protecting the revenue" is her 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 her to be in a position of divided loyalties.

I understand that this Request requires a change in legislature. I am requesting that Ms. Maples and the FTB Board of Directors work together with my State Representatives, Assemblyman Kevin Mullen and Senator Jerry Hill, to put together a bill to propose in the next legislative session. I am asking the legislation to include the following structural changes:

- A. Currently, each taxation agency has a Taxpayer Advocate who helps the Taxpayer resolve issues at their department. Instead of one Advocate per Taxation Agency, there should be one Advocate per district (maybe use the BOE district lines?) 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. GovOps needs to be given some "teeth." I have complained to GovOps many times about this illegal policy. 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 illegal practices!
- D. 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

5. Having the Tax Appeals Assistance Program (TAAP) Overseen by the Taxation Agencies that they are Fighting Against is also a Conflict of Interest.

On January 1, 2019, these Agencies will have the power to withhold access to free student attorneys, rendering it impossible for most Taxpayers to recover unfair fees (as most wouldn't be able to afford a regular attorney and/or attorney costs are often more than the amount of money the Taxpayer is trying to recoup).

As I detailed above in Points 1 and 2, the FTB is currently running two Racketeering schemes. As I detailed in Points 3, the FTB is also systematically trying to hide a California State Right that would give Taxpayers a voice in trying to stop these schemes. As I detailed in Point 4, the FTB is also not allowing the Taxpayer Advocate to fulfill her job duties of Protecting the Taxpayer. Given their track record, it is clear that the FTB will hide/deny the

right to a free attorney from Taxpayers.

I am requesting that you re-structure the Office of Tax Appeals so they can take TAAP. It seems logical to me that since the OTA presides over the court cases, they should oversee the assigning TAAP attorneys to qualified cases.

Or, if that is not viable, then an alternative solution would be that when you move the Taxpayer Advocate to be under GovOps as Requested in Point 4, the Taxpayer Advocates could keep the TAAP programs under their purviews at GovOps.

6. Acknowledgement of Abatement Requests and Disclosure of Taxpayer Rights in the Abatement Process

I believe it is the Taxpayer's Advocate's duty to put a policy in place where Taxpayers are explained their rights in writing regarding Abatement Requests. An acknowledgment letter should be sent in response to every Abatement Request received that explains in clear language:

A. The FTB has six months to respond — put the date the FTB received the letter on there so the six month timeline is clear

B. if you are turned down, you have the right to file an appeal and can possibly access a free student attorney if your appeal if for less than \$30,000

C. If for some reason, you do not receive a response, you still have the right to appeal, and can possibly access a free student attorney if your appeal if for less than \$30,000.

7. End the Policy of Assessing Licensees with Tax Liabilities When There is No Proof Of Income Earned

Last year, Ms. Torie Charvez made several Requests at the Annual Taxpayer Bill of Rights Meeting. One of her Requests was to change the FTB's policy of assuming that all people who hold licenses earn income.

If no evidence exists that a Licensee has earned income via said license, the FTB assesses the Licensee with a tax liability based on the average income that those types of Licensees earn. It is up to the Licensee to prove that they didn't earn this money, which is a difficult task, as getting through the bad automated phone system to reach a human being in the correct department is a monumental effort. Meanwhile, the FTB aggressively attempts to collect these "unpaid taxes."

In their Formal Resolution, the FTB provided no legal justification for this policy. They simply said this policy makes them a lot of money in extra tax revenue that would not have been collected otherwise. Obviously, forcing people pay taxes that they don't actually owe will increase the amount of tax revenue collected. "It makes us a lot of money" is not an acceptable legal basis for a policy.

I am requesting that the FTB provide the legal codes that justify this policy. If there is no valid legal basis for this practice, I am Requesting that the FTB immediately cease this practice.

8: Clearer Definitions of What Defines An Abatement Request

As the Board Members already know, my Abatement Requests for the tax years 2013 and 2014 were denied before I applied. I asked Ms. Maples how this could possibly be legal. Her emailed response was:

"As to what constitutes a valid claim for refund, that is a great question. We have traditionally been very flexible/lenient as to what constitutes a "claim"... In a same letter (above) forwarded to us from GovOps, you also said you will be sending abatement requests to the Governor for 2013 and 2014... Therefore, I feel as though I can reasonable say you requested refunds"

Ms. Maples literally told me that the FTB sent me a turn down notice because I informed GovOps that I was *going to submit* an Abatement Request – and that the FTB believes this turn down was “reasonable” thanks to their “loose guidelines” of what defines a Request.

The law says that in order for an Abatement Request to be approved, “...the taxpayer must provide credible and competent evidence to support the claim of reasonable cause.” I was turned down before I even had a chance to submit this proof!

This policy of “loose guidelines” is clearly a tool to deny due process to Taxpayers: the FTB turns down a Taxpayer’s “request” before the Taxpayer submits documentation, and this “request” is therefore denied because no documentation was provided.

Please hold the FTB accountable to providing due process to Taxpayers by making the guidelines of what defines an Abatement Request clearer.