ARTICLE 4C: OTHER REQUESTS FOR RELIEF OF PENALTIES AND INTEREST

5247. AUTHORITY TO GRANT RELIEF DUE TO REASONABLE RELIANCE ON WRITTEN ADVICE AND CONTENTS OF REQUESTS FOR RELIEF DUE TO REASONABLE RELIANCE ON WRITTEN ADVICE.

(a) A person may be relieved from liability for the payment of a tax or fee imposed under the tax and fee laws identified in subdivision (c), including any penalties and interest added thereto, where the liabilities resulted from the person's failure to make a timely report, return or payment and such failure is found to be due to reasonable reliance on:

(1) Written advice given under the conditions set forth in California Code of Regulations, title 18, section 1705, subdivision (b) or section 4902, subdivision (b);

(2) Written advice given in a prior audit of that person under the conditions set forth in California Code of Regulations, title 18, section 1705, subdivision (c) or section 4902, subdivision (c);

(3) Written advice in the form of an annotation or legal ruling of counsel under the conditions set forth in California Code of Regulations, title 18, section 1705, subdivision (d) or 4902, subdivision (d); or

(4) Written advice requested by a trade or industry association or franchisor, on the person's behalf, under the conditions set forth in California Code of Regulations, title 18, section 1705, subdivision (e) or section 4902, subdivision (e).

(b) Written advice may only be relied upon by the person to whom it was originally issued or a legal or statutory successor to that person.


(d) A request for relief due to reasonable reliance upon written advice must:

(1) Be in writing;

(2) Include the specific facts upon which the request for relief is based;

(3) Be signed by the person requesting relief under penalty of perjury; and

(4) Include an attached copy of the person's written request for written advice and a copy of the written advice relied upon.

Note: Authority cited: Section 15606, Government Code; and Sections 7051, 8251, 9251, 13170, 30451, 32451, 38701, 40171, 41128, 43501, 45851, 46601, 50152, 55301 and 60601, Revenue and Taxation Code. Reference: Sections 6596, 7657.1, 8879, 30284, 32257, 38454, 40104, 41098, 43159, 45157, 46158, 50112.5, 55045 and 60210, Revenue and Taxation Code.

History: 1. New section adopted 9-12-2007; effective 2-6-2008.
2. Amendments adopted November 19, 2013, effective April 1, 2014. The amendments deleted "or" from the ends of subdivision (a)(1) and (2); replaced "in the form of an annotation or legal ruling of counsel" with "given in a prior audit of that person" in subdivision (a)(2); replaced "given
in a prior audit of that person” with “in the form of an annotation or legal ruling of counsel” in subdivision (a)(3); inserted “; or” after subdivision (a)(3); and added new subdivision (a)(4).