

BYLAWS FOR TRACE

Article I – Name and Purpose

Section I – This group shall be known, from this point forward, as the Tax Recovery and Criminal Enforcement Task Force (hereinafter referred to as “TRaCE” or “Task Force”).

Section II – The purpose of this Task Force is to combat organized elements of the underground economy engaged in the manufacturing, importation, distribution, and sale of pirated intellectual property, and other economic crimes resulting in the evasion of business, payroll, and/or income taxes. To the attainment of this end, the Task Force shall create a responsible investigative and prosecutorial body within state government, in partnership with private industry and labor organizations, to combat organized underground activity. This activity will be conducted through collaboration among state agencies, labor organizations, local governments, and business groups, as well as, federal partners to leverage multijurisdictional enforcement efforts addressing the underground economy. The Task Force shall focus on swiftly responding to organized efforts to defraud the state, consumers, or businesses and establish a cross-trained cadre of networked investigators for rapid response to identify and mitigate emerging fraud trends. The Task Force shall reduce the time, workload, and prosecutorial costs associated with investigating and prosecuting underground economy activities that impact multiple state and local agencies. The Task Force shall provide participating agency policy makers with comprehensive data for evaluation and determination in allocating the state’s limited investigative resources to combat California’s underground economy. The Task Force will improve the health of California’s economy by combating organized criminal activity while improving California’s tax revenue stream by equalizing the arena for legitimate business entrepreneurs and enterprises.

Article II – The Task Force Executive Board

Section I - The Task Force shall be directed by an advisory council known as the TRaCE Task Force Executive Board (hereinafter referred to as the “Task Force Executive Board”). The Task Force Executive Board is located in Sacramento.

Article III – Task Force Executive Board Members

Section I – The Task Force Executive Board shall consist of public officials from the participating agencies: the Special Agent in Charge from the Department of Justice (DOJ), Division of Law Enforcement (DLE), Bureau of Investigation (BI); the Deputy Attorney General from the Office of the Attorney General, Criminal Law Division; the Chief of the Board of Equalization Investigations and Special Operations Division; the Federal Bureau of Investigations, the Chief of the Franchise Tax Board (FTB) Investigations Division; and the Chief of the Employment Development Department Investigations Division, the Internal Revenue Service Criminal Investigation; and any newly approved agency.

Article IV – Regions

Section I - The Task Force shall contain regions – predominantly large metropolitan areas. Each region shall have a board. Each regional board shall act to further the purposes of TRaCE and may engage in other specific duties with the approval of the Task Force Executive Board.

Article IV – Meetings

Section I – The Task Force Executive Board and regional boards (Boards) shall conduct regular meetings, as determined by each board, at such places and at such times as shall be established by the boards.

Section II – Physical attendance at regularly scheduled meetings is an expectation. Members, or the designated proxy, shall be present at 50 percent of the scheduled meetings. Attendance exceptions can be made, however, with prior approval.

Section III - The presence of a simple majority of the ~~Task Force Executive~~ Board shall be necessary to constitute a quorum for the transaction of business, and the acts of a majority of board members present at a meeting at which a quorum is present shall constitute the acts of the Task Force Board. If, at any meeting of the ~~Task Force Executive~~ Board, less than a quorum is present, then the majority of those present may adjourn the meeting until a quorum can be present.

Section IV - Each Board shall choose from among its members one member to serve as the ~~Task Force Executive~~ Board Chairperson. The ~~Task Force Executive~~ Board Chairperson shall be selected by an election conducted at the first meeting of each new year and thereafter serve for a one-year term, or until his or her successor is elected. No person shall hold the position of ~~Task Force Executive~~ Board Chairperson for more than two consecutive terms. The ~~Task Force Executive~~ Board Chairperson shall conduct Task Force Board meetings and prepare minutes.

Section V - The ~~Task Force Executive~~ Board shall choose from among its members one member to serve as the ~~Task Force Executive~~ Board Vice Chairperson. The Task Force Executive Board Vice Chairperson shall be selected by an election conducted at the first meeting of each new year and thereafter serve for a one-year term, or until his or her successor is elected. No person shall hold the position of ~~Task Force Executive~~ Board Vice Chairperson for more than two consecutive terms. The ~~Task Force Executive~~ Board Vice Chairperson shall conduct Task Force Board meetings in the Chairperson's absence.

Section VI – Should the Chairperson's position become vacant, the Vice Chairperson shall serve as "Acting" Chairperson until the next election.

Section VII - The Task Force Executive Board shall be responsible for Task Force policies and operating procedures. The Board shall periodically review and evaluate Task Force operations, goals, objectives, policies, and procedures.

Section VIII - The language or provisions of these bylaws can be changed at any time by a majority of the Task Force Executive Board. For changes deemed minor or non-substantive by the chairperson, such votes can be done via email, if so requested by the chairperson. Email votes shall be printed out, saved, and recorded in the same manner as a verbal vote at a regularly-called board meeting. Any changes made to this Agreement shall be memorialized with an addendum attached to the Memorandum of Understanding (MOU).

Article V – Task Force Management

Section I - The management and supervision of the Task Force resources will be the responsibility of the Task Force Commander. The Task Force Commander shall retain supervisory control of the personnel assigned to the Task Force. The Task Force Commander shall consult with the designated FTB

supervisor, however, on day-to-day operational decisions, only to an extent practical and reasonable, involving all investigation cases with an alleged income tax violation(s). In the alternative, the Task Force

Commander can appoint an FTB task force member to fulfill the task as needed. When the number of law enforcement personnel from participating agencies is over ten, DOJ may add a second Special Agent Supervisor (SAS).

Section II - ~~The SAS from DOJ BI shall be responsible for managing the Task Force and will report to the chairperson of the Task Force Executive Board.~~ The Task Force Commander shall provide the Task Force Executive Board with quarterly and annual reports of Task Force activities broken down by month. Any personnel assigned to the Task Force shall work under the immediate supervision and direction of the Task Force Commander and shall adhere to the published policies and procedures of the Task Force, relative to the conduct and reporting of investigations. Federal policies and reporting requirements will be followed for cases to be prosecuted in Federal court.

Section III – Personnel working on the taskforce shall be identified by each participating agency through any selection and screening manner the participating agency deems appropriate. The Task Force Commander has the right of refusal, however, in the interest of maintaining a cohesive and productive investigative team.

Article VI – Task Force Personnel

Section I – Each participating agency shall dedicate personnel based on the Memorandum of Understanding. ~~assign not less than one full time investigator, unless by consensus of the Board:~~

~~**Section II** – DOJ DLE Bureau of Investigation: One (1) Special Agent Supervisor; Three (3) Special Agents~~

~~**Section III** – Office of the Attorney General: One (1) Deputy Attorney General~~

~~**Section IV** – Board of Equalization: Two (2) Investigators; One (1) Evidence Technician; One (1) Office Technician~~

~~**Section V** – Franchise Tax Board: Two (2) Investigators~~

~~**Section VI** – Employment Development Department: One (1) Investigator~~

Section II - The participating agencies agree they will continue to be the employer of all personnel assigned by them to serve at the Task Force office, notwithstanding the fact such personnel will be primarily engaged in the performance of Task Force functions during the term of their assignment. Accordingly, each Participating Agency shall remain responsible for the employee's wages, including overtime in accordance with Fair Labor Standards Act regulations, and all employee benefits normally provided by the participating agency to its personnel including, but not limited to, Social Security, retirement benefits, health insurance, life insurance and Worker's Compensation benefits pending the availability of funding. As the general employer, each participating agency shall also retain sole authority to discipline all personnel it assigns to the Task Force for any act or omission committed by said personnel while engaged in carrying out the stated purposes of the Task Force. Moreover, each Participating Agency may, from time to time, change the particular person(s) it assigns to the Task Force provided, however, the Task Force Commander must approve the selection of personnel. The

participating agencies shall endeavor to avoid making frequent changes which might unduly disrupt the Task Force and prohibit it from efficiently carrying out the purposes for which it has been formed.

Section III - Any duly sworn peace officer, while assigned to duty within the Task Force as herein provided and working at the direction of the Task Force Executive Board and the Task Force Commander, shall have the same powers, duties, privileges and immunities as are conferred upon him/her as a peace officer or investigator within his/her agency/jurisdiction while participating in the Task Force.

Section IV - When additional personnel are required by the Task Force in order to properly carry out Task Force functions, the task force commander may secure the services of such additional personnel in the following manner:

Section V - The services of additional personnel may be secured from other public agencies and from private firms or individuals, provided such public agencies, private firms, or individuals can render such services as independent contractors within the context of Section 3353 of the California Labor Code. This section defines an independent contractor as "...any person who renders service for a specified recompense for a specified result, under the control of his/her principle as to the result of his/her work only and not to the means by which such result is accomplished."

Section VI - Each participating agency shall provide **personnel** it assigns to the Task Force with an unmarked vehicle and such side arms, radios and equipment as would normally be provided by the participating agencies to an undercover officer for use in carrying out his or her duties while assigned to the Task Force, when applicable. All such equipment shall continue to be the property of the Participating Agency. The Participating Agency having provided such property shall be solely responsible for the maintenance and repair of said property, including fuel and any collision or liability insurance for its officer's assigned vehicle. In no event shall a Participating Agency charge any indirect costs to DOJ for administration or implementation of this Agreement.

Article VII – Voting

Section I – The presences of a simple majority of voting ~~Task Force Executive~~ Board members shall constitute a quorum for voting; each voting ~~Task Force Executive~~ Board member present for the vote shall be entitled to one vote which may not be delegated or assigned; and a simple majority vote of the those present in support of the matter being voted on it required for passage of the matter.

Section II – Proxy voting is a form of voting whereby a member of the Task Force Executive Board may entrust his/her voting power to a "Delegate" of his/her choosing. In the event a ~~Task Force Executive~~ Board member is unable to attend a scheduled meeting, a Delegate may be sent in his/her stead. The Delegate, however, may not be a person who works on the TRaCE Task Force or any ~~TRaCE Task Force Executive~~ Board.

Article VIII – Amendments

Section I – These bylaws may be amended only when approved by a quorum vote of the TRaCE Task Force Executive Board.