



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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October 17, 2016

Mr. Marc Brandeis, CPA
Brandeis & Associates
1019 San Antonia Ave.
Fullerton, CA 92835

Dear Mr. Brandeis:

Thank you for your participation in the Board of Equalization's (BOE's) April 26, 2016 Business Taxpayers' Bill of Rights Hearings held in Culver City. My office has been working with the Field Operations Department (FOD) and the Business Tax and Fee Department (BTFD) to address your concerns regarding the Statewide Compliance and Outreach Program (SCOP) and the petition and appeals process. Following is a summary of the actions taken to address the concerns you raised at the hearing.

SCOP

Your concerns about the SCOP program have been included in my discussions with the Deputy Director, Field Operations Department. My office has investigated SCOP and based on our findings we have recommended changes be made to the amended returns process. Those changes include no longer requiring taxpayers to bring records to the district office and no longer informing taxpayers what gross sales should be. At no time during the compliance process should a taxpayer be pressured to amend a return. I have also suggested that SCOP letters be revised to clearly explain that filing amended returns will not prevent an audit.

During the hearing you expressed concerns with SCOP conducting audits and you questioned who handles the petition for redetermination for SCOP billings. SCOP teams are led by experienced auditors, and are authorized to review and investigate a business when there appears to be underreporting. When potential underreporting is discovered, the taxpayer should be given an opportunity to amend their returns, or the SCOP teams can refer the account for audit. In some instances, the SCOP team may elect to issue an estimated billing.

Taxpayers always have the opportunity to provide books and records to ensure they are billed for the correct amount of tax. All petitions are handled by the Petitions Section; however, the district or unit issuing the billing will be allowed to respond to any contentions presented in petitions for redetermination. If at any point during the process you feel your client's rights are being violated, please contact my office.

Petition and Appeals Process

Effective July 2016, when BTFD requests a case to be removed from the Board's hearing calendar, they must provide Board Proceedings Division (BPD) with a reason for the request, in order that they may include it in their correspondence to the tax or fee payer. The section handling the case must provide the tax or fee payer a written status update every 90 days until the case is resolved or BPD is notified to place the case back on the calendar for Board hearing.

The BTFD has been working to reduce the number of aged petitions and to shorten the time elapsed between the date the Petition for Redetermination is filed and the appeals conference takes place. The BTFD is also currently working on several projects to further improve the petitions process, including the future implementation of online filing of Petitions for Redetermination. If you encounter a case that is experiencing unreasonable delays, please contact the Petitions Section if your contentions are still being addressed by the department which issued the billing, or if the case has been referred for an appeals conference, contact Board Proceedings Division to request the case be expedited. You can also contact my office for assistance at any time.

When a Petition for Redetermination is accepted as timely or as an administrative protest, the Petitions Section refers the case back to the district or unit which issued the billing for a response to any contentions. If the dispute cannot be resolved at this level, and your client has requested a hearing, the case is then referred to the Appeals Division. Appeals staff will independently review the case and request additional information from the taxpayer, suggest additional work be done by the department, or recommend an adjustment in the taxpayer's favor. If the disagreement remains unresolved, your client has the option to have their case heard by the five elected Board Members. If at any point in the process you feel your contentions are not being addressed, you can contact my office for an independent review.

Thank you again for sharing your ideas and concerns as part of the annual hearing process. If you have any further questions about this matter, please do not hesitate to contact me at 1-916-324-2798 or Mr. Irving Buford IV of my staff at 1-916-445-8321.

Sincerely,

Todd C. Gilman, Chief
Taxpayers' Rights and
Equal Employment Opportunity Division

TCG: ib

Brandeis response 101716.docx

cc: Honorable Fiona Ma, CPA, Chairwoman
Honorable Diane L. Harkey, Vice Chair
Honorable George Runner, First District
Honorable Jerome E. Horton, Third District
Honorable Betty T. Yee, State Controller
Ms. Yvette Stowers, Deputy State Controller
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Ms. Kari Hammond, Member's Office, Third District
Mr. David Gau, Executive Director (MIC 73)
Mr. Robert Tucker, Acting Chief Counsel (MIC 83)
Ms. Susanne Buehler, Deputy Director, Business Tax and Fee Department (MIC 43)

Mr. Wayne Mashihara, Deputy Director, Field Operations Department (MIC 47)
Ms. Joann Richmond, Chief, Board Proceedings Division (MIC 80)
Mr. Robert Tucker, Assistant Chief Counsel, Tax and Fee Programs Division (MIC 82)
Mr. Richard Parrott, Chief, Special Taxes Policy & Compliance Division (MIC 57)
Mr. Kevin Hanks, Chief, Headquarters Operations Division (MIC 49)
Chief, Tax Policy Division (MIC 92)
Mr. Dan Leddy, Manager, Taxpayers' Rights Advocate Office (MIC 70)
Ms. Laureen Simpson, Technical Advisor to the Advocate (MIC 70)
Mr. Irving J. Buford IV, Taxpayers' Rights Advocate Office (MIC 70)