

# Memorandum

To : Mr. E. L. Sorensen, Jr.  
Chief Counsel

Date : December 13, 1990

From : Mary C. Armstrong

Subject: Contribution Disclosure - Franchise Tax Board 90-4

On Wednesday, December 12, 1990, Mr. Glenn Rigby, Chief Counsel of the Franchise Tax Board, raised a question regarding the implementation of Senate Bill 1738 as it relates to the Members of the Franchise Tax Board.

As you may recall in my memorandum to Ms. Janice Masterton dated October 29, 1990 (copy attached), I concluded that the Franchise Tax Board, as a state agency, came within the definition of the term "party" as that term is used in section 15626(h)(2). I also concluded that in a hearing before the Board of Equalization, the Franchise Tax Board's representative was an "agent" within the meaning of section 15626(h)(4). Mr. Rigby raised an additional question: If the Franchise Tax Board is a party to an adjudicatory proceeding, are the three individual Members of the Franchise Tax Board required to complete contribution disclosure reports before a pending Board hearing? For the reasons expressed below, we have concluded that the individual Members of the Franchise Tax Board are not required to complete contribution disclosure reports.

The term "party" is defined in section 15626(h)(2) as "any person who is the subject of an adjudicatory proceeding pending before the board." As you know, a corporation is considered a person. Therefore, when a corporation is a "party" appearing before the Board of Equalization, it is the entity required to disclose a qualifying corporation. A Member of the corporation's Board of Directors or a corporate officer is not required to file a contribution disclosure form unless that director or corporate officer is a "participant" in the hearing. We would consider the individual Members of the Franchise Tax Board to be similar to a director of a corporation. The "corporate entity" in this situation is the agency, the Franchise Tax Board, and the individual Franchise Tax Board Members would not be required to file contribution disclosure reports because the individuals are not "part(ies)" within the meaning of section 15626(h)(2).

Mr. E. L. Sorensen, Jr.

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We are scheduled to meet with Mr. Rigby about this and other problems associated with the implementation of Senate Bill 1738 as it relates to the Franchise Tax Board. If you have further questions concerning this matter, we will be happy to discuss them with you.

*Mary Armstrong*

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Attachment

cc: Ms. Janice Masterton  
Mr. Glenn Rigby (w/attach. and Contribution Disclosure form)