

July 25, 2011

Letter to the members of the Board of Equalization

Dear Elected Representatives:

We appreciate your consideration of our prior recommendations regarding the use tax Qualified Purchaser Program. We are happy to see that you are considering:

- Discontinuing the automatic registration process based solely on the taxpayer meeting the \$100,000 gross receipts threshold;
- Allowing taxpayers to close their permit if their gross receipts drop below the \$100,000 threshold for the last two consecutive years; and
- Automatically deregistering taxpayers that have filed zero returns for three consecutive years.

However, there is still a clear need to change the mandatory April 15 deadline in order to make this program successful. We previously recommended that for purposes of use tax reporting, you allow calendar-year taxpayers a due date of October 15 and fiscal-year taxpayers a due date of the 15th day of the 10th month following the close of the taxable year. These due dates are consistent with FTB extended due dates for tax returns.

In your informal issue paper on this issue, you state that “BOE would not know when a particular taxpayer’s income tax return was due (i.e., taxpayers reporting on a fiscal year, or filing an extension), and consequently, would not know when a return was filed late or when an account was delinquent.” To address this concern, we recommend that as an alternative, you allow taxpayers an automatic six-month extension to October 15.

This extension period would provide the necessary time for taxpayers and practitioners to adequately prepare these returns. This is especially important for fiscal year taxpayers, or taxpayers filing on extension, who do not visit their tax professional or gather their records prior to the April 15 deadline.

Here are the reasons consider extending the due date:

- Taxpayers are currently allowed an automatic filing extension for income and franchise tax returns with the FTB and should be allowed a similar extension for use tax returns (currently, only a one-month extension is allowed, but taxpayers must make a written request and wait for approval from the BOE);
- The existing April 15 due date does not allow enough time for businesses, especially fiscal-year filers, to gather needed information;
- Fiscal-year taxpayers do not have an opportunity to meet with their tax advisors prior to the April 15 due date to register, gather information, and timely file use tax returns;

- Tax professionals, who file a majority of use tax returns for qualified purchasers, are at their busiest with personal income tax return filings during April, and it is extremely difficult, if not impossible, to comply with an April 15 due date for businesses, especially since tax preparation software does not currently support use tax return filing; and
- A later due date may result in use tax returns coming into the BOE over a ten-month time period instead of all in one month. Taxpayers who file their FTB returns will file their use tax returns at the same time and the work volume will not be all in April.

Allowing a later due date for BOE returns will allow businesses to file their use tax returns at the same time as their income and franchise tax returns (most businesses file on extension); and tax preparation software developers might be able to support e-filing for both returns at the same time (no tax preparation software currently supports the new use tax registration program, again because there is no time for program development).

We believe that, by allowing businesses more time to file use tax returns, the state will achieve greater compliance, and we can decrease the anger and frustration felt by the taxpaying community.

Thank you for your prompt consideration.

Sincerely,



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