

*Our vision is: To be the clear and trusted voice of reason and fairness when resolving issues between taxpayers and the government. Our mission is: To positively affect the lives of taxpayers by protecting their rights, privacy, and property during the assessment and collection of taxes.*

TAXPAYERS'  
RIGHTS  
ADVOCATE'S

PROPERTY AND  
BUSINESS TAXES  
ANNUAL REPORT

BETTY T. YEE Acting Member  
First District

■ BILL LEONARD  
Second District

■ CLAUDE PARRISH  
Third District

■ JOHN CHIANG  
Fourth District

■ STEVE WESTLY  
State Controller

■ RAMON J. HIRSIG  
Executive Director

# TAXPAYERS' RIGHTS ADVOCATE OFFICE

California State Board of Equalization  
450 N Street, MIC: 70  
P.O. Box 942879, Sacramento, CA 94279-0070  
Toll Free 888-324-2798 FAX: 916-323-3319  
Internet: [www.boe.ca.gov/tra/tra.htm](http://www.boe.ca.gov/tra/tra.htm)

**Todd C. Gilman**, Advocate  
916-324-2798

Patricia Rochin, Tax Advocate Technician  
888-324-2798

## Property Tax

Mark Sutter 916-324-2797  
Laura Bowman-Dirrim 916-445-8267

## Business Taxes

Lauren Simpson 916-445-0218  
Sid Matsumoto 916-323-2513  
Rhonda Krause 916-445-8321

Copies of this publication may be ordered from the Taxpayers' Rights Advocate Office by calling 888-324-2798, by writing to the address above, or by downloading from the Internet website shown above.

# LETTER TO THE EXECUTIVE DIRECTOR

January 2007

Mr. Ramon J. Hirsig  
Executive Director

Dear Mr. Hirsig:

I am pleased to present the Taxpayers' Rights Advocate's 2005-06 Property and Business Taxes Annual Report.

This report

- Highlights accomplishments of the Taxpayers' Rights Advocate Office during the past year,
- Describes our involvement in important new projects to assist taxpayers,
- Identifies current issues we are working to resolve, and
- Contains examples of cases illustrating the services our office provides.

This year's report includes a description of the Taxpayers' Rights Advocate Office's vision, which is

*To be the clear and trusted voice of reason and fairness when resolving issues between taxpayers and the government.*

In addition, I have included a mission statement and a list of goals for the Taxpayers' Rights Advocate Office in this year's report. The mission statement and goals articulate the role of this office and provide touchstones to gauge the effectiveness of our efforts.

We look forward to continuing to work with staff and the public as we identify trends and issues, develop viable solutions, and strive to better serve our customers.

Respectfully submitted,



Todd C. Gilman  
Taxpayers' Rights Advocate

# CONTENTS

## Letter to the Executive Director

- 1 TAXPAYERS' RIGHTS ADVOCATE OFFICE**
  - 3 Vision
  - 3 Mission
  - 3 Goals
  - 4 Profile
  - 6 Public Outreach
  - 7 Contacts Received in 2005-06
  - 8 Major Projects Completed and in Process
  
- 11 PROPERTY TAX ISSUES**
  - 13 Case Resolution
    - 13 About the Property Tax Case Statistics – By County
    - 14 About the Property Tax Case Statistics – By Issue
    - 14 Examples of Property Tax Cases
  - 16 Goals and Projects
    - 17 Continuing Property Tax Projects
    - 17 New Property Tax Projects
  
- 19 BUSINESS TAXES ISSUES**
  - 21 Case Resolution
    - 21 About the Business Taxes Case Statistics
    - 23 Examples of Business Taxes Cases
  - 26 Issue Resolution
    - 26 Accomplishments – Changes Implemented, Concerns Resolved
    - 32 Work in Process – Issues Identified
  
- 37 APPENDICES**
  - 39 Appendix 1 – Morgan Property Taxpayers' Bill of Rights
  - 42 Appendix 2 – Taxpayer Contacts by Business Taxes Office
  - 43 Appendix 3 – Outcome of Business Taxes Cases
  - 44 Appendix 4 – Most Common Issues in Business Taxes Cases

TAXPAYERS'  
RIGHTS  
ADVOCATE  
OFFICE

# TAXPAYERS' RIGHTS ADVOCATE OFFICE

## Vision

To be the clear and trusted voice of reason and fairness when resolving issues between taxpayers and the government.

## Mission

To positively affect the lives of taxpayers by protecting their rights, privacy, and property during the assessment and collection of taxes.

## Goals

- To ensure that taxpayers coming to us with problems that have not been resolved through normal channels have their concerns promptly and fairly addressed.
- To identify laws, policies, and procedures that present barriers or undue burdens to taxpayers attempting to comply with the tax laws; to bring those issues to the attention of Board of Equalization (Board) and county management; and to work cooperatively on making changes to laws, policies, and procedures where necessary.
- To meet taxpayer needs by opening appropriate channels of communication, providing education, and finding creative solutions to unresolved problems.
- To promote Board staff's commitment to honor and safeguard the rights of taxpayers.

---

<sup>1</sup>The term "taxpayers" in this publication is used in reference to payers of sales and use taxes, special taxes and fees, and property tax.

## Profile

### Taxpayers' Bills of Rights Mandate a Taxpayers' Advocate

In January 1989, the *Harris-Katz Taxpayers' Bill of Rights* was placed into law<sup>2</sup> to ensure that the rights, privacy, and property of California taxpayers were adequately protected in the assessment and collection of sales and use taxes. Approximately 879,000 taxpayers are currently provided protection under this law.

Effective January 1993, the Special Taxes Bill of Rights expanded the Bill of Rights statutory authority to the special taxes programs administered by the Board, currently affecting approximately 231,000 tax and fee payers in 20 programs. Since these programs primarily affect business owners, we will refer to these generally as the Business Taxpayers' Bill of Rights, covering both sales and use taxes and the various special taxes and fees.

The *Morgan Property Taxpayers' Bill of Rights* (please see Appendix 1) was added in January 1994, governing the assessment, audit, and collection of property tax, with the goal of ensuring that millions of taxpayers receive fair and uniform treatment under the property tax laws.

Each Taxpayers' Bill of Rights provides for a Taxpayers' Advocate. For instance, the designation of an Advocate for sales and use tax matters is found in Revenue and Taxation Code section 7083, and beginning with sections 5904 for property tax issues (see Appendix 1).

### Legal Responsibilities of the Taxpayers' Rights Advocate

The responsibilities of the Advocate are specifically delineated in the law. Consistent with the Taxpayers' Bills of Rights, the Advocate:

- Facilitates resolution of taxpayer complaints or problems, including complaints regarding unsatisfactory treatment of taxpayers by Board employees;
- Monitors various Board tax and fee programs for compliance with the Taxpayers' Bill of Rights;
- Recommends new procedures or revisions to existing policy to ensure fair and equitable treatment of taxpayers;
- Ensures taxpayer educational materials are clear and understandable; and
- Coordinates statutory Taxpayer Bill of Rights hearings to give the public an opportunity to express their concerns, suggestions, and comments to the Board Members.

### How Legal Responsibilities are Fulfilled

The TRA Office fulfills its legal responsibilities by taking the following actions:

#### *Facilitates resolution of taxpayer complaints or problems*

The Taxpayers' Rights Advocate (TRA) Office generally assists taxpayers who have been unable to resolve

---

<sup>2</sup> Revenue and Taxation Code Chapter 8, Article 3, sections 7080-7099.1

a matter through normal channels, when they want information regarding procedures relating to a particular set of circumstances, or when there appear to be rights violations in either the audit or compliance areas. Taxpayers also call to convey their frustration or to seek assurance or confirmation that staff action is lawful and just. We provide assistance to taxpayers and Board staff by facilitating better communication between these parties, which helps to eliminate potential misunderstandings. Taxpayers are provided information on policies and procedures so they can be better prepared to discuss and resolve their issues with staff. When a taxpayer or Board employee alleges discrimination or harassment, TRA Office staff work with appropriate Board management to resolve the complaint. The Board is committed to a discrimination/harassment-free environment and the Board's Advocate ensures that Board staff are properly trained in these areas. Likewise, alleged taxpayer discrimination or sexual harassment toward Board staff is not tolerated and is appropriately addressed.

*Monitors programs and recommends policy or procedural changes*

In cases where the law, policy, or procedures do not currently allow any change to the staff's actions, but a change to the law, policy, or procedure appears warranted, our office actively works toward clarification or modification. Several of the past recommendations for policy or procedural changes, suggestions for enhancements to staff training materials, and proposals for legislative change have resulted from direct contacts with taxpayers.

*Ensures easily understood information and guidance*

The TRA Office suggests new legislation, participates in task forces and committees charged with procedure and regulation revisions, and routinely reviews proposed revisions to taxpayer educational materials. We assist in providing information to the public at large through participation in public forums and business fairs.

*Coordinates Taxpayers' Bill of Rights hearings*

The TRA Office is responsible for making arrangements, in cooperation with the Board Proceedings Division, for yearly property tax and business taxes hearings in both Northern and Southern California, including publicizing the hearings.

*Meets regularly with advocates of other government agencies*

The Board's advocate meets quarterly with the advocates from the Employment Development Department, the Franchise Tax Board, and the Internal Revenue Service to discuss common problems and systemic issues facing California taxpayers. These meetings have led to better taxpayer services. A good example of this improved service is the Joint Offer in Compromise Application for those taxpayers with more than one tax agency liability.

**Differences Between Implementation of the Business and the Property Taxpayers' Bills of Rights**

The major difference between the Business Taxpayers' Bill of Rights and the Property Taxpayers' Bill of Rights is in the resolution of taxpayer complaints.

### *Business Taxes*

The Board is responsible for assessing and collecting business taxes (sales and use taxes and special taxes and fees). The Executive Director has administrative control over these functions and the staff carrying them out. The Advocate reports directly to the Executive Director and is independent of the business and property taxes programs. When complaints relating to the Board's business taxes programs are received in the TRA Office, the office has direct access to all Board documents and staff involved in the taxpayers' issues. The TRA Office acts as a liaison between taxpayers and Board staff in resolving problems. If the Advocate disagrees with actions taken by Board staff and is unable to resolve the situation satisfactorily, the issue is elevated to the Executive Director for resolution.

### *Property Tax*

In contrast, in responding to property taxpayers' concerns, the TRA Office works with county assessors, tax collectors, and auditor-controllers (most of whom are elected officials), plus clerks to the county boards of supervisors. Although the TRA Office does not have the legal authority to overturn local actions, TRA office staff is generally successful in soliciting cooperation and ensuring that taxpayers receive proper treatment under the law. In cases where there is no procedural or legal authority to remedy a problem - and a change does appear justified - the TRA Office recommends specific policy, procedural, and/or legislative changes.

Please see the *Business Taxes Issues* and *Property Tax Issues* chapters of this report for examples of how taxpayers' complaints are resolved in each of these areas.

## Public Outreach

The public becomes aware of the services offered by our office in a number of ways. For instance, information is included about the TRA Office in many Board publications and standard correspondence, the public can learn about and contact our office via the Internet or by telephone, and TRA Office staff members make presentations at public events.

### Publications and Standard Correspondence

- Information about specific taxpayer rights under the law and the Advocate's role in protecting those rights is described in publication 70, *Understanding Your Rights as a California Taxpayer* (November 2005), which is available in all Board offices and on the Board's website.
- Publication 145, *California Taxpayer Advocates – We're Here for You* (October 2005), provides contact information for the Advocates from the Board of Equalization, Franchise Tax Board, Employment Development Department, and Internal Revenue Service. Publication 145 is posted on the websites of the participating state agencies, the State of California (California home page), and the California Tax Information Center, [www.taxes.ca.gov](http://www.taxes.ca.gov).
- The TRA Office's toll-free number is printed on the Board's permits and licenses.
- An article about the services provided by the TRA Office is published each year in the newsletters provided to taxpayers with their tax or fee returns.
- Contact information for the TRA Office is included on many standard audit letters sent to taxpayers.

## Internet and Telephone Contacts

- The Advocate's web page, [www.boe.ca.gov/tral/tra.htm](http://www.boe.ca.gov/tral/tra.htm), can be accessed from the Board's home page. The Advocate's page provides a means for taxpayers to communicate with our office directly via e-mail.
- The TRA Office's toll-free number is included as an option on the automated phone tree for all district offices in the Second Equalization District.

## Public Events

- Board Hearings: The Advocate and/or TRA Office staff is present and available to answer questions or assist taxpayers arriving for their appeal hearings before the Board Members. Taxpayers are encouraged to stop by the Advocate's table and talk to TRA Office staff if they have questions regarding their rights and responsibilities.
- Board Member Sponsored Events: The Advocate or designee attends all of the Small Business Fairs/Taxpayer Service Days throughout the state, and many of the Nonprofit Seminars. At these events sponsored by the Board Members, the TRA Office interacts with business owners and charitable organization representatives and provides written material about the TRA Office. At the Small Business Fairs/Taxpayer Service Days, the Advocate often leads a presentation on the "Problem Resolution Process" with Advocate Office representatives of the Internal Revenue Service, Franchise Tax Board, and Employment Development Department.
- Non Board Sponsored Events: Direct contacts with the public are made at conventions and fairs

sponsored by consortiums of industry or business groups to assist California business owners, such as the Professional Business Women's Conference. In the past, we have made presentations to taxpayer representative groups such as the California Society of Certified Public Accountants, and this year we participated in a presentation to a chapter of the Automotive Service Council.

## Contacts Received In 2005-06

### Total Cases Increased

TRA Office cases totaled 938 this year, a slight increase from the 932 cases last year. However, the composition of cases shifted somewhat: Last year our caseload was comprised of 78 percent business taxes cases and 22 percent property tax cases; this year the mix was 71 percent business taxes cases and 29 percent property tax cases. Once again, the Internet accounted for the largest source of referrals, holding steady at 33 percent of the business taxes cases, and increasing from 26 percent last year to 37 percent this year for property tax cases.

### Telephone Call Volume Increased

Our telephone call volume continues to increase. The average number of telephone calls per month (not including calls that resulted in new cases) increased 21 percent, from 386 calls in fiscal year 2004-05 to 468 calls in fiscal year 2005-06.

## Major Projects Completed and In Process

In partnership with other departments of the Board, we completed work on two major projects during fiscal year 2005-06 and made significant progress on a third project. All of these efforts, started in fiscal year 2004-05, were designed to assist taxpayers who have requested a Board hearing.

### **Board Hearing Instructional Video Project (Completed)**

Last year taxpayers filed more than 3,400 appeals with the Board on issues ranging from sales and use tax and special taxes and fees to homeowner and renter property tax assistance and income tax. The TRA Office helps many of the appellants and keeps staff on hand during Board hearings to provide any assistance they may need. This year we took an extra step by producing an informational video to assist appellants who will represent themselves during their hearings.

The video, completed this year, is designed to make the hearing process less intimidating by providing helpful information to taxpayers on how to prepare, submit, and present information for a Board hearing. When taxpayers receive their notice of hearing and written instructions, they also now receive a high-end 8½ minute long DVD, *Your Appeal Hearing Before the Board Members* (also available on a videotape upon request). The video is also available for viewing on the Board's website. In creating the video, we consulted key personnel in the Sales and Use Tax Department, Legal Department, and the Communications Office to find the most important points to communicate.

Using this medium allows us to address points that are difficult to cover in written taxpayer guides. First, the video gives taxpayers an image of the Board Room, where their case will be heard. It then offers a breakdown of Board literature provided to appellants, explains the hearing schedule, and directs taxpayers to other helpful Board resources. It even highlights sections of Board literature as those sections are discussed. In addition, the video includes informal advice, such as visual guides to using the microphone and information on how to make the best use of the time provided in the hearing.

While we are anxious to see how well the video helps taxpayers prepare, it is already creating a buzz in the tax world. Tax officials from five states and Washington, D.C. have contacted us seeking copies and asking about its development.

### **Taxpayer Notification Project – Board Hearing Correspondence (Completed)**

In response to requests from Board Members to the Advocate, the Board Proceedings Division began efforts in 2005 to update the content of current documents used in the Board hearing process, add new documents and educational material, and upgrade the appearance and readability of all materials provided to appellants. The TRA Office assisted in the Taxpayer Notification Project by providing input to the Board Proceedings Division regarding taxpayers' rights issues and reviewing materials for clarity. In fiscal year 2005-06, the Taxpayer Notification Project made improvements to a number of standard letters and notices and produced two new publications that are provided to taxpayers who are scheduled for an

oral hearing before the Board Members: publication 142, *California State Board of Equalization Hearings: An Introduction* (August 2005), and publication 143, *Your Appeal Hearing Before the Board Members* (January 2006).

### **Tax Appeals Assistance Program (in Process)**

Board Members expressed concern that some taxpayers involved in the appeals process are at a disadvantage because they are underrepresented. The Board Members asked the Taxpayers' Rights Advocate to investigate how taxpayers who lack an understanding of the tax laws and the Board's rules, policies, and decision-making process could receive assistance with their appeals prior to and during a Board hearing.

In partnership with the Appeals Division of the Board's Legal Department, the Advocate directed the Legal Assistance Pilot Project in fiscal year 2004-05. The pilot project's success led to the launching of the new Tax Appeals Assistance Program in fiscal year 2005-06. This program will allow low-income, underrepresented taxpayers who have filed an appeal the opportunity to seek free legal assistance.

Qualified law students already participate in a legal internship program at the Board where they receive valuable training in legal appeal matters and gain experience in reviewing appeal briefs and other materials and in researching and preparing proposed decisions for the Board Members' consideration. This year the Advocate and the Appeals Division worked on expanding this program to provide the interns with hands-on experience and knowledge about preparing an appeal and representing taxpayers before the Board Members.

This year the Advocate's efforts to actively solicit participation from law schools throughout the state was rewarded by agreements from three law schools to participate in this new program. The legal assistance clinic at the McGeorge School of Law in Sacramento completed its inaugural semester assisting underrepresented taxpayers with their appeals before the Board, consisting primarily of Homeowner and Renter Property Tax Assistance (HRA) hearings. The first Southern California clinic began operations at Chapman University School of Law in the Summer of 2006. Loyola University Law School began its clinic operations in the Fall of 2006.

Currently, all the clinics are managed by the TRA Office. The program is offered to HRA appellants and income tax appellants with selected issues via informational material included with the acknowledgement of the appellant's appeal to the Board. The TRA Office is currently looking at other means to publicize the program. We are gratified by the enthusiasm of the participating law schools and by the successes already experienced by the students, and are working hard to expand the program to more schools and to a broader coverage of Board appeals.

PROPERTY  
TAX ISSUES

## PROPERTY TAX ISSUES

### Case Resolution

The TRA Office opens new cases when contact is made with our office regarding a property tax matter. Our primary contact is with individual taxpayers but cases also originate from contact with attorneys, brokers, lenders, title and escrow companies, and government officials such as assessors, tax collectors, recorders, auditor-controllers, county supervisors, Board Members, and legislators. All cases are treated equally and resolved as quickly as possible.

The variety of issues represented by the cases requires that technical advisors in the TRA Office have broad experience in property assessment and taxation.

The technical advisors are appraisers by profession with experience in a county assessor's office or at the Board of Equalization. This firsthand knowledge of the property assessment and taxation process enables the technical advisors to quickly determine the best resource for information and proper location for resolution of the case.

### About the Property Tax Case Statistics – By County

The TRA Office opened 270 property tax cases in fiscal year 2005-06. This number represents a 34 percent increase in cases over the prior fiscal year. We believe the increase is due in large part to our public outreach efforts.

Although cases come from all over the state, the table below lists the counties that generated the most calls to our office. The largest counties, with the exception of Kern and San Joaquin, generated the most contacts with our office as expected. Since contacts from Kern and San Joaquin counties involved the same basic issues as those in other counties, no unusual trends were indicated. It may be that these counties more frequently encourage taxpayers to contact our office. We see this as a positive because we can better determine where and what issues are causing taxpayers to have concerns. We encourage all counties to have their taxpayers contact us for this reason.

**Contact Volume by County Relative to County Size Indicators**

Contact with Advocate's Office	Total Estimated Population	Veterans Exemptions	Homeowners Exemptions	Total Assessed Value
Los Angeles	Los Angeles	San Diego	Los Angeles	Los Angeles
San Diego	Orange	Riverside	San Diego	Orange
San Bernardino	San Diego	Sacramento	Orange	San Diego
Kern	San Bernardino	Los Angeles	Riverside	Santa Clara
Sacramento	Riverside	San Bernardino	Santa Clara	Riverside
Santa Clara	Santa Clara	Solano	San Bernardino	Alameda
San Mateo	Alameda	Orange	Sacramento	Contra Costa
Riverside	Sacramento	Monterey	Alameda	San Bernardino
Alameda	Contra Costa	Contra Costa	Contra Costa	San Mateo
Orange	Fresno	Shasta	Ventura	San Francisco
San Joaquin	Ventura	Santa Clara	San Mateo	Sacramento
San Francisco	San Francisco	Fresno	Fresno	Ventura

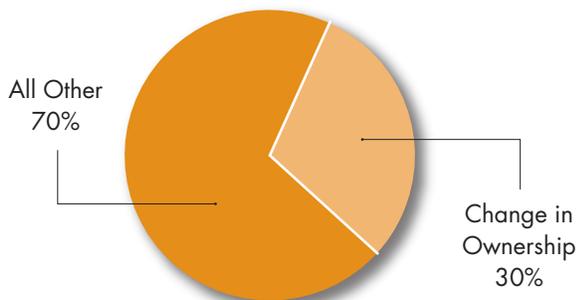
Another important item to note is that Los Angeles County has a Property Owners' Advocate that resolves issues very similar to the issues we address. Since we work closely with their Advocate, we can handle more cases from Los Angeles County. The use of local advocates is a practice we hope will be used in other counties soon.

**About the Property Tax Case Statistics – By Issue**

In fiscal year 2005-06, 79 percent of our cases involved assessment and valuation issues such as changes in ownership, new construction, appraisal methodology, exclusions, exemptions, assessment appeals, general property tax information and definitions, and actual enrollment of values. The remaining 21 percent involved the functional issues of creating and mailing tax bills and refunds, waiving penalties, accessing data by the public, and other issues that are more administrative in nature.

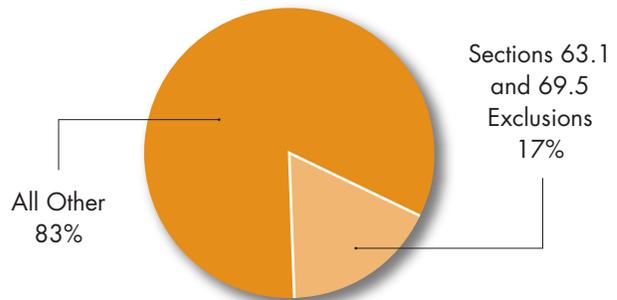
Of all property tax cases, 30 percent, or nearly one in three cases, involved a change in ownership issue. See the chart below.

Change in Ownership Issues Compared to All Other Issues



Of all property tax cases, 17 percent involved parent/child or senior citizen exclusions from reassessment under Revenue and Taxation Code sections 63.1 or 69.5. These base year value transfer issues therefore represent about one out of every six property tax cases. See the chart below.

Section 63.1 and 69.5 Exclusion Related Issues Compared to All Other Issues



These statistics from fiscal year 2005-06 again show a need for our focus on change in ownership issues, specifically exclusions such as senior citizen and parent/child base year value transfers. We see these issues as taking on more importance each year as our population ages and property values increase.

**Examples of Property Tax Cases**

The following are examples of cases that are typical of the variety of issues encountered and the types of resolutions reached. Our role as facilitator in the communication process is common in these and most of our cases.

### *Can an Appeal Be Filed If the Assessor Said It Cannot?*

Assessment appeals are challenges to assessments made by an assessor's office. There are specific rules about what, who, and when appeal applications can be filed. The process can be simplified by the assessor when taxpayers ask if an appeal can be filed. Assessors and assessment appeal boards can assist with the specific requirements and do on a daily basis.

In this case, however, the corporate taxpayer was told it was too late to file an assessment appeal on the audit of its business personal property. This taxpayer was represented by a consultant who did not see it the same way as the assessor and contacted our office.

We encouraged the taxpayer to file an assessment appeal because it is not the assessor or our office that determines what can be challenged, but rather the local assessment appeals board. Except where expressly forbidden, the assessment appeals board generally has jurisdiction over any case it chooses to hear. The first step in this process was to see whether the board would hear the case and the taxpayer needed to file an appeal to start that process. The appeal was filed but the assessment appeals board has not made a decision on whether they will hear the appeal yet.

The taxes in question had already been paid and any value reduction made in those years would create significant refunds. Assessment appeals are part of the checks and balances process. Assessors will usually encourage a taxpayer to file an appeal if there is any doubt about whether it is too late to file. These "jurisdictional" appeals are part of the equalization process accorded to taxpayers by law.

### *Assessment and Appeal Process Explained to Taxpayer*

A taxpayer contacted our office concerning the assessment of his new custom home. The value determined by the assessor was significantly higher than the cost to build the home. The taxpayer questioned how this could be and what could be done to challenge the assessment.

The fact that the home was assessed at more than the cost to build it was a good place to start with an explanation of the assessment of new construction. In addition to explaining the appraisal techniques involved in the process, insight was also shared with the taxpayer about what areas in the appraisal to question. In this case, since it was a new home, it was logical to ask if the size of the home was determined correctly. Since the quality of the construction is critical to both the cost and value, it was important to determine whether the quality classification assigned by the assessor was appropriate.

The cost to build a home is one of several indicators of value but not necessarily the one given the most weight. In this case, sales of similar properties (the sales comparison approach) were used to determine the market value of the home. Applying this approach incorrectly can lead to an incorrect value conclusion. The size and quality of the new construction are critical in this approach. We suggested the taxpayer send us a copy of the information that the assessor was using such as the building record and appraisal record. Once we received the information, we examined it for reasonableness and explained it in more detail to the taxpayer. When he noted something that did not

sound accurate, he was advised to discuss that aspect with the assessor. There were many possible reasons this assessment turned out higher than the taxpayer's cost to build the home.

The taxpayer later met with the assessor but was not able to reach agreement on the value. We then assisted the taxpayer with the assessment appeal application process. The appeal was resolved, prior to the hearing, after more dialogue between the parties and more information was exchanged. This is very typical of the way the process works. We help the taxpayer understand the system so that the taxpayer can better communicate his or her position to the assessor and/or the assessment appeals board.

### *Tax Sale Generates Confusing Notice*

A call was received from a distraught taxpayer who had been informed that his property was going to be sold at auction since he had not paid the property taxes. He knew this to be incorrect as he had his tax statement to prove it. Most of the information in the Notice of Intent to Sell Tax Delinquent Property appeared correct except for the name of the city where the property was located. Confusing things even more was the fact that the taxpayer had a property in that city at one time. There was in fact a property up for tax sale at the location shown on the notice the taxpayer received. However, the property was not his property nor had it ever been his property. This situation was made worse when the taxpayer called to ask the county why he received the notice and was told that it was because he did not pay the taxes. This communication problem prompted a call to our office and we then contacted the tax collector's office.

We learned from the tax collector's office that the county had sent the notice to persons with similar names in the hope that the real property owner would be located. We were told that the notice was sent to the taxpayer who contacted us because his last name was the same as that of the actual owner and the first initials of the first names were also the same.

After confirming the information with the tax collector, we contacted the taxpayer and discussed the notification process and the reason he received the notice. The taxpayer understood but asked why this wasn't explained to him when he originally called the tax collector's office. We explained that the tax collector had emphasized to staff that this would now be explained to taxpayers when they called with similar questions. This case shows that solutions to both individual and systemic problems can result from one taxpayer's contact with our office.

## **Goals and Projects**

Each year, in addition to resolving cases, the TRA Office tries to improve the property tax system on a broader scope by participating in a variety of projects. These projects enable us to reach more taxpayers than just those we help through case resolutions. The following are descriptions of projects started last year and new projects we intend to work on during fiscal year 2006-07.

## **Continuing Property Tax Projects**

### *Better Statistical Information Gathering*

Last year we started a project to improve the manner in which we capture the statistical information about our cases. The new format highlighted areas where taxpayers are having problems with the property tax process. We will be implementing more changes again this year because we rely on the cases we receive as a barometer for the “hot-button” issues with taxpayers.

Part of this project was to capture the type of role played by the TRA Office in cases. We found that the role “facilitator of communication” was most prevalent. Most of the problems can be resolved directly between the taxpayer and the assessor, and for the most part, we just help that process along.

### *In-Person Contact with County Officials*

We attended the California Assessors’ Association (CAA) conferences in Monterey, Squaw Valley, and Fairfield in order to maintain contact with the assessors and their key staff. We believe this involvement is a very important tool for assisting the taxpayers. The confidence we build with the 58 assessors and their staff allows us to more effectively assist all taxpayers.

### *Estate Planners Need Information*

We received many calls from estate planning professionals and their questions exclusively concerned change in ownership issues. Without having to survey this group, we were able to determine, by their calls to our office, that this group needs more information on exclusions to change in ownership assessments and ramifications of proposed transfers. We will continue to look for additional methods to provide the infor-

mation this group needs so that they can better serve their clients.

### *Discovery of Misleading or Confusing Forms*

Our plans called for a project we called “Report-A-Form” where taxpayers could alert us to forms that counties were using that were incorrect, misleading, or not user-friendly. Taxpayers did bring to our attention, without being solicited, several such forms, most notably, the Notice of Intent to Sell Tax Delinquent Property and the Escape Assessment Notice. We are looking into alternatives for providing a formal means for taxpayers to let us know about forms in need of revision.

## **New Property Tax Projects**

### *Examining the Process of Sales of Tax Defaulted Property*

The sale of tax defaulted properties is another area we will examine closer in conjunction with the State Controller’s Office and the California Association of Treasurers and Tax Collectors. Our goal is to determine if taxpayers are treated fairly and consistently in the sale process.

### *Developing an Instructional Video on the Assessment Appeal Process*

The assessment appeal process can be challenging to taxpayers because they are not familiar with it. Even though the counties do a good job of providing written guidance, we are considering augmenting that material with a short instructional video. If produced, this video will be developed for homeowners and be made available for each county’s website.

*Suggesting Revisions to the Change in Ownership Exclusion Laws*

We have started a project that will point out the most common reasons counties deny base year value transfer applications. With that information, we will work with the assessors to see if changes to the statutes, rules, and procedures need to be made to allow for more assessees to have their exclusion claims granted. This year for example, both the CAA and our office had the same idea for new legislation. The outcome of that was Assembly Bill 3076, which changed Revenue and Taxation Code section 69.5 effective January 1, 2007.

Prior to this new legislation, senior citizens were required to file for the base year value transfer within three years of the date they purchased their replacement property in order for the relief to be effective as of the purchase date. The law now allows claims to be filed after three years, although the relief, if granted, is for subsequent years only.

We will continue to look for the best solutions to individual, local, and statewide problems by working with all parties involved.

BUSINESS  
TAXES ISSUES

## BUSINESS TAXES ISSUES

### Case Resolution

The majority of the TRA Office's clientele consists of individuals liable for taxes and fees under the Sales and Use Tax Law and various special tax and fee programs administered by the Board. All of these tax and fee programs are collectively referred to as "business taxes." Legislators and Board Members also contact our office on behalf of their constituents who have not been able to resolve a sales or use tax or special tax problem through normal channels.

The Taxpayers' Rights Advocate and the TRA Office's business taxes technical advisors are uniquely positioned and qualified to fulfill the TRA Office's most crucial role of bringing resolution to taxpayer problems. The Advocate and the advisors all have extensive background in and knowledge of Board programs, policies, and procedures. This knowledge means they are able to advise clients of their rights and obligations, explain Board policy, and seek out creative and appropriate solutions that are acceptable to both taxpayers and Board staff. The unique independence from Board program areas enjoyed by the TRA Office means the Advocate and the advisors are free to focus on protection and assistance for taxpayers within the framework of the law with the cooperation of Board management and staff.

Following is information about the business taxes cases we worked on this year and some case examples that exemplify the unique services we are able to offer our customers.

### About the Business Taxes Case Statistics

During fiscal year 2005-06, our office recorded 668 new business taxes cases, a nine percent decrease from last year. (Overall cases in the TRA Office increased slightly, with the mix of cases shifting and property tax cases registering a 35 percent increase.)

#### *Board Office of Origin*

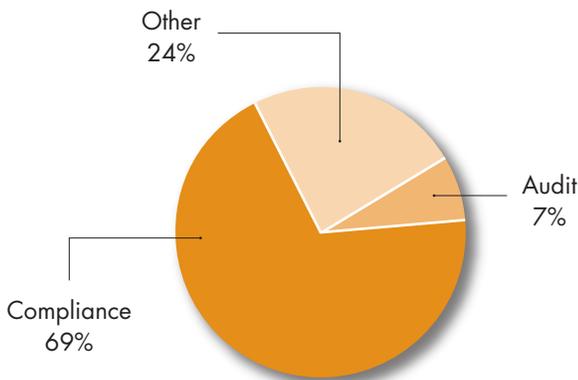
Appendix 2 provides a breakdown of contacts by district and headquarters offices, indicating the mix of compliance, audit, and other case types. A specific district or headquarters office was designated as the office of origin for a case if the taxpayer contacted us regarding an action taken by a specific office. "TRA Office" was designated as the office of origin in cases where taxpayers wanted general information and guidance regarding a Board process or procedure or if the case was a result of testimony at a Taxpayers' Bill of Rights hearing.

When reviewing these appendices, it should be noted that there are many contributing factors that may cause certain districts to reflect a higher number of cases than other districts. For example, characteristics related to overall population, density of taxpayers within the district, the type and size of business operations, and geographic proximity to headquarters could all contribute to the disparity between districts.

Appendix 3 provides more detailed information for each office, along with a picture of the outcomes of the cases.

*Taxpayer Inquiries Cover a Wide Range of Issues*

**Types of Cases.** Business Taxes cases are categorized broadly as related to compliance, audit, or other issues. Of the 668 cases received, 69 percent involved compliance-related issues, seven percent involved audit-related issues, and 24 percent involved other issues, such as consumer use tax exemptions, general information, and Franchise Tax Board matters.



**Specific Issues Leading to TRA Office Contacts.**

Each case discloses a variety of specific issues that caused the taxpayer to contact the TRA Office. The top three issues in each case were tracked and the 20 most common are displayed in Appendix 4.

Not surprisingly, a large portion of our cases include as one issue, the need for information and guidance. Taxpayers often seek information on a particular process or to determine if an action taken by Board staff was appropriate and in compliance with law and procedures. We provide guidance by recommending specific courses of action. The remaining most common issues in descending order were: TRA Office intervention requested; questioning liability; liens; levy or earning

withhold order; consumer complaint; reimbursement of levy fees; penalty; refund; policy or procedure; offers in compromise; audit procedures; interest; payment plan; returns; appeals; tax collection; ownership/dual/successor; security; and account maintenance.

**Customer Service Issues.** Although the area of customer service rarely accounts for any of the most common issues in our cases, we closely track the number and type of issues taxpayers bring to our attention in this area. Customer service issues are divided into four broad categories:

1. Communication: giving misinformation, refusing to allow the taxpayer to talk to a supervisor, failure to answer specific taxpayer questions, or not providing a communication or notice;
2. Board delay: slow response to inquiry, or delay in issuing refunds or resolving the taxpayer’s case;
3. Staff courtesy: complaint about staff demeanor, manner of handling the taxpayer’s case, or comments made by staff; and
4. Education: lack of information provided regarding tax law, Board policy, or Board procedures; or staff training issues.

We continue to see an improvement in customer service. Only four percent of the total contacts in fiscal year 2005-06 were related to customer service issues, down from eight percent the previous year.

**Note:** The customer service statistics were captured based solely on the taxpayers’ statements or impressions of their situations; therefore, these statistics do not necessarily indicate verified problems but reflect the taxpayers’ perception. For example, if a taxpayer

states that collection staff made a rude comment, a “staff courtesy” complaint would be recorded. However, frequently the taxpayer’s contention did not match staff’s recollection of the situation or was portrayed in a different light.

***How Taxpayers Were Referred to the Advocate Office***

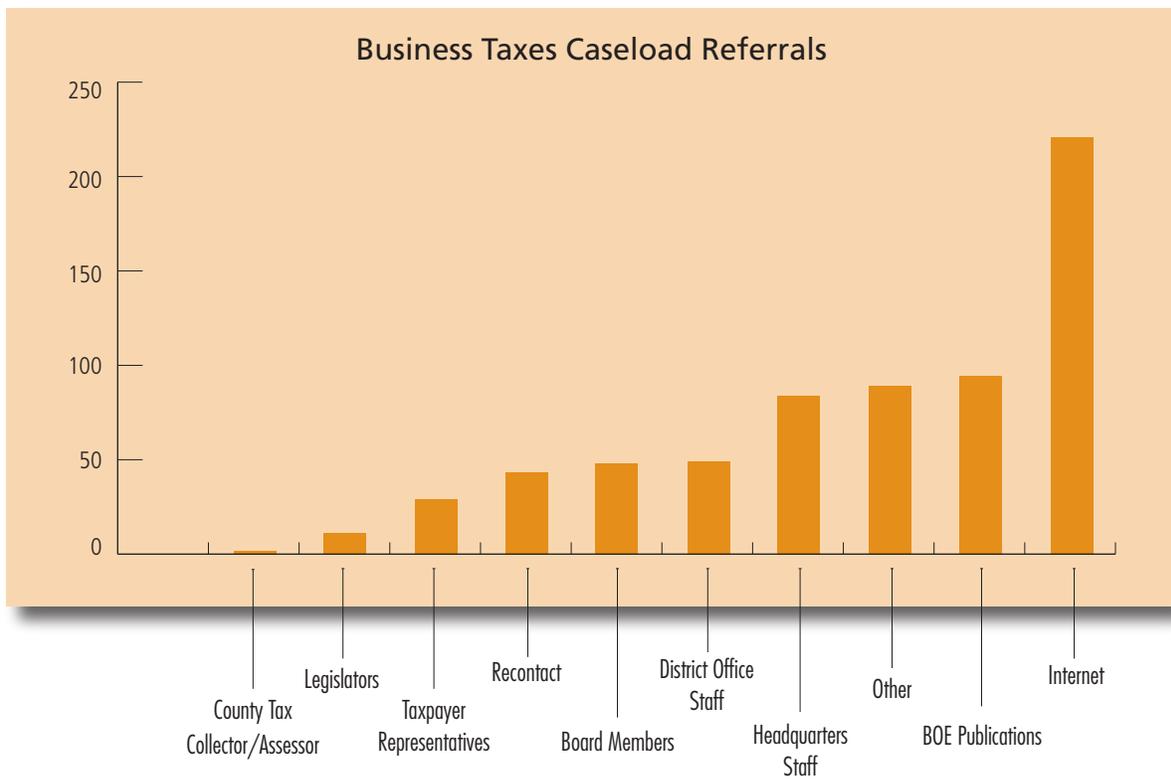
In an effort to improve public service, we attempt to identify the source of referrals. The Internet was again cited by the largest percentage of taxpayers as the source of referral, reflecting 33 percent of the total referrals to our office, the same percentage we saw last year. Other important sources of referral were Board publications (14 percent) and headquarters staff (13 percent).

**Examples of Business Taxes Cases**

The following cases illustrate how taxpayers’ issues are resolved by TRA Office staff and indicate the range of services provided by the Advocate and the business taxes technical advisors.

***Liability Adjusted and Paid, Liens Released***

**Issue.** The TRA Office was contacted by a taxpayer who was having no success in his attempt to obtain lien releases from the Board. The taxpayer stated that he understood he owed an amount to the Board but disputed a portion of the estimated billings that were made for periods many years earlier in which he stated the business was not open. He wanted to ensure he paid the correct amount of tax due and received



releases from all Board issued liens. The taxpayer told us that he had spoken to staff from multiple areas of the Board and was frustrated in his attempts to find the appropriate avenues to approach staff.

**Resolution.** Our office assured the taxpayer that lines of communication would be established and he would receive notification of the correct amount due. We were able to resolve the problem to the taxpayer's and the staff's satisfaction by:

- Gaining agreement from management in the district offices and headquarters sections regarding who was to be responsible for: reviewing the taxpayer's documentation, making decisions on adjusting the liabilities, establishing revised amounts due on the system, communicating with the taxpayer, processing the payments, and releasing the liens;
- Acting as a go-between for the parties (including two headquarters sections and two district offices) to ensure appropriate questions were asked and responses received timely;
- Calculating a range of potential liability based on taxpayer's contentions and discussions with staff, so that the taxpayer had some idea of where he stood in regard to possible payment requirements;
- Discussing with the taxpayer his appeal options if staff did not concur with the liability asserted by the taxpayer;
- Interceding to ensure an incorrect tax bill was revised (the bill, indicating a large balance still due, had been mistakenly sent to the taxpayer after he made the agreed-upon payment in full); and
- Following up to make sure the promised lien releases were processed expeditiously.

**Summary - Services Provided.** Because of the TRA Office's efforts in establishing and maintaining communication between the taxpayer and various staff at the Board, the taxpayer was able to demonstrate his actual tax liability was lower than the Board records showed. The Board received payment in full of a large liability that had been outstanding for many years, and the taxpayer received the lien releases he needed.

#### *Lien Attached to Pre Bankruptcy Petition Asset Released*

**Issue.** A taxpayer was a partner in a business that closed in 1988. He discovered a Board of Equalization lien in his name when he attempted to sell his personal residence in 2006. He contacted the TRA Office for help because the escrow was due to close in less than 30 days, he had not been aware that there was an unpaid liability with the Board, and he had no funds with which to pay it.

**Resolution.** In researching the taxpayer's file, we learned the taxpayer had filed Chapter 7 bankruptcy in July 1997, and the bankruptcy was discharged in October 1997 with no assets remaining. However, the Board lien had attached to pre bankruptcy petition assets and was thus not considered subject to release. In further discussion with the taxpayer, we discovered that the pre bankruptcy petition asset consisted of a house that had been foreclosed upon in October 1997. This opened a new area of investigation. We discussed the implications of this circumstance with the Board's bankruptcy experts in the Special Procedures Section. They indicated that if the only asset the pre bankruptcy petition lien attached to was foreclosed on, the Board would make a demand based on the value of the benefit the taxpayer received from the foreclosure, if any.

At this point, the TRA Office put the taxpayer in touch with the appropriate staff member in the Special Procedures Section, who would determine how much the taxpayer was going to be required to pay to have the lien released. In less than a week, it was determined that the lien would be released with no payment required, and the lien release was faxed to the escrow company six days prior to the scheduled close of escrow.

**Summary - Services Provided.** This case illustrates the value that is provided to taxpayers by TRA Office technical advisors who are knowledgeable, inquisitive, creative, and enjoy an excellent working relationship with Board staff. We were able to help this taxpayer because we asked the right questions and followed through to ensure correct answers and responses were timely obtained.

### *Debt Relieved Due to Proof of Identity Theft*

**Issue.** District office collection staff referred an individual to the TRA Office for assistance. She had explained to collection staff that her spouse applied for a seller's permit under her name as a sole owner of a business actually owned and run by him, forging her name on the application for the seller's permit. She was now being held liable for sales taxes reported but not paid by her spouse. She was aware of her spouse's business, but she never had any part in running the business and did not know that her spouse had opened the permit in her name. Collection staff had not been able to obtain adequate support for the case that she should be relieved of the liability, and by the time she was referred to the TRA Office her wages had been garnished and her income tax refund diverted to pay a portion of the liability at the Board.

**Resolution.** We performed extensive research on this case and worked hard to collect evidence to support the individual's identity theft claim. For instance, we brought to the attention of Board management the fact that some of her actions that appeared to indicate ownership of the business actually occurred under duress. In addition, we noted that all contact between Board of Equalization employees and this business was with her spouse, and never with her, until after the business closed and collection actions were under way. We also learned that the Franchise Tax Board (FTB) had relieved her of debt under similar circumstances.

The TRA Office was successful in advocating on this individual's behalf with Sales and Use Tax Department management. In addition, we were able to assist her in gaining relief from a similar debt to the Employment Development Department (EDD) through our working relationship with the EDD Taxpayer Advocate Office. We ensured that staff expedited the refund of the amount diverted from FTB. Then, when this refund check ended up at EDD in satisfaction of that still outstanding debt, we worked hard to get it back to the individual quickly. We also made sure a lien release was issued so that her credit could be restored.

**Summary – Identification of Systemic Issue.** The circumstances of this case revealed a need to improve the guidance provided to staff for evaluating a claim for relief of liability due to identity theft. As a result, we worked with staff on revising Operations Memo 1105, Identity Theft Program, to provide additional guidelines on what may constitute acceptable evidence of identity theft and to address similar concerns when a person is defrauded because of a forged signature. (See "Identity Theft Program Guidelines" on page 30.)

## Issue Resolution

The two primary functions of the TRA Office are to ensure fair and equitable treatment of taxpayers in the assessment and collection of taxes and to recommend changes in policies, procedures, and laws to improve and/or ease taxpayer compliance. As a result of specific contacts from taxpayers, issues raised at the annual Taxpayers' Bill of Rights hearings, and issues identified by our office, suggestions are presented to the program staff for evaluation. We then actively work with staff to assist in the development and implementation of policy, procedure or law changes to address the identified areas of concern.

### **Accomplishments – Changes Implemented, Concerns Resolved**

With the cooperation of Board staff, the following changes to business taxes policies and procedures were accomplished this past year. In some cases, TRA Office concerns were resolved through enhancements to staff and/or public education.

#### *Modify Lien Policies That Affect Third Parties*

**Area of Concern.** Under California law, the Board can record a notice of state tax lien with the county recorder's office in the name of the person or entity having an outstanding liability with the Board. Co-owners of the property subject to a state tax lien may be impacted by the lien.

When a property that is subject to a state tax lien is sold or refinanced, usually an escrow company requests a demand for payment from the Board's Special Procedures Section. The Special Procedures Section typically demands payment in full of the outstanding

tax liability. Although the Board is not legally required to release a state tax lien unless it receives payment in full, Board staff may release a state tax lien without payment in full if staff determines that the Board will receive the entire sales proceeds or loan proceeds to which the taxpayer (the seller) is entitled. Such a determination often requires a search of the chain of title and sometimes requires a legal opinion.

Affected co-owners of property are often ex-spouses that acquire real property as a result of a property settlement agreement in a divorce proceeding. Generally, the community estate of married persons is liable for a debt incurred by either spouse before or during the marriage. If a notice of state tax lien is recorded while property is held as community property, any subsequent change in title to separate property of the non-taxpayer spouse does not affect the Board's tax lien. The lien remains attached to the entire property. In instances where property is held as joint tenancy at the time the notice of state tax lien is filed, the Board's tax lien attaches only to the taxpayer's one-half interest in the property.

**Change Implemented.** We discussed with Board staff possible process changes that would take into account the debtor's contribution to equity—or lack thereof—in contemplation of issuing a partial release of lien. This would include special consideration for innocent spouses and ex-spouses who are not identified on the Board's notice of state tax lien but are affected by it. One process that is available is provided in section 7097(e) of the Revenue and Taxation Code. Section 7097(e) states "The board may release or subordinate a lien if the board determines that the release or subordination will facilitate the collection of the tax liability or will be in the best interest of the state and the

taxpayer.” Formerly, a request for a release or subordination of a lien under section 7097(e) was referred to the TRA Office for approval.

As a result of our suggestion and in order to provide a more timely response, the Special Procedures Section in the Legal Department now prepares recommendations for partial releases of liens and submits them to the Legal Department management for approval in non-community property cases where there is evidence that a co-owner has no liability for the taxes owed but is being adversely affected by the Board’s filing of a notice of state tax lien. In addition, guidance was given to staff regarding the issue of joint tenancy versus community property and the circumstances in which to refer a taxpayer to the Special Procedures Section for a possible partial release of lien.

### *Requests for Relief from Penalty*

**Area of Concern.** Existing law requires the assessment of penalties for taxpayers who fail to comply with such statutory requirements as filing a return timely, remitting taxes timely, or remitting taxes by Electronic Fund Transfer (EFT) when their participation in EFT filing is mandatory.

Taxpayers who believe they could not comply with the law because of circumstances beyond their control and in the absence of willful neglect can apply for relief from penalty. Staff reviews and considers the approval or denial of these taxpayer requests based on established criteria in accordance with the statutes. Recommendations for approval or denial of relief of penalties over \$50,000 are subject to review and approval by the Board Members.

If relief is not granted, the taxpayer could submit additional information and request to have the decision reconsidered by the supervisor of the unit making the decision; however, to appeal beyond this level, the taxpayer was required to pay the penalty, file a claim for refund, and go through the legal appeal process.

The TRA Office recommended that this process be changed to allow for an independent review of a penalty relief denial outside the unit responsible for processing the request, without requiring the taxpayer to pay the penalty and file a claim for refund. We were also concerned that taxpayers were not informed of their right to request reconsideration when their request for relief was denied.

**Change Implemented.** This year the TRA Office worked closely with staff to implement new procedures to: (1) inform taxpayers that they may request reconsideration of denied penalty relief; and (2) include the Deputy Director’s review and approval of penalty relief decisions following reconsideration. The new procedures, detailed in Operations Memo 1133 (January 6, 2006), implement both of these objectives. The letter notifying the taxpayer of the Department’s recommendation to deny the taxpayer’s request for relief of penalty will now include a statement explaining that the decision to deny relief may be reconsidered if the taxpayer provides new information within 15 days. The letter will also explain that if the taxpayer provides additional information and the request for relief is still denied by Board staff, the request will then be reviewed by the Deputy Director. If the Deputy Director agrees with staff’s recommendation to deny the request for relief of penalty, the Deputy Director will send a letter to the taxpayer to that effect. If the

Deputy Director agrees with staff's recommendation to deny the request and the penalty is in excess of \$50,000, the Deputy Director will inform the taxpayer that the recommendation to deny the request will be submitted to the Board Members and will provide the anticipated date the Board Members will consider the request. (A decision to waive a penalty over \$50,000 must also be approved by the Board Members.)

These new procedures, while providing for an independent review of denials of requests for penalty relief and notification to taxpayers of the existing reconsideration process, have no effect on taxpayers' statutory right to appeal the imposition of the penalty by paying the penalty and filing a claim for refund.

#### *Maintaining Accurate Information on Taxpayer Representatives*

**Area of Concern.** Taxpayer representatives periodically contact our office regarding lack of notification to them or incorrect addresses. Due to confidentiality concerns and other consequences of misaddressed mail and failure to copy authorized representatives on notices from the Board, it is imperative that records be maintained accurately.

**Concern Resolved.** To address this concern, the TRA Office recommended that staff education be enhanced in this area. In response, management brought to staff's attention that there have been instances where authorized taxpayer representatives have not been copied on correspondence sent to their clients relating to the audit and appeal process. Staff were reminded that when a representative is involved with an audit, petition, or claim for refund there is an expectation that the representative will receive copies of correspondence. Accordingly, staff were directed to review the

taxpayer files for representative authorizations when correspondence is sent to taxpayers regarding audits, reaudits, petitions, appeals, refunds, compliance issues, collection cases, or other correspondence and to ensure the representative is copied accordingly.

#### *Questionable Successors and Dual Determinations*

**Area of Concern.** In certain circumstances, the law allows the Board to issue a determination (more commonly known as a bill) to an individual other than the registered holder of a seller's permit. For instance, in the case of a suspended or abandoned corporation, Revenue and Taxation Code section 6829 provides for the personal liability of a corporate officer under specified conditions. In such circumstances, in order to protect the state's interests, staff may issue a "dual determination" against both the registered holder of a seller's permit and another party for an unpaid liability. In addition, the Board may issue a notice of successor's liability against the purchaser of a business—the successor—when the predecessor fails to notify the Board of a change in ownership and the successor does not obtain a tax clearance from the Board.

We noted a discrepancy in the handling of dual determinations when the liability arose due to audit findings as opposed to nonfiling or nonpayment of returns. Evidence should be established (purchase price, assumption of indebtedness, willfulness, etc.) to support successor and dual determinations. Generally, compliance staff provides the documentation to support these types of determinations. While the Board can legally require a taxpayer to pay the amount in full and request a refund, it does not seem fair to do so in all cases. For instance, when the Board bills a taxpayer as the result of an audit, the taxpayer is

allowed to provide district staff with records or additional information that may not have been available while the audit was in process. This can be done even if a late protest is not accepted. District audit staff will generally consider the new evidence presented by the taxpayer and recommend an adjustment if it is warranted. This was often not the case for liabilities not related to audits.

**Concern Resolved.** After we brought our concerns regarding inconsistent treatment of non-audit liabilities to management, staff were provided clarification. It is Board policy to always evaluate additional documentation that supports reducing or cancelling any type of assessment.

#### *Returns Filed When Received in Response to Compliance Assessments*

**Area of Concern.** If an active business with a seller's permit fails to file a return and does not respond to staff's inquiries concerning the nonfiling, staff may estimate the amount due and issue a billing for the amount, a "compliance assessment." We found that returns filed subsequent to a compliance assessment for the same period covered by the assessment were sometimes treated differently depending on whether the returns were mailed directly to headquarters or to a district office. When tax returns are provided to collection staff in a district office, they are reviewed to determine if the taxpayer has reported correctly. The returns are then forwarded to headquarters for processing. However, in some instances, district staff delayed forwarding these returns while they sought additional information to determine the accuracy of the returns. By not forwarding the returns to headquarters shortly after receipt, there is a delay in recording the taxpayer's

filing, affecting the tracking and proper follow-up of the returns. This delay can impact the assessment of penalties and interest and potentially the entire liability if bankruptcy discharge later occurs.

**Change Implemented.** In response to the TRA Office's identification of these concerns, new procedures were developed for instances where returns are filed after the compliance assessment becomes final. Staff was directed to copy the return, send the original to the Cashiers Unit, and enter notes in the Integrated Revenue and Information System (IRIS) pending investigation of the validity of the return.

#### *Voluntary Payments Received after Taxpayer Files Bankruptcy Petition*

**Area of Concern.** Some taxpayers continue making payments under a voluntary payment arrangement with the Board after they file bankruptcy. We had concerns regarding whether these payments should be accepted while the automatic stay on collection actions is in effect or if the payments should be returned to the taxpayer or bankruptcy court.

**Concern Resolved.** As a result of the TRA Office's request for clarification of this matter, the Board's Legal Department confirmed, based on Title 11 United States Code section 524(f), that a voluntary payment made to the Board after the filing of a bankruptcy is not a violation of the automatic stay, nor does it constitute taking collection action to enforce payments. Furthermore, since most tax liabilities are not discharged in bankruptcy, it is often in the taxpayer's best interest to make voluntary payments since interest continues to accrue on the unpaid tax liability.

### *Liens, Levies, or Billings on Liabilities Discharged in Bankruptcy*

**Area of Concern.** We have had several cases where taxpayers were concerned because liens, levies, or billings included periods that were discharged in bankruptcy. In some cases, payments were incorrectly applied to discharged periods. The majority of bankruptcy discharges occur as a result of the taxpayer filing a “no asset” Chapter 7 petition. Although in most Chapter 7 cases, the tax debts owed the Board would not be subject to discharge, in some instances a Chapter 7 discharge order will discharge a tax liability owed to the Board. Collection staff were responsible for determining which periods of liability, if any, were subject to discharge. Liability discharged in a Chapter 7 proceeding is not adjusted off because pre bankruptcy petition tax liens survive the discharge and attach to assets abandoned by the court. These are the bankruptcy cases where there is the most potential for an inappropriate levy, lien, or billing.

**Change Implemented.** The TRA Office’s concern regarding the handling of bankruptcy discharges, as well as other bankruptcy issues, was alleviated in 2005-06 with the centralization of the Board’s bankruptcy function within the Legal Department. Previously, the bankruptcy work conducted by the Bankruptcy Specialists in the district offices and in the Centralized Collection Section was performed under the functional guidance of the Sales and Use Tax Department’s Special Procedures Section. To address workload issues and promote uniformity, the Bankruptcy Specialist positions and the bankruptcy workload were moved to a new Bankruptcy Unit within the Special Procedures Section. Additionally, in conjunction with a reorganization of the Legal Department, the Special Procedures Section was transferred from the Sales and

Use Tax Department to the Legal Department. The centralization of bankruptcy functions is described in Operations Memo 1134 (March 10, 2006). We anticipate this centralization of the bankruptcy function in a specialized, highly trained unit will alleviate errors and inconsistencies in the treatment of liabilities discharged in bankruptcy.

### *Incorrect Mailing Address*

**Area of Concern.** We have had several cases where an incorrect mailing address caused the taxpayer not to receive required notices and billings. Subsequent investigation has shown that the taxpayer provided a correct address to the Board, but the information was never updated on the Board’s records. We made a number of suggestions to staff: (1) review the policy and procedures for updating mailing addresses; (2) look into the feasibility of placing an incorrect address flag on accounts known to have incorrect mailing addresses to alert staff to ask for updated information when in contact with the taxpayer; and (3) determine the best approach for educating staff on their responsibility to forward new address information for updating.

**Change Implemented.** Staff has completed programming refinements to IRIS that will assist in addressing this problem and will continue to pursue additional programming and staff education efforts as opportunities arise.

### *Identity Theft Program Guidelines*

**Area of Concern.** As a reflection of the increasingly common problem of identity theft in our society, we worked several cases involving this problem in recent years. The Board has had guidelines in place since January 2003 on how to address tax liabilities that arise as a result of identity theft and the procedures to fol-

low to absolve the innocent party. The cases that came to the attention of our office pointed out the need for more extensive guidance to staff on what may constitute acceptable evidence of identity theft.

**Concern Resolved.** This year, we worked with staff on enhancing the guidance available to staff in Operations Memo 1105, Identity Theft Program. This operation memo was revised in April 2006 to provide additional guidelines on what may constitute acceptable evidence of identity theft and to address similar concerns when a person is defrauded because of a forged signature.

#### *Staff Education – Claim for Refund of Involuntary Payments*

**Area of Concern.** A claim for refund of sales or use tax must be filed within the latest of the following periods:

- Three years from the due date of the return on which too much tax was paid;
- Six months from the date the taxpayer overpaid tax;
- Six months from the date a determination (billing) became final; or
- Three years from the date the Board collected an involuntary payment, such as a levy or lien.

We noted a number of instances where staff provided incorrect information to taxpayers regarding the deadline for filing a claim for refund of sales or use tax when the payment was as a result of an involuntary collection, such as a levy or lien.

**Concern Resolved.** As a result of our suggestion to enhance staff knowledge of the rules for filing a claim for refund, staff were reminded of the above statutory deadlines, with particular emphasis placed on the rule regarding involuntary payments. In addition, this information will be included in an upcoming article

on filing a claim for refund to be published in the Tax Information Bulletin, which is provided to registered sales and use taxpayers on a quarterly basis.

(Please note – the above limitation periods pertain to sales and use tax. Refund provisions for other tax programs are governed by different laws, and limitation periods may vary.)

#### *Explanatory Letter Regarding Expired Liens*

**Area of Concern.** In order to effect collection of delinquent taxes and to protect the state's interests, collection staff may issue notices of state tax liens affecting the taxpayer's property. A notice of state tax lien in the amount of the unpaid liability is recorded under the taxpayer(s)' name(s) in a specific county, with the Secretary of State, or both, and multiple liens may be placed on the property of the same taxpayer. Liens are effective for ten years and may be renewed twice prior to the expiration date, for a total effective period of 30 years. We often receive calls from taxpayers attempting to sell or refinance their property who have discovered that an old lien placed by the Board is adversely affecting their credit rating or transfer of such property. Quite often, these types of calls are referred by district staff to our office. In many cases, the liens have expired.

**Change Implemented.** We discussed this issue with staff, and it was determined that it was appropriate for taxpayers' inquiries regarding the effect of expired liens to be referred to the Special Procedures Section for response. Although expired liens are not legal instruments and therefore do not require a lien release, staff was directed to refer taxpayers in need of assistance regarding expired liens to the Special Procedures Section, who can provide a letter upon request explaining the lien expired and is legally unenforceable per statute.

### *Deduction Claimed on Current Return for Overpayment in Prior Period*

**Area of Concern.** At the Taxpayers' Bill of Rights hearing in September 2005, a tax practitioner explained that when taxpayers forget to claim deductions on their returns and realize it later they are given conflicting advice by staff on how to claim the deductions. Some taxpayers are advised to claim the deduction on the current return and others are told they must file a claim for refund. When taxpayers are advised to claim the deduction on the current return, they might incorrectly infer it is acceptable to do this at any time that an deduction is overlooked and not take into account the effect of the statute of limitations. The tax practitioner explained that she would like to see the Board consider how best to deal with overlooked deductions and to ensure that staff is providing consistent advice to taxpayers.

Revenue and Taxation Code section 6904(a) requires that every claim for refund be in writing and state the specific grounds upon which the claim is founded. Therefore, claiming the overlooked deduction on a subsequent return does not constitute a legal claim for refund. Section 6905 provides that a failure to file a claim for refund within the prescribed time constitutes a waiver of any demand against the state. If it is discovered after the statute of limitation has expired that the taxpayer improperly claimed the missed deduction on a subsequent return instead of filing a claim for refund, the taxpayer will have the deduction disallowed and be unable to file a claim for refund.

**Concern Resolved.** In order to ensure correct and consistent advice is provided to taxpayers in this circumstance, Sales and Use Tax Department management reminded staff in November 2005 that taxpayers

should not claim a deduction on a current sales and use tax return to adjust for an overpayment in a prior period.

### **Work in Process – Issues Identified**

As a result of taxpayer contacts and review of trends, policies, and procedures within the Board, we have recommended consideration of the following issues and are working with staff to develop solutions.

#### *State Application and Information for Offers in Compromise*

**Issue.** Practitioners and taxpayers came to the Taxpayers' Advocates of three state agencies (Board of Equalization, Franchise Tax Board, and Employment Development Department) and indicated their interest in filing one Offer in Compromise (OIC) application where they have a liability with two or more agencies. The OIC managers and the Advocates of the three state agencies worked cooperatively to streamline the OIC application process by developing a single form for taxpayers with multiple tax liabilities.

**Work in Process.** As of the close of fiscal year 2005-06, the Multi-Agency OIC Application was approved by all participating agencies for use at any of the three agencies, and distribution details were being finalized. We anticipate the form will be available to taxpayers and their representatives electronically through direct links on each agency's website. Taxpayers will have online ability to complete and print the form. Taxpayers may also request the form by contacting the OIC units of any of the three agencies. Information regarding the Multi-Agency OIC Application will also be provided to tax professional organizations and placed on the California Tax Information Center website.

### *Timely Resolution of Claims for Refund*

**Issue.** At the Taxpayers' Bill of Rights hearing in September 2004, a tax practitioner presented concerns regarding the Board's processing of refunds, which the practitioner believes is cumbersome and too lengthy. He explained that his main concerns involve Board policy and the field audit time required to verify and process refunds.

**Work in Process.** The Sales and Use Tax Department has studied the refund process to determine areas where improvement may be needed. We are working with staff to evaluate the results of the study and will prepare a report based on the findings from the study.

### *Levies on Joint Bank Accounts*

**Issue.** We have worked on a number of cases that revealed concerns regarding Board-issued bank levies that attach joint bank accounts containing funds that are found not to be community property. Recently, in response to a TRA Office request, the Board's Legal Department rendered an opinion on a specific case regarding a Board levy on a joint bank account maintained in the name of a taxpayer registered with the Board and the taxpayer's spouse who is not a taxpayer registered with the Board. The taxpayer's spouse (the wife) contended the funds in the account were the wife's separate property and for that reason the Board must release the levy.

The legal opinion explained that the California Multiple-Party Accounts Law ("CAMPAL"), Probate Code sections 5100, et seq., governs controversies concerning the beneficial ownership of funds maintained in a joint bank account and provides that funds maintained in a joint account by a married couple are presumed to be community property. However, the presumption may be rebutted by tracing the sums on deposit

to separate property, unless there is a written agreement between the spouses that expresses a clear intent that the sums are community property. The opinion went on to explain that, concerning the case at issue, the wife's assertion that the funds in the joint bank account were her separate property could be treated as an informal third party claim to the funds in the account. Legal staff advised the Board could investigate the wife's claim to determine if she met her burden of proof to trace the funds in the joint bank account to her separate property as provided under CAMPAL. The Board should then release the levy to the extent, if any, that it determines the funds are the separate property of the claimant. The opinion also explained that a formal third party claim is governed by the provisions of California Code of Civil Procedure section 688.030. That third party claim must be determined in the Superior Court for the county in which the property is located.

**Work in Process.** Following the issuance of the legal opinion, staff had questions regarding the practical effect of the opinion on collection procedures and is developing procedural guidance for the collection staff with the assistance of the Legal Department. The TRA Office will provide input as needed as the guidance is developed.

### *Receipt of Statement of Account While on Installment Payment Agreement*

**Issue.** When a taxpayer's request to clear a liability by a payment arrangement is approved, the terms of the agreement should be documented in a signed Installment Payment Agreement, form BOE-407. Alternately, staff may offer a Streamlined Installment Payment Agreement (SIPA), the terms of which should be detailed in a Streamlined Installment Payment Agreement Application, form BOE-407-S. When a

taxpayer has an outstanding balance he or she may periodically receive a Statement of Account (Statement). All taxpayers currently on installment payment agreements receive an annual Statement and a Statement is automatically sent when an account receivable payment is posted. The Statement notes “This statement reflects all amounts due from you on this account” and “Additional charges are due if not paid by [date].”

We occasionally hear expressions of concern or confusion from taxpayers who are in compliance with an Installment Payment Agreement regarding why they have received a Statement indicating the balance on their account. Taxpayers sometimes incorrectly interpret the Statement as indicating they are required to pay the entire balance upon receipt of the Statement, notwithstanding their compliance with the Installment Payment Agreement.

**Work in Process.** The TRA Office is working with staff to add explanations to both the Installment Payment Agreement and the Statement clarifying for taxpayers that they should expect to periodically receive a Statement showing their outstanding balance notwithstanding their compliance with an Installment Payment Agreement and that the Statement should not be construed as an immediate demand for full payment if they are in full compliance with an approved Installment Payment Agreement.

### *Cigarette and Tobacco Products Licensing Act Inspections*

**Issue.** One of the duties of the Board’s Investigations Division is inspecting the business premises of retailers who sell cigarette and tobacco products. The purpose of the inspections is to ensure these retailers are in

compliance with the requirements of Division 8.6 of the Business and Professions Code, California Cigarette and Tobacco Products Licensing Act of 2003.

At the March 2006 Taxpayers’ Bill of Rights Hearing a presenter suggested that the cigarette license inspection program use customer service surveys so that Board management could identify opportunities to improve inspector professionalism. The Board Members asked the Taxpayers’ Rights Advocate to look into the feasibility of creating a customer service survey.

**Work in Process.** In response to the Board Members’ request the TRA Office and the Investigations Division met and developed customer service feedback options for consideration by the Members.

The TRA Office and the Investigations Division agreed that our goals were to:

- Ensure that the taxpayer (the cigarette/tobacco products retailer) is fully informed regarding the purpose of the inspection and the procedures to be followed;
- Ensure that the taxpayer is provided information about his or her rights, including the remedies available if products are seized, how to file a complaint, and how to contact the Taxpayers’ Rights Advocate Office; and
- Obtain meaningful feedback from taxpayers on the effectiveness and professionalism of the investigators and the inspection process.

The TRA Office and the Investigations Division concluded that the above goals could best be met by developing a “Fact Sheet” for the inspector to hand to the retailer at the beginning of each compliance inspection. Accordingly, the Investigations Division has drafted a Fact Sheet for use by inspectors that:

- Gives taxpayers a detailed explanation of the inspection process;
- Explains what they can expect during an inspection and the remedies available in the event their cigarette and tobacco products are seized;
- Describes taxpayer rights and the inspection complaint process;
- Specifically identifies Board staff, including the Taxpayers' Rights Advocate, who can assist in resolving their complaints; and
- Explains how to obtain more information about the inspection program, the Cigarette and Tobacco Licensing Act, and their rights as California taxpayers.

The Board Members approved the TRA Office's and Investigations Division's recommendation to implement use of the Fact Sheet without instituting a customer survey process. This option encourages direct contact with the Investigations Division and the TRA Office without requiring the added time and expense of mailing and processing survey forms. The TRA Office will continue to assist as needed in the implementation of this important new tool for ensuring taxpayers' rights are protected.

### *Responsible Person Dual Determinations Review and Notification of Rights*

**Issue.** Revenue and Taxation Code section 6829, *Personal liability of corporate officer*, allows the imposition of personal liability upon corporate officers or other persons in control of financial functions for the unpaid sales and use tax liability, providing specified conditions are met. Accordingly, the Board is allowed to issue a secondary billing (dual determination)

against an individual in instances where section 6829 provisions are met in order to collect unpaid sales and use tax incurred by an entity such as a partnership, corporation, or limited liability company.

At the March 2006 Taxpayers' Bill of Rights Hearing a tax practitioner expressed concerns regarding dual determinations (billings) issued by the Board under section 6829. This presenter asserted that staff's decisions to issue section 6829 billings were not justified in all instances. On a more fundamental level, the TRA Office has been concerned that review of section 6829 liability cases and information provided to individuals being billed as responsible persons is not comparable to review and notification protections in place for other types of determinations, such as those arising from audits.

The TRA Office would like to ensure that the rights of those being billed under the provisions of section 6829 are protected by providing: (1) a neutral review of section 6829 liability cases performed by an area of the Board not charged with collection responsibilities; and (2) full and complete notification to the person being held liable of the basis for holding him or her responsible and of the person's appeal rights.

**Work in Progress.** Action has been taken to address our concern regarding a neutral review of section 6829 liability cases. The Sales and Use Tax Department implemented a new review process to ensure that taxpayers' rights are protected in the course of the assessment of responsible person liabilities. As of July 1, 2006, recommendations for section 6829 dual determinations are independently reviewed by the Audit Determination and Refund Section. The TRA Office plans to provide input as specific guidelines for the new process are developed. Our concerns regard-

ing notification to individuals of their appeal rights are being addressed as part of a broader effort to enhance notification to taxpayers of how they may appeal determinations (billings), which is described below.

*Information Regarding Appeal Rights on Notice of Determination*

**Issue.** The standard Notice of Determination (billing) of a sales and use tax liability contains a standard statement providing instructions for appealing the determination, along with a large quantity of other information. However, in instances where the person being billed was not personally under audit, such as with responsible person or successor determinations, comprehensive information on appeal rights and procedures is not routinely provided.

**Work in Process.** The TRA Office is working with staff to explore the feasibility of revising the format or wording of the Notice of Determination to highlight and/or enhance the information on appeal rights and procedures. In addition, we plan to review other standard information presented on the Notice to ensure clarity and to minimize any potential confusion or misunderstanding.

# APPENDICES

## Appendix 1

### The Morgan Property Taxpayers' Bill of Rights

(Revenue and Taxation Code Sections)

**5900.** This part shall be known and may be cited as "The Morgan Property Taxpayers' Bill of Rights."

**5901.** The Legislature finds and declares as follows:

(a) Taxes are a sensitive point of contact between citizens and their government, and disputes and disagreements often arise as a result of misunderstandings or miscommunications.

(b) The dissemination of information to taxpayers regarding property taxes and the promotion of enhanced understanding regarding the property tax system will improve the relationship between taxpayers and the government.

(c) The proper assessment and collection of property taxes is essential to local government and the health and welfare of the citizens of this state.

(d) It is the intent of the Legislature to promote the proper assessment and collection of property taxes throughout this state by advancing, to the extent feasible, uniform practices of property tax appraisal and assessment.

**5902.** This part shall be administered by the board.

**5903.** "Advocate" as used in this part means the "Property Taxpayers' Advocate" designated pursuant to Section 5904.

**5904.** (a) The board shall designate a "Property Taxpayers' Advocate." The advocate shall be responsible for reviewing the adequacy of procedures for both of the following:

(1) The distribution of information regarding property tax assessment matters between and among the board, assessors, and taxpayers.

(2) The prompt resolution of board, assessor, and taxpayer inquiries, and taxpayer complaints and problems.

(b) The advocate shall be designated by, and report directly to, the executive officer of the board. The advocate shall at least annually report to the executive officer on the adequacy of existing procedures, or the need for additional or revised procedures, to accomplish the objectives of this part.

(c) Nothing in this part shall be construed to require the board to reassign property tax program responsibilities within its existing organizational structure.

**5905.** In addition to any other duties imposed by this part, the advocate shall periodically review and report on the adequacy of existing procedures, or the need for additional or revised procedures, with respect to the following:

(a) The development and implementation of educational and informational programs on property tax assessment matters for the benefit of the board and its staff, assessors and their staffs, local boards of equalization and assessment appeals boards, and taxpayers.

(b) The development and availability of property tax informational pamphlets and other written materials that explain, in simple and nontechnical language, all of the following matters:

- (1) Taxation of real and personal property in California.
- (2) Property tax exemptions.
- (3) Supplemental assessments.
- (4) Escape assessments.
- (5) Assessment procedures.
- (6) Taxpayer obligations, responsibilities, and rights.
- (7) Obligations, responsibilities, and rights of property tax authorities, including, but not limited to, the board and assessors.
- (8) Property tax appeal procedures.

**5906.** (a) The advocate shall undertake, to the extent not duplicative of existing programs, periodic review of property tax statements and other property tax forms prescribed by the board to determine both of the following:

- (1) Whether the forms and their instructions promote or discourage taxpayer compliance.
  - (2) Whether the forms or questions therein are necessary and germane to the assessment function.
- (b) The advocate shall undertake the review of taxpayer complaints and identify areas of recurrent conflict between taxpayers and assessment officers. This review shall include, but not be limited to, all of the following:
- (1) The adequacy and timeliness of board and assessor responses to taxpayers' written complaints and requests for information.
  - (2) The adequacy and timeliness of corrections of the assessment roll, cancellations of taxes, or issuances of refunds after taxpayers have provided legitimate and adequate information demonstrating the propriety of

the corrections, cancellations, or refunds, including, but not limited to, the filing of documents required by law to claim these corrections, cancellations, or refunds.

(3) The timeliness, fairness, and accessibility of hearings and decisions by the board, county boards of equalization, or assessment appeals boards where taxpayers have filed timely applications for assessment appeal.

(4) The application of penalties and interest to property tax assessments or property tax bills where the penalty or interest is a direct result of the assessor's failure to request specified information or a particular method of reporting information, or where the penalty or interest is a direct result of the taxpayer's good faith reliance on written advice provided by the assessor or the board.

(c) Nothing in this section shall be construed to modify any other provision of law or the California Code of Regulations regarding requirements or limitations with respect to the correction of the assessment roll, the cancellation of taxes, the issuance of refunds, or the imposition of penalties or interest.

(d) The board shall annually conduct a public hearing, soliciting the input of assessors, other local agency representatives, and taxpayers, to address the advocate's annual report pursuant to Section 5904, and to identify means to correct any problems identified in that report.

**5907.** No state or local officer or employees responsible for the appraisal or assessment of property shall be evaluated based solely upon the dollar value of assessments enrolled or property taxes collected. However, nothing in this section shall be construed to prevent an official or employee from being evaluated based upon

the propriety and application of the methodology used in arriving at a value determination.

**5908.** Upon request of a county assessor or assessors, the advocate, in conjunction with any other programs of the board, shall assist assessors in their efforts to provide education and instruction to their staffs and local taxpayers for purposes of promoting taxpayer understanding and compliance with the property tax laws, and, to the extent feasible, statewide uniformity in the application of property tax laws.

**5909.** (a) County assessors may respond to a taxpayer's written request for a written ruling as to property tax consequences of an actual or planned particular transaction, or as to the property taxes liability of a specified property. For purposes of statewide uniformity, county assessors may consult with board staff prior to issuing a ruling under this subdivision. Any ruling issued under this subdivision shall notify the taxpayer that the ruling represents the county's current interpretation of applicable law and does not bind the county, except as provided in subdivision (b).

(b) Where a taxpayer's failure to timely report information or pay amounts of tax directly results from the taxpayer's reasonable reliance on the county assessor's written ruling under subdivision (a), the taxpayer shall be relieved of any penalties, or interest assessed or accrued, with respect to property taxes not timely paid as a direct result of the taxpayer's reasonable reliance. A taxpayer's failure to timely report property values or to make a timely payment of property taxes shall be considered to directly result from the taxpayer's reasonable reliance on a written ruling from the assessor under subdivision (a) only if all of the following conditions are met:

(1) The taxpayer has requested in writing that the assessor advise as to the property tax consequences of a particular transaction or as to the property taxes with respect to a particular property, and fully described all relevant facts and circumstances pertaining to that transaction or property.

(2) The assessor has responded in writing and specifically stated the property tax consequences of the transaction or the property taxes with respect to the property.

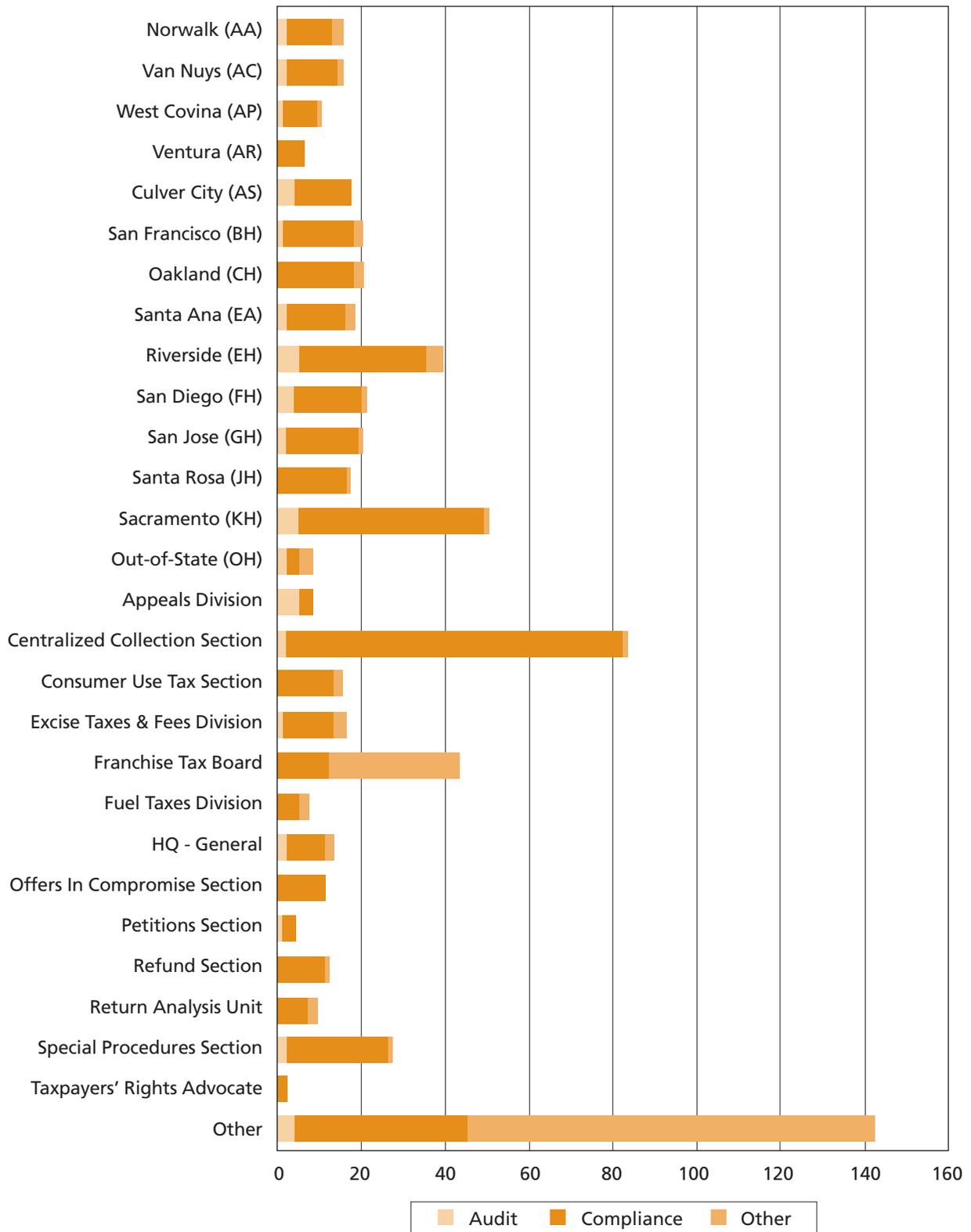
**5910.** The advocate shall, on or before January 1, 1994, make specific recommendations to the board with respect to standardizing interest rates applicable to escape assessments and refunds of property taxes, and statutes of limitations, so as to place property taxpayers on an equal basis with taxing authorities.

**5911.** It is the intent of the Legislature in enacting this part to ensure that:

(a) Taxpayers are provided fair and understandable explanations of their rights and duties with respect to property taxation, prompt resolution of legitimate questions and appeals regarding their property taxes, and prompt corrections when errors have occurred in property tax assessments.

(b) The board designate a taxpayer's advocate position independent of, but not duplicative of, the board's existing property tax programs, to be specifically responsible for reviewing property tax matters from the viewpoint of the taxpayer, and to review and report on, and to recommend to the board's executive officer any necessary changes with respect to, property tax matters as described in this part.

## Appendix 2 Taxpayer Contacts by Business Taxes Office



## Appendix 3

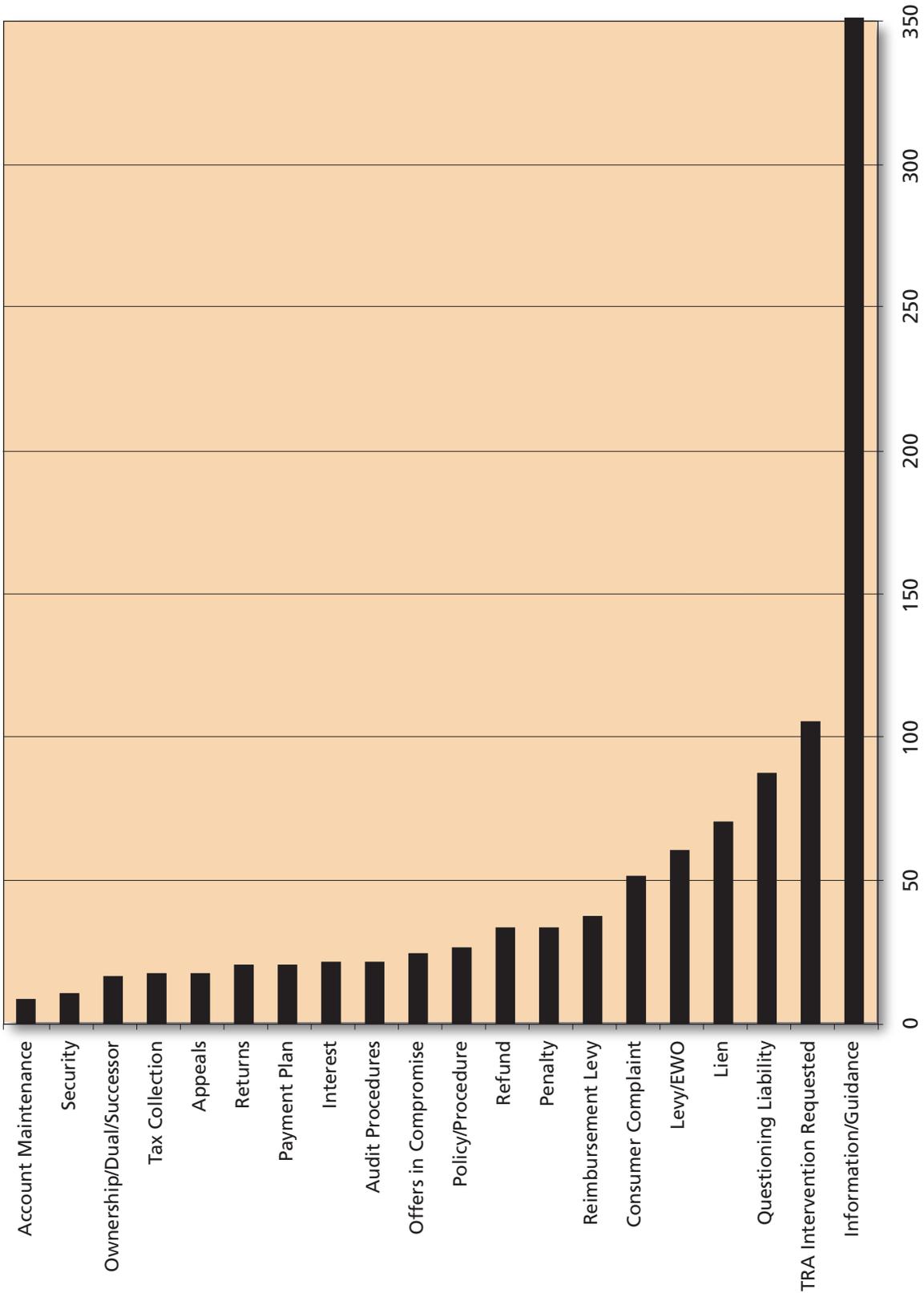
### Outcome of Business Taxes Cases

	Cases by Issue Type			Total Cases	Confirmed Staff Case Handling		Case Handling Changed		Satisfied with Outcome		Referred To		
	Audit	Compliance	Other		Yes	No	Yes	No	Yes	No	District	HQ	Other
Norwalk (AA)	2	11	2	15	5	1	1	6	12	0	8	3	0
Van Nuys (AC)	2	12	1	15	4	1	2	5	10	0	7	7	1
West Covina (AP)	1	8	1	10	2	0	0	2	7	0	6	1	0
Ventura (AR)	0	6	0	6	3	0	0	3	5	0	4	1	0
Culver City (AS)	4	13	0	17	10	0	1	7	14	0	12	5	0
San Francisco (BH)	1	17	2	20	8	0	1	9	15	1	13	3	0
Oakland (CH)	0	18	2	20	9	0	1	11	16	0	9	7	1
Santa Ana (EA)	2	14	2	18	5	2	2	6	15	0	7	6	0
Riverside (EH)	5	30	4	39	18	0	3	17	32	2	21	9	3
San Diego (FH)	4	16	1	21	7	3	3	9	15	0	14	4	0
San Jose (GH)	2	17	1	20	10	1	2	10	16	0	10	5	0
Santa Rosa (JH)	0	16	1	17	9	0	1	6	12	1	9	4	0
Sacramento (KH)	5	44	1	50	23	0	4	21	37	0	35	6	2
Out-of-State (OH)	2	3	3	8	2	0	0	2	7	0	2	2	0
Appeals Division	5	3	0	8	5	0	0	6	6	1	0	5	1
Centralized Collection Section	2	80	1	83	40	1	9	32	59	0	5	55	5
Consumer Use Tax Section	0	13	2	15	4	1	2	4	13	0	1	12	1
Excise Taxes & Fees Division	1	12	3	16	6	2	2	6	13	0	0	9	1
Franchise Tax Board	0	12	31	43	2	0	1	2	37	0	0	3	42
Fuel Taxes Division	0	5	2	7	4	0	0	3	7	0	0	5	3
HQ - General	2	9	2	13	6	0	0	7	9	0	0	9	1
Offers in Compromise Section	0	11	0	11	5	0	1	7	6	1	0	7	2
Petitions Section	1	3	0	4	0	1	1	0	3	0	0	3	0
Refund Section	0	11	1	12	1	0	0	2	7	0	1	3	2
Return Analysis Unit	0	7	2	9	3	0	3	2	7	0	0	5	0
Special Procedures Section	2	24	1	27	8	0	7	10	19	1	2	15	1
Taxpayers' Rights Advocate	0	2	0	2	0	0	0	0	2	0	0	0	0
Other	4	41	97	142	13	0	1	13	113	2	14	53	36
<b>Total</b>	<b>47</b>	<b>458</b>	<b>163</b>	<b>668</b>	<b>212</b>	<b>13</b>	<b>48</b>	<b>208</b>	<b>514</b>	<b>9</b>	<b>180</b>	<b>247</b>	<b>102</b>

Note: The columns "Confirmed Staff Case Handling," "Case Handling Changed," "Satisfied with Outcome," and "Referred To" will not always equal the total cases since they are not applicable in all cases.

## Appendix 4

### Most Common Issues in Business Taxes Cases



Note: Each Business Taxes case discloses a variety of issues that caused the taxpayer to contact the Taxpayer's Rights Advocate Office. The top three issues in each case were tracked and the 20 most common issues are displayed here.

Our vision is: To be the clear and trusted voice of reason and fairness when resolving issues between taxpayers and the government. Our mission is: To positively affect the lives of taxpayers by protecting their rights, privacy, and property during the assessment and collection of taxes. Our vision is: To be the clear and trusted voice of reason and fairness when resolving issues between taxpayers and the government. Our mission is: To positively affect the lives of taxpayers by protecting their rights, privacy, and property