



Issue Paper Number 16-15

- Board Meeting
 Business Taxes Committee
 Customer Services and Administrative Efficiency Committee
 Legislative Committee
 Property Tax Committee
 Other

BOARD OF EQUALIZATION
KEY AGENCY ISSUE

Voluntary Income Tax Assistance Program (VITA) Policy**I. Issue**

- a. Shall the Board expend state resources to participate in VITA?
- b. If the Board decides to expend state resources to participate in VITA, to what extent shall those resources be expended?

II. Staff Recommendation

None

III. Alternative(s)**Alternative 1**

The Board of Equalization (BOE) continues to participate in VITA using state time and resources, but the Board authorizes the Executive Director to establish a maximum budget for staff time and resources, including event-related staff time, mailing, postage, and printing, subject to Board approval.

Alternative 2

The BOE's role in VITA is to allow promoting employee participation in VITA and use of state time to participate in VITA training, as was allowed in 2011. The BOE requires employees to use their own time to prepare tax returns at events sponsored by other agencies and organizations. The BOE does not expend state funds on event-related staff time, mailing, postage, printing or travel.

Alternative 3

The BOE's role in VITA is to allow promoting employee participation in VITA on the employee's own personal time at events sponsored by other agencies and organizations without expending state funds on staff time, mailing, postage, printing or travel.

Alternative 4

Decline to adopt a formal policy.

IV. Background

VITA is sponsored by the Internal Revenue Service (IRS) and offers free tax help to people who make \$54,000 or less a year, are disabled and/or have limited English proficiency. IRS-certified volunteers provide free basic income tax return preparation with electronic filing to qualified people. First time VITA volunteers are required to complete approximately 40 hours of training; less training is required for experienced volunteers. Most people who qualify for VITA also qualify for the federal Earned Income Tax Credit (EITC) and some may also qualify for the California EITC. The federal EITC offers a credit up to \$6,242 to working people who earn less than \$53,267 and who have \$3,400 or less in investment income. To qualify for the California EITC, tax filers must earn less than \$6,580 a year, if single with no dependents or up to \$13,870 a year if they have two or more dependents. The average EITC credit for families is \$900, and the maximum refund a family can receive from the credit is \$2,653.

The BOE has supported VITA for many years. In the past, the BOE authorized staff to use state time for training, volunteering, promoting participation in VITA, and to use state funds for associated expenses. The BOE's Legal Department opined in 2008, 2011, and in 2016 that allowing employees to voluntarily participate in VITA on state time is not a gift of public funds, does not violate "Incompatible Activities" laws, and is a justifiable use of state resources.¹

The BOE's Legal Department recently noted that "clear guidelines for implementing the VITA program throughout the equalization districts have not been developed, budgetary limits have not been set, and the recommended annual evaluations of the program's effectiveness and viability have not taken place."² According to the Legal Department, an annual evaluation is needed to determine whether the benefits accomplished by BOE's participation in the program still outweigh the associated costs.³ Staff seeks the Board's policy guidance to ensure that the BOE expends resources consistent with the Board's stated priorities and legal requirements. The Board may consider adopting one of the issue paper alternatives, or consider adopting a hybrid of the issue paper alternatives.

¹ Memorandum from Kristine Cazadd, Chief Counsel, to Randie Henry, Deputy Director, Sales and Use Tax Department, January 11, 2008 (Cazadd Memo); Memorandum from Kimberly D. Willy, Tax Counsel III, to Kristine Cazadd, Executive Director, October 27, 2011 (Willy Memo); Memorandum from Deborah M. Cooke Jackson, Tax Counsel IV, to David Gau, October 28, 2016 (Jackson Memo).

² Jackson Memo, page 2.

³ *Id.* page 3.

V. Discussion

A. Overview of BOE Participation in VITA

The BOE's participation in VITA has increased in recent years and may involve some, if not all, of the following activities: event planning, event-related marketing, preparation of outreach (including designing, printing of flyers, materials, and mailings), as well as tax guidance and return preparation supplied by employee volunteers. The BOE sponsored 12 VITA events in 2015 and 28 VITA events in 2016.

B. VITA-Related Agency Costs

VITA-related agency costs may include:

- **Training and volunteer tax preparation services.**
Employees must undergo training before they may provide VITA assistance, and the BOE permits them to do so on state time.⁴ Once trained, employees may provide tax preparation services to qualified VITA participants.
- **Organizing, promoting, and assisting with VITA events.**
Staff time is devoted to organizing VITA events and promoting them through mailings, e-blasts, flyers, billboards, and newspaper advertising. Additionally, staff time is used to provide onsite assistance at these events.
- **VITA-related travel expenses.**
Staff typically incurs travel expenses to provide VITA training, outreach and to attend events.
- **Customer Service Center (CSC) staff time to answer VITA-related questions.**
The BOE's marketing material encourages taxpayers to register online at boe.ca.gov/vita. As a result, the BOE's CSC staff answered numerous VITA-related calls.
- **Materials, mailing and other event-related costs.**
Staff time associated with designing materials (flyers/eblasts), printing, and preparing materials for distribution to taxpayers listed on internal and external databases to inform taxpayers about VITA and encourage their attendance at VITA events.
- **Revenue opportunity loss from revenue-producing resources allocated to VITA activities.**
Staff that occupy revenue-producing positions are not able to engage in revenue-producing activity when they participate in VITA activities.

⁴ HRD Circular 002-2015.

C. VITA-Related Agency Benefits

VITA benefits to the BOE should be evaluated based on the BOE's mission and goals. The BOE's Strategic Management Plan for 2015-20 states, "[t]he mission of the BOE is to serve the public through fair, effective and efficient tax administration."⁵ The BOE administers tax and fee programs; adopts rules and regulations to clarify tax laws; decides appeals of property, business and income tax assessments; assesses and allocates property values of railroads and specified utilities; and oversees the property tax assessment practices of all 58 county assessors. The Strategic Management Plan also specifies the BOE's top three goals: (1) Maximize voluntary compliance; (2) Enhance operational effectiveness; and (3) Invest in the organization. VITA-related agency benefits include:

- **Staff Training in Income Tax Preparation**
Employees receive training related to the Personal Income Tax Law (PIT) to become certified as VITA volunteers. Although the BOE does not administer the PIT, a familiarity with income tax is helpful to BOE auditors who frequently review income tax information in the course of sales and use tax audits. This is consistent with the BOE's goal to "invest in the organization."
- **Volunteerism**
VITA participation enhances the BOE's volunteer culture, which fosters morale and a sense of community. Being a VITA volunteer can also support employees' promotional opportunities as it enhances their professional growth. This is consistent with BOE's goal to invest in the organization.
- **Public Benefit**
VITA significantly benefits low-income people who need help filing their tax returns and who qualify for an EITC. The BOE's promotion of and participation in VITA help engender good will between the BOE and the broader community.
- **Opportunity to Promote Use Tax Compliance**
BOE participation in VITA may promote use tax compliance. Compliance with California's use tax law historically has been low. To increase compliance, Senate Bill 1009 (Stats. 2003, Chapter 718) authorized the reporting of use tax on California's income and franchise tax returns. Since adding the use tax line to the returns, the number of taxpayers reporting use tax has increased substantially, although the overall number of taxpayers reporting use tax remains low. For taxpayers that may report estimated use tax, \$19 is the use tax amount due for taxpayers with adjusted gross incomes of \$50,000 to \$59,999, per the 2015 use tax lookup table.

VI. Alternative 1

A. Description of Alternative 1

The BOE continues to participate in VITA using state time and resources, but the Board authorizes the Executive Director to establish a maximum budget for staff time and resources, including event-related staff time, mailing, postage, and printing, subject to Board approval.

⁵ BOE Strategic Management Plan 2015-2020.

B. Pros of Alternative 1

Ensures that state resources allocated to VITA are aligned with the BOE's operational and budget priorities.

C. Cons of Alternative 1

Reduces flexibility to allocate state resources to VITA.

D. Statutory or Regulatory Change for Alternative 1

None required.

E. Operational Impact of Alternative 1

VITA participation would be consistent throughout the BOE.

F. Administrative Impact of Alternative 1

1. Cost Impact

Potential for either cost reductions or cost increases, depending on the VITA budget established by the Executive Director and approved by the Board.

2. Revenue Impact

Potential BOE revenue opportunity gain or loss, depending on the VITA budget established by the Executive Director and approved by the Board.

G. Taxpayer/Customer Impact of Alternative 1

Impact depends on the VITA budget established by the Executive Director and approved by the Board.

H. Critical Time Frames of Alternative 1

None.

VII. Alternative 2

A. Description of Alternative 2

The BOE's role in VITA is to allow promoting employee participation in VITA and use of state time to participate in VITA training, as was allowed in 2011. The BOE requires employees to use their own time to prepare tax returns at events sponsored by other agencies and organizations. The BOE does not expend state funds on event-related staff time, mailing, postage, printing or travel.

B. Pros of Alternative 2

Reduces the BOE's costs associated with VITA and allows staff to spend time, previously allocated to VITA, on BOE programs. Authorizing training on state time would continue to benefit employees who would improve their auditing skills by gaining a greater understanding of the PIT.

C. Cons of Alternative 2

Likely will reduce the number of BOE volunteers and attendees at VITA events. May impact employee morale due to the inability to use state time to prepare VITA tax returns.

D. Statutory or Regulatory Change for Alternative 2

None required.

E. Operational Impact of Alternative 2

BOE staff will likely have more time to devote to BOE programs, as less of their time will be allocated to VITA activities.

F. Administrative Impact of Alternative 2

1. Cost Impact

Cost reductions associated with the elimination of printing, mailing, or traveling to promote VITA activities. No cost impact related to staff time, as time previously allocated to VITA would be spent on BOE programs.

2. Revenue Impact

Potential BOE revenue gain from allocating staff time, previously allocated to VITA, to revenue-producing activities in BOE tax and fee programs.

G. Taxpayer/Customer Impact of Alternative 2

Insignificant impact on BOE taxpayers who may need help in completing the use tax line on the PIT return. Minor impact on taxpayers who may experience a reduction in VITA volunteers and events to assist them with preparing and filing their income taxes and applying for the EITC.

H. Critical Time Frames of Alternative 2

None.

VIII. Alternative 3

A. Description of Alternative 3

The BOE's role in VITA is to allow promoting employee participation in VITA on the employee's own personal time at events sponsored by other agencies and organizations without expending state funds on staff time, mailing, postage, printing or travel.

B. Pros of Alternative 3

Reduces the BOE's costs associated with VITA and allows staff to spend time, previously allocated to VITA, on BOE programs.

C. Cons of Alternative 3

Will likely reduce the number of BOE volunteers and attendees at VITA events. May impact employee morale due to the inability to use state time to participate in VITA.

D. Statutory or Regulatory Change for Alternative 3

None required.

E. Operational Impact of Alternative 3

BOE staff will likely have more time to devote to BOE programs, as their time will no longer be allocated to VITA activities.

F. Administrative Impact of Alternative 3

1. Cost Impact

Cost reductions associated with no longer printing, mailing, and traveling to promote VITA activities. No cost impact related to staff time, as time and resources previously allocated to VITA would be spent on BOE programs.

2. Revenue Impact

Potential BOE revenue opportunity gain from allocating staff time previously allocated to VITA to revenue-producing activities in BOE tax and fee programs.

G. Taxpayer/Customer Impact of Alternative 3

Insignificant impact on BOE taxpayers who may need help in completing the use tax line on the PIT return. Minor impact on taxpayers who may experience a reduction in VITA volunteers and events to assist them with preparing and filing their income taxes and applying for the EITC.

H. Critical Time Frames of Alternative 3

None.

IX. Alternative 4

A. Description of Alternative 4

Decline to adopt a formal policy.

B. Pros of Alternative 4

The Board Members will have maximum flexibility to determine the level of VITA participation in their districts.

C. Cons of Alternative 4

Adopting Alternative 4 may facilitate inconsistent participation in and use of state resources for VITA. Moreover, without a formal policy in place, BOE risks allocating resources in a manner that does not reflect the Board's priorities as a body.

D. Statutory or Regulatory Change for Alternative 4

None required.

E. Operational Impact of Alternative 4

Failing to adopt a formal policy will facilitate inconsistent participation in and use of state resources for VITA.

F. Administrative Impact of Alternative 4

1. Cost Impact

Potential, unknown cost increases if the BOE expands its use of state resources to support VITA.

2. Revenue Impact

Potential unknown revenue opportunity loss (from BOE tax programs) if the BOE expands its use of revenue-producing positions to participate in VITA on state time.

G. Taxpayer/Customer Impact of Alternative 4

None.

H. Critical Time Frames of Alternative 4

None.

Preparer/Reviewer Information

Prepared by: Agency Response Action Committee

Current as of: 12/07/2016

Memorandum

To: Honorable Fiona Ma, CPA, Chairwoman
Honorable Diane L. Harkey, Vice Chair
Honorable George Runner, First District
Honorable Betty T. Yee, State Controller

Date: December 13, 2016

From: Jerome E. Horton, Member
State Board of Equalization

Re: Fact Sheet and Recommendation on Issue Paper: BOE VITA Policy

Dear Member,

The staff report on VITA is incomplete and I would recommend that we take the time to provide accurate information to the public at the January meeting. I do not think it is wise to set forth that the BOE is not in compliance with a BOE policy to annually evaluate the effectiveness of the VITA program.

Contrary to the opinion of the Legal Department, there are BOE and 3rd District guidelines for VITA; annual evaluations of VITA's effectiveness and viability have been documented in each Annual VITA Report. Possibly, Legal did not have copies of the VITA plans, budget, or annual VITA reports produced in recent years.

District 3 has the benefit of over 700 trained volunteers and a history that positions us to leverage nonprofit public partnership to continue our program with minimum effort. However, in the interest of all BOE employees, I think it wise that the Board considers the true benefits of VITA to our employees, taxpayers, and the constituents whom we are elected to represent. Especially given that - unfortunately - many of our employees qualify for this poverty prevention program.

If the BOE wants to move forward without a more thorough analysis of the benefits of VITA, I would suggest that it is in the best interest of the Board to condition any authority given to the Executive Director (ED) to continue the VITA program, on the VITA plan, budget and anticipated cost-benefits for each District as approved by that Board Member given the unique demands of and benefits to each district.

Herein is a summary of those benefits based on quantitative and empirical data for your immediate consideration.

History of BOE Evaluation of VITA

Since 2012/13, District 3 has submitted a VITA event/outreach plan for inclusion in the BOE (Statewide) Annual Outreach Plan, approved by the Deputy Director of Administration, Legal and the ED, and discussed at a Board meeting.

Developed a VITA budget and tracked expenses for events, activities and materials. BOE costs are typically offset for savings by the participation of various nonprofits in donating facilities, services, advertising, etc.

From 2014 – 2016, a VITA Annual Report documenting the effectiveness and viability of the VITA program in District 3 and evaluating future needs has been presented to the Governor, the ED, and the Executive Team.

At the beginning 2015, the Outreach Services Division presented a proposal for a 2016 statewide pilot for VITA to the Board - that included guidelines and a budget.

In 2016, a similar BOE VITA Annual Report was completed for every equalization district, detailing all activities, the results of the outreach efforts, and training for BOE employees, evaluating benefits and making future recommendations.

2016 Grant Application Cost Benefit Analysis

In the fall of 2016, BOE submitted a Statewide VITA Application for a Cal EITC Grant of \$400,000 to support the BOE Statewide VITA Program. Given the matching funds provision of the grant, it is my understanding that the budgeting and outreach department performed a cost benefit analysis in costing out the grant proposal and that the legal and the Executive Director signed off on the grant application to commit BOE to an expenditure in the amount of \$282,256 in matching resources, based on past documented VITA activities.

Organizing, promoting, and assisting with VITA events

The referenced “Staff” opportunity revenue loss on page 3, does not appear to take into consideration that the staff referenced are BOE outreach and district liaison employees conducting work according to their duty statements as such they are not revenue generator. Further auditors and compliance employees participating in VITA only charge time to training with the exception of a staff member of T&D in the Member’s office. As such, the opportunity revenue loss is minimal.

Travel Expenses Explained

All travel expenses associated with VITA training are reimbursed according to BEAM and VITA training is a direct enhancement of knowledge, skills and abilities associated with tax law and procedures. Travel by Outreach support staff participating in District VITA events, is appropriate and consistent with approved activities and is in accordance with BEAM. This training increases the efficiency, effectiveness, and responsiveness of BOE employees in accordance to BEAM and ask approved by Legal.

There is no revenue opportunity loss from revenue-producing resources being allocated to VITA activities

The primary job classifications of staff participating in VITA are NOT revenue-producing, but are Information Officers, District Liaisons, and support staff assigned to Taxpayer Education and Outreach, consistent with their duty statements and BOE’s Organizational Plan.

The only revenue-generating positions involved in VITA pertain to BOE employees attending VITA Training – which is their individual choice authorized and encouraged in BEAM.

Hours of training are not considered revenue opportunity loss under union MOU provisions - provided they are within the allotted number of administrative non-billable hours per revenue generating position, (e.g., Department of Finance standard is 200 hours of administrative training for Auditors).

In District 3, a maximum of 8 hours of training for an employee who signs up as a volunteer is charged to VITA annually. Noteworthy, because of the maturity of the D3 VITA program the majority of our volunteers get certified on their own personal time.

Facts on Current Agency-wide VITA Benefits:

The staff report fails to provide a detail analysis of the benefits of VITA; which would have disclosed that the benefits of VITA far outweigh the cost. And the cost benefit ratio exceeds the cost benefit ratio of the BOE itself, considering that the Board only generates \$ 6 - 7 hundred million a year with a similar cost.

Herein is a listing of VITA Benefits

Seller's Permit Education and Outreach-1099 filers

Background:

According to the Small Business Administration, the median income for individuals who are self-employed in their own incorporated firms for the past 12 months was \$56,029 in 2013. Therefore, qualifying for the federal EITC.

For individuals self-employed at their own unincorporated firms, this figure was \$23,842. Therefore, qualifying for the federal EITC.

According to the BOE tax gap information and information gathered from our SCOP program, a significant number of businesses are registered with the City and County of Los Angeles that are not registered with the BOE.

Based on a review of VITA participants in D3, we estimate that 20 % or 2,800 of VITA participants are self-employed and have a BOE filing requirement.

Benefit:

Accordingly, the D3 VITA program has the benefit of increasing business registration and subsequent tax compliance such that VITA taxpayers are educated about the sellers' permit requirements for self-employed and independent contractors, many of whom who qualify for the federal EITC but are operating a business at a loss or perceive it as a hobby.

Consumer Use Tax, Sales Tax and Property Tax deductions.

Sales and Use tax and property tax programs are core to the mission of the BOE; VITA activities enhance all these programs.

In 2016 we estimate District 3 VITA generated \$156,000 in use tax filing.

In comparison to the BOE's expenditures to educate California residents about use tax, including but not limited to online advertising, use tax mailings to registered voters, and other expenses benefit from the D3 VITA benefit of educating taxpayers about use tax, and helping them file for use tax is significant.

Background on VITA Use Tax Benefit:

"Use tax – remains the most frequent source of audit liability," Tax Information Bulletin.

- In 2012, the Harris Interactive Poll Study showed that to increase the number of California households making use tax payments, BOE would need to do comprehensive taxpayer education.
- The study concluded that every \$1 expended for taxpayer education would result in more than \$100 in increased voluntary compliance; a cost-benefit ratio of more than a 100 to 1.
- Educating taxpayers at VITA events about use tax and how to use the Use Tax Lookup Table to compute the use tax liability results in a 78% compliance rate: Educating taxpayers on reporting Sales tax and Property Tax deductions, such as those filed on Schedule A not only helps to reduce errors in filing, but also increases voluntary compliance and encourages these taxpayers to help educate current non-filers.
- It is estimated that over \$1 billion of use tax enacted in 1935 goes uncollected annually according to BOE, Staff Legislative Bill Analysis, AB 969, 4/9/07, p. 2; available at <http://www.boe.ca.gov/legdiv/pdf/ab0969-1sw.pdf>.
- In 2007 the BOE proposed to spend millions to address the tax gap associated with unreported use tax.
- In 2007, BOE reported that use tax reported on income tax forms was \$2.8 million in 2004, \$4.6 million in 2005 and \$5.5 million in 2006.⁹

Benefit:

VITA 2014 - 2016 recaptures over 29 million in federal funds for California

2016 VITA Annual Report documenting the **effectiveness and viability of the VITA program in District 3** evaluating future needs has been completed and presented to the Governor, the ED, and most of the Executive Team for the past three years, showing, for example, the following results in refunds/tax credits claimed:

Income Tax

- 2014: \$ 2,615,657
- 2015: \$ 8,261,870
- 2016: \$ 18,537,339

This represents a direct benefit to the state of California

Increasing Taxpayer Compliance and Goodwill.

- The Harris Interactive Poll and IRS established that taxpayer attitudes and behavior toward tax compliance differ significantly, and offices/staff embedded in each district are a key resource for identifying these - to determine educational needs and best practices for increasing compliance.
- With this objective, Board staff developed the *BOE Statewide Outreach Plan & Strategy*, and thereafter the *District Liaison Program* and *District Liaison Guidelines*, as a statewide outreach effort utilizing existing resources to provide webinars, videos, and face-to-face events, classes, seminars as needed in every district that included VITA.

- In 2016, VITA volunteers donated 2,200 hours to help stimulate the economy by helping working families collect \$ 18.2 million in federal and state refunds and 6.4 million in credits, report \$156,000 in use tax, increasing small business compliance, and enhancing BOE's goodwill.

Recruitment and Career Development for BOE Staff

Despite the expenditure of thousands on recruitment, filling positions with qualified candidates continues to be a problem. In November 2016, BOE reported that there are 632 vacancies.

VITA Recruitment Benefit:

- The 3rd District VITA includes BOE Recruitment and Career Opportunity presentations. In 2016 over 560 students were educated about employment with the BOE, FTB and EDD as part of the VITA program.
- College student also work hand and hand with BOE employees during the VITA season gaining a greater appreciation of the BOE.
- College administrator Dr. Dan Goodrich CSULA has attributed the Universities' partnership with D3 BOE as one of its most effective recruitment efforts.

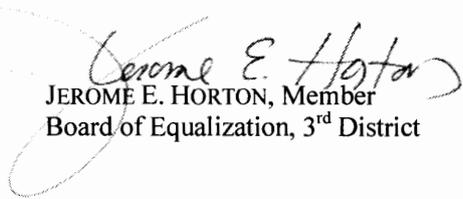
2017 Projected Cost Benefit-Effective and Efficient Use of State Resources

The BOE has previously used a simple cost benefit analysis (ROI) to determine if expenditures for VITA are an effective and efficient use of state resources. In 2017, the Third District cost benefit analysis, return on investment is projected to be 24,000%.

The cost estimate for the 2017 VITA program in the Third District is \$101,000 including print, postage and labor to support 13 BOE VITA events, VITA services at BOE district office and outreach for our college/university partners' VITA programs.

The projected benefits/results of the outreach efforts are \$24 million in tax refunds and credits; 15,000 taxpayers assisted in filing PIT, reporting sales tax and property tax deductions, and \$156,000 reported Use Tax.

Sincerely,


JEROME E. HORTON, Member
Board of Equalization, 3rd District