



FIONA MA, CPA
STATE BOARD OF EQUALIZATION
MEMBER, SECOND DISTRICT

January 4, 2016

Assembly Member Philip Y. Ting, Chair
Assembly Committee on Revenue and Taxation
1020 N Street, Room 167A
Sacramento, CA 95814

Dear Assembly Member Ting,

I am pleased to co-sponsor Senate Bill 526 (*Fuller*), as amended, which authorizes the Franchise Tax Board (FTB) to consider divorce agreements in which one spouse has the sole legal obligation to pay an outstanding tax liability as a factor weighing heavily in favor of granting equitable relief to the other spouse with regard to the collection of that liability.

Existing federal and state laws provide that taxpayers who file a joint return are each responsible for the accuracy of the return and are jointly and severally liable for the full tax liability for that tax year. This obligation applies whether the correct amount of the tax is reported on the original return or whether the taxing authority subsequently assesses additional tax for the tax year in question.

Additionally, existing federal and state laws provide for relief from joint and several liabilities on a joint income tax return. However, unlike federal law, state law provides that the liability may be revised by the court in a proceeding for dissolution of the marriage if the order meets certain conditions.

Under current law, the Franchise Tax Board (FTB) provides relief to a spouse solely based on a divorce court order only if the order meets the requirements of Revenue and Taxation Code section 19006(b), which specifies a variety of onerous conditions that a spouse must meet for the order to be valid and enforceable.

Under current provisions of the code, the spouse's only recourse to enforce the agreement if it does not follow the requirements of section 19006(b) is to take his/her former spouse back to court. Authorizing the FTB to consider divorce agreements when granting equitable relief, even when the agreements do not meet the requirements of section 19006(b), will reduce the amount of additional litigation—as well as appeals brought before the BOE.

Although the provisions of the bill apply to either spouse, the vast majority of cases involve women who were being held liable for the tax notwithstanding the language of their divorce decrees. Therefore, SB 526 will assist in easing the financial burden of divorced women who, as directed in the divorce agreement, have no legal obligation to pay the tax. Therefore, I urge your “aye” vote when the bill is heard

