



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

April 27, 2017

Senator Richard D. Roth  
Senate Budget and Fiscal Review Subcommittee No. 4  
State Capitol, Room 4034  
Sacramento, CA 95814

RE: Working Together to Implement Necessary Reforms at SBOE to Restore Public Trust

Dear Senator Roth:

Since 1988, I have worked in the field of public accounting. I have a Bachelor's Degree in Accounting, a Masters in Taxation and a Masters in Finance. Two years ago, when I was first elected to the State Board of Equalization (SBOE), I looked forward to utilizing my experience and expertise to bring much needed change to an agency that has been lacking transparency and accountability.

For the two years since I was elected, I have consistently pushed the SBOE to adopt reforms that would impose appropriate checks and balances, greater accountability, and increased transparency. I've led my own internal investigations, called for external audits, and asked the Legislature to address issues of both substance and appearance at the SBOE. Unfortunately, my efforts have been met with a culture that is resistant to these important and critical reforms.

Given the resistance I personally have faced in imposing an appropriate reform agenda, I appreciate your efforts to conduct oversight of the SBOE, as well as request your assistance in crafting and implementing the structural reforms necessary to evolve into a modern SBOE that provides Californians with "taxation with representation" in a fair, efficient, and honest manner.

The State Board of Equalization was created by voter initiative in 1879 to "equalize" property taxes in our 58 counties. We have approximately 5,000 dedicated employees who collect, administer, and audit close to 40 tax/fee programs totaling \$60 billion dollars. Our agency is still performing its core functions. However, parts of our agency have veered off mission and are clearly working outside the public trust.

Accordingly, I respectfully present the following recommendations that outline the role of SBOE Board Members and adjustments to structural operations that will provide fiscal transparency and enhance the function and efficiency of the SBOE that the taxpayers deserve.

## ROLE OF SBOE BOARD MEMBERS:

In pursuing the necessary and appropriate reforms, it is important that these efforts work to preserve the key taxpayer protections the SBOE members themselves provide the people of California, including: (1) the right to petition elected SBOE Members; (2) the right to have the SBOE adjudicate their tax disputes with the State of California; (3) if the SBOE holds in a taxpayer's favor, that the decision be final; (4) the SBOE continued role in promulgating sales tax, business tax and fees, and property tax regulations; (5) the SBOE's duty to investigate agency abuse of taxpayers is not abridged; (6) the SBOE continues to provide published and verbal guidance to taxpayers; and (7) preservation of the SBOE's current "check and balance" function in property tax administration. I am writing to indicate my strong support of these core SBOE functions, which provide important taxpayer safeguards under current law:

- 1) ***The right of taxpayers to petition their elected officials.*** It is imperative that taxpayers be able to communicate directly with their elected SBOE Members to seek redress. This includes so-called "ex parte" communication between taxpayers and SBOE Members.
- 2) ***Independent adjudication of taxpayer appeals by elected officials.*** This provides a vital check against audit and collection abuses suffered by taxpayers. It is a key feature of California's tax system and should be preserved.
- 3) ***Finality of SBOE decisions.*** Given the grueling nature of the current audit and protest processes, which can span several years, it is essential that if a taxpayer wins an appeal before the SBOE, that decision be final.
- 4) ***Promulgation of sales tax, business tax, and property tax regulations.*** Simply put, these regulations should be approved by elected officials who are accountable to the voters, not bureaucrats who are isolated from public review.
- 5) ***Internal investigations of reported abuses of taxpayers.*** When wrongdoing is alleged by a taxpayer, the elected Board must be empowered to investigate the bureaucracy being accused of misconduct.
- 6) ***Taxpayer guidance and advocacy.*** The current SBOE provides publications, guidance, and legal counsel opinions, as well as a "hotline" providing live advice to the taxpaying public. These important functions must be preserved.
- 7) ***Checks and Balances.*** The SBOE has a number of key "Check and Balance" functions, such as the County Assessment Practice Surveys and Audit Program, which also promote uniformity and consistency in statewide property tax administration. The BOE's publications of property tax guidance, such as Assessors' Handbooks and Letters to Assessors, also advance these goals by providing needed guidance to counties.

The elected Board Members serve a similar function as the elected State Legislators, representing a district where they are in tune with specific interests and problems. SBOE Board Members' primary role is to serve their constituents while carrying out the mission of the SBOE through fair, effective, and efficient tax administration.

Additionally, taxpayers may not agree with the concept of "taxation without representation." Allowing taxpayers the opportunity to meet with Board Members provides assistance to taxpayers by helping them navigate through California's complex tax laws, while also educating Board Members so they can make informed decisions.

## **PROPOSED ADJUSTMENTS TO STRUCTURAL OPERATIONS:**

**APPEALS PROCESS:** We should consider modeling New York in their Tribunal Tax Appeal Committee where the committee reviews the records of appeals hearing and any arguments, oral or by brief, by taxpayers who request to appear before the Board. The Tribunal Committee then issues a written decision affirming, reversing or modifying the determination which then directs the SBOE Appeals Division of next steps based on their decision to either move forward with additional proceedings before the Board or denying it. Each decision must be rendered within six months from the date of notice to the Tribunal that exception is being taken to the determination of the Appeals Division. This period is extended if oral or written argument is made before the Tribunal Committee. This process will streamline the appeals process and relieve the current backlog; it also creates a clear separation of the administration of taxes from the adjudication of disputes between taxpayers and the SBOE.

**CHIEF LEGAL COUNSEL:** SBOE has been without Chief Counsel for almost a year now. Current legal staff authored the legal opinions that authorized Board Members to participate in outreach programs such as VITA and *Connecting Women to Power* with little nexus to SBOE as mentioned in the OSAE audit. This reflects the lack of priority and urgency to protect the Agency and Board Members from liability and encouraged the misuse of taxpayer dollars. I request that the Legislature ask the Attorney General to immediately appoint an acting General Counsel to the SBOE who has experience in HR/ Personnel, FPPC, and Government Operations as the SBOE is currently in a nationwide search for new General Counsel.

## **HUMAN RESOURCES:**

**EEO:** Equal Employment Opportunity (EEO) complaints are currently filed with the Taxpayers' Rights Advocate (TRA) department of the SBOE. The Taxpayers' Rights Advocate Office's mission is to help taxpayers when they are unable to resolve a matter through normal channels, when they want information regarding procedures relating to a particular set of circumstances, or when there are apparent rights violations in the audit, compliance, or property tax areas. Some taxpayers call to communicate their frustration with aspects of the business or property taxation system, or seek confirmation they have been treated lawfully and fairly by a county or state office.

TRA's mission does not include the investigation of EEO complaints or resolution of any HR related issues. I recommend that EEO be placed under the Human Resource Division at the SBOE under the supervision of the Chief of HR to properly address sensitive HR issues. Additionally, a hotline should be established for the public and SBOE employees to report HR-related complaints directly to CalHR.

**CEA RAISE POLICY:** In July 2015, there were substantial salary increases, well over 5%, given to some of the top level executives in our Agency without Board Member knowledge or approval. Implementation of a CEA Raise Policy should be applied where all salary adjustments provided to CEA/Exempts should be consistent by implementing a more structured and uniform CEA Pay Program that incorporates performance based decisions.

**NEPOTISM:** In July, 2016, I received an anonymous letter about nepotism at the Agency which I immediately brought to our Chief of HR's attention, which was confirmed soon after. The Chief of HR then drafted a Nepotism policy which has already been fully vetted and approved by the Executive Director (ED), Chief Deputy Director (CDD), and Acting Legal Counsel but has yet to be implemented. I recommend the immediate implementation of a Nepotism policy, sent out to all employees of the SBOE as mandated by the CA State Personnel Board.

## **FISCAL TRANSPARENCY:**

**AUDIT/FINANCE COMMITTEE:** In light of recent audit findings, it may be prudent to establish an Audit/Finance Committee at the SBOE that works directly with auditing agencies to correct audit findings and ensure compliance.

**TRANSPARENT SOLUTION PROGRAM:** Currently, California cities, municipalities, and states across the country implement a transparency solution platform to budget more effectively, make data-driven decisions, and achieve greater transparency by communicating to the taxpayers. Adopting such a platform will allow all SBOE expenditures to be posted online on the SBOE website.

**FIELD OPERATIONS:**

Over 90% of SBOE employees are engaged in daily work outside of the seven core functions listed above. These civil servants are occupied in the critical activities of auditing, collecting, and allocating sales and use and other business taxes and fees.

Currently, Field Operations Division (FOD) is managed by one FOD CEA Deputy Director (DD), who is responsible for half of the Agency. The Deputy Director has 36 direct reports, including the four Assistant Chief of Fields who manage one of the four SBOE Districts. These Assistant Chief of Fields are the same level as the District Administrators, therefore making it almost impossible for the DD to know what is occurring in each district office.

Field Operations should be decentralized so that District Offices operate autonomously through the Assistant Chief of Fields to manage daily operations and budget more effectively and efficiently based on needs.

Giving District Offices more flexibility to work together to resolve cases will efficiently reduce caseload and provide better customer service. Employee morale would improve as they would not be bogged down with cases they could not get to, and promotes a teamwork focused atmosphere. Field Operations will be able to grow, motivate employees, reduce case load, and provide opportunities for staff. With control over their work load and offices will come ownership and accountability. With leaders in place to help guide staff, FOD can only excel in the service we provide to our customers.

**WORKING TOGETHER TO REFORM SBOE**

You have rightly opened an urgent discussion on the proper structure of the SBOE. As someone who has been working since my election to bring transparency and appropriate reforms to the SBOE, I welcome legislative oversight and the opportunity to work together to restore accountability and public trust to this Agency. I look forward to partnering with you and other legislative leaders to ensure that taxpayer rights are maintained and trust is restored.

In Peace & Friendship,



Fiona Ma, CPA  
Board Member- District Two  
California State Board of Equalization

cc: Honorable Jerry Brown, Governor  
Senator Kevin de León, President pro Tempore  
Assembly Speaker, Anthony Rendon  
Assemblymember Phil Ting, Chair, Assembly Budget Committee

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