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**2016/17 FEDERAL
AND CALIFORNIA TAX
UPDATE: PART I**

Presented by: Tim Hilger, CPA

Tax ... Analysis ... Education!

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2016/17 Fall Tax Update
Presented by Tim Hilger, CPA





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Pages 1-1 to 1-3

Individuals

- Personal exemption phaseouts
- Dependents
- Form 8332 forgery - still valid!





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Pages 1-3 to 5

Filing Issues


- Deadline is April 18, 2017
 - CA conforms
- Delayed refunds:
 - Refundable credits
 - Identity theft
- Final marital status regs. released



Pages 1-8 to 10

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Gross Income

- Capital gain rates 
- 1099 case (Blagaich v. Comm.)
- 1099-C (Clark v. Comm.)
- *Proposed* reg. to eliminate 36 month testing rule for issuing 1099-C

Pages 1-10,11

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Fairchild Case

- Adult entertainer 
 - Started with failure to file
 - Then - unreported income
 - Which became “gifts”
 - Moved on to 33 months in jail
- Final §83(b) regulations issued

Pages 1-11,12

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Exclusions from Income

- Aliso Canyon gas leak 
 - Tax free reimbursements
 - CA conforms
 - Lodging, meals, mileage, cleaning
 - Limits apply
 - No exclusion for friends and family

Page 1-12

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Olympic medals and prizes

- Olympic medals and prizes 
 - Value excluded
 - Gold \$25,000
 - Silver \$15,000
 - Bronze \$10,000
 - Unless AGI > \$1million



Pages 1-13 to 15

COD Exclusion

- PATH act extended through 2016
- But CA did NOT conform
- Newman v. Comm. insolvency case
- ITT Technical Institute
 - No word yet, but *likely* COD excluded
 - COD excludable for CA



Pages 1-15 to 17

§131

- Foster care PLR – income excludable
- Medical waiver payments (IHSS)
 - 1099-MISC Box 3 in and out Line 21
 - 1099-MISC Box 7 Schedule C
 - W-2 – In wages - deduct on Line 21
 - CA conforms



Pages 1-17,18

§139F

- Wrongful incarceration
 - PATH act exclusion
 - CA limited exclusion
- Foreign Earned Income Exclusion
 - 2016 max is \$101,300
 - Cuba now is eligible
 - CA has never conformed



Pages 1-18 to 20

Adjustments to Income

- Educator expenses
 - Indexed in the future
 - Expanded to include courses
 - Non CA conformity continues
- Alimony developments
 - Leslie case (2010 income)




Pages 1-20, 21

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Adjustments Cont'd

- Student loan interest
 - Max \$2,500 if low AGI
 - CA conforms
- Tuition deduction
 - PATH Act extended 2 years
 - AOTC usually better




EDUCATION

Pages 1-21, 22

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Health Savings Accounts

- New 2016 limits
- Eligibility:
 - High deductible plan
 - Not Medicare eligible
 - Not claimed as a dependent
- No CA conformity
 - Watch W-2 input!




Pages 1-22, 23

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Deductions

- 2016 standard amount
- CA treatment
- New phase-out's
- CA nonconformity
 - 6% federal AGI



TAX

Pages 1-23, 24

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Medical continued

- CA conforms to mileage rate
- 10% threshold except for seniors
 - CA remains 7.5%
- Long-term care insurance age limited
 - Must be qualified plan

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Medical Expenses

REMEMBER WHEN YOU COULD REFER TO YOUR KNEES AS RIGHT AND LEFT?




INSTEAD OF GOOD AND BAD. AH GOOD TIMES, EH!

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Page 1-25

Marijuana

- No deduction for medical marijuana




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Pages 1-25, 26

Other Itemized Deductions

- Sales tax option made permanent by PATH act
- Casualty loss or deterioration?
 - Alphonso v. Comm.
- Theft loss – Leslie v. Comm.
 - African diamond scheme
 - Claimed \$405 K loss for 2009




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Pages 1-26, 27

Interest

- New info on Form 1098:
 - Outstanding principal balance
 - Loan origination date
 - Address of property
- Mortgage insurance extended 2 years



Pages 1-27 to 30

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Interest Cont'd

- IRS acquiesces (IRB 2016-31)
 - Marriage penalty applies



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Pages 1-28 to 30

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Interest Cont'd


- No deduction for capitalized interest
- Equitable ownership cases
 - Jackson v. Comm.
 - Ghafouri v. Comm
- Requirements

Pages 1-30, 31

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Contributions

- Payne v. Comm.
 - \$169,000 non cash contributions
 - Substantiation *missing*:
 - Description of property, cost basis, valuation method, and acquisition date, receipt from charity, appraisal
 - Added bonus: stuff found on street!
 - Disallowance plus accuracy penalty



Pages 1-32, 33

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Contributions Cont'd

- Appraisal requirements
- Planning Pointer
- CA Conforms
- Documentation summary
- Engagement or Representation letter



Pages 1-34 to 36

Tax Calculation



- AMT exemption and phaseouts
 - Vichich v. Comm. traced carryforward
 - Planning opportunity?
 - Adoption credit phaseout amounts
 - CA nonconformity
-



Pages 1-36 to 38

Child Tax Credit



- Made permanent by PATH act
 - New due diligence requirement!
 - EITC rules extended to this credit
 - Delayed refunds re: identity theft
-



Pages 1-38 to 41

Earned Income Tax Credit

- Updated amounts and phaseouts
 - Expect delayed refunds
 - CA EITC returns
 - 3514 and 3596 forms required again
 - Preparer penalties apply!
-



Pages 1-41 to 46

American Opportunity Credit

- New due diligence requirement
 - Form 1098-T required
 - No comparable CA credit
 - Comparison chart
 - Caution: Check software!
 - Form 8867 checklist now required
-

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American Opportunity Credit

RESPECT YOUR PARENTS
THEY PASSED SCHOOL WITHOUT GOOGLE.

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Pages 1-47,48

Other credits


- Saver's Credit
 - \$2,000 max applies to most plans
 - 2016 credit for 2017 action
 - Good plan for semi retired clients
 - CA does not conform
- Nonbusiness energy credits still apply through 2016, but \$500 lifetime cap

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Pages 1-48, 49

Solar Credit

- PATH act extended
- 30% through 2019
- More efficient
- Shorter pay back
- Good reference chart



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Pages 1-50 to 53

Solar Energy Cont'd

- FTB website
- Caution: §25D little IRS guidance
- Installation cost issues:
 - Roof?
 - Subsidy amount not eligible for credit
- Basis adjustment

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Pages 1-53 to 57


Solar Cont'd

- Qualified property
 - No credit for air heaters or pools
 - Original use only
 - Residential property including rentals
- Leased panels no credit
- No recapture on subsequent sale

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Pages 1-57 to 59

Solar Continued




- PACE and HERO programs
- Property tax exclusion
- Solar client letter

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Pages 1-60 to 62

Plug-In Vehicle Credit

- Requirements
- \$7,500 max based on battery size
 - Not refundable & no carryforward!
- No credit for lessee
- CA rebate



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Pages 1-62 to 65

Self-Employment Tax


- Peterson v. Comm. (Mary Kay)
- Oil and gas interest
- Elder abuser subject to income and self-employment tax
- Gift or loan?

Pages 1-65, 66

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Nanny Tax

- 2016 threshold is \$2,000
- All household employees covered
- W-2 due date is Jan 31 to SSA
- No CA conformity
- Reference charts




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Page 2-1

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Foreign Reporting

- FinCEN Form 114 due date changing:
 - April 18, 2017
 - But, can now extend six months.
 - So, if in doubt...EXTEND!




Pages 2-1, 2

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FinCEN Continued

- If living abroad, it's due 6/15 with possible 4 month extension to 10/15
- Must be e-filed
- Practice Pointer
- Caution




Pages 2-2 to 5

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Canadian RRSP

Streamlined reporting procedure
 Rev. Proc 2014-55 (election gone)
 May still need FinCEN and 8938
 Online Gambling Accounts *not subject to FBAR reporting*



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Pages 2-5 to 7

FATCA Form 8938


- New Final Regs require entities to file Form 8938 with 2016 returns.
- Same requirements from HIRE Act:
 - > \$50K Dec 31 or > \$75K during year
- New CA Conformity form!
 - Attach 8938 to 540 or pay penalty!

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Pages 2-8 to 11

Valuable Practice Charts


- FATCA and FBAR Requirements
- Types of reportable foreign assets
- Foreign asset client disclaimer




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Page 3-1

Affordable Care Act



- Yes, we still have it for 2016 returns!
- Shared responsibility payments (penalties) are going up again
 - \$695 or 2.5% of income > threshold
 - Penalty examples



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Speaking of ACA Penalties

Don't Be This




Pages 3-2 to 12

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Taxpayers who married in 2016

- PTC computed using family size
- Marriage penalty
- *Alternative method*
 - Requirements
 - Electing and examples




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Pages 3-2 to 12

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Taxpayers who married in 2016



Page 3-13

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Business

- Shared responsibility for employers
 - 50 or more employees for 2016!
 - Must offer coverage to 95% of staff
 - Penalty threshold now 30 employees
 - Must be affordable and be at least minimum essential coverage

Pages 3-15

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Health forms delayed

- 1095-B and 1095-C
- March 2, 2017 (delayed from Jan 31)
- Don't wait to file 1040
 - But do need 1095-A to claim PTC

Cures Act (HR 34)

- Allows cash-for-insurance HRA
- Small employers only
- Limit on amounts
- No PTC
- Cannot mix and match

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Presented by: Steve Yukelson, CPA

Tax ... Analysis ... Education!

Business



Due Dates Changing

- For taxable years after 12-31-15:
 - 1065 - 2½ mos (was 3½)
 - 1120 - 3½ mos (was 2½)
 - June 30 year-ends = 2½ mos. (Sept. 15)
 - 1120 extensions – depends on year-end
 - 1120S - 2½ mos (no change)
 - 1041 - 3½ mos (no change)



CA Partial Conformity

- CA conforms to most Fed due dates
- Nonconformity
 - June 30 C corporations
 - 2½ mos for Fed - 3½ mos for CA
 - Extended due dates
 - 6 mos for CA - 5 to 7 mos for Fed

**Business Entity Due Dates and Filing Extension Dates**

- Excellent chart on page 4-3

**W-2s and 1099s**

- W-2 and W-3 due to SSA by Jan. 31
 - No longer Feb. 28
- 1099-MISC with non-empl. compensation in box 7, due to IRS by Jan. 31
- All other 1099s still due by Feb. 28
- Info return penalties increase to \$260
 - \$50 if filed within 30 days of due date


Bonus Depreciation

- Extended thru 2019
- 50% bonus for eligible property
 - 40% in 2018; 30% in 2019
 - Original Use – New
 - Eligible MACRS property, 20 yrs. or less
- Enhanced to incl. certain improvements to nonresidential real property

Page 4-5

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§179 Expense Election

- Permanently set at \$500,000
 - Inflation indexed: \$510,000 in 2017 
 - Phaseout threshold = \$2,010,000 (2016)
 - New or used property
 - Placed in service in tax year
- §179 allowed for qualified real property
 - Used in a trade or business
 - \$250,000 cap is removed starting in 2016

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Page 4-5

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Other Expensing Issues

- §179 computer software = permanent
- Make or revoke §179 election w/out IRS consent made permanent
- Portable heating & A/C qualify for §179
 - §1245 prop. placed in service after 2015
- Certain qualified improvements
 - 15-year SL cost recovery = permanent
 - Generally, nonresidential property


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Pages 4-5, 4-6

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California Depreciation

- Generally, no conformity
- C Corps - No MACRS
- §179 = \$25,000 maximum
 - \$200,000 max. qualified assets
 - None for software
- No bonus depreciation
- ***Important to track differences***



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Page 4-6

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Antiques Not Depreciable

- *Kilpatrick v. Comm.*
- Purchase of antiques for furnishings
 - T/P claimed as §162 expense
 - Unable to prove subject to wear and tear
- Court: Value not reduced by either passage of time or by use – No deduction


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Page 4-7

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Enhanced Deductions for Qualified Real Property

- Four categories, formerly three
 - May fall into multiple categories
- Permanent 15-year depreciation
- \$250,000 §179 limit is eliminated



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Pages 4-7, 4-8

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Qualified Leasehold Imp.

- Interior portion of nonresidential bldg.
 - Improvement is §1250 property
 - Made more than 3 yrs after bldg. in svce.
 - No bldg. enlargement or to common area
- Eligible for:
 - §179 expensing
 - Bonus depreciation
 - 15 year depreciation

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Pages 4-8, 4-9

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Qualified Retail Imp.

- Interior portion of nonresidential bldg.
 - Portion of bldg. used for retail sales
 - Made more than 3 yrs after bldg. in svce.
 - No bldg. enlargement or to common area
- Eligible for:
 - §179 expensing
 - Bonus depreciation
 - 15 year depreciation

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Qualified Restaurant Prop.

- Improvement to bldg. (not just interior)
 - More than 50% of bldg. sq. footage for preparation of and on-premises consumption of meals (no 3 yr. rule)
- Eligible for:
 - §179 expensing
 - 15 year depreciation - **No bonus**
 - However, could also be other category

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Pages 4-9, 4-10

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NEW **Qualified Improvement**

- Interior portion of nonresidential bldg.
 - Impvmt. done after bldg. placed in service
 - No bldg. enlargement: Common area OK
- Eligible for:
 - Bonus depreciation
 - No 15 year deprn: No §179 expensing
 - However, could also be other category


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Pages 4-10, 4-11

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§179 - Real Property

- For tax years beginning after 12-31-15
 - \$250,000 limit removed for qual. real prop.
- Real prop. eligible for §179, also eligible for 15-year depreciation


Taxes

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Page 4-11

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Bonus Depreciation

- Beginning in 2016, bonus available for:
 - Qualified impvmt., leasehold impvmt., & retail impvmt. property
 - Not for qualified restaurant property
- 50% if placed in service before 2018
 - 40% if placed in service in 2018
 - 30% if placed in service in 2019


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Pages 4-11, 4-12

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15-Year Depreciation

- Certain qualified real property
 - Not for qualified improvement property
- Also eligible for §179 expensing
- Improvements may involve multiple categories



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Pages 4-12, 4-13

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Expensing Under Repair Regs.

- Remodel-refresh costs
 - Safe harbor for restaurant & retail
 - Write-off 75%, capitalize 25%
 - MUST have an applicable fincl. stmt.
 - Requires acctg. method change – F 3115
- Safe harbor for small taxpayers with bldgs.
 - \$10,000 annual irrevocable election
 - Both a basis & a gross receipts test

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Page 4-15

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Standard Mileage Rates

	<u>2016</u>	<u>2017</u>
Business	54	53½
Charity §170(i)	14	14
Medical and moving	19	17

California conforms

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Pages 4-15, 4-16

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Luxury Auto Limits

- Bonus depreciation extended thru 2019
 - \$8,000 for qualified vehicles
 - \$6,400 in 2018; \$4,800 in 2019
 - New vehicle, not used
 - Business use > 50%
- 1st yr (2016) (No bonus) = \$3,160 max.
- Reduced if less than 100% bus. use
- Higher limits for heavy vehicles


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Pages 4-17, 4-18

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Business Income

- Duty of consistency - *Squeri v. Comm.*
 - Cash method taxpayer
 - T/P reported income when deposited
 - IRS moved it to when received
 - What about the closed year?
 - Unable to avoid tax on income altogether



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Trade Or Business Expenses

- Cost of MBA: business vs. personal - *Kopaigora*
- Teacher gets home ofc. deduction - *Czekalski*
- Paying wages to children - *Fisher* and *Embroidery Express*

Hobby Losses - §183

9 factors – facts and circumstances

- Hair-braiding activity - *Dalia*
- Horses - *Roberts* and *Judah*
- Classic car restoration - *Main*
- Amway distributor - *Hess*
- Real estate agent - *Pouemi*
- IRS response to TIGTA audit report

Reasonable Compensation

- Deduction is allowed for compensation
 - Must be reasonable and for services
 - Reasonableness uses 5 factors
- C corp - If compensation is too high
 - Reclassified as nondeductible dividend
- S corp - If compensation is too low
 - Possible avoidance of employment taxes


Loans vs. Capital Contribution

- Intent – *Scott Singer Installations, Inc.*
- Reasonable expectation of repayment
 - Yes = more likely to be a loan
 - No = more likely to be capital contrib.
- Personal expenses paid by S corp
 - Repmt. of loan vs. wages or distribution

Pages 4-30, 4-31

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Domain Names



- Cost to purchase
 - Generally, capitalize under §263
 - Amortize over 15 years under §197
- Cost to develop ones' own
 - Generally 3 options, using §174
- Still, many unanswered questions



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Pages 4-32, 4-33

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Transportation Fringe Benefits

- Enhanced benefits made permanent
- Chart - Fed vs. CA exclusion of employer-provided transportation benefits

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Small Business Stock

- Original issue stock in a C corporation
 - Purchased by a non-corporate investor
 - Certain types of activities do NOT qualify!
- Acquired after 9/27/10 - **100%** gain exclusion
 - Must be held more than 5 years
 - Gain also excluded for AMT purposes
- Lower exclusion for earlier acquisition dates
- CA no longer has this exclusion


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Page 4-35

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Built-in Gains Tax (BIG)

- Former C corps with appreciated assets at time of S election
 - Disposed of during recognition period
 - Generally 5 years (PATH Act)
 - 10 years for CA
 - Highest Corporate tax rate
 - 35% Federal; 8.84% Calif.
- No BIG tax if S was never a C



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Page 4-35

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Partnerships

- If partner has no basis, no loss is allowed
- §754 election adjusts basis at ptshp level
 - Upon sale of partnership interest, or;
 - Upon death of a partner
 - Election filed with tax return
 - Generally, for taxable year of occurrence
 - Late election may be granted

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Page 4-36

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Repair Regulations

RULES

1. YOU CAN...

2. YOU CAN'T...

3. YOU CAN...

4. YOU CAN'T

- Tax years on or after 1-1-14
- Purpose is to reduce controversy
 - Expense vs. capitalize
- IRS gives auditors marching orders
 - 202 page Audit Technique Guide

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Pages 4-37, 4-38, 4-39

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De Minimis Safe Harbor Election

- Expense certain UOP business assets
- Must make annual irrevocable election
 - Up to \$5,000 - Applicable financial stmt.
 - Up to \$2,500 - Without one
 - Up to \$200 - Absent an election
- Accounting policies must be in place at beginning of tax year
 - Written, if AFS: Recommended, if not

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Change in Accounting Method

- Required to comply with TPRs
- Need IRS permission – Form 3115
- Rev. Proc. 2015-20 - Simplified method
 - Only for qualifying small taxpayers
 - Assets OR gross receipts < \$10 mil.
 - Do nothing other than timely file return
 - Form 3115 not required to be filed

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Pages 4-41 thru 4-47

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Research (R&D) Credit

- Made permanent
- Claim against both regular tax & AMT
- Claim a portion against employment tax
 - Qualified small business
 - Employers portion of OASDI – 6.2%
 - Must make an election

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Page 4-48

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Crowdfunding

- Revenue is generally income
 - Not if for loans, equity interest, or gifts
 - Facts & circumstances analysis

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Pages 4-51, 4-52

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Employee Or Independent

- Coldwell Banker settles class action
 - Sales associates = employees
- Proposed Uber settlement rejected
 - Is Uber a transportation service?
 - Is Uber a technology platform?
 - Who is really in control?

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Costs Of Misclassification

- Payroll taxes, wages, OT, employee benefit compliance, workers comp
- Forward to other govt. agencies
- Advisor can be liable with employer

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Practice & Procedures



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The IRS

Theirs


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Page 5-1

PTIN Renewal

- Anyone who prepares or assists in preparing a return for compensation




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Pages 5-1, 5-2

Identity Theft



- Tax preparation software
- IRS Get Transcripts online relaunched
 - Two-step authentication process
 - Criminals didn't steal t/p info from IRS
 - Criminals obtained prior-year transcripts
 - Used transcript info to file bogus returns
 - There have been convictions

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Get Transcript Service

- View & print online, or have it mailed
- Five types of transcripts available
- Registering and verification
 - Have ready certain basic info
 - Mobile phone that accepts texts



Identity Theft

- Scams targeting tax professionals
 - Do NOT click on email links to update
 - Update directly from software provider
 - Cyber thieves filing fraudulent returns
 - Monitor your PTIN
- Scams targeting taxpayers
 - Fraudulent CP2000s
 - The phone scam plays



Reporting ID Theft

- Report to credit reporting bureaus
- File Form 14039 with IRS
 - File Form 3552 with FTB
- IRS Identity Protection Specialized Unit



Legit ID Verification Letters

- IRS Letter 5071C
 - Asks for taxpayer assistance to complete IRS processing of return
- FTB Form 4734D
 - Similar request, made by FTB

Pages 5-7 thru 5-10

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Efforts To Combat Theft

- No more than 3 refunds to one account
- Stronger protections for t/p using software
- W-2 verification pilot program
 - Service bureaus including Verification Code
 - Based on an algorithm of select W-2 elements
- IP PINs for victims of tax-related identity theft
 - Only certain taxpayers are eligible


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Checklists

- Useful practice aids on pages **11 thru 13**




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Filing Issues



- “Mailbox rule” – timely filed and/or paid
 - Date of U.S. Mail postmark is filing date
 - Certificate of Mailing ≠ Certified Mail
- Private delivery service list updated
 - Only specific services qualify as timely


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Filing Issues – Cont’d

- Min. penalty for failure to file increases
- Installment agreement fees increase
- Pay tax at 7-Eleven stores
 - Individual taxpayers
 - Limitations and fees apply




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Pages 5-16, 5-17, 5-18

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Other IRS Issues



- IRS able to cause passport revocation
 - Notify State Department of “seriously delinquent” taxpayer
- ITINS prior to 2013 must be renewed
- ITINS will expire if not used for 3 years
 - Consequences of not renewing

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Other IRS Issues – Cont’d.


- IRS to use private debt collectors
 - Only pursue “inactive tax receivables”
 - Program will start in the spring
- Certification for PEOs - voluntary
 - Background, bonding, and other req.
- Tax Court judge indicted for tax evasion

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Pages 5-21, 5-22, 5-23

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Practice Issues




- E-file is required
 - “Specified tax return preparers”
 - Taxpayer can opt-out
 - Written statement and file Form 8948
 - CA opt-out compliance
 - Significantly different than federal

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Pages 5-24 thru 5-32


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Issues With Clients



- Warning signs of client impairment
 - Authorization to contact someone else
- The problem client
 - Disengage if appropriate
 - Keep clients that are right for you
- Firing a client
 - Best to do so in writing


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**2016/17 FEDERAL
AND CALIFORNIA TAX
UPDATE: PART III**


Presented by: Renée Rodda, J.D.


Tax ... Analysis ... Education!


**2016-2017 Federal and
California Tax Update**


Presented by:
Renee Rodda, JD


Retirement




Traditional IRAs Pages 6-1 & 6-2

- Contribution limits
 - Max. stays at \$5,500 through 2017
 - Catch-up remains \$1,000
 - AGI phaseout limits on 6-1 & 6-2
- CA Conforms, but could have basis differences



IRA to Charity

- PATH Act made the exclusion permanent
 - Up to \$100,000 per year
- California conforms



Early Withdrawal Penalty

- 10% Penalty for withdrawals before 59 ½, if not rolled over
- Medical exception
 - For expenses that exceed the deduction threshold
 - For expenses that could be deducted
 - Even if the taxpayer doesn't itemize
 - Income is still taxable

Early Withdrawal Penalty

- Education exception
 - Must use to pay for qualified higher education of taxpayer, spouse, child, or grandchild
 - Don't have to claim as dependent
- Wife was granted rollover waiver, but her husband wasn't

Rollover Waiver Requests


- Fee for PLR request now \$10,000
- No cost if taxpayer qualifies for automatic approval (Rev Proc 2003-16)
 - Taxpayer properly directs financial institution to roll funds over, but they fail
 - Must be corrected within 1 year

Pages 6-5 & 6-6

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New Self-certification Process

- Rev Proc 2016-47
 - No previous denial
 - Missed due to one of 11 conditions, like bank or post office error, illness, death of relative, etc.
 - Roll over funds immediately
 - IRS can deny (will consider use of \$)




Pages 6-6 & 6-7

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Applying For Waiver

- IRS will waive penalty when it would be against equity or good conscience
- Requirements listed on page 6-6
- Sample letter in Rev Proc 2016-4



Page 6-7

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California Conformity


- CA penalty is 2.5%
- CA generally conforms to the penalty and the exceptions
- Difference when account is levied to pay tax
 - IRS won't waive for FTB levies

Page 6-7

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Failing to Take RMD

- 50% Penalty
- Form 5329 Waivers
 - Penalty waived for reasonable cause
 - Sample language on page 6-7



Pages 6-8 & 6-9

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RMD Planning

- May take at 59 ½, must take at 70 ½
 - Consider needs of the individual
 - Don't always want to defer
- Can defer first distribution until April 1 of the next year
 - Advantages and disadvantages

Pages 6-9 to 6-12

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Distribution Planning

- Accelerating distributions
 - 4 scenarios – maximizing brackets
 - See example starting on page 6-10
- QLACs can offer deferral until 85
 - 401Ks can now contain a QLAC

Pages 6-13 & 6-14

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Excess IRA Contribution Issues

- Active participant couldn't carry forward excess IRA contributions
 - But he also wasn't subject to penalties
- No relief for withdrawal in later year
- Example of excess carryover on 6-14

Pages 6-14 to 6-16

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ROBS

- ERISA, IRS and DOL oversight
- Beware of prohibited transactions
- Be cautious of IRS determination letters
- See list of noncompliance traps on page 6-16
- "Success stories"

CAUTION


Danger Area
Proceed With Care
And Knowledge

Pages 6-19 & 6-20

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Roth IRAs

- Max contribution remains \$5,500 with possible \$1,000 catch-up
- Limited by AGI
- Plan participation
non factor!
- CA conforms



Pages 6-20 to 6-23

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Other Plan Issues

- New funding option for myRA's
- PATH Act allows rollovers to SIMPLE IRAs after 2-year waiting period
- Rollover reference chart on page 6-23

Pages 6-24 & 6-25

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Solo 401(k) Plans


- For sole proprietors or corp. where owner is the only employee
 - Profit sharing: 20%, 25% for corps; and
 - Deferral of comp up to \$18K (+ \$6K for 50+)
 - 2016 max \$59,000
- Powerful for smaller incomes

Pages 6-25 to 6-27

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Defined Benefit Plans

- Extremely aggressive
- Consider adopting at sale of business for sole practitioner
- Costly and complex





Pages 6-29 & 6-30

IRC §§ 529 and 529A

- Tuition programs
 - Tech. costs permanently allowed
 - New 60-day “rollover”
 - Able programs
 - Tax advantaged plans for disabled
 - California now conforms
-



Pages 6-30 to 6-33

Social Security



- Wage base to \$127,200 in 2017
 - Increase of \$8,700 over 2016 (7.3%)
 - Benefit COLA only .3% for 2017
 - Updated amounts on page 6-30
 - Make sure annual statement of earnings is correct
-



Pages 6-34 & 6-35

Social Security Divorce Issues



- Basic rules
 - Married minimum 10 years
 - Unmarried claimant age 62 or older
 - Max benefit is 50% of spousal amount
 - If claim before age 66, lower benefit
-



Pages 6-35 & 6-36

Social Security Continued

- “File and Suspend” ended 4/30/16
 - “Restricted Application” only available for those born through 1953
-

Pages 6-36 & 6-37

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Medicare Issues

- Part B premium for 2017 is either:
 - \$109 or \$134 per month for most, or
 - Up to \$428.60/month for high income
 - Tax planning!
- Part D surcharge also

MEDICARE HEALTH INSURANCE
1-800-MEDICARE (1-800-633-4227)

NAME OF BENEFICIARY
JOHN DOE

APPLICABLE PLAN NUMBER
000-00-0000-A

SEX
MALE



HOSPITAL (PART A) 01-01-2007
MEDICAL (PART B) 01-01-2007

SIGN _____
MEMBER _____

Pages 7-1 & 7-2

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Estates and Gifts





Page 7-1

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Estates and Gifts

- 2016 Exclusion \$5,450,000
- \$14,000 annual gift exclusion
- 1041's still due April 15th, but extended due date now Sep 30th!



Pages 7-1 & 7-2

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New Basis Reporting


- Effective date delayed to 3/31/2016
 - Just delayed filing, not requirement
- Form 8971 required if 706 required
 - Notifies beneficiaries of basis
 - Due 30 days after due date of 706
 - Not required if 706 only for portability

Pages 7-3 to 7-7

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Form 8971 Continued

- Penalties:
 - Failure to file correct form by due date
 - Failure to furnish Schedule A to beneficiaries
- Forms



Pages 7-8 to 7-10

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Consistency


- For larger estates must use basis reported on the 706, not FMV at DOD
 - Only if assets increased estate tax
 - 20% penalty for using incorrect basis
- Omitted property has zero basis

Pages 7-11 to 7-13

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Portability

- Portability has changed the rules for estate planning
 - Last spouse to die adds a wrinkle
- Making the election
 - Timeliness is vital



Pages 7-14 to 7-16

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- DSUE can be applied to gifts
- Can elect portability and make QTIP election
- Proposed regulations on valuation discounts

Real Estate



Principal Residence Exclusion

- The principal residence COD exclusion extended through December 31, 2016
 - Currently no exclusion after 2016
- No CA conformity! (more later)



Passive Losses

- Self-rental rules do apply to S corps.
- Taxpayer was not required to regroup his activities
 - Dr. was permitted to group passive medical partnership with rentals
 - Didn't acquire partnership to avoid tax and his medical activities were different
 - Review the list of factors on 8-2

Real Estate Professionals

- IRS continues to audit, but more taxpayers won this year
 - >1/2 personal services AND
 - >750 hours in RE trade or businesses
 - Only get losses for activities with material participation
 - Great flowchart on 8-5





Pages 8-6 to 8-9

Cases

- Must prove material participation
 - Taxpayer’s testimony wasn’t enough
- Review **Stanley** win on 8-6
 - Court reviewed several issues
- Good records earned a win
 - Not only did he record time, he only counted time working on his rentals



Pages 8-9 to 8-11

Travel Time

- They generally don’t count
 - In **Leyh** travel time did count, but it is not a precedent setting case
- If home is “principal place of business” can take commuting expenses



Pages 8-11 & 8-12

New Escrow Forms

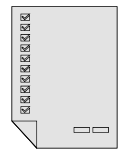
- 2 new forms for mortgage loans replace the old HUD-1
 - Loan Estimate form, and
 - Closing Disclosure
- Old HUD-1 can still be used for equity loans, reverse mortgages and other sales



Pages 8-12 to 8-15

Loan Estimate

- Provided within 3 days of loan application
 - More loan disclosure
 - Projected payment info
 - Closing cost detail
 - Comparisons and other considerations
- Remember it is an estimate
- Sample starting on 8-13



Pages 8-16 to 8-20

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Closing Disclosure

- Provided 3 days before closing
 - Some duplication of information
 - Details of both buyer and seller
 - Closing costs and changes noted
 - Clearer summary of transaction
 - Disclosure and reference information
- Sample on 8-16

Pages 8-21 to 8-24

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Other Real Estate Issues


- 2nd child is an unforeseen circumstance
- COD - QRPBI exclusion
 - For RE developers property held for lease is QRPBI, property for sale is not
 - Only count basis in activity debt was QRPBI for
- No abandonment loss until foreclosure

Pages 8-24 & 8-25

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Like-Kind Exchanges §1031

- Basic rules remain the same
- No §1031 for personal use property
 - Including residence and vacation home
- Can't exchange partnership interest



Pages 8-25 to 8-28

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Like-Kind Exchanges §1031

- Delaware Statutory Trusts replacing many TICs for replacement property
 - IRS recognizes, but with strict criteria
 - Seven deadly sins on 8-27
- Great DST versus TIC comparison chart on 8-28

Held For Productive Use ...

- CCA says we don't apply hobby loss rules to determine productive use
 - Entities may have legitimate activities without a profit motive
 - Another CCA says more than 50% personal use would disqualify, but says there is no 50% threshold.
-

CA Filing Requirement

- Form 3840 if exchange for out of state property Jan 1, 2014 or later
- Must file every year until disposition even if no other filing requirement
- If form is not filed, FTB can void exchange and bill for tax due on sale!




Questions & Clarifications

- How do we report subsequent exchanges?
 - Attach a second page 2 to the form
 - The Form instructions ask for selling expenses, not exchange expenses, but CA does allow exchange expenses when calculating deferred gain
-

FTB §1031 Audits


- Most exchanges are audited or reviewed by FTB to uncover:
 - Non-California replacement property
 - Failure to report boot
 - Time requirements not met
 - Step transactions, etc.
-



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**2016/17 FEDERAL
AND CALIFORNIA TAX
UPDATE: PART IV**

Presented by: Lynn Freer, EA

Tax ... Analysis ... Education!



Part 4
**Tax Reform and California
Update**
Presented by Lynn Freer




Trump & Republican Tax Plans

Pages 9-1 – 9-8

- Many unanswered questions
- Plans are similar
 - Lower individual and corporate rates
 - Elimination of AMT
 - Larger standard deduction
 - Repeal ACA & related tax provisions
- We won't address fiscal issues


California Conformity?

Page 9-10

- Tax rates = No
- Filing status = ?
- Exemptions = CA has credits
- Eliminate AMT = No
- Investment income = No
- Standard/Itemized deductions =
Partial?

California Conformity Con't

- Children & Dependents = ?
- EITC = Yes
- Higher education expenses = No
- Retirement savings = Yes automatic
- Estate tax & ACA = N/A
- Business changes = Generally No
 - Exception possibly NOL = Yes




California Update



Chapter 10 California Legislation and Conformity




Ballot Initiatives

- Prop 55 – Tax rate extension = Yes 
 - 10.3%, 11.3%, 12.3%
- Prop 64 – Marijuana legalization = Yes 
 - Discussion on page 14-18
 - Spidell webinar on 1/17
- Prop 67 – Plastic bag ban = Yes 
 - Effective immediately

Page 10-2

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Vetoed Legislation





- Sales tax amnesty for medical cannabis-related businesses
- Sales tax exemptions:
 - Diapers
 - Feminine hygiene products
 - Repurchase of pawned items
 - Animal blood

Page 10-2

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Other Vetoed Legislation

- Assignment of tax liability in a divorce 
- Retroactive extension of COD on principal residence exclusion 

Pages 10- 3 & 10-4

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Enacted Legislation


- Conform to business return due dates
- Expands property tax postponement for some
- Increase in state minimum wage
- Increase DMV registration
- Overturns **Davis** case

Pages 10-4 & 10-5

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Cash Payments for Medical Marijuana Dispensaries

- As of 1/1/17 exempt from EFT for BOE (AB 821) – But cannabis in dispensary no longer subject to tax
 - BOE will take cash
- FTB – Request exemption
- EDD – Will take cash or money order





EDD E-Pay Mandate

- Employers with 10 or more employees must e-file and e-pay
Currently a one-year reasonable cause mandate
 - More on page 11-2
-



Minimum Wage Increase

- \$10.00/hour – 25 employees or under
- \$10.50/hour – 26 or more
- Cities & counties may have higher rates
- Goes up in 2018 + thereafter



California's Version of MyRA

- CA Secure Choice Retirement Savings Program
- Employees contribute 3% or can opt out
- State run program
- No required employer match
- Won't start for at least a year or two



Conformity

- Porter Ranch gas leak
 - Repair regulations
 - IHSS
 - Rollover of airline payments
 - Marital deduction trusts (SB 1265)
-



Unrelated Business Income (Hidden IRA tax)

- Conforms to federal
- Applies if more than \$1,000 unrelated business income
- Use trust rates
- Be sure to check IRA K-1s



Nonconformity



- Olympic medal exclusion
- Extenders – none except IRA to charity
- New HRA law
 - But the law only deals with penalty so no California impact

Spidell's Conformity Guide

See pages 10-11 through 10-19
for your conformity helper



Chapter 11 California Filing



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Pages 11-1 & 11-2

Form Changes


- EITC – only one form
 - Due diligence penalty remains at \$500
- New change of address form
- Film credits
- Enrolled tribal member certification

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Page 11-2

New for 2017: Stand-Alone Electronic Payments

- May make e-payments even if a return hasn't been filed
- Individuals & fiduciaries (ES & Extension)
- Business entities (Extension only)
- Make sure your software supports it!



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Pages 11-2 & 11-3

New EDD E-file Requirements

- Employers with 10 or more employees – January 1, 2017
- All employers – January 1, 2018
- Penalties \$50/return + \$20 per wage item + 15% of payroll deposits
- Waiver valid for one year

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Page 11-4

Due Dates for 2017 CA Estimated Tax

■ C & S corps	■ Same as federal
■ LLC tax	■ April 18, 2017
■ LLC fee (ES)	■ June 30, 2017
■ LLC fee (due)	■ March 15, 2018
■ Trust	■ Same as federal

Pages 11-4 & 11-5

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Nonconformity


- Extended due date conformity except:
 - C corps 9/15 federal 10/15 CA
 - Trusts 9/30 for federal & 10/15 for California
- No conformity to 6/30 year end change
- Underpayment of estimated tax
 - One month shorter for CA

Page 11-5 & 11-6

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\$1 Million Penalty Relief

- No underpayment if in the prior year the taxpayer paid no more than \$500 over and above withholding
- See example on Page 11-6



Page 11-6

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MyFTB Roles

Individual

- Personal income tax filer
- Note:** Estates and trusts cannot access MyFTB at this time

Business Representative

- Someone authorized by the business (e.g., CFO, President)

Tax Preparer

- A tax professional with a valid:
 - Preparer Tax Identification Number (PTIN)
 - California Tax Education Council (CTEC)
 - Electronic Filing Identification Number (EFIN)
 - California Certified Public Accountant (CPA Number)
 - California State Bar Number (*Recent change*)

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Tax Preparer access vs. Power of Attorney access

MyFTB Feature	Access Type	
	Tax Preparer	Power of Attorney
Account		
Overview	✔	✔
Account Summary	✔	✔
Estimate Payments & Credits	✔	✔
Payment History	✔	✔
Returns	✔	✔
Return Images	-	✔
Proposed Assessments	-	✔
California Wages & Withholding	✔	✔
FTB-Issued Form 1099	✔	✔
Activity	✔	✔
CalFile Link	✔	✔
Communication		
Notices and Correspondence	-	✔
Start Chat	✔	✔
Email Notifications	-	✔
Send Message	✔	✔
Services		
Tax Calculators	✔	✔
File Power of Attorney	✔	✔
File Nonresident Withholding Waiver Request	✔	✔

Pages 11-8 & 11-9

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10-Business Day Hold




- Letter mailed first business day a access requested
- Access available after 10 business days
 - Tax preparer & POA client
- Access granted if t/p doesn't request no access

Page 11-9

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Helping The Client During the 10-Day Waiting Period

- Call the number on the notice or call the Tax Practitioner Hotline
- Have a copy of the client's prior return
- Have a copy of the notice



Page 11-9

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What you Can & Can't Do


- You may ✓
 - Stop/postpone wage garnishment
 - Get info on an assessment or notice
 - Have demand to file removed
 - Deal with the notice
- You may not: ✗
 - Finalize an installment agreement;
 - Change taxpayer's contact info

Page 11-10

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Reset Your Password

- Reset password every 12 months
- You may reset any time before 12 months
- FTB will alert you 30 days before password expires
- At expiration you'll be prompted to reset





Renewing MyFTB Clients

- POA clients don't need to be renewed
 - Tax preparer clients renewed every 13 months
 - They will get another 10-day letter
 - Failure to renew within the 13 months means you must reenter them
-



How to Renew

- See screen shot on page 11-11
 - Use the new button in the "Actions" column – Click Renew
 - FTB will send 10-business day letter
 - Start the process more than 10 business days before the 13 month period expires
-



Fraudsters Pose as Tax Preparers

**Extra:
Tax Pros' Files Hacked
Hackers get access to MyFTB**



ID Theft Victims Can't Use MyFTB

- Practitioner can't view client info
 - Practitioner can upload a POA
 - POA will have access to client notices only
 - FTB trying to find a way to grant access to ID theft victim
-

Page 11-13

4 Ways to Submit a POA Declaration

1	2	3	4
MyFTB POA Online Service 30 business days or fewer	Upload signed POA via MyFTB 30 business days or fewer*	Paper Form 3520 (with exception) 45 business days or fewer*	Paper Form 3520 (no exception) 90 business days or more*
*Add 10 days for verification letter			

Not in material

POA Confirmation

- FTB mails **Form FTB 1124, Power of Attorney acceptance notice** three days after the FTB has processed a POA, indicating that you have recorded a POA.
- 10 business days after the POA is accepted, if the client doesn't request the FTB cancel the POA, the POA will become active.

Not in material


Spidell Suggests

- Don't mail POA
 - Mailing POA may result in letter to you and the client saying go online
- Use the FTB POA
 - If using IRS POA to upload, be sure your email address is included
- No MyFTB account? No notices to you!

Page 11-13

Search for Clients

- Sort using new filter




The screenshot shows the 'Client List' page in MyFTB. It includes a search bar with filters for Client Type (Individual, Business, Estate/Trust) and Client Access. Below the search bar is a table of search results for individual clients. The table has columns for Last Name, First Name, SSN/ITIN, Expiration Date, Access Type, Status, and Actions. A red arrow points to the 'Expiration Date' column header, indicating a new sorting filter.

Last Name	First Name	SSN/ITIN	Expiration Date	Access Type	Status	Actions
John	Jane	XXX-XX-XXXX	02/21/2017	Tax Preparer	Active	Details Remove

Pages 11-15 & 11-16

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California Differences

- No paper notices are sent to POA rep
 - All notices electronic
- Can elect the **Super Power** 
 - All access to all years
 - Super power expires after 4 years
- File California online

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Pages 11-15 & 11-16

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Other Differences

- California sends validation to the taxpayer (10 day notice)
- California does not have a Form 8821, Tax Information Authorization
- See Comparison of IRS and FTB POA Requirements on Pages 11-16 & 11-17


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Page 11-17

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Balance Due and other FTB Notices

- Many taxpayers had refund delays
 - W-2 information didn't match FTB/EDD info
 - Additional identity theft and refund fraud detection measures slowed the process




Page 11-17 & 11-18

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Form 4734D Request to Confirm Tax Return Filing

- Sent if there are indications of potential fraud
- Requests copies of social security cards, W-2s, Paycheck stubs
- Contact FTB by phone, fax, or mail
 - We suggest you phone or fax





4734D Con't

- Return is not processed while waiting for response
- FTB handled over 100,000 calls as a result of identity theft/fraud
- Majority of notices were ignored
 - Good indication of fraud
 - FTB will continue to contact taxpayers



Other Verification Notices

- Form FTB 3904, Request to Confirm Tax Return Filing FTB highly suspects fraud
- Form FTB 4502, Additional Documentation Required – Refund Pending EIC credit
- Form 4579, Demand to Furnish Information – sent to employer



1.288 Million Pieces of Mail in May, 2016

- 866,000 pieces sent in 2015
- Additional staff redirected to answer phones
- Result: Correspondence not worked timely



Notice of Tax Return Change

- Notice of Tax Return Change (NTRC)
- FTB did an exact match and reduced or disallowed refunds if withholding didn't match
- Many problems – mostly due to late filed payroll tax returns




Page 11-20

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**Payment Posting
May Be Delayed if:**

- Check doesn't have verifying info
- Sending paper return with check when return was e-filed
- Payment lost or misplaced in FTB's system



Page 11-20

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Spidell has Suggested:

- EDD send quarterly (and year-end) returns to FTB more frequently
- FTB resume prior processes in withholding mismatch situations
- EDD help when W-2 doesn't match

Page 11-21

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2017

This Year the FTB Will:

- Institute an enterprise call center escalation for additional help
- Will modify method to be *similar* to prior procedures
 - *May still disallow refunds*
- Work with EDD to improve exchange of information

Page 11-21


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Bill Comes After Payment Mailed?

- If your client gets a bill and has mailed a payment
 - Check MyFTB to see if the payment has been posted.
 - Lag time between payment posting and billing cycle

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Chapter 12
California Individuals




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Pages 12-1 & 12-2

Taxpayers Attack California's Muni Bond Law

- CA taxes municipal bond interest if less than 50% of a fund is invested in tax exempts
- **Ronald & Pamela Mass** going to court
- File amended returns to protect your refund




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Pages 12-2 & 12-3

Becoming a Nonresident

- FTB & Board attack when taxpayer moves and sells assets at a gain
- Carefully plan exit
- Sale of closely held stock or partnership/LLC interest not taxable to nonresident
 - But be ready for a fight




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Page 12-3

The Bills Win!

- Sale of partnership interest
- Bills say they are nonresidents
- FTB argues:
 - Bills are still residents
 - Sale was of partnership assets, not interest
- Board sided with the taxpayers!




Page 12-4

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Bills' Activity

- Nov & Dec 2004 - Purchase home in WA and set up electricity
- Retires December 2004
- January 10-16 Bills move to WA home & registered cars (that were still in CA), registered to vote, opened bank account and went to the dentist



Page 12-4

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Back to California January 16


- Stayed in CA home until Feb. 3
- Travelled until April 25
- March 3 – First BIG payment from sale of partnership interest - \$7,553,083
- Returned to WA but came back to CA
- June 2005 - Moved into WA home

Page 12-4 & 12-5

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Board Rules

- Residency established January 10
- Sale of partnership interest was sale of intangible and not taxable




Pages 12-5 & 12-6

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Lau Wins and Zhao Loses

- FTB withdrew notice so Lau won residency change before receiving \$8 million dividend distribution
- Zhao returns six days too soon
 - Moved to China in 2006
 - Returned to CA 5/11/08
 - Sold stock 5/16/08





Pages 12-6 & 12-7

Nonresident: S.E. vs Employee

- Self-employed service provider
 - Single sales factor, market-based source
 - Where CA client receives benefit
 - Employee
 - Only when services performed in CA
 - Reasonable allocation of wages
 - PTIN can tell all!
-



Pages 12-8 – 12-9

Schedule S Issues

- Revised Texas Franchise Tax – FTB says no credit – waiting for ruling
 - Reverse state credit allowed for group returns
 - FTB often disallows
 - Do separate Schedule S for each credit claimed
-



Pages 12-10 & 12-11

Not All Double-Taxed Income Qualifies for Credit

- If CA wouldn't tax, no credit allowed
 - Interest is a good example
 - Statute of limitations can stay open
 - But not for **Calvin**
 - Other exceptions
 - OR wages
 - Dual residents
-




Page 12-12 & 12-13

Miscellaneous

- College access tax credit – 50% for 2016 & 2017
 - Spouses don't need to move to separate
 - Community ends at separation
 - Reverses **Davis** case
 - The legend of **Hyatt** continues
-

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Chapter 13 California Business



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Pages 13-1 & 13-2

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FTB Wants to Protect Client

- Keep up to \$800 of refund if entity isn't dissolved – just in case
- When entity is cancelled/dissolved with SOS, FTB refunds the \$800

I'm from the FTB and I'm here to help



Page 13-1

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When Must You Finalize with SOS?

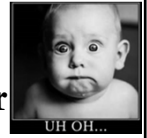
- No \$800 if:
 - Entity files timely final tax return and
 - Cancels/dissolves with SOS within 12 months of filing
- Or, dissolves/cancels prior to filing timely return
 - May cause a short period return

Pages 13-2 – 13-4

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Penalties

Apply these per year




- Per Shareholder/partner/member penalty – up to \$216 per K-1
- Late filing/late payment up to 25%
- Failure to file on demand = \$2,000
- Example on page 13-4 \$20,640 in late filing penalties

Pages 13-4 – 13-8

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Credits


- Low income housing credit
- California competes credit
- New motion picture credit
 - Credit can be sold
- Agricultural products donation credit



Pages 13-8 – 13-10

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LLC Fee



- Real estate dealers
 - Property is inventory so gross sales is included for fee
 - Investors only include net gain on each property
- SMLLCs must pay the tax & fee on Form 568
 - ~~Be sure to carry numbers from schedules~~

Page 13-11 & 13-12

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Midyear Conversions


- Mid year conversion means multiple returns
 - And double the \$800
- Partnership to LLC means two returns
 - Form 565 & Form 568
- Two returns for SMLLC to multimember LLC or reverse

Pages 13-12 & 13-13

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LLC Taxed as a Corporation

- No change with SOS
- FTB assigns and mails a corporation number
 - When entity makes first payment or files first corporate return
- See Checklist on page 13-13



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Appeals Court Hears *Swart*

- Superior Court ruled an out-of-state corporation not doing business in CA just because it had a nonmanaging member interest in an LLC
- Oral arguments heard on appeal
- Expect decision in February
- **Rasmussen** will address possible class action

SPIDELL **Pages 13-13 – 13-16**
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FAQs from Caltax.com

Message Board

- Nonresident member filing requirement
- Due date of annual tax for new LLC
- E-filing without number
- Apportionment
- Nonresident member consent

SPIDELL **Pages 13-16 – 13-18**
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Operating in Multiple States

Apportionment

- Considered doing business in California
 - Engage in transaction for gain or profit - or
 - Meets an economic nexus threshold test
 - Thresholds are on page 13-16
- Marketing versus nonmarketing services
 - Different sourcing rules apply

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SPIDELL **Pages 13-16 & 13-17**
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Misc. Apportionment

- Economic threshold numbers on page 13-16
- Apportionment
 - **Gillette** case
 - COD and tax attributes
 - Marketing vs nonmarketing services

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**CA Miscellaneous
Chapter 14**




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Pages 14-1 & 14-2

California Disaster Losses

- California allows disaster losses if:
 - Declared by President; or
 - Declared by Governor
- Claim throwback under IRC §165(i) by:
 - Extended due date of the return – CA
 - Six months after due date – federal



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Pages 14-2 & 14-3

California Disasters


- See chart on page 14-2
- Property tax relief
- New BOE extension

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Page 14-3

FTB Top 5 Audit Programs


- Capital gains & losses
- 1031 like-kind exchanges
- Head of Household filing status
- Employee business expenses
- Basis in a passthrough entity



Page 14-4

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Residency Audits




- Auditor has already investigated your client before the letter goes out
 - Activities & investments in other states
 - Where returns were filed
- Contacts the taxpayer & will request:
 - Credit card statements, calendar & more

Page 14-6

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Occupational Licenses


- Used to identify nonfilers
- Generally not sent if federal return has non CA
- If your client gets one, contact FTB at hotline or number on the notice



Pages 14-6 & 14-7

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Rob Lowe Beats the FTB




- Issue: basis in residence
- Limited records but testimony from contractors, business mgrs, appraisers, etc.
- Board used the Cohan rule and Lowe prevailed

Page 14-7

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**Nonresident Withholding:
Service Income Discrepancy**

- For apportionment: Where client is located – per regs
- For NR withholding: Where the work is performed – per forms & regs
- FTB looking at the discrepancy 
- Will update later

Pages 14-8 – 14-10

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What if There's No TIN or SSN?

- File Form 592 with no TIN
- Payee must contact the FTB and provide a valid TIN
- No refund allowed unless a return is filed
- Backup withholding applies
 - 7% of total distribution – no threshold

Page 14-10

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Other FTB

- Taxpayer couldn't challenge his Top 500 listing
- Walk-through revivor appointments available to get that entity back up and running

Page 14-11

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2017 SDI Rate

	SDI Rate	Maximum Wage Base	Maximum Payment
2017	0.9%	\$ 110,902	\$998.12
2016	0.9%	\$106,742	\$960.68


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Pages 14-11 – 14-14

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Crowdfunding & Sales Tax

- Rewards given may be taxable
- If operating in CA must register & collect for CA deliveries
- If click-through nexus applies, you may need to collect other state's tax
- Some states tax intangible sales
- Very little guidance



Misc. Sales & Use Tax Issues

- Single claim for refund
 - Lucent refunds being processed
 - 2016 Use Tax Table – page 14-15
-

Airbnb/VBRO

- San Francisco collects property tax on silverware and linens
- Many cities requiring license



Other Property Tax Issues

- Other than Honorable and Bad Conduct discharged vets qualify for property tax relief
 - Helps vets who had PTSD
- Counties with base-year value transfers



Prop. 64 - Marijuana

- Legalizes use – 21 or older
 - No more sales tax for medical marijuana
 - New taxes effective 1-1-18
 - Can only be sold by state-licensed bus.
 - State has until 1-1-18 to begin issuing
 - Legal for CA – Illegal for Federal
 - Presents interesting challenges
-



Pages 14-18 – 14-20

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Taxation of Legal Marijuana - Semi Conformity -

- CA conforms to IRC §280E for individuals
 - Only deduction is for cost of goods
- For corporations, all allowable expenses
- No deductions if t/p engaged in criminal profiteering (ie: drug trafficking)
- Sale is subject to sales & use tax

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Pages 14-20 & 14-21

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Practitioner Concerns

- Waiting for guidance from IRS
- Board of Accountancy has no specific guidance
- *Beware:* Only attorneys have the attorney/client privilege
 - Consider a Kovel agreement
- Consult with malpractice carrier

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Chapter 15

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Practitioner Aids

- Engagement Letters
- Organizer Letter
- Lender Letter
- Solar Client Letter
- Sample Capitalization Policy
- Contact Authorization
- Disengagement Ltrs.
- Consent to Share Tax Return Information
- Selling Your Practice
- Roth Conversion Checklist
- Allowable Rollovers
- Spidell's Refund Grabber Checklist
- Trouble-free Tax Return
- Items to Bring to The Tax Interview
- Nonresident Issues
- Ralite
- *New this year

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Thank You and Have an Extremely Successful Tax Season!
