



CALIFORNIA INDIAN LEGAL SERVICES

BISHOP·ESCONDIDO·EUREKA·SACRAMENTO

Principal Office

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TRIBAL ALERT

April 4, 2013

**FTB TO RESCIND ‘TRIBAL SOURCE’ PRACTICE – THOSE WHO FILED 2008
STATE INCOME TAXES HAVE UNTIL APRIL 15, 2013 TO FILE APPEAL &
PRESERVE THEIR RIGHTS:**

Tribal leaders please circulate to all members

The California Franchise Tax Board (FTB) has initiated a practice of collecting state income tax from tribal members who are living and working on their reservation. The FTB’s rationale for this practice is that tribal member income is not exempt from state income tax unless it is derived from a “tribal source.” The FTB has not defined “tribal source” or provided legal authority for its practice, which is contrary to federal case law.

The FTB practice was brought to the attention of the Governor’s office and through its efforts the FTB has reconsidered its practice and is prepared to discontinue it and rescind assessments that were issued over the last four years. We anticipate official notice confirming FTB’s position next week. **However, because the FTB is only going back four tax years, tribal members who have been wrongful assessed income tax in 2008 will only have until April 15, 2013 to file an appeal with the FTB.**

Attached are the necessary appeal forms that tribal members may submit to preserve their claims.

CILS is asking tribal leaders and others to please post and circulate this alert so that tribal members may protect their rights for a refund of improperly collected taxes on their income earned on their reservation. If tribal members need assistance please direct them to the CILS office within their area.

Thank you and CILS will continue to monitor this matter and inform the tribes of future developments.



**REQUEST FOR RELIEF FROM PENALTY, COLLECTION COST
RECOVERY FEE, AND/OR INTEREST**

TAXPAYER OR FEEPAYER NAME	ACCOUNT NUMBER
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To obtain relief from penalty, interest, or the collection cost recovery fee, you must file a written request with the Board of Equalization (BOE), **signed under penalty of perjury**. Please attach documentation to support your request if it is available. A BOE representative may contact you if additional information is required. If you make any payments towards the amount(s) for which you are requesting the relief, you must file a claim for refund within six months from the date of each payment or you will lose the opportunity to obtain a refund of amount(s) paid. Publication 117, *Filing a Claim for Refund*, contains information regarding refunds, including BOE-101, *Claim for Refund*. This publication, and many others, is available on our website at www.boe.ca.gov.

I request relief from:

PENALTY

The BOE may grant relief from penalty charges if it is determined that you failed to timely file or pay, or failed to pay using the correct payment method, due to reasonable cause and circumstances beyond your control. Your request may not be processed until the tax/fee has been paid in full. If you are relieved of the penalty charges, you must still pay the interest due on late return payments and prepayments.

COLLECTION COST RECOVERY FEE

A collection cost recovery fee (CRF) is applied to most past due liabilities that remain unpaid for more than 90 days. The BOE may grant relief from the CRF if it is determined that failure to pay a past due liability was due to reasonable cause and circumstances beyond your control. Your request cannot be processed until the liability (tax/fee, interest, and penalty) for which the CRF was assessed has been paid in full.

INTEREST

The BOE may grant relief of interest only for the reasons shown below. If we approve your request, all or part of the interest may be relieved.

- An unreasonable error or delay by a BOE employee acting in their official capacity and no significant aspect of the error or delay is attributable to your actions or your failure to act; or
- An error by the Department of Motor Vehicles (DMV) in calculating the amount of use tax due on your DMV registered vehicle or vessel.

PENALTY AND INTEREST—DISASTER VICTIMS

If you are a disaster victim, the BOE may grant relief from penalty and interest charges if it is determined that you failed to timely file or pay, or failed to pay using the correct payment method, due to reasonable cause and circumstances beyond your control.

I request relief for the period(s) _____ because:

(Additional writing space on reverse side)

CERTIFICATION

I certify (or declare), under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. If I am requesting relief of interest, I also certify that my actions, or failure to act, did not significantly contribute to the error or delay.

SIGNATURE	TITLE	DATE
PRINT NAME	BUSINESS PHONE ()	
MAILING ADDRESS	CITY	STATE ZIP

(over)

Unless you have been directed by a BOE staff person to send this form directly to them, you may send your completed form to one of the offices listed below based on the tax or fee program involved.

Sales and Use Tax Department:

*(Billings for late payments,
late return, or EFT penalty)*
Board of Equalization
Return Analysis Unit, MIC:35
PO Box 942879
Sacramento, CA 94279-0035

*(Billings for use tax on
vehicles, vessels or aircraft)*
Board of Equalization
Consumer Use Tax Section, MIC:37
PO Box 942879
Sacramento, CA 94279-0037

(Audits and other billings)
Board of Equalization
Petitions Section, MIC:38
PO Box 942879
Sacramento, CA 94279-0038

Property and Special Taxes Department:

*(Billings for late payments,
late returns, or EFT penalty)*
Board of Equalization
Compliance Branch, MIC:88
PO Box 942879
Sacramento, CA 94279-0088

Board of Equalization
Motor Carrier Office, MIC:65
PO Box 942879
Sacramento, CA 94279-0065

(Audits and other billings)
Board of Equalization
Appeals and Data Analysis Branch, MIC:33
PO Box 942879
Sacramento, CA 94279-0033

Board of Equalization
Timber Yield Tax, MIC:60
PO Box 942879
Sacramento, CA 94279-0060
