



STATE OF CALIFORNIA

FRANCHISE TAX BOARD

Mail Stop H-082

PO Box 942867

Sacramento CA 94267-0011

August 9<sup>th</sup>, 2004

In reply refer to: 633082bm

[REDACTED]  
[REDACTED]  
SAN DIEGO., CA [REDACTED]

Account Number: [REDACTED]

Tax Year (s): 1999 (2) & 2000

We have received your California income tax return form(s) for the year(s) shown above and have determined that the form constitutes a frivolous state income tax return(s). **California Revenue and Taxation Code (R&TC) Section 19179 provides that a penalty of \$500 shall be imposed for filing a frivolous return.** The penalty is determined in accordance with Internal Revenue Code (IRC) Section 6702. As defined by IRC Section 6702, a purported return may be deemed frivolous if:

1. it does not contain information upon which the correctness of the tax may be judged, or the information on the face of the return indicates that the self assessment of tax is substantially incorrect; and
2. the conduct referred to herein is due to a position which is frivolous, or the desire (which appears on the purported return) is to impede or delay the administration of federal income tax laws, then such individual shall pay a penalty of \$500 per purported return filed.

The documents you have submitted do not constitute a valid tax return as required by California personal income tax law, specifically, Revenue and Taxation Code (R&TC) Section 18501. R&TC Section 18501 requires that a valid tax return form be filed. A return form which does not contain any information relating to a taxpayer's income from which tax can be computed **is not a return** (United States v. Porth (10<sup>th</sup> Cir. 1970) 426 F 2d 519, cert denied (1970) 400 U.S. 824, 27 L. Ed. 2d 53. The financial information on the return form must include all taxable income from all sources. Compensation received in whatever form, including wages for services, constitutes taxable income (Lonsdale v. Commissioner, (5<sup>th</sup> Cir. 1981) 661 F. 2d 71.

If you wish to correct these filed forms and avoid involuntary assessment of tax, penalties, and interest, valid California income tax returns must be filed with this office within 30 days from the date of this letter. In the case of filed frivolous amended return forms, submit a letter to this office rescinding those amended return forms within 30 days.

This letter is a formal legal demand that you file the required tax return(s), pursuant to R &TC Section 18501, **within 30 days** and pay the balance due. Payment should include all taxes, penalties and interest.

In addition, if a valid income tax return is not filed within 30 days, a frivolous return penalty will be imposed in accordance with R&TC Section 19179. The frivolous return penalty is \$500 **for each tax form** that purports to be a return. There is no provision in the law for protesting the frivolous return penalty. You may only contest the penalty by paying 100% of the penalty amount, and filing of a claim for refund within the statute of limitation. You may also request penalty relief by completing form FTB 626, Request for Chief Counsel to Relieve Penalties. Form FTB 626 is available on our Website [www.ftb.ca.gov](http://www.ftb.ca.gov).

To ensure proper handling, please attach a copy of this letter to your reply and/or valid return(s) and return it in the enclosed envelope.

Individual Tax Collection Bureau  
Telephone: ( 800) 689-4776  
Enc

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