



STATE OF CALIFORNIA  
**FRANCHISE TAX BOARD**  
 MAIL STOP H-181  
 PO BOX 942840  
 SACRAMENTO CA 94240-0040

Notice Date: 01/20/2005

Account No: [REDACTED]

Tax Years: all years

SSN: [REDACTED]

RICHARD [REDACTED]  
 [REDACTED]  
 ROCKLIN CA [REDACTED]

The Franchise Tax Board will not respond to individual objections to state taxes based on constitutional, religious, or moral grounds. Numerous state and federal court decisions, as well as Board of Equalization decisions, have found such arguments and objections to be frivolous and lacking in merit.

Note that a written contract between you and this department is not required for the administration of the income tax laws, Parts 10, 10.2 and 10.7, Division 2, Revenue and Taxation Code sections 17000 through 21020. You can research these laws at your local public library.

Revenue and Taxation Code section 17041 imposes an income tax on every individual who is in California for more than a temporary or transitory purpose, i.e., residents, and those individuals who derive income from sources located in this state. Every individual, subject to applicable California filing requirements, whether a state citizen, sovereign California citizen, self-stated free born American, nonresident, nonimmigrant nontaxpayer, nonfranchised individual, nonresident alien residing in this state, or domiciled inhabitant, is required to file a tax return under Revenue and Taxation Code section 18501. Your presence within this state is sufficient to generate the tax reporting obligations (Appeal of Beldon Kattelman, SBE, Oct. 17, 1980). Thus, any claim of exemption from personal state income taxes is void. There is an explicit requirement for the filing of tax returns and paying the tax. As a taxpayer, defined under R&T Code section 17004, you may be held liable for state income taxes as well as interest and penalties for noncompliance.

As stated above, California law defines who is required to file a tax return, as well as tax liability obligations. Attempts to portray oneself as a "nontaxpayer," "sovereign citizen," or "freeborn and natural individual" with immunity from taxation lack legal support, and are ineffective claims against the proper assessment and collection of taxes. (See, U.S. v. Studley (9th Cir. 1986) 783 F. 2d 934.) California tax liability is dependent upon California contacts and/or California source income, and California will continue to enforce tax obligations notwithstanding self-characterizations of no-taxpayer status or sovereign citizenship.

Compensation received in whatever form, including wages for services, constitutes taxable income (Lonsdale v. Commissioner, 661 F. 2d 71 (5th Cir. 1981)). The narrow interpretation of the Eisner case is not a basis for all gross income tests (Commissioner v. Glenshaw Glass Co., 348 U.S. 426, 430-431 (99 L. Ed. 483) (1955)). Thus, income earned from your employer and any businesses or investments you own is considered in determining your requirement to file a state tax return.

Based on a review of your file, you are subject to the state's filing requirements. Please consider the following key cases and court findings that validate our position:

California's Power to Tax

We have made no reference to federal cases involving the Sixteenth Amendment to the U.S. Constitution since Article 13, Section 26 of the California state constitution is the authority for state tax laws. The Sixteenth Amendment has no application for state taxation.

Appeal of Fred R. Dauberger, et. al., Cal. St. Bd. of Equal. March 31, 1982. The California Board of Equalization decided that twenty-one contentions of tax protesters attempting to avoid filing and/or paying state income tax were based on arguments refuted in Federal or State Courts, or by previous Board of Equalization rulings.

The People v. Max R. McLemore, 166 Cal App. 3d 718 (1985)

A California Court of Appeals upheld the taxpayer's conviction on a charge of failing to file a tax return and held that the privilege against self-incrimination in both the U.S. and California Constitutions does not excuse the nonfiling of state tax returns.

The People v. Richard Roper, 144 Cal App 3d 1033 (1983)

A California Court of Appeals upheld Roper's conviction on the basis that Revenue and Taxation Code section 19406 is constitutional, not vague and does not violate the right to privacy.

United States v. Rylander, 460 U.S. 752 (1983)

The U.S. Supreme Court found that the claim of privilege against self-incrimination may be adequate reason for the court not to compel a taxpayer to testify, but it did not serve as a substitute for relevant evidence in meeting a burden of production of records.

United States v. Drefke, 707 F. 2d 978 (1983)

The court held that the U.S. Constitution's Fifth Amendment right against self-incrimination did not allow the taxpayer to refuse to disclose information concerning his income.

Swallow v. United States, 325 F. 2d 97, Cert Denied, 377 US 951 (1964)

The court held that the income tax laws do not violate due process clause of the Fifth Amendment of the U.S. Constitution.

United States v. Wangrud, 533 F 2d. 495 (9th Cir. 1976)

The court noted that "by statute it is established that federal reserve notes, on an equal basis with other coins and currencies of the United States, shall be legal tender for all debts, public and private, including taxes."

Please note that the failure to timely file required tax returns will result in assessment and collection actions, which may include legal actions pursuant to Revenue and Taxation Code section 19701, along with criminal sanctions. Conviction for tax evasion carries a maximum three years prison term and/or a \$20,000 fine. Conviction for failure to file a tax return carries a maximum one-year jail term and/or \$5,000 fine.

In addition to criminal penalties, an individual may be subject to:

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| (1) 25 percent penalty for failure to file. | (2) 25 percent penalty for failure to file after notice and demand. |
| (3) 25 percent penalty for failure to pay.  | (4) fraud penalty of 75 percent of any underpayment.                |
| (5) frivolous return penalty of \$500       | (6) false W-4 penalty of \$500.                                     |

If you are having difficulty understanding the California income tax law, you should contact a qualified tax professional or tax attorney licensed by the California State Bar. Advice received from tax resistor groups, their seminars, or their promoters quite often lacks in professional quality, completeness, applicability to tax law, and often promotes spurious claims.

**Income Tax Collection Bureau**  
Telephone Number (916) 845-7755

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