



STATE OF CALIFORNIA  
FRANCHISE TAX BOARD  
7575 Metropolitan Dr. Suite 201  
San Diego CA 92108-4402

**NOTICE OF ORAL  
HEARING ON PROTEST**

DAVID R. [REDACTED]  
[REDACTED]  
LAGUNA BEACH CA [REDACTED]

Date: September 22, 2005  
Case: 169502649354 [REDACTED]  
Case Unit: 16950264935 [REDACTED]  
In reply refer to: 359:RG

You are hereby notified that pursuant to Section 19044 of the California Revenue and Taxation Code (CR & TC) and the protest, which was filed, disputing the computation and levy of the tax under the code for:

Taxable year: 2003

Notice of Proposed Assessment: [REDACTED]

Unless other arrangements are made, the oral hearing will be held by telephone as indicated below:

Date: 10/03/05  
Time: 2:00 pm

The oral hearing is being granted in accordance with CR & TC section 19044. The purpose of the hearing is to give you an opportunity to explain why the Franchise Tax Board's Notice of Proposed Assessment for the 2003 year is incorrect.

Section 3.5 of Article III of the California Constitution precludes the Franchise Tax Board from determining that a statute is unconstitutional or unenforceable.

Internal Revenue Code Section 61, to which California conforms under CR & TC section 17071, defines gross income as all income from whatever source derived.

Under CR & TC Section 18501, the law requires that every individual who meets the minimum filing requirements shall make a return to the Franchise Tax Board stating specifically the items of the individual's gross income from all sources and the deductions and credits allowable. (See Appeal of Arthur W. Keech, Cal. St. Bd. of Equal., July 26, 1977; Appeal of Richard T. Herrington, Cal. St. Bd. of Equal., November 14, 1979).

CR & TC Section 19087 provides that if any taxpayer fails to file a return for any taxable year, the Franchise Tax Board may make an estimate of the net income from any available information, and may propose to assess the amount of tax, interest and penalties due. (See Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980). A taxpayer is not in a good position to criticize the Franchise Tax Board's estimate of his or her liability when he or she fails to file a required return and, in addition, subsequently refuses to submit information upon request. (See Appeal of Fred Dauberger et al, Cal. St. Bd. of Equal., March 31, 1982).

September 22, 2005

SSN

Case Unit

If you need language assistance at the hearing, you may either: (1) arrange for your own interpreter, (2) use the general language assistance provided at no charge by Franchise Tax Board staff, or (3) request the services of a certified language interpreter.

If you wish to use the services of a certified language interpreter, the request should be in writing and received by the department at least seven days prior to the scheduled date of the hearing. The department will obtain the interpreter; however, it is your responsibility to pay for the service at the time it is provided. Applicable fees will be provided upon request.

Please respond before 09/30/2005 with a telephone number to contact you for the hearing<sup>1</sup>. If we receive no response before 10/03/2005, we will consider your request for a hearing waived and will proceed on closing the case based upon available information.

If you need to postpone the hearing, the request should be received by the Franchise Tax Board at least five days prior to the scheduled date of hearing and should show sufficient reason for granting the request.

Forward any correspondence you would like to have included as part of the protest to:

Franchise Tax Board  
Attn: Rosalba Gomez  
7575 Metropolitan Drive, Suit 201  
San Diego, CA 92108-4421

Please call me at the telephone number listed below if you have questions regarding this matter.

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<sup>1</sup> Assistance for persons with disabilities: We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments, please call TTY/DDD (800) 822-6268. For all other assistance, please contact the auditor listed on the enclosed letter.

September 22, 2005

SSN

: [REDACTED]  
: 16950264935 [REDACTED]

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**Please acknowledge receipt of this document by signing the enclosed copy and mailing it to:**

Franchise Tax Board  
7575 Metropolitan Dr. Suite 201  
San Diego CA 92108-4402  
ATTN: Rosalba Gomez  
Telephone (619) 688-2551

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cc:

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