



The Bulletin



East Bay Association of Enrolled Agents
*To Enhance and Protect the Professional, Economic, and
Educational Interests of all Enrolled Agents*

March 2009

NEXT MEETING Wed, March 18, 2009

Place: **DUBLIN Radisson Hotel**

(go to http://www.radissondestinationguide.com/location/Map.process/OID_EB39EA2D/?hotelCode=CADUBLIN)

4:30 Board Meeting

6:15 Networking

6:45 Dinner Buffet

7:15 Program: **"IRS Tax Panel"**

Cost: \$35.00 with reservation by Friday March 13
\$45.00 with reservation after deadline

Sign up online at:

<https://www.123signup.com/calendar?Org=ebaea>

(please print out your confirmation to ensure that you clicked all the right buttons to register) Questions: email ebaean@ebaean.org (preferred) or call 800-617-1040.

March Topic: "IRS Tax Panel"

Speakers: Joe Calderaro (IRS), Sharon Kreider, EA, CPA, and Karen Brosi, EA, CFP®

By Phil Fiegler, EA, Program Chair Emeritus

This month we will have a panel discussion on federal tax issues. It is crucial to e-mail your questions to Mike Power (MPower@PowerInvesting.net) by the afternoon of Monday, March 16th, if you want to have the best chance of having your question answered.

We have our long-time friend Joe Calderaro, IRS Technical Coordinator for Northern California District advising and educating us, drawing on his considerable wisdom. Not many people in the entire tax industry know as much as Joe. In fact, when thousands of EAs and other tax professionals get stuck, they know one way they are sure to get an answer is to call Joe.

We also have Karen Brosi and Sharon Kreider, two of the best-known and highest-rated speakers on the education circuit. Karen we know from last month. Her "too tall" friend and renowned speaker, Sharon, will also

be joining us. Both Sharon and Karen will be speaking this year at CSEA's Super Seminar.

Sharon Kreider is a practicing Enrolled Agent and CPA in a busy Silicon Valley tax firm. Sharon started her career in the examination division of the IRS. She has been in public accounting for more than 25 years. Sharon is a frequent featured speaker to business and professional groups, including CSEA, AICPA, Western CPE and Realtor and real estate investor groups. She has been active in accounting organizations as well as currently serving on the boards of two public charities. She's a regular contributor to Tax Hotline and has been quoted as a tax authority in a variety of national radio, television and print outlets. Sharon was recently named by CPA Magazine and NPA Magazine as one of the top 50 IRS Practitioners.

PRESIDENT'S MESSAGE

by Peggy Hall, EA

HEAR YE! HEAR YE! The most tremendous trio ever attempting to make sense of the current tax laws are coming soon to our EBAEA dinner meeting! The program in March will feature Karen Brosi, Joe Calderaro, and Karen's "Too Tall Friend," Sharon Kreider. This meeting promises to be the most fun and informative night of the entire tax season!

Will Karen and Sharon convince Joe that it is time to leave the land of darkness and come over to the light? Will Joe convince the dynamic duo that the IRS needs them more than the taxpayers do? Will we finally come up with a question for which they can all agree on the same answer? Will Sharon wear her pink cowboy hat? Come with your conundrums or send them to Mike Power at mpower@powerinvesting.net. We will attempt to address them all! We are forgoing the raffle so we will have more time for questions.

The February dinner meeting with Steve Sims and Karen Brosi was very successful. There were over 75 people in attendance, from whom we received many great evaluations. We are very fortunate to host these great speakers at our dinner meetings during tax season.

Don't miss the opportunity to get your questions answered during the March EBAAE dinner.

Most of us have clients very concerned about how much they lost in their 401k plans. How do you deal with this issue? You may sometimes find it difficult to stay open, to listen, and to sympathize with each of their complaints. In these instances, I do whatever I can do to steer them toward resolution of the uncertainty by having them focus on what is important in life – which is who they are, not what they have. I make suggestions as to how they can still live life fully without paying more from their wallets. One suggestion might be that they participate in family outings that cost less, such as hiking and camping. What do you do?

And, on a note of promoting our profession, I encourage all of you to really make a stand in proclaiming your Enrolled Agent status to all your clients and associates. Recently I telephoned a fellow Enrolled Agent and friend of mine. I was happy to hear that his outgoing message clearly identified him as an Enrolled Agent and Tax Professional. We can all use this example. After all, what better way can we make the title "Enrolled Agent" a widely known specialized field of tax professionals. It is effective in our public relations outreach.

I wish you all a great tax season, and please remember to use the resources of our chapter. Call on your fellow members for help and support.

Warmest Regards,
Peggy Hall, Enrolled Agent

NEXT YEAR'S BOARD SLATE ANNOUNCED

by Tom Johnston, EA, Nominating Chair

Per the requirements of the Bylaws, the Nominating Committee has proposed the following slate of candidates for our 2009-2010 fiscal year:

President:	Peggy Hall EA
1st Vice President:	Tom Johnston EA
2nd Vice President:	Cherry Comstock EA
Secretary:	
Treasurer:	Tim Hintzoglou EA
Director 2009-2010:	Chris Christopherson EA
Director 2009-2010:	Don Wayne EA
Director 2009-2010:	Bob Olsen EA
Director 2009-2011:	Patty Pringle EA
Director 2009-2011:	Margie Hines EA
Director 2009-2011:	Andy Rogers EA

The election for these positions will be held at the May Annual Meeting. Per the Bylaws, eligible Members can run from the floor with no advance notice. However, as a courtesy to those planning the meeting (which is already under a very tight timetable), it is requested that any floor candidate provide advance notice to the Nominating Committee through its Chair, Tom Johnston at (925) 828-4500.

ARE YOU GETTING IRS ALERTS?

Most e-filers already subscribe to IRS QuickAlerts to receive valuable and timely information that impacts you, your clients and your in-house e-filing program. If you are not enrolled in this free service, you may want to consider registering at

<http://www.envoyprofiles.com/QuickAlerts/>

For more information, visit IRS.gov at <http://www.irs.gov/taxpros/providers/article/0,,id=97623,00.html>

I C E- IN CASE OF EMERGENCY

Courtesy of Ken Seamann, EA

(Apparently this is a standard procedure all paramedics follow at the scene of an accident when they come across your cell phone.)

We all carry our mobile phones with names and numbers stored in its memory but nobody, other than ourselves, knows which of these numbers belong to our closest family or friends.

If we were to be involved in an accident or were taken ill, the people attending us would have our mobile phone but wouldn't know who to call. Yes, there are hundreds of numbers stored but which one is the contact person in case of an emergency? Hence this 'ICE' (In Case of Emergency) Campaign

The concept of 'ICE' is catching on quickly. It is a method of contact during emergency situations. As cell(mobile) phones are carried by the majority of the population, all you need to do is store the number of a contact person or persons who should be contacted during emergency under the name 'ICE' (In Case Of Emergency).

The idea was thought up by a paramedic who found that when he went to the scenes of accidents, there were always mobile phones with patients, but they didn't know which number to call. He therefore thought that it would be a good idea if there was a nationally recognized name for this purpose. In an emergency situation, emergency service personnel and hospital staff would be able to quickly contact the right person by simply dialing the number you have stored as 'ICE.'

For more than one contact name simply enter ICE1, ICE2 and ICE3 etc. Let's spread the concept of ICE by storing an ICE number in our Mobile phones today!

Please forward this. It really could save your life, or put a loved one's mind at rest. ICE will speak for you when you are not able to.

CALIFORNIA TAX REFUNDS

To keep updated on the ever-changing FTB refund situation, remember to check www.ftb.ca.gov each day. The status of California refund checks or Direct Deposit Requests is first posted there. The actual page is: http://ftb.ca.gov/refund_delay_2008.shtml

LOCAL EA ON TV

Ed. - Member Alison Jacks, EA, whose office is in Fremont, is a great EA and a really nice person. She would not dream of blowing her own horn, so when a little bird let the Bulletin staff know of her upcoming television appearance, it was left to us to publicize it. In her own words:

Yikes! KGO Channel 7 found my website and has invited me on their live audience "View From the Bay" show on Monday at 3pm. It's supposed to be about a 5 minute bit.

The questions are related to child care, but mainly from the parent's point of view. Video of the segment will be posted on their website if you don't catch it live.

http://abclocal.go.com/kgo/channel?section=view_from_the_bay&id=5755208

Now if I can just calm down and get back to the stack of work on my desk!

MARK YOUR CALENDAR

Tax Talk 2009

This year The East Bay Association of Enrolled Agents annual Tax Talk Seminar will be held on November 4th, 5th and 6th, at the Radisson Hotel in Dublin. Three days of quality education and updates at an excellent value.

We are featuring exceptional speakers, including Vicki Mulak, Bob McKenzie, Twila Slesnick, Tom Daley and Gary McBride. Joe Calderaro, IRS Technical Coordinator will return to do Tax Talk After Hours, an open discussion Q & A session on IRS issues.

We'll keep you posted on additional information in upcoming issues of the EBAEA Monthly Bulletin.

REPORT OF THE BYLAWS COMMITTEE

By Sal Romo Jr., EA, Chair

The following changes to EBAEA's Bylaws have been recommended by the Board of Directors. The members will vote on the proposed changes at the Annual Meeting in May, 2009

To amend Article 4.02 of EBAEA's Bylaws by striking the last two sentences.

Explanation: At its annual meeting in June, 2008 CSEA amended its bylaws such that chapters with more than 200 members are no longer authorized a second director. That action rendered EBAEA Bylaws Article 4.02 inconsistent with CSEA Bylaws. EBAEA's Affiliation Agreement with CSEA requires that EBAEA's Bylaws not be in conflict with CSEA's Bylaws. The following illustrates the results of this recommendation:

4.02 Composition. The Board consists of 12 persons: President, First-Vice President, Second-Vice President, Secretary, Treasurer, the Immediate Past President, and six member elected from the membership at large, all of whom must be active members in good standing of the Association. ~~Two members of the Board~~

~~of Directors shall also be CSEA directors, and shall be so designated by the nominating committee. CSEA directors can be either an officer or director of the board and shall serve a term of one year, with no more than four consecutive terms.~~

2009 IRS PRIORITY TELEPHONE LINES

Practitioner Priority Service	(866) 860-4259
IRS Individual Tax Help Line	(800) 829-1040
Business & Specialty Tax Line	(800) 829-4933
e-Help (Practitioners only)	(866) 255-0654
Refund Hotline	(800) 829-1954
Forms & Publications	(800) 829-3676
National Taxpayer Advocate	(877) 777-4778
EFTPS	(800) 555-4477
TeleTax Topics & Refund Status	(800) 829-4477
Forms 706 & 709 Help Line	(866) 699-4083
Employer Identification Number	(800) 829-4933
Excise Tax & Form 2290	(866) 699-4096
Information Return Reporting	(866) 455-7438
Disaster or Combat Zone Hotline	(866) 562-5227

More IRS info at www.irs.gov 2009 FTB Directory:

<http://www.ftb.ca.gov/forms/misc/1240.pdf>

BULLETIN ADVERTISING POLICY

by Duncan Sandiland, Bulletin Editor

To encourage more Members to use the Bulletin to fill their needs, we present the Bulletin advertising policy:

- 1) All Bulletin notices are run for a maximum of three months. If you wish to run a notice for a longer period, you must resubmit it.
- 2) Maximum notice size is 1.5 column inches. This equals a space one and one-half inches high by one column (3.5 inches) wide. The standard Bulletin font is Times New Roman 11 point.
- 3) The Bulletin Editor reserves the right to edit any notice for style, content and length.
- 4) All notices must be submitted (and payment received) by the 25th of the month prior to initial publication. Send the desired text to: bulletin@ebaea.org
- 5) Member notices seeking or offering employment, clients or EA-practice-related matters are run at no charge as a Member benefit. This includes an ad run by a firm which employs a Member. Member notices offering other services or products, and all non-Member notices are run at the standard fee of \$150 for the three-month insertion. The Bulletin Editor reserves the right to modify or reject any notice which, in the sole opinion of the Editor, violates any of the principles of EBAEA.

SPECIAL ENROLLMENT EXAM CLASS

Once again, we are offering the SEE prep class for all prospective EAs. The class will be offered in three parts, corresponding with the three parts of the exam. Classes will start July 11th and continue through

September 19th on Saturdays at the Chapter Office in Hayward. Instructors are Pat Golden, EA; Tom Johnston, EA; Peter Lingane, EA; Sal Romo, EA; and Bart Rugo, EA. The class qualifies for CTEC continuing education credit. Scholarships are available through CSEA and NAEA. More information is available on the web at ebaea.org or by contacting Tom Johnston at 925-828-4500 or taxtomea@comcast.net.

CALENDAR OF EVENTS

March 2009

- 18 EBAEA Dinner Meeting: "IRS Panel"
@ Radisson Hotel, Regional St, Dublin

April 2009

No April meeting – get some rest!

May 2009

- 20 EBAEA Dinner Meeting and Annual Corporate Meeting: "Current Legislation"
@ Radisson Hotel, Regional St, Dublin

Small Group Tax Meetings

Antioch/Brentwood Fridays 8:00am
Brentwood Café, 8500 Brentwood Blvd, Brentwood
Ken Seamann EA (925) 634-8297

Danville Area 4th Tue 9:30am
Pascals French Oven, 155 Railroad Ave, Danville
Michael Power EA (510) 366-8836

Livermore Area Fridays 8:45am
Rock House Café on Portola Ave, Livermore
Richard Goudreau EA (925) 606-6672

Castro Valley 3rd Tue 8:00am
Carrow's, 2723 Castro Valley Blvd @ Lake Chabot, CV
Dagmar Bedard EA (510) 537-3883

South Alameda County 1st Wed 9:30am
Dino's, 1 block W of I-880 on Industrial Blvd, Hayward
Sal Romo EA or Walt Thomas EA (510) 487-1691

Email-only Group as needed
Send an email to halloftaxes@hotmail.com
Peggy Hall EA (925) 388-1040
Want a group in your area? Contact any of the above leaders for advice and assistance.

HMMMM...

"We will go through our federal budget -- page by page, line by line -- eliminating those programs we don't need, and insisting that those we do operate in a sensible cost-effective way." -- Barack Obama, 11/25/08

(In regard to the March 2008 tax rebate mailing:)
"There are countless better uses for \$42 million than a self-congratulatory mailer that gives the President a pat on the back for an idea that wasn't even his," Sen. Charles Schumer said Friday, arguing the IRS could spend the money more effectively to catch tax cheats. (Statesman Journal 3/10/08) *Ed – Politics then vs now:* <http://www.youtube.com/watch?v=JEFICUoWKBw>

The top 5% of US taxpayers make at least \$153,542 in AGI, pay 60% of all federal income tax, while receiving 37% of all the income in the country. (Tax Foundation) *Ed. - note that all but one of the tax cuts in the "stimulus package" end or phaseout at \$150,000 in AGI.*

HUMOR

The view of our respective political parties toward taxes and spending over the past 8 years can best be summarized as follows:

Republicans: Cut taxes, particularly for the rich, and spend like drunken sailors.

Democrats: Raise taxes, particularly on the rich, and spend like drunken sailors.

Mr. Geithner got a pass on his tax problems because we really, really like him. So he gets a highly individualized form of amnesty. Sort of a personalized "olly olly oxen free." Also, we really, really need him. It's almost like what Princess Leia said in Star Wars: "You're my only hope." So if there's a Geithner rule, it is extremely narrow. I believe that we should call it the olly olly oxen free, Obi-Wan Kenobi amnesty. If you are the nation's only hope, you might qualify. Here's a simple test: Is your name Timothy F. Geithner? No? See you at the audit. - New York Times 2-09-09

Noted cowboy philosopher, musician, author and sometime gubernatorial hopeful Kinky Friedman recently voiced his rather definite opinion on the government's ability to run things. Friedman said in his best Texas twang that he didn't have much use for an outfit that could run a legal brothel into the ground. His reference was to Uncle Sam taking over one of Nevada's infamous "ranches" after it was slapped with a series of tax liens. -- Bill Carlino, Editor-in-Chief, Accounting Today, 12-29-08

Bumper sticker: When you do a good deed, get a receipt in case Heaven is like the IRS.

A college class was told to write a short story in as few words as possible, yet still containing religion, sexuality and mystery. The only A+ short story in the entire class was: "Good God, I'm pregnant; I wonder who did it?"

2008 - 2009 Board of Directors and Committee Chairs

Web Page <http://www.ebaea.org>

President: Peggy Hall EA	925-388-1040	Disaster Services: Janet Bridges EA	510-505-0818
1st VP: Walter Nygaard EA, etc	510-547-0440		
2nd VP: Don Wayne EA	925-472-0990	Education Committee, (1st VP)	
Treasurer: Tim Hintzoglou EA	925-930-7737	Chair: Walter Nygaard EA, etc	510-547-0440
Secretary: Gail Nanbu EA	925-943-3993	Tax Talk: Patty Pringle EA	510-912-1682
Immed Past Pres: Thomas Johnston EA	925-828-4500	Program: Cherry Comstock EA	925-778-0281
Director 2008-2009:		Bob Olsen EA	925-837-8329
Lonnie Gary EA, USTCP	650-559-5124	Scholarship: Pam Bayer	925-356-5645
Patty Pringle EA	510-912-1682	Continuing Ed: Joanne Anderson EA	925-938-9086
Ravi Sundarraj EA	925-984-1219	Town Hall: Ravi Sundarraj EA	925-984-1219
Director 2008-2010:		SEE Class: Thomas Johnston EA	925-828-4500
Chris Christopherson EA	925-786-7660	Mini Seminar Team:	
Cherry Comstock EA	925-778-0281	VITA Team: Brian Pon EA, etc	510-849-4667
Bob Olsen EA	925-837-8329		
CSEA Directors: Walter Nygaard EA, etc	510-547-0440	Administration Committee (IPP)	
Don Wayne EA	925-472-0990	Chair: Thomas Johnston EA	925-828-4500
IRS Practitioner Panel: Phil Fiegler EA	510-530-1174	Financial Review: Dick Goudreau EA	925-606-6672
		Bylaws/SOP: Sal Romo EA	510-487-1691
Communication Committee, (2nd VP)		Budget & Finance: Walt Thomas EA	510-487-1691
Chair: Don Wayne EA	925-472-0990	Chapter Office: Lonnie Gary EA, USTCP	650-559-5124
Membership: Pam Bayer	925-356-5645	Legislative: Chris Christopherson EA	925-786-7660
Membership: Clare Flores EA	510-785-8356	Nominating: Thomas Johnston EA	925-828-4500
Membership: Marjorie Jones EA	510-785-8356	Strategic Advisory:	
Outreach: Casper Chiang EA	925-202-8149	Bulletin: Duncan Sandiland EA, etc	925-691-1040
Public Affairs: Don Wayne EA	925-472-0990	Tax Agency Liaison:	
Social Affairs: Patricia Gilchrist EA	925-833-8822	Volunteer Coordinator: Patty Pringle EA	510-912-1682
Practice Preservation: Linda Fox EA	925-846-5913		

EAST BAY ASSOCIATION OF ENROLLED AGENTS

30100 Mission Blvd, Suite 6
Hayward CA 94544

(800) 617-1040 or (510) 487-2063 fax (510) 487-1501

email: ebaea@ebaea.org

2009 SPECIAL ENROLLMENT EXAM PREPARATION CLASSES

Presented By
EAST BAY ASSOCIATION OF ENROLLED AGENTS

Part 1 – Individuals **Dates: July 11, 18, 25** CPE 18 hrs*

Part 2 – Businesses **Dates: Aug 1, 8, 15, 22, 29** CPE 30 hrs*

Part 3 -- Representation, Practice, Procedures **Dates: Sep 12, 19**
CPE 12 hrs* *You must attend all classes in part for credit *See pg 2 for CPE*

Time: **Saturdays 9:00 AM to 4:00 PM** (Lunch is on your own)

Location: **Peach Tree Plaza**, 30100 Mission Blvd, Hayward CA 94544
Conference room near Suite 6

Instructors: Pat Golden, EA; Tom Johnston, EA; Peter Lingane, EA; Sal Romo,
EA; and Bart Rugo, EA

Prerequisite: Basic knowledge in tax preparation of Form 1040

Class Fees:

All three parts - \$835
Early bird discount by June 20 - \$785
Separately - Part 1 \$285, Part 2 \$485, Part 3 \$210

Text Books are included in class fee

Register online at: www.123signup.com/calendar?Org=ebaea

Information: Tom Johnston at 925-828-4500 or taxtomea@comcast.net

Scholarships: See CSEA and NAEA Websites for information.

To apply for Enrollment: www.irs.gov/taxpros/agents

To schedule exam: www.prometric.com/irs

Ed. - Following are the notes from the February 2009 EBAAE Dinner Meeting FTB Panel discussion featuring Steve Sims, EA, FTB Taxpayer Advocate, and Karen Brosi, EA, CFP®. The questions and answers were transcribed by Mike Power, EA, CFP®. Many, many thanks to our panel and scribe for providing this help.

**I am not anticipating corrections, so this is being emailed direct to EBAAE.
If Karen or Steve do find inaccuracies of substantive nature, we will email with just those corrections. As time permits, please thank our panelist Karen Brosi and Steve Sims for there time and effort. I always am appreciative.
M Power, Scribe**

***** PANEL COMMENTS*****

Furlough - FTB chose not to be exempted from this process, as it would entail forced cuts later. Essentially furlough days can be used up to 2 years for essential employees. Non essential employees must take 2 days, when they can, or they lose them.
There will be some decrease in services. FTB hopes recent and ongoing efficiency measures will minimize these decreases.

Changing collection notices not implemented yet - Should occur June or July. Used to be 4 or 5 notices went out before involuntary collection. Now there will be 3 or 4 notices and this will shorten the collection process by 120 days. This is also more consistent with IRS.

Efilers who also needed to send in payments often got notices of nonpayment, FTB has pushed out the date at which the notices will be sent to allow for receipt and posting of payment, before computer sends notices of late payment.

1) FOLLOWING YEAR REFUNDS 1040/1041

This is really a combined fed and state question. Taxpayer dies in Nov 2007. She filed a multi-state return. During 2008, her executor pays taxes to CA and NY on behalf of her final 1040. He pays with the extensions in April 08. The estate is operating on a fiscal yr ending 10/31/08. She ends up with some refund of both states taxes, but not as much as paid. Refunds arrive after 10/31.

I am making the assumption that the taxes paid to the states by executor on behalf of decedent's final 1040 are deductible as state taxes paid on the 1041, and that the refund received in the following fiscal year will be taxable on that 1041. Neither will affect the 541. Agree?

Yes, taxes paid deductible on 1041.

Yes, refund received after fiscal year taxable in following fiscal year.

Yes, neither will affect 541.

Be aware that due to minimum income filing requirements no follow up year filing requirement is possible due unless refund is on the order of magnitude of 10k.

2) When are we going to get state refunds?

As of the meeting, FTB is not allowed to release any funds, even if they agree they owe you.
*Ed. Note - budget is now passed, so I would assume the checks will start flowing as of Friday.

Can we apply them to property taxes, DMV, Corp/LLC fees, anything?

No, no, and no. Can apply refunds to 09 taxes and adjust DE4 state withholding form.

***** PANEL COMMENTS*****

Karen commented on the ludicrous (ed. note - my words) nature of the new 30/30/20/20 percent per quarter payments for self employed individuals or those subject to estimated payments. A lively discussion entailed surrounding the difficult of potentially married individuals with one being self employed and one being a wage earner. The law is unclear on how much should be paid in when. Rule of thumb is to use a reasonable method, or be sure to owe less than the new \$500 safe harbor for underpayment to the state.

3) I have a divorced client with two kids. They live six months with mom and six months with dad.

Why did the FTB audit not allow either of them to claim the kids?

Can we fix this for this year and what should we have done?

Child must be > 6 months with one parent to be claimed. Law does not say 50% it says > 50%. Fix is to have one claim >50% each year. With two children, perhaps each parent claims one child > 50% /year.

4) Client closed an S corporation 12/31/06 and we filed a final return 3/15/07. In November 2008 the FTB sent a penalty of \$250 to client for failing to file 2007 return. It appears the corp. is "suspended". How do we close this?

The \$250 is most likely the Secretary of State (SOS) fee; Statement of Information (SOI), that must be filed yearly. Turn in SOI to SOS and request abatement of late fee for reasonable cause. SOS usually good for this fix one time.

So, reinstate corp, pay fee, dissolve corp, file 08 tax year return.

5) A corporation's documents were originally signed in my office, and my address is still on file as the corporate location in Sacramento. The client stiffed me on his bill and I last heard he was in Washington State. The state keeps mailing Failure to File Notices every three months. How do I stop this?

Suggestions - go to SOS to get address changed. Claim you acted as Agent of service perhaps? FTB cannot change this address, only the SOS. Might also try "Return to Sender" on the envelope and then back into the mail. If corporate officer, there are likely other implications and this will be insufficient.

6) Is there an FTB way to apply for abatement of interest and penalties?

This person has a legitimate case. He has medical and emotional problems that prevented him in filing past returns 2001 through 2007.

Never for interest, but in many cases yes to the penalties. New law - If FTB made a mistake, then the Taxpayer Advocate can abate the penalties. If wards of the state (committed), you might also get out of some of the penalties. Since your Q does not indicate FTB mistake, you can try and write your grovel letter and hope. No specific form for this - just include the letter with the bill.

Taxpayer Advocate email is (Thank you Karen) steve.sims@ftb.ca.gov

*****PANEL COMMENTS*****

Preparer standards are different between IRS and FTB. Fed has changed (then softened and changed again), FTB has not changed.

7) CA RDP's

This is a federal question but pertains to CA RDPs (MFJ). How is the taxable state refund allocated between partners? Can we split it 50/50 on line 10 of the 1040 of each RDP? Or do we allocate based on each RDP's respective income and the amount they paid in?

Due to Tax Benefit Rule (TBR), paying AMT or perhaps state tax on Sch A may make a refund non taxable. Use a reasonable method on 1040 to handle this split between RDP's. Be sure to efile a statement (specific to your software provider) to explain the lack of income due to TBR if issued on the uppermost Taxpayers social security number.

8) Non RDP same sex spouses

If these marriages are annulled, will we have to amend the CA returns?

No. They will be considered married until annulled and after the annulment date they will be considered unmarried. Do not go back and amend.

9A) Is the FTB auditing mortgage interest? Any guidelines on their criteria for choosing a return to audit?

Yes, just like the IRS. If max deduct is 1 mill plus 100k, then a reasonable rate (like 6%) would put max deductible interest at approx \$66k. This might flag you for audit (questionnaire) if Sch. A shows a higher amount. Your client may have higher interest rate which is fine, but you might still get audit and need to show docs to that effect to get your no change letter.

***** PANEL COMMENTS*****

Filing enforcement - if >\$10k mortgage interest, and no income, you might well get a letter questioning how you can afford this payment with no income. Obviously if no response, Taxpayer (TP) gets a Substitute For Return (SFR) which shows typical income with no deductions that is totally made up and viola, TP owes buckets of tax!

9B) If the total mortgage is from mortgage acquisition debt, how do you prorate? Do you just average the loan over the tax year?

Lacerte handles multiple mortgages, yours might as well. The "By the Book" answer is it is calculate monthly. In reality, no one is doing this. (Ed. Note - I had TP audit and supplied the monthly data and told IRS they could calc it if they wanted, but I was using first and last months to average. IRS went with my numbers.)

Negative amortization (unpaid interest) not deductible in current year (since not paid). That neg am amount goes to the 100k limit since it is not acquisition debt.

1098's trigger the flag of too much interest. So if interest is traced to a business or investment, the interest may still be deductible, but you may still get notified and need to explain the situation. Even in the case of > 1 mill mortgage where the preparer properly only reported the proper percentage of interest on the return, may still trigger questionnaire/audit.

10) Will the current budget crisis have an effect on audit process and will it be more intense?

Yes, since resources will be a bit more limited. No, just as intense as always once you have been flagged for audit. Auditors will always go after the highest potential calculated payoff, so having a budget crises might well mean less overall audits and thus if your TP is borderline, they may not get selected for audit.

11) Incident to divorce, it is revealed that husband has been hiding cash receipts from business for 5 years. Total is now approx 50k. Client now wants to report and come clean (both clients). Advice about amending if client is not sure how much was earned each year?

If FTB has not caught this, then just file with best estimates. But get filed before FTB figures it out or you will have a real potential problem with determining that income.

If you amend, they will just accept the large amount of income. Good thing both TP's are cooperating on this issue and want to get it fixed. Be careful of representation issues though. Suggested you work through a lawyer so that your discussion and work papers are protected.

12) LLC - you pay gross receipts tax so you can you back out CA taxes on personal return?

Errrrrr... No. (If Schedule C, yes it is an ordinary and necessary business expense. But the preparer was asking if the "Income" could be backed out and thus the answer is no.)

13) Do you have a grace period when you can dissolve an LLC at the beginning of the year (1.5 months?)

If the LLC elects C treatment, you have 12 months if last return was timely filed. LLC as partnership or disregarded entity, you have 15 days (Jan 15th)

14) When is the FTB refunding the "protective claims" for LLC's not oprerating in CA?

3 court cases. The FTB started to process and write checks already but had to stop due to budget. When the budget is resolved (yesterday!) they will start again sending out the checks.

BE SURE TO RENEW CLAIM FOR REFUND. They expire apparently.

*****PANEL COMMENTS*****

EFTPS payments - mandatory now if a triggering event happens.

Event 1 would be > \$80k tax

Event 2 would be < 20k in any one quarter.

This situation is exacerbated by the new 30/30/20/20 rules for estimated payments. You can make multiple payments to get by for the first quarter to get around the \$20k amount. By early summer it is expected you will be able to do a bank Automated Clearing House (ACH) transfer in lieu of EFTPS.

These rules to no apply to 08 issues, just 09.

FTB is required to pay interest if refund is later than 45 days from filing deadline, so April 15 -> end of May is no interest. If later, TP gets interest. Probably not an issue now as of this writing.