

## Now that VCI 2 is Enacted – What to Expect

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Last week we described a new Voluntary Compliance Initiative (VCI 2) that the legislature passed as a part of Senate Bill 86, and we informed our clients and friends that we expected Gov. Jerry Brown to approve the measure shortly thereafter. On March 24, the governor signed Senate Bill 86, and VCI 2 is now part of California law.

It is not too early for taxpayers to plan their next steps. To assist with that process, we have briefly summarized key points about the program and explained what taxpayers can expect next:

- VCI 2 applies to abusive tax avoidance transactions and offshore financial arrangements with respect to tax years beginning before January 1, 2011
- The period to comply with VCI 2 by filing amended returns and other forms the Franchise Tax Board may require will be August 1, 2011 through October 31, 2011
- The statute of limitations to mail a notice of proposed deficiency assessment for abusive tax avoidance transactions is extended from eight to 12 years
- Taxpayers participating in VCI 2 will have all but two penalties waived; the two penalties that are not waived are the Section 19138 large corporate understatement penalty and the Section 19777.5 amnesty penalty
- The penalty for noncompliance is 100 percent of the interest from the due date of the return (without extensions) to the date the notice of proposed assessment is mailed
- The FTB is required to publicize VCI 2 to maximize public awareness, so taxpayers may receive publications and notices detailing the benefits of the program and the penalties for not participating



- Taxpayers currently under audit or in a protest that involves the noneconomic substance transaction (NEST) should expect the FTB to send materials and communicate information about the program intended to resolve those audits under VCI 2

The enactment of VCI 2 gives taxpayers facing substantial penalties another opportunity to pay taxes and have those penalties waived. However, as discussed in our previous Alert, whether to participate in VCI 2 is a question that depends heavily on each taxpayer's facts. Taxpayers should begin thinking now about whether to participate in VCI 2. Taxpayers currently in audit or protest situations must pay particular attention to ensure they are in the best possible position when VCI 2's compliance period begins.

The following is a link to our [full Alert on VCI 2 and its consequences](#).

For more information on how to handle VCI 2 for your specific tax situation or to discuss other penalty matters in California, contact the authors of this Alert or another member of the Reed Smith State Tax Group. For more information on Reed Smith's California tax practice, visit [www.reedsmith.com/CAtax](http://www.reedsmith.com/CAtax).

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