



California Legislature Adopts a Second Voluntary Compliance Initiative

In SB 86, signed by Governor Brown on March 24, 2011, the California legislature adopted a second voluntary compliance initiative. This initiative will run from August 1 to October 31, 2011 and will afford individual and corporate taxpayers the opportunity to resolve pending or potential franchise or income tax disputes for all tax years before 2011, in most cases without any penalties. The prior voluntary compliance program in 2004 raised \$1.3 Billion and the legislature is obviously hoping for an even better result this time.

In the near future, the Franchise Tax Board ("FTB") will provide information about what taxpayers must do to participate. The program applies to "abusive tax avoidance transactions" and "offshore financial arrangements" such as foreign bank accounts and foreign entities that hold unreported income. Abusive tax avoidance transactions include tax shelters, gross misstatements, reportable transactions and listed transactions. In the prior compliance initiative the FTB accepted into the program taxpayers with issues that did not on the surface seem to meet the definition and it is likely that they will also interpret this new program in an expansive manner.

Taxpayers electing to participate will have to file amended returns for all pre-2011 affected tax years and pay the additional tax due plus the statutory interest. The FTB is permitted to enter into an installment payment agreement but it is very limited as the final payment must be paid no later than June 15, 2012. All penalties will be waived except the penalty for large corporate underpayments and the 50% of interest penalty that is imposed only on those deficiencies that could have been resolved in the prior amnesty program. The penalties that are waived include the onerous 40% "non-economic substance transaction" or "NEST" penalty,

the 100% of interest penalty and the 20% or 40% accuracy penalty. In addition, no criminal action will be brought against the taxpayer with respect to issues for which the taxpayer voluntarily complies.

You can elect to participate even if you are already under audit or your case is at the protest or Settlement Bureau levels. No deduction will be permitted for transaction costs incurred by the taxpayer in the transactions giving rise to the tax deficiency and the taxpayer must waive any further appeal rights.

We will provide further information when the FTB makes it available. In the interim, please contact us if you believe that this program may be beneficial.

If you received this alert from someone else and would like to be added to the distribution list, please send an email to alerts@loeb.com and we will be happy to include you in the distribution of future reports.

This alert is a publication of Loeb & Loeb and is intended to provide information on recent legal developments. This alert does not create or continue an attorney client relationship nor should it be construed as legal advice or an opinion on specific situations.

Circular 230 Disclosure: To ensure compliance with Treasury Department rules governing tax practice, we inform you that any advice contained herein (including any attachments) (1) was not written and is not intended to be used, and cannot be used, for the purpose of avoiding any federal tax penalty that may be imposed on the taxpayer; and (2) may not be used in connection with promoting, marketing or recommending to another person any transaction or matter addressed herein.

© 2011 Loeb & Loeb LLP. All rights reserved.

This publication may constitute "Attorney Advertising" under the New York Rules of Professional Conduct and under the law of other jurisdictions.

Tax Group

MICHELLE W. ALBRECHT	MALBRECHT@LOEB.COM	212.407.4181	JEFFREY M. LOEB	JLOEB@LOEB.COM	310.282.2266
JOHN ARAO	JARAO@LOEB.COM	310.282.2231	ANNETTE MEYERSON	AMEYERSON@LOEB.COM	310.282.2156
MARLA ASPINWALL	MASPINWALL@LOEB.COM	310.282.2377	DAVID C. NELSON	DNELSON@LOEB.COM	310.282.2346
RYAN M. AUSTIN	RAUSTIN@LOEB.COM	310.282.2268	LANNY A. OPPENHEIM	LOPPENHEIM@LOEB.COM	212.407.4115
AMY BELL	ABELL@LOEB.COM	310.282.2170	RONALD C. PEARSON	RPEARSON@LOEB.COM	310.282.2230
LAURA B. BERGER	LBERGER@LOEB.COM	310.282.2274	ALYSE N. PELAVIN	APELAVIN@LOEB.COM	310.282.2298
LEAH M. BISHOP	LBISHOP@LOEB.COM	310.282.2353	STANFORD K. RUBIN	SRUBIN@LOEB.COM	310.282.2090
DEBORAH J. BROSS	DBROSS@LOEB.COM	310.282.2245	LAURIE S. RUCKEL	LRUCKEL@LOEB.COM	212.407.4836
TARIN G. BROSS	TBROSS@LOEB.COM	310.282.2267	MAHDI D. SALEHI	MSALEHI@LOEB.COM	310.282.2293
CHRISTOPHER W. CAMPBELL	CWCAMPBELL@LOEB.COM	310.282.2321	JOHN F. SETTINERI	JSETTINERI@LOEB.COM	212.407.4851
REGINA I. COVITT	RCOVITT@LOEB.COM	310.282.2344	C. MICHAEL SPERO	CMSPERO@LOEB.COM	212.407.4877
TERENCE F. CUFF	TCUFF@LOEB.COM	310.282.2181	REBECCA M. STERLING	RSTERLING@LOEB.COM	310.282.2301
LINDA N. DEITCH	LDEITCH@LOEB.COM	310.282.2296	MEGAN A. STOMBOCK	MSTOMBOCK@LOEB.COM	212.407.4226
PAMELA J. DRUCKER	PDRUCKER@LOEB.COM	310.282.2234	ADAM F. STREISAND	ASTREISAND@LOEB.COM	310.282.2354
PAUL N. FRIMMER	PFRIMMER@LOEB.COM	310.282.2383	ALAN J. TARR	ATARR@LOEB.COM	212.407.4900
ANDREW S. GARB	AGARB@LOEB.COM	310.282.2302	STUART P. TOBISMAN	STOBISMAN@LOEB.COM	310.282.2323
ELIOT P. GREEN	EGREEN@LOEB.COM	212.407.4908	NICHOLAS J. VAN BRUNT	NVANBRUNT@LOEB.COM	310.282.2109
RACHEL J. HARRIS	RHARRIS@LOEB.COM	310.282.2175	GABRIELLE A. VIDAL	GVIDAL@LOEB.COM	310.282.2362
NEAL B. JANNOL	NJANNOL@LOEB.COM	310.282.2358	JOHN S. WARREN	JWARREN@LOEB.COM	310.282.2208
THOMAS N. LAWSON	TLAWSON@LOEB.COM	310.282.2289	BRUCE J. WEXLER	BWEXLER@LOEB.COM	212.407.4081
JEROME L. LEVINE	JLEVINE@LOEB.COM	212.407.4950	DANIEL M. YARMISH	DYARMISH@LOEB.COM	212.407.4116