

July 19, 2010

Issue 2010-17

## **ExacNews**

### **ExacTax Client:**

We would like to thank everyone who was able to attend one of our summer e-file workshops; the turn out has been outstanding so far. The August 11 workshop in Anaheim is currently full but, due to popular demand, a final workshop #206 has been added in Anaheim on August 25, from 8:30 – 12:30 PM.

**Note:** If you are unable to attend a workshop and would like a workshop packet, these will be available on request after the workshops conclude.

### **Operating Hours**

Regular hours are 8:30 – 5:00, Monday through Thursday.

▶ **Exactax will be closed on Fridays through September 17<sup>th</sup>.**

Exactax will also be closed on Labor Day - Monday, September 6.

### **Remittance Envelopes**

When sending payments in the Exactax pre-addressed ‘502 – *Remittance*’ envelopes, do not include anything other than your check and invoice. Our automated mail opener will slice any other documents into several pieces.

**Caution:** Do not change the pre-printed address and use for other correspondence. The Post Office only reads the address that is encoded in the bar code. Because of this we have received numerous letters intended for other destinations which could cause them to be late or delayed.

### **Billing Queries and Reminders**

When requesting adjustments to your billing, state the reason in the comment section of your remittance and submit it with your payment. Any problems or questions regarding billing queries may also be faxed directly to the Accounting Department at 714-999-6566. Requests for credit must be made in writing.

**→ IMPORTANT:** *Accounts with an outstanding balance over 21 days will be placed on C.O.D. status. C.O.D. accounts will be shipped ONE shipment, UPS C.O.D., for the balance past due. Any returns processed after that shipment will be held until monies are received from UPS and account is current.*

*If you do not want shipments sent to you UPS C.O.D., contact Customer Service to place your account on HOLD until you bring your balance current.*

- *E-file transmissions will be held for accounts on C.O.D. until the balance is current.*

## Remote Data Entry (RDE) Renewals

Renewal forms for RDE accounts were mailed out in the last week of May. If you have not received your RDE renewal, please contact Customer Support.

## Batch Renewals

Batch renewal forms will be mailed during the August/September timeframe.

## Tax Extenders Bill Dies in the Senate

Tax extender legislation that included an unemployment benefit extender was filibustered by Republicans in the Senate. The Bush tax cuts are scheduled to expire after 2010 and several more recent provisions have already expired, making tax planning more difficult than ever.

On a bright note, the federal First Time Home Buyers Credit had the qualifying deadline for closing the purchase extended from June 30, 2010 to September 30, 2010. However, the binding purchase contract still had to be in place by April 30, 2010. The IRS expects another 180,000 purchases will qualify under the extension.

## New IRS Tax Preparer Requirements

Effective January 1, 2011, the IRS will require all paid tax preparers who sign federal tax returns to have a Preparer Tax Identification Number (PTIN) and be registered with the IRS.

IRS online registration for tax preparers will start September 1, 2010. Tax preparers will need to register with the IRS and obtain a valid PTIN no later than December 31, 2010. Tax preparers who already have a PTIN will be reissued their current PTIN when they register online.

Currently, there is no application fee for PTINs; however, the IRS does plan to charge a PTIN fee (new and renewing applicants) once registration starts September 1, 2010. [Avoid the fee and apply now.]

In addition to the PTIN requirement, paid tax preparers who are not attorneys, certified public accountants or enrolled agents will have to pass an IRS competency exam [within three years] and complete continuing education requirements. Tax preparers registered with the California Tax Education Council (CTEC) will not be exempt from the new IRS mandate.

Nonexempt tax preparers will be required to:

- Obtain a PTIN.
- Complete 15 hours of continuing education on federal tax laws each year.
- Renew IRS registration every three years from the date of initial registration.
- Within three years of initial registration, pass a competency exam from the IRS.

Starting January 1, 2011, nonexempt tax preparers who fail to meet the December 31, 2010 registration deadline will have to pass the IRS competency exam **before** they can be issued a PTIN.

Exempt tax preparers (attorneys, certified public accountants and enrolled agents) can still register after December 31, 2010; however, they cannot prepare or sign federal tax returns until they register with the IRS and obtain a valid PTIN.

**Competency Test**

Nonexempt tax preparers will have three years from the date of initial registration to pass two levels of IRS examination. The test can be taken as many times as needed; however, a fee will be charged each time. Once the practitioner passes the test, the requirement is filled, and the test doesn't have to be taken yearly.

**Continuing Education**

Nonexempt tax preparers will have to complete 15 hours of continuing education on federal tax laws each year. The hours must be completed from an IRS-approved education provider and include:

- 3 hours of federal tax law updates.
- 2 hours of tax ethics.
- 10 hours of other federal tax law topics.

IRS continuing education requirements for nonexempt tax preparers take effect January 1, 2011. Any federal education completed in 2010 will not count toward the new IRS mandate.

Right now there is no IRS qualifying education prerequisite; however, CTEC will continue enforcing its 60-hour qualifying education requirement for new CTEC registered tax preparers (CRTP). Also, CTEC plans to conform its federal continuing education requirement to the IRS', so CRTPs are not forced to fulfill "double" federal education requirements.

As for the 2010/2011 CTEC registration cycle, CRTPs are still required to complete 20 hours of continuing education (12 hours federal, 4 hours state, 2 hours of ethics, and 2 hours federal and/or state), and renew their registration by October 31, 2010.

**Tax Preparer Enforcement**

The IRS plans to implement an enforcement strategy for the 2011 tax season. The FTB enforcement program to identify and penalize unregistered tax preparers will remain intact for California. All CRTPs will be required to complete IRS and CTEC requirements in order to be legally qualified to prepare state and federal tax returns.

To learn more about the new IRS requirements, go to [irs.gov](http://irs.gov).  
(FTB Taxnews, page 3, July 2010)

**Does an Out of State LLC have to pay a California tax?**

The Franchise Tax Board has recently said that some out of state LLCs owned by California taxpayers may not have to pay the annual California tax. In most cases, ownership of an out-of-state LLC by a California resident that is actively involved in the business of the LLC is sufficient to be considered "doing business in California" and subject to the annual California tax and fee. If the California resident member is purely passive and has no right to and, in fact, does not act on behalf of the foreign LLC in any capacity, that member's ownership would not deem the foreign LLC to be doing business in California.

If the out of state LLC was formed solely for asset protection purposes, such as to hold a vacation property, and the LLC has no business activity, the LLC is not "doing business in" California and therefore not subject to California's annual fee and tax. The exception will not apply if there was any rental income for the property or if it was advertised as available for rent.

(Spidell's California Taxletter®, June 1, 2010, page 67.)

## **RDPs Must Now Use Community Property Rules to File Federal Return**

On May 28, 2010, the IRS released Chief Counsel Advice (CCA) 2010210501 which changes the federal tax treatment of California registered domestic partners' (RDP) community income. The IRS concluded that a California RDP must report one-half of the community property income on the federal returns.

The federal advice is based on the California law changes, effective beginning January 1, 2007, that treats earned income of a registered domestic partnership as community property for state income tax purposes. Previously, the IRS did not recognize this community property treatment; however, the IRS has now decided to extend full community property treatment to registered domestic partners in California. In another Chief Counsel Advice memo, CCA 2010210492, the IRS also explained that it can consider the assets of a taxpayer's registered domestic partner when determining the reasonable collection potential of a taxpayer's offer in compromise under IRC Section 7122, since California law provides both partners have an equal interest and liability in the community property.

According to CCA 201021050, "Applying the principle that federal law respects state law property characterizations, the federal tax treatment of community property should apply to California registered domestic partners. Consequently, for tax years beginning after December 31, 2006, a California registered domestic partner must report one-half of the community income, whether received in the form of compensation for personal services or income from property, on his or her federal income tax return."

CCA 201021050 also clarifies that for tax years beginning before June 1, 2010, registered domestic partners may, but are not required to, amend their returns to report income in accordance with CCA 201021050.

California provides guidance to RDPs in FTB 737, Tax Information for Registered Domestic Partners, including how to make RDP adjustments for differences between state and federal law. This publication will be updated by mid-December to take into account federal changes in recognition of California community property law.

(FTB Taxnews, page 7, July 2010)