

11-1986

Amnesty Program

Franchise Tax Board

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AMNESTY PROGRAM



CALIFORNIA

November 1986

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EXECUTIVE SUMMARY

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California's Amnesty Program was a product of Assembly Bill 3230 authored by Assemblyman Thomas Hannigan during the 1984 California legislative session and signed into law by Governor George Deukmejian on September 26, 1984. The legislation required the Franchise Tax Board and the State Board of Equalization to administer an Amnesty program providing relief from the civil and criminal penalties assessed under California's Personal Income and Sales and Use Tax Laws. The Franchise Tax Board received an appropriation for fiscal year 1984-1985 of \$2,074,000 to administer the personal income tax side of Amnesty.

The primary thrust of the Amnesty legislation was to provide a number of far-reaching enforcement tools that significantly improved the state's ability to identify and collect tax obligations from individuals previously beyond the reach of traditional enforcement programs.

The legislation also provided for a one-time-only Amnesty period of 94 days (December 10, 1984, through March 15, 1985). The Franchise Tax Board offered Amnesty to individuals who had failed to file personal income tax returns, had filed inaccurate returns, or were delinquent in paying established tax liabilities under the California Personal Income Tax (PIT) Law. Unpaid penalties and criminal prosecution were waived, but taxes and interest were not. Amnesty covered 1983 and all earlier tax years. Amnesty was not made available to taxpayers already under criminal investigation.

The one-time-only aspect of the program was critical for two major reasons. First, for Amnesty to work as intended, there needed to be a literal "point of no return" when taxpayers would be subject to the new detection and enforcement measures. Second, the one-time-only feature was essential to assure law abiding taxpayers that tax cheats could not count on any future acts of official forgiveness.

The actual planning process for the Amnesty Program started eight months before the legislation was signed into law. This advanced planning was necessitated by two factors: the anticipated short time frame from the passage of the legislation to the Amnesty start date, and the fact that an Amnesty program would affect virtually every aspect of departmental operations. While the Amnesty period ran from December 10, 1984 through March 15, 1985, the planning process began in February 1984 and the processing of returns and applications continued through June 1986.

Much of the success of the Amnesty Program has been attributed to the media coverage the program received both in the print and electronic media. The coverage was provided

principally as a result of the department's major investment in providing quality materials for the media's use.

The Personal Income Tax portion of the Amnesty Program has generated considerable revenue at a relatively low cost. Over 147,000 individuals filed for Amnesty, generating a gross revenue of \$154 million. This amount is \$34.5 million in excess of what the department estimates it could have collected through traditional enforcement activities. The Amnesty Program cost the department \$5.2 million for personal services (360,000 total hours) and an additional \$1.3 million for operating expenses. The cost benefit ratio produced by the Amnesty Program: \$24 for every dollar expended.

Amnesty was not viewed solely as a means of raising revenue. Amnesty was viewed as part of a long-term strategy to improve taxpayer compliance. The enhanced detection and enforcement provisions called for in the Amnesty legislation were targeted at the most obvious sources of the tax gap: the self-employed, capital gains, "under the table" wages, abusive tax shelters, investment and barter income, and false withholding statements. The message was clear -- detection methods, penalties and collection tools have been improved and enhanced.

Amnesty made a number of positive strides toward California's objective to reduce its tax compliance problem:

- It helped to reduce the erosion of California's tax base.
- It provided an opportunity to educate the public about the seriousness of the problem.
- It brought many individuals into the system.
- It provided new enforcement and detection tools.
- It provided a public forum for enforcement actions against those not paying their fair share.

TAX AMNESTY IN CALIFORNIA

Purpose of the Report

This report was prepared to present an overview of the expectations, the administrative workings and results of California's Personal Income Tax Amnesty Program. Amnesty was offered for Personal Income Tax and Sales Tax. The Sales Tax portion of Amnesty, administered by the California State Board of Equalization, is not covered in this report.

Introduction

California's Amnesty Program emerged from a growing perception among tax administrators and others that the state's "tax gap" was unacceptably large and growing larger. Reducing the tax gap became the primary reason for the Amnesty Program and the companion measures designed to make compliance and enforcement more credible and effective.

For tax policy makers and tax administrators, closing the tax gap has been the challenge of the 80's. In recent years, the tax gap (the difference between the amount of taxes legally owed and the amount actually paid) has grown at an alarming rate. In 1981 the Internal Revenue Service estimated the federal tax gap at \$90 billion, a three hundred percent increase over their \$30 billion estimate for 1973. The California Personal Income Tax (PIT) tax gap has been estimated at \$2 billion.

To deter taxpayers from cheating, it became clear that more vigorous enforcement actions were needed. However, stepping up enforcement

actions may, in effect, have driven tax evaders even further underground. To avoid closing the door on these individuals, an opportunity was provided for them to reenter the system before the new enforcement methods were introduced. The opportunity: Amnesty.

PRE-AMNESTY EXPECTATIONS

Although revenue was the primary motivation behind many of the amnesty programs adopted by other states, it was not a significant consideration for California.

The California Franchise Tax Board estimated that between 61,000 and 122,000 individuals would file for Amnesty and the initial gross revenue collections would fall between \$52 and \$104 million.

This gross revenue estimate was reduced by the amount of revenue that the department estimated would have been collected through existing enforcement programs without Amnesty. This reduction left a net revenue estimate ranging from a loss of \$14 million to a gain of \$19 million. Even when faced with a potential short term revenue loss, Amnesty was considered a valuable program that would result in a significant amount of revenue over the long run as filers continued to comply in the future. For those that did not continue to voluntarily comply, forced compliance would be considerably easier with the new enforcement tools.

Amnesty was also expected to provide valuable information on characteristics of tax evaders and the methods used to evade taxes. This information was viewed as important in our efforts to make improvements in the department's enforcement programs.

Finally, Amnesty was controversial and provided a

natural public forum for stepped-up enforcement actions. In effect, Amnesty would be newsworthy. By capitalizing on the interest of the news media, attention could be attracted to the problem of the tax gap and victimization of the honest taxpayer.

THE TAX AMNESTY PROGRAM

Who Could File

Individuals could apply for Amnesty for 1983 and prior tax years. Corporate income taxes were not eligible for Amnesty. To apply for Amnesty, individuals were required to file an application, complete and file all required returns, and/or pay all tax and interest due within the three month filing period, December 10, 1984 through March 15, 1985. Installment payments were permitted where full payment would inflict undue hardship on the taxpayer. If at any time the taxpayer neglected to meet the terms of the payment agreement, penalties were reinstated and all applicable tax, interest, and penalties were immediately due and payable.

All individuals were eligible to file for Amnesty including those individuals with identified tax liabilities providing they were not under criminal investigation or involved in a court proceeding. Taxpayers could not receive a refund or credit for penalties which they had paid prior to the Amnesty period.

Public Information

California confirmed the experiences of other states that have conducted Amnesty programs -- there is a direct relationship between the amount of money spent on a public information program and the success of Amnesty. States without a firm commitment to a sound public information campaign have fared poorly on the whole. And, while California did not spend lavishly on public

information, it spent strategically.

To focus public attention on Amnesty and the new enforcement tools, a comprehensive public information program was developed. With an initial public information budget of less than \$300,000 it was essential given the enormous scope of the campaign that maximum use of free media be made. The bulk of Amnesty's public information budget was put into production of television spots and fees for campaign consultant/administration staff, along with production of support materials such as posters and brochures.

The primary objective of the Amnesty public information campaign was to inform the public about Amnesty and to motivate tax delinquents to come forward and take advantage of it. The overall strategy was embodied in the campaign theme, "Get to us before we get to you."

Prior to the official start of the Amnesty Program, the Franchise Tax Board significantly increased the visibility of its enforcement program. The department projected a "get tough" image and attitude towards tax cheats through publicizing the seizure of boats and luxury autos. Auctions of unusual property seized were also highly publicized. Announcements of criminal arrests, prosecutions and convictions were given special emphasis, and at each opportunity mention was made of the impending one-time-only Amnesty Program.

On the evening news and in the daily newspaper, the public witnessed an aggressive department ferreting out, prosecuting and seizing the property of tax cheats. The message delivered: "Get to us before we get to you."

For the course of the Amnesty campaign itself, it was clear that press conferences and press releases would, by themselves, be inadequate. California, a media intensive state, required a much greater level of sophistication. The campaign package that was developed included the following:

Press Conferences

Press conferences were held in the major media markets to "kickoff" the program and periodically during the campaign.

Brochures

Brochures (2.7 million), counter cards (6,500) and posters (8,250) were distributed by mail to more than 6,000 locations throughout the state -- largely banks, libraries and post offices.

Kits

Media packets or press kits (2,300) were distributed by mail and personal visits were made to all radio and television stations, newspapers and magazines.

Billboards

Public service billboards (500) were displayed throughout the State with the slogan -- "Get to Us Before We Get to You - Tax Amnesty Ends March 15."

T.V.

Television public service announcements were distributed to 71 stations statewide with personal follow-up visits to all stations to insure air play. The statewide public service campaign utilized quality TV and radio spots to encourage maximum saturation of the available public service air time.

Paid Advertising

Newspaper advertising, consisting of 5 one-quarter page and 10 countdown ads (i.e., "Amnesty ends in 15 days") ran in 15 major California papers.

News Releases

News releases were distributed on a weekly basis in both local and statewide markets. They explained the various aspects of Amnesty as well as highlighting enforcement activities.

Videos

Video press releases were used to generate feature stories on television news programs. Video footage was shot of the processing system, along with an on-camera interview of the Amnesty Program Director. Of the 67 television stations that carry news programs, 50 used the feature video press release.

Speakers

A speakers bureau was formed from a group of employees trained to present the Amnesty Program on a "grassroots" level to various civic and fraternal groups throughout the state.

Interviews

Radio and television interviews were scheduled for talk shows, public affairs programs, news programs and print media interviews. More

than 800 interviews were done during the course of the Amnesty Program, with as many as 70 interviews in one day.

The overall budget for the public information campaign was \$291,657. An additional \$258,343 was expended to bring the total campaign cost (for both Board of Equalization and Franchise Tax Board) to \$550,000.

See Exhibit I for more information on public information costs.

Departmental Impact

Amnesty affected virtually every aspect of departmental operations. Ten months of meticulous planning preceded the Amnesty period. This planning process ensured that Amnesty policies and procedures were compatible with the ongoing work of the department. Following is a brief description of Amnesty policies and procedures:

Public Service

Policy

Every effort was made to make service available to all Amnesty applicants and potential applicants.

Procedures

Information Center staffing was increased during Amnesty to meet the public service demands. The existing telephone system was used.

The department provided special training of public service personnel for Amnesty. Additionally, a handout of anticipated Amnesty questions and answers was prepared to

ensure consistency in departmental responses.

See Exhibit II for Amnesty questions and answers.

Processing

Policy

Amnesty was made available to any individual who made a good faith effort to comply with the terms of Amnesty within the statutory period. The law was interpreted liberally to give individuals the opportunity to supplement incomplete applications or to otherwise complete the requirements for Amnesty even after the end of the filing period, so long as the individual made an effort to initiate the process before the deadline.

Procedures

An Amnesty processing group was established within the Self Assessment Division.

Applications for Amnesty were to be made on preprinted forms, or any other written request containing the necessary information. Applications made by telephone were only accepted during the final days of Amnesty.

Tax returns and remittances filed with an Amnesty application were batched separately and given a unique series of document locator numbers.

Tax returns identified as Amnesty related were referral coded in Receiving and were routed to the Amnesty processing group. Remittances were processed in the normal manner; accounts receivables were put in non-billable

status before the payment was processed and correspondence routed to the Amnesty processing group.

The Amnesty processing group was responsible for processing all application and correspondence relating to Amnesty and for adjusting and monitoring accounts to see that they were properly closed. The group was also responsible for initiating requests for supplementary information and processing the responses.

Taxpayers were immediately notified by the Amnesty processing group when their Amnesty application was received. Subsequent notification was made when Amnesty was granted or denied.

Provisional approval of Amnesty was also granted on the condition that terms of an installment payment agreement would be met. Requests for installment payments were reviewed under the ongoing departmental standards with support being provided by the Enforcement Bureau.

Collections

Policy

Amnesty was offered to individuals with existing liabilities. If a taxpayer with an existing liability filed for Amnesty, collection action was deferred for 30 days to allow for sufficient time to process the application.

Procedures

The automated billing cycle, including regularly scheduled involuntary collection

actions, operated in the normal manner during Amnesty.

Close to the start of the Amnesty period, all taxpayers with open receivable accounts were sent an Amnesty notice. The notice informed the taxpayer of the amount due and the revised amount that would be due if penalties were cancelled. The notice stated that unless an Amnesty application was received the account would be subject to regularly scheduled billings and involuntary collection actions.

Audit

Policy

Tax returns received from Amnesty were subject to normal audit referral and audit selection guidelines.

Procedures

The audit program operated in the normal manner during Amnesty.

Filing Enforcement (non-filer)

Policy

Amnesty was offered to individuals identified through the non-filer program.

Procedures

The annual notification of non-filing included an Amnesty insert. The insert stated that the delinquent return and an Amnesty application should be filed within 10 days in order to avoid the issuance of an assessment.

Data Processing

Data Processing support was necessary to effectively manage the Amnesty Program.

Specific system changes were made:

- To support the new document locator numbers assigned to Amnesty returns and the new return formats.
 - To support unique account adjustment activity.
 - To provide an Amnesty account flag for taxpayers filing for Amnesty.
 - To produce notices informing those taxpayers with accounts receivable of their eligibility for Amnesty.
 - To capture statistical data on Amnesty accounts.
-

NEW ENFORCEMENT TOOLS

The new enforcement measures included in the Amnesty bill were targeted at the most obvious sources of the tax gap: self-employed income, capital gains, "under the table" wages, abusive tax shelters, investment and barter income and false withholding statements.

Self-Employed

Many of the new provisions authorized the Franchise Tax Board to use information from other state and local government sources. For example, a new computer cross-reference file was created to overcome the problems which resulted from not having a common identification number for all tax records. Information from employment tax, sales tax, and local and city business records will be used to detect self-employed individuals who have not filed income tax returns or who have filed but under-reported their income. In the first full year of operation this program is expected to identify over 25,000 self-employed nonfilers and generate \$20 million.

Capital Gains

To help identify unreported capital gains, the Franchise Tax Board will compile real estate transaction information and begin sending information returns requesting the taxpayer identification number and other pertinent information from sellers or transferors of real property (excluding property with a homeowner's exemption). This program will identify non-filers and unreported income from sales of

residential, commercial, industrial, and agricultural property. Additionally, audit programs are being designed to identify questionable issues on reported real estate transactions.

Cash Pay

California's Labor Code, Business and Professions Code and the Revenue and Taxation Code have been amended to provide a new series of penalties against employers who pay employees in cash, fail to keep records, and fail to report cash wage payments. In addition, employers will be subject to disciplinary action by California's Contractors State Licensing Board. A joint task force has been established to focus enforcement programs on those who pay wages "under the table."

Tax Shelters

Tax shelter promoters are now required to maintain records of their tax shelter promotions and on each investor having an interest in the promotion. Records must include a description of each investment sold, a list of each investor's name, address, social security number, the amount of individual and collective investments, and the amount of losses claimed. This information must be furnished to the Franchise Tax Board within 60 days of a written request. Any promoter who fails to keep the necessary records or fails to provide the requested information is subject to penalties of \$1,000 for each calendar year for each investor required to be shown on the return, or \$100,000 if the number of investors cannot be determined.

Collections

The new collection methods include the use of private collection agencies to resolve out-of-state collection accounts, the services of the California State Police to serve warrants, and continuous levy against non-wage payments.

Penalties

Finally, the legislation provided for significant new and increased penalties such as: a minimum late filing penalty, false W-4 penalty and increased penalties for failure to file information returns.

See Exhibit III for more information on the new enforcement measures.

AMNESTY RESULTS

The ultimate success of the Amnesty Program will be measured by its long-term effect on taxpayer compliance. Although it is difficult to accurately measure voluntary compliance due to numerous external factors which cannot be quantified, some questions about the success of the personal income tax side of Amnesty can be answered now.

Who filed for Amnesty?

How much revenue was collected?

What were the administrative costs of the program?

How did the public react to Amnesty?

What were the initial non-monetary advantages and disadvantages of the program?

What were the major problems in processing the Amnesty workload?

Filers

Over 147,000 individuals filed for Amnesty. Most of these filers were individuals who had filed some, but not all, of their returns in past years. Over one-half of the non-filers had previously been identified by the Franchise Tax Board filing enforcement system. The second largest group of filers was composed of individuals who already had an existing amount owing as the result of an audit or unpaid return liability. Over 36,000 Amnesty filers had previously escaped detection by the department and were

totally outside the system. Only four percent of the filers amended their returns increasing their past years' tax liability.

The department was interested in examining the characteristics of the Amnesty filers and their income, not only to shed some light on the tax gap problem in general, but also to evaluate why these individuals were able to circumvent the existing enforcement programs. Under contract, Professor Steven M. Sheffrin of the University of California, Davis, conducted a preliminary study of the characteristics of the Amnesty filers. Sheffrin found that the non-filers of whom we had no record tended to have characteristics largely representative of the tax-paying population in general. However, these non-filers tended to have income sources not subject to effective information reporting.

Sheffrin found that Amnesty filers who filed amended returns reported substantially higher levels of adjusted gross income than the general taxpayer population and that capital gains from real estate transactions as well as rental income represented a significant amount of income.

The study reaffirmed previous studies which show a great deal of under-reporting of self-employed income. More information is available in Professor Sheffrin's report, "An Analysis of Returns Filed Under Amnesty, A Report to the Franchise Tax Board," published in November 1985. Additional studies are now underway to analyze the Amnesty data and to use it to

improve the Department's enforcement programs.

See Exhibit IV for a further breakdown of the Amnesty filer groups.

Revenue

The Amnesty Program produced total gross revenue of \$154 million in tax and interest. The Department estimates it could have collected \$119.5 million from these individuals through its ongoing enforcement programs had Amnesty not been adopted.

Note: These figures do not include Sales Tax revenue.

In addition to the initial revenue collections, the State continues to derive additional revenue which is directly attributable to the Amnesty Program. This revenue will come from taxpayers who filed under Amnesty and continue to file voluntarily and from taxpayers who filed under Amnesty and do not file voluntarily in future years but who will be easier to trace and forced to comply.

See Exhibit V for more information on Amnesty revenue.

Costs

The total cost of administering the Amnesty Program for fiscal year 1984-1985 was \$3.4 million. This cost included implementation costs to develop and publicize the program, as well as the first year processing costs. Additional expenditures of \$2.4 million were incurred during the last half of 1985.

Processing continued at a reduced level from January

through June 1986. Information on the corresponding costs for this period was not available at the time this report was written.

Exhibit VI shows a breakdown of the first year costs.

Public Reaction

There is no easy way to accurately measure the public reaction to Amnesty and no scientific or statistically valid attempt has been made to do so. The department received comments from taxpayers through telephone contacts and correspondence which indicated that Amnesty was generally accepted by the public. In addition to comments received from Amnesty filers who indicated they were grateful to be relieved of their guilt, positive comments were received from taxpayers who had been complying all along. These taxpayers felt that Amnesty and the new stepped-up enforcement provisions would relieve them of a portion of the extra tax burden imposed on them by non-compliers. Some of these taxpayers credited the Amnesty publicity with making them aware of this extra burden in the first place.

There were a few complaints, but the majority of them came from taxpayers who were disappointed because they could not personally benefit from the program.

Nonmonetary Advantages and Disadvantages

Advantages

Amnesty produced considerable information on the characteristics the taxpayers who had been successfully evading taxes in the past. From examining these

characteristics we can refine and strengthen enforcement tools and programs.

Increased public awareness of the need for everyone to pay their fair share has been heightened. As a result, the Department has received a marked increase in the number of informant letters and telephone calls.

Amnesty provided an opportunity to begin rebuilding the public's confidence in California's tax system and assure the honest taxpayer that aggressive steps are being taken to ensure that everyone pays their fair share.

Finally, the media coverage on Amnesty provided the unique opportunity to reach a huge audience and to educate them regarding the seriousness of tax evasion and the increased chances of being caught. This taxpayer education accelerates the deterrent impact of our new enforcement provisions and enhances our overall compliance efforts.

Disadvantages

Some disruption in the department's ongoing operations was experienced with the implementation of the Amnesty Program. Fully trained employees were removed from their jobs to develop and implement the program and process workload. Some of these employees were replaced with newly hired employees who required considerable training before they could perform at an acceptable level. Other Amnesty workers could not be replaced because it would not have been cost beneficial to provide the intense training

required to backfill their jobs. The result was increased backlogs and a decrease in the quality of service to the public.

Administratively, it was difficult to project Amnesty workloads. The public's interest did not peak until the final days of Amnesty and the vast majority of contacts came during this time. Of the over 725,000 public contacts regarding Amnesty, approximately 66% came during the final month.

See Exhibit VII for a breakdown of the Amnesty contacts.

Processing Issues

Projecting the Amnesty workload was difficult because the department was essentially breaking new ground. Once the program got underway, it was apparent at an early stage that considerably more resources than estimated would be required to complete the processing of Amnesty applications and returns. The volume of documents received was somewhat higher than projected. More importantly, taxpayer accounts were complex and took much longer to resolve than expected. To reduce the resulting backlogs, a substantial amount of overtime was necessary and processing continued well beyond the projected completion date. The cost to administer the program was almost three times the original projection.

CONCLUSION

California's Amnesty Program was a successful tool in combatting the tax gap. So far, it has grossed the state \$154 million in revenue at a cost of \$5.8 million. Additional revenue is expected to continue to filter in each year as Amnesty filers continue to voluntarily comply with tax laws.

Amnesty provided an opportunity to bring the tax gap problem to the attention of the public and to make them aware of the new enforcement measures aimed at redistributing the tax burden more fairly.

Amnesty also provided some insight into the types of taxpayers who evade taxes and the most common ways they accomplish tax evasion without being detected. This information will be useful in understanding taxpayer behavior and revising enforcement programs.

The success of the Amnesty Program was largely attributed to the way it was implemented. The groundwork for Amnesty was carefully laid to entice non-compliers to return to the ranks of the honest taxpayers. Enforcement actions and publicity were stepped up. Amnesty was then offered as a one-time chance to avoid the risk of being caught and punished.

The Amnesty Program and the companion enforcement measures were powerful policy tools for bringing individuals into the tax system and improving taxpayer compliance.

EXHIBIT I
PUBLIC INFORMATION COSTS
1984/85

Newspaper Ads		\$160,020
1/4 page ad - 5 insertions		
Countdown ad - 10 insertions		
Printing Expense		
Brochures	\$96,661	
Posters	4,500	
Billboards	<u>10,600</u>	
		111,761
Distribution (posters & brochures)		16,966
Professional Services & Consultants		
Graphic designs	38,061	
Public service announcements	104,406	
Distribution - P.R. Aids	1,076	
Billboard paste-up	29,775	
Consultants	76,696	
Publicity travel	<u>12,000</u>	
		<u>262,014</u>
Total Public Information Costs		\$550,761
Less: Board of Equalization Costs ¹		<u>-279,155</u>
Total FTB Public Information Costs		<u>\$271,606</u>
		=====

¹Included in total program costs.

**EXHIBIT II
ANTICIPATED QUESTIONS & RESPONSES
GENERAL**

What is Amnesty?

Amnesty is a one-time opportunity to clear up any unresolved California personal income tax, sales tax and/or use tax obligations.

NOTE: All detailed questions about Amnesty for sales and use taxes should be directed to the nearest Board of Equalization (BoE) office.

**What is
Forgiven?**

All unpaid penalties related to personal income tax, sales tax and use tax will be forgiven for eligible applicants.

**Are Banks and
Corporations
Eligible for
Amnesty?**

They are not eligible for bank and corporation franchise and income taxes. They may be eligible for sales and use taxes. Contact the nearest BofE office.

**Am I Eligible
For Amnesty on
My Personal
Income Tax?**

Amnesty is available to anyone who:

- failed to file required California personal income tax returns (includes individuals, trusts, estates).
- failed to report all income.
- claimed excessive deductions.
- is delinquent in paying past personal income taxes.
- is not on notice of a criminal investigation of state income tax by a

complaint having been filed against him or her, or by a written notice having been mailed to him or her that he or she is under criminal investigation, or already subject to a state income tax related prosecution as of December 10, 1984.

**How and When
Do I Apply?**

BEGINNING December 10, 1984
THROUGH March 5, 1985:

- Complete an application for Amnesty.
- Complete all past due returns and disclose all income.
- Amend any incorrect returns to disclose previously unreported income and/or overstated deductions.
- Mail the application, returns and payment for all taxes and interest to:

Amnesty
P. O. Box 2952
Sacramento, CA 95812-2952

**Where Do I Get
the Application
and Forms?**

Give me your name and address and I will mail them to you or you may pick up the forms and application at the FTB district offices.

**What Years
Does Amnesty
Apply to?**

All prior tax years ending on or before December 31, 1983.

**Do I Have to
File for All
Years?**

YES, all past due returns must be filed.

**Can You Assist
By Telling Me
Which Years
I Have Not
Filed?**

We will check our files and get back to you as to what years have not been filed. You should also file amended returns for those years you understated your income and/or overstated your deductions.

**If I Apply for Amnesty
on an Amended Joint
Return, Can I Pay
Only My Half?**

NO. If you alone are applying for Amnesty then you must pay all additional tax and interest due to qualify.

**What if I
Don't File
for Amnesty?**

New legislation allows for increased enforcement activity.

- Additional taxpayer disclosure requirements.
 - Increased penalties.
 - New means for identifying and prosecuting tax evaders.
 - New information sources to detect nonreporting and underreporting of income.
-

**Can I File
an Extension
for Amnesty?**

NO, an application for Amnesty must be postmarked by March 15, 1985.

**If I File an
Application During
the Amnesty Period
Can I File My
Returns and/or
Pay After
March 15, 1985?**

Returns and/or payments should accompany the application during the Amnesty period. If you are unable to meet this requirement, a letter of explanation must accompany your application.

**Can I Have
My 1984 Refund
Applied to the
Amnesty Balance
Due?**

YES, as long as the 1984 return is filed March 15, 1985 along with the application, prior year returns, and payment of any additional balance due.

**Will My Amnesty
Return(s) be Audited?**

Tax returns received under Amnesty will be subject to normal audit referral and audit selection guidelines.

**Will My Tax Return
Information be
Disclosed to IRS or
Other Agencies?**

All information received by FTB is available to the IRS and other government agencies with whom FTB has an information exchange agreement.

**Can I File For
Amnesty on a Tax
Year That is in
Appeal or Protest?**

YES, you are eligible for Amnesty provided you file an application and pay the tax and interest.

**What Happens to My
Appeal or Protest
on the Year I Apply
for Amnesty?**

You will still have the right to pursue your appeal or protest.

**Can I Apply for
Amnesty on Other
Years Even Though
I Have a Year(s)
in Appeal or Protest
and Do Not Want to
Pay the Appeal Year(s)?**

YES, the other years are eligible but the penalty on the appealed or protested year(s) will not be waived as part of Amnesty unless the tax and interest is paid.

**Can My Application
For Amnesty Be Denied?**

YES, your application can be denied if you fail to comply with the requirements for Amnesty.

**What Can I Do If I
Disagree With a
Denial of Amnesty?**

Send a letter of explanation
to:

Amnesty
P. O. Box 2952
Sacramento, CA 95812-2952

**Why Are Tax Cheaters
Getting a Break and
the Honest Taxpayers
Not?**

The Amnesty Program is
designed to reduce the tax
burden for the honest tax-
payers in the State of
California. The average
Californian pays 20 percent
more in state income taxes
each year just to make up for
amounts lost due to dishonest
taxpayers. Amnesty improves
fairness in that the dishonest
taxpayers will be brought into
the systems and through
increased enforcement, the tax
burden will be shared more
equally.

**ANTICIPATED QUESTIONS/RESPONSES
ACCOUNTS RECEIVABLE**

**How Does Amnesty Affect
the Outstanding Balance
Due on My Account?**

If Amnesty is granted, it will reduce the balance by the amount of unpaid penalties remaining on your account.

**Can I Wait For Amnesty
to Pay the Balance Due
on My Account?**

If you wait, normal billing and collection action will continue. This can result in levy against your bank account, garnishment of wages, filing of a tax lien and other actions allowed by law.

**I Paid all/or Part
of My Penalties Prior
to December 10, 1984.
Will They be Waived
and Will I Receive a
Refund?**

No refund or credit can be given for any penalties which were paid before December 10, 1984.

**I Filed and/or Paid
During the Amnesty
Period, but Did Not
Apply For Amnesty.
Can I Still Apply?**

You may still apply for Amnesty if you file an application by March 15, 1985.

**You Applied My
Payments Wrong. They
Were Intended to Pay
Tax and Interest Only.
Will You Waive the
Penalties?**

If you can substantiate that your intent was to apply the payment to tax and interest only, waiver of the penalties will be taken into consideration.

ANTICIPATED QUESTIONS/RESPONSES
PAYMENT ARRANGEMENTS

Can I Make Payments?

YES, if you can substantiate that payment in full will create a severe hardship.

How Do I Apply For Payment Arrangements?

You must complete a financial statement and submit it with your application.

When Do I Apply For Payment Arrangements?

At the same time you file for Amnesty.

What Happens to Me If I Default?

If you default without reasonable cause, the penalties will be reinstated and collection action will resume.

I Am Currently on a Payment Arrangement With FTB, Must I Reapply to Qualify Under Amnesty?

YES, you must reapply if the balance due on your account is being increased.

I Am Currently on Payment Arrangements. Can I Reduce My Payment Because the Balance Due is Reduced?

NO, your payment arrangement was based on your ability to pay, not on the balance due.

Will You Allow the Amount Waived to Count as Payments?

NO, your agreement for payment arrangements requires a monthly payment until the balance due is paid in full.

Will Temporary or Permanent Hardship be Considered?

YES, each case will be considered on an individual basis.

**I am Currently in
Bankruptcy, Am I
Eligible for Amnesty?**

YES, you are eligible for
Amnesty provided you file
an application, file all
past due returns, amend all
incorrect returns and pay all
tax and interest not
discharged by bankruptcy.

**I am in Chapter 13
Bankruptcy, Must I
Pay All Tax and
Interest During the
Amnesty Period?**

NO, that is not required.
Your payment of tax and
interest will continue
through the trustee as
already established.

**Am I Eligible For
Tax Amnesty if Payment
of Tax and Interest
is Paid Through a
Demand and Release
of Lien?**

YES, you are eligible for
Amnesty provided you file
an application, file all
past due returns, amend all
incorrect returns and pay-
ment of all tax and interest
is received during the Amnesty
period.

**EXHIBIT III
ENFORCEMENT PROVISIONS
AB 3230**

The following is a brief description of the enforcement provisions provided in AB3230, the California tax amnesty bill. The summaries include a statement of the problem or need for the provision and a description of how the provision will be used.

**Provision 1
Self-Employed Filing
Enforcement System**

Self-employed nonfilers and those who file but under-report income present a major compliance problem. In the past, it has been difficult to detect these individuals since various business tax records were not linked together.

Funding has now been provided to establish a new automated program to detect and assess self-employed nonfilers and underreporters using major federal, state and local government tax records. For example, employment tax, sales tax and city business tax records will now be linked together through new automated processes for enforcement purposes. In addition, various Internal Revenue Service tax records will be utilized. It is estimated that upon full implementation of the new program over \$20 million will be collected the first year.

Law Sections:

R&TC: 19286.8 (added)
Comparable Federal Law
Sections: None

**Provision 2
Unreported Capital
Gains Program**

A significant portion of California's economic activity results from the sale or exchange of over one million parcels of real estate each year. Of these transactions, a significant portion of the gains go unreported for income tax purposes. The sales and exchanges are controlled and recorded through county officials. In the past it has not been practical to try to match this information against filed tax returns because the information does not contain taxpayer identification numbers and is not stored in a uniform manner.

This law requires all sellers of real property (except property which is eligible for California's Homeowner's Property tax Exemption or which is not assessed by a California County Assessor) to file a return disclosing their social security number and pertinent information to the Franchise Tax Board. The Franchise Tax Board will obtain real property transaction information from the counties, and through an automated process, send buyers and sellers requests to file information returns. If the information is not disclosed, no deduction shall be allowed for interest, tax, depreciation or amortization with respect to the property of the buyer for each month the information is not submitted. Failure to file the information return also subjects the buyer and seller to an initial \$50 penalty for each demand. If the failure to file is due to intentional disregard, then the penalty imposed shall not be less than 10 percent of the aggregate amount of the items to be reported.

With this information, a computerized system is being established to detect unreported gains from the sale or exchange of real property.

Law Sections:

R&TC: 17299.9 (added),
18681.1 (amended),
18802.3 (added), and
24448 (added)
Comparable Federal Law
Sections: None

**Provision 3
Discourage Cash
Payments for Wages**

Wage payments made in cash "off the books" present a major compliance problem because no income tax is withheld and the payments often go unreported for income tax purposes. It is not illegal to make cash wage payments per se and these provisions do not change that. However, employers who make payments for wages in cash without proper tax reporting and withholding are now subject to stiffer penalties and other sanctions.

The California Labor Code has been amended so that an employer who knowingly and intentionally fails to provide employees the required wage statements is guilty of a misdemeanor upon conviction and is subject to a fine of not more than \$1,000 and/or imprisonment not to exceed one year.

The Business and Professions Code has been amended to provide that state licensing boards may take disciplinary action against licensees for failure to properly keep and make available records related to employee wage payments. In addition, the licensing board may assess the licensee up to \$2,500 for actual

investigative costs related to the disciplinary action. Failure to pay these costs are grounds for revocation of the license.

The Revenue and Taxation Code was also amended so that no deduction shall be allowed for wage and salary expenses where the employer fails to properly report the wage payments to the Employment Development Department as required by the Unemployment Insurance Code. In addition, the employer will be subject to a penalty of 11 percent of the unreported wages paid, the maximum tax rate for individuals.

Law Sections:

R&CT: 17299.8 (added),
18681.6 (added),
and 24447 (added)
Business and Professions
Code: 7111.5 (added)
Labor Code: 226.6 (added)
Comparable Federal Law
Sections: None

**Provision 4
Increase Civil Penalties
for Failing to File
Information Returns**

Studies have shown that where information returns are not filed on reportable income, recipients of the income tend not to report it on their income tax returns. Information returns are effectively used in enforcement programs to detect unreported income. It is critical that businesses file the required information returns.

To provide an increased incentive for voluntary filings, the penalty for failure to file information returns has been increased from \$10 to \$50 per failure, up to a maximum of \$10,000. If failure to file is due to intentional disregard, then the penalty imposed shall not

be less than 10 percent of the total amount of income to be reported.

A new filing enforcement program is being established using various computer processes to detect and assess penalties against businesses that fail to meet information return filing return obligations.

Law Sections:

R&TC: 18681.1 (amended)
Comparable Federal Law
Section: 6678

**Provision 5
Require Investor Lists
From Promoters of
Abusive Tax Shelters**

Abusive tax shelters constitute a significant portion of California's tax gap. Unless the tax shelter promoter is conducting business as a partnership, it is difficult and costly to identify all investors in a known abusive tax shelter promotion. Knowing this, promoters of abusive tax shelter schemes are avoiding doing business as a partnership and have, therefore, been successful in convincing potential investors that the odds of having their tax shelter losses examined are extremely low. This situation has contributed to the growth of investments in abusive tax shelters.

This law requires that tax shelter promoters maintain records concerning their tax shelter promotions and each investor having an interest in the promotion. Records must include a description of each investment sold, a list of each investor's name, address, social security number, the amount of individual and collective investments, and the amount of losses claimed.

This information must be furnished to the Franchise Tax Board within 60 days of a written request.

The request for information must be approved by a member of the Franchise Tax Board. This procedure will be similar to the one currently used to authorize an administrative subpoena. In addition, the promoter is required to send a written statement to each investor named in the response to FTB within 60 days unless a partnership return was filed.

Any promoter who fails to keep the necessary records or fails to provide the requested information is subject to penalties of \$1,000 for each calendar year for each investor required to be shown on the return, or \$100,000 if the numbers of investors cannot be determined.

Law Sections:

R&TC: 18409 (added),
18681.3 (added),
and 18681.4 (added)
Comparable Federal Law
Sections: None

**Provision 6
Continuous Levy Against
Nonwage Payments**

Nonwage earnings such as rents, royalties and commissions have been difficult to attach to satisfy delinquent tax obligations. This is because California's Order to Withhold tax used to levy on such income attaches only to amounts due at the time it is received by the payor. It does not attach to future earnings as does the California Earnings Withholding Order for Taxes used to levy on wages.

In order to place wage earners and nonwage earners on equal footing, the new legislation provides for a continuous levy on nonwage income. The levy is limited to 25 percent for individuals. This is to avoid potential hardship situations and conforms to similar provisions for levying on employee wages. The 25 percent limitation does not apply to corporate levies. The levy is effective against payments becoming due until the total amount due is withheld, until the order is withdrawn by the Franchise Tax Board, or until one year after the date notice is received, whichever occurs first. It will enhance the department's collection efforts against tax debtors whose incomes are not derived from wages.

Law Sections:

R&TC: 18817.5 (added),
18818 (amended),
and 26132.5 (added)
Comparable Federal Law
Sections: None

**Provision 7
Establish Minimum
Late Filing Penalty**

Nonfiling for tax returns is growing at an alarming rate in California. In the last ten years, nonfiling has increased by nearly 270 percent. Despite program changes to eliminate marginal cases, significant resources are expended to identify nonfilers and secure compliance, only to find that too often the major part of these liabilities have been prepaid through withholding. Because late filing penalties were assessed only on the unpaid tax, little or no penalties were due and an effective deterrent to nonfiling was precluded.

This provision, which generally conforms to existing federal law, provides an additional incentive for taxpayers to file returns by establishing a minimum delinquent filing penalty. The minimum penalty is the lesser of \$100 or 100 percent of all tax liability computed without regard to any credits. The penalty will be assessed when the return is more than 60 days late and no reasonable cause for late filing exists.

Law Sections:

R&TC: 18681 (amended)
Comparable Federal Law
Section: 6651

Provision 8
Use of Private Collection
Agencies to Resolve Out-
of-State Collection
Accounts

California tax delinquents who currently reside outside the state pose a difficult collection problem for the department because they are outside jurisdictional boundaries. Consequently, the department's usual collection remedies, such as liens and levies, are ineffective in collecting the amounts due.

Under the new law, the Franchise Tax Board has authority to contract with private agencies to collect taxes from delinquents who reside outside of California. The law provides that compensation due the collection agencies, i.e., collection fees, may be added to the amount of taxes due. Collection agencies are authorized to file suit in the name of the Franchise Tax Board in the state of jurisdiction as part of their collection process.

These new provisions will prevent tax delinquents from escaping payment of taxes by

leaving California to reside
in other states.

Law Sections:

R&TC: 18837 (added) and
26254 (added)
Comparable Federal Law
Sections: None

Provision 9
Add and Extend
Misdemeanor Sanctions

Studies have shown that one of the reasons people and corporations evade taxes is the perception that the penalties for evasion or assisting others in evasion are not significant. This view has contributed materially to the development of the tax gap in California.

To counteract this viewpoint and establish comparable sanctions in both the Personal Income Tax and Bank and Corporation Tax Laws for such actions, this provision:

Expands the California Personal Income Tax Law to make it a misdemeanor to:

- Willfully fail to pay any required tax or estimated tax (this conforms to existing federal law)
- Aid, abet, advise, encourage or counsel any other not to file required returns or supply required information, or to file false returns, or to supply false information

Adds a new section to the California Bank and Corporation Tax Law which makes it a misdemeanor to:

- Fail to file a required corporation return or supply required information
- Willfully make or sign a

false corporation return to
supply false information

- Aid, abet, advise,
encourage or counsel others
not to file required
corporation returns or to
file false returns
- Willfully fail to pay
required corporation taxes
or estimated taxes

Sanctions for such actions
include a civil penalty of not
more than \$5,000 and, upon
misdemeanor conviction, a fine
of up to \$5,000, one year
imprisonment or both, plus the
costs of investigation and
prosecution.

Law Sections:

R&TC: 19401 (amended) and
25961.5 (added)
Comparable Federal Law
Section: 7203

**Provision 10
Establish Information
Reporting Requirements
for Brokers and Barter
Exchanges**

Significant economic activity
within California is
conducted through middlemen
such as stockbrokers,
commodity brokers and barter
exchanges. Information about
the income generated from
these transactions has
generally not been available
to state tax officials. In
contrast to the payments of
salaries or wages, there were
no information reporting
requirements applicable to
these types of transactions.
As a result, effective
compliance programs could not
be developed to detect
unreported capital gains,
commissions or other taxable
transactions.

This provision will signifi-
cantly enhance the information
reporting system by requiring
brokers (middlemen) and barter

exchanges to file information returns identifying their customers and the gross proceeds each customer received. This provision conforms to federal requirements and may be satisfied by filing a copy of the return required by the Internal Revenue Service.

Law Sections:

R&TC: 18802.4 (added)
Comparable Federal Law
Section: 6045

**Provision 11
Require 599 Information
Reporting on Magnetic
Tape**

Information returns (Form 599) filed on magnetic media can be utilized in enforcement programs more accurately and inexpensively than can information returns filed on paper documents.

This provision authorizes the Franchise Tax Board to establish regulations requiring 599 information be transmitted to the department on magnetic media. The new regulations will generally conform to similar federal regulations and will consider, among other relevant factors, the ability of the taxpayer to comply at a reasonable cost. Copies of federal 1099 magnetic tape reports will be accepted as meeting the 599 reporting requirements.

Law Sections:

R&TC: 19272 (added) and
26426 (added)
Comparable Federal Law
Section: 6011(e)

**Provision 12
Service of Warrants
by California State
Police**

In some geographic areas the service of tax warrants for collection purposes presents a problem for local

police departments which are already overburdened with heavy workloads. The availability of the California State Police to perform such enforcement actions will permit the Franchise Tax Board to expand its use of such actions to resolve tax delinquencies. These amendments permit the department to direct tax warrants for execution to the California State Police, as well as local sheriffs and marshals.

Law Sections:

R&TC: 18907 (amended),
18908 (amended),
and 26191 (amended)
Comparable Federal Law
Sections: None

Provision 13
False W-4 Penalty

Thousands of employees in California file false W-4 and/or false DE-4 (California equivalent to the W-4) statements to improperly terminate or substantially reduce the amount of personal income tax withheld from their paychecks. Many of these individuals later fail to file tax returns or file tax returns without payment, resulting in increasing numbers of difficult and costly delinquency problems.

The Franchise Tax Board will assess \$500 penalties against individuals who file either false W-4 or false DE-4 forms which improperly reduce or discontinue personal income tax withholding amounts. It is estimated that over 15,000 of these penalties will be issued in the next 12 months. This penalty assessment process will be closely linked to a similar IRS false W-4

program which also provides for \$500 penalty assessments.

Additionally, criminal provisions have been established which provide for fines of up to \$1,000 and/or one year imprisonment when evidence exists that the employee willfully provided false or fraudulent information to their employer or who failed to provide the required information for purposes of establishing proper withholding levels.

Law Sections:

R&TC: 19411.1 (added)
Comparable Federal Law
Section: 6682

Provision 16
Rewards for Informants

Informant information can be very useful in the detection of tax evaders. This proposal authorizes the Franchise Tax Board to establish a reward program for information resulting in the identification of unreported income subject to tax. The reward may not exceed 10 percent of taxes collected. No funding for rewards has yet been provided and will not be until an informant program can be developed by the department. The development of this new program will be the subject of further study.

Law Sections:

R&TC: 19273 (added) and
26427 (added)
Comparable Federal Law
Section: 7623

EXHIBIT IV
AMNESTY FILER GROUPS

<u>Category of Filer:</u>	<u>Number of Filers</u>	<u>Percentage</u>
I. Non-filers		
A. Taxpayers were notified of a potential liability through the filing enforcement system, but not yet assessed ¹	12,223	8%
B. Taxpayers did not respond to our notification and were assessed on the FTB Accounts Receivable File through the filing enforcement system ²	34,806	24%
C. Taxpayers had not received a notification through the filing enforcement system	<u>40,140</u>	<u>27%</u>
Total Non-filers	87,169	59%
II. Accounts Receivable		
A. Taxpayers had an A/R balance when they filed	51,905	35%
B. Taxpayers had an A/R balance that was discharged prior to Amnesty	<u>1,806</u>	<u>1%</u>
Total Accounts Receivable	53,711	36%
III. Underreporters		
Taxpayers amending the tax liability on their return	<u>6,124</u>	4%
GRAND TOTAL	147,004 =====	

¹Taxpayers are notified through the filing enforcement system and given the opportunity to respond before a formal assessment is issued.

²Includes taxpayers who had been identified through the filing enforcement system, but who did not meet the criteria for notification.

EXHIBIT V
FTB AMNESTY REVENUE
PERSONAL INCOME TAX (AMOUNTS IN MILLIONS)

	Accounts Receivable			Non - A/R		Total
	No returns required	Returns required	Discharged accounts	Non-filers	Under-reporters	
<u>Collections Under Amnesty</u>						
Net tax & int approved filers	\$54.0	\$25.1	\$.5	\$31.9	\$4.9	\$116.4
denied filers	<u>7.5</u>	<u>12.4</u>	<u>.1</u>	<u>17.5</u>	<u>.1</u>	<u>37.6</u>
Total filers	\$61.5	\$37.5	\$.6	\$49.4	\$5.0	\$154.0
Total Collec- tions Absent <u>Amnesty</u> ¹						
	<u>\$65.3</u>	<u>\$44.6</u>	<u>Ø</u>	<u>\$9.6</u>	<u>Ø</u>	<u>\$119.5</u>
Net Increase/ Decrease in <u>Revenue</u>	<u>\$-3.8</u>	<u>\$-7.1</u>	<u>\$.6</u>	<u>\$39.8</u>	<u>\$5.0</u>	<u>\$ 34.5</u>

Impact on Revenue by Fiscal Year

	A/R amounts	Non - A/R		Dis- charged	Total
		non-filers	underreporters		
1984/85	\$-4.6	\$21.2	\$2.7	\$.3	\$19.6
1985/86	-7.8	16.1	2.1	.3	10.7
1986/87	<u>1.5</u>	<u>2.5</u>	<u>.2</u>	<u>Ø</u>	<u>4.2</u>
Total	<u>\$-10.9</u>	<u>\$39.8</u>	<u>\$5.0</u>	<u>\$.6</u>	<u>\$34.5</u>

Revised April 25, 1986

¹Includes \$24.2 million in penalties that would have been collected, but under Amnesty have been waived.

**EXHIBIT VI
FTB AMNESTY
TOTAL PROGRAM COSTS
1984/85**

Personal Services

Direct Salaries		
Amnesty Unit	\$860,039	
Self Assessment Unit	428,882	
Information Systems	115,450	
Compliance	218,191	
Forms Warehouse	33,416	
Public Affairs	34,769	
Technical Analysis	5,841	
Executive Support	<u>7,640</u>	
Total Direct Salaries		\$1,704,228

Allocated Salaries		
Amnesty Unit Overhead	\$126,538	
Administrative Support	<u>168,804</u>	
Total Allocated Salaries		<u>295,342</u>

Total Salaries		\$1,999,570
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Staff Benefits		<u>571,065</u>
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Total Personal Services		\$2,570,635
		=====

Operating Expense & Equipment

Divisional Allocated	\$ 27,172	
Amnesty Travel	12,956	
Amnesty Overtime Meals	29,836	
Supplies Allocated	31,585	
Minor Equipment	17,496	
Publicity - Non Professional		
Contracts	41,451	
Other General Equipment	159,968	
Printing	157,971	
Postage	190,092	
Communications	177,766	
Facilities	18,630	
Consulting & Professional Service	223,663	
Additional Equipment	<u>41,734</u>	
Total Operating Expense & Equipment		\$1,130,320
		=====

Amnesty Program Cost		\$3,725,424
Less: Board of Equalization Publicity		<u>-279,155</u>
FTB Amnesty Program Costs		\$3,446,269
		=====

EXHIBIT VII
FTB AMNESTY
AMNESTY CONTRACTS

LAW LIBRARY

GOLDEN GATE UNIVERSITY

