

# **OVERVIEW AND INSTRUCTIONS FOR THE OCTOBER 2022 SACRAMENTO DELEGATION**

## **TAXATION SECTION**

### **CALIFORNIA LAWYERS ASSOCIATION**

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## **Sacramento Delegation**

### **California Lawyers Association - Taxation Section**

#### **OVERVIEW**

The purpose of the Sacramento Delegation is to discuss state tax legislation, policy and procedure with California legislative and other appropriate units including legislators and staff members of the Assembly and Senate tax committees, the Legislative Analyst's Office, Legislative Counsel, Franchise Tax Board, Board of Equalization, California Department of Tax and Fee Administration, Employment Development Department, and others. The “Sacramento Delegation” presents suggestions submitted by individual practitioners for changes to California's state and local tax laws, policy, and tax administration in detailed papers that explain the proposal, current law, why change is needed, and suggestions with respect to how the proposed change might be implemented. The views expressed in the papers are clearly represented to all participants as those of the individual authors and do not represent the position of the California Lawyers Association, the Taxation Section, or any of its Committees.

In February 2013, the first such delegation was held with seven papers presented to the aforementioned governmental agencies and groups vested with responsibility for enactment and administration of tax law in the State of California. Based on the positive feedback from this and subsequent Sacramento Delegations, the Sacramento Delegation has become an annual event.

#### **PURPOSE**

Similar to the Washington Delegation, the Sacramento Delegation serves a variety of purposes. The most important function is to make a substantive contribution to the tax laws, regulations, procedures, etc. In fact, a number of proposals offered by our annual Washington Delegations have been adopted in federal tax law, regulations and/or administration.

The Sacramento Delegation can help to familiarize state tax administrators and lawmakers with the experiences and concerns of California taxpayers and tax practitioners. In turn, this increased awareness can enhance the ability of members of the Taxation Section to play a part in tax policy. Additionally, the Delegation can encourage our tax administrators and lawmakers to consider the Taxation Section and its members as an available resource.

The Sacramento Delegation also benefits individual Delegation members by providing valuable insight into how the government functions and the issues that concern those who formulate and administer our state and local tax laws and regulations. It also provides Delegation members with opportunities to develop relationships with government staff members who deal with their areas of practice.

The Sacramento Delegation can also offer an opportunity for the papers to be published in national and state-wide tax journals such as the *California Tax Lawyer*, *Tax Notes*, and/or *State Tax Notes*.

**SCHEDULE AND TAX SECTION CONTACT INFORMATION**

April 2022	Committee Chairs solicit paper (topic) proposals appropriate for the Sacramento Delegation. Also consider testing possible topic interests with appropriate tax officials and the chair of the Taxation Section's State and Local Taxation Committee.
May 27, 2022	Deadline for authors to submit paper proposals to Committee Chairs. Chairs should share with committee members the fact that topic proposals must be approved by the Executive Committee.
May 27, 2022	Deadline for Committee Chairs to submit paper proposals to the Executive Committee.
June 3-6, 2022	Taxation Section Executive Committee to approve proposals; Executive Committee to notify approved authors to begin writing.
August 22, 2022	Authors to submit draft papers to their reviewers for review and edit.
September 5, 2022	Reviewers to provide comments to authors.
September 30, 2022	Final reviewed papers (with executive summaries) submitted to the Executive Committee.
October 7, 2022	Papers mailed to government participants or posted on a website with notification via email.
October 20 (dinner) October 21, 2022	Delegation in Sacramento. Mandatory dinner on October 20th for all participants and organizers. Each participant will provide a 3 – 5 minute practice overview of his or her paper. On October 21st, there will be meetings with individuals from the staffs of the legislative tax committees, Legislative Analyst's Office, Legislative Counsel, FTB, BOE, CDTFA, EDD and others. Late afternoon reception.

Contact and Submission Information:

Executive Committee Liaison	State and Local Taxation Committee Chair
Michael R. Laisné Michael.Laisne@ftb.ca.gov (916) 845-4324	Sarah Fasset sarah.fassett@ftb.ca.gov (916) 845-6568

**COVID-19 SAFETY PRECAUTIONS**

Although the Sacramento Delegation will not occur for months, and the future requirements are unknowable, we want to be proactive and inform our government contacts what steps we are prepared to take to keep everyone safe. It is possible – if not certain – that Delegates will need to provide proof of full vaccination in order to participate in the 2022 Delegation. Participants must follow any required safety precautions.

## REQUIREMENTS FOR TOPIC SUBMISSIONS

Anyone wishing to be considered for participation in the 2022 Sacramento Delegation will be required to submit a written (topic) proposal, approximately 2-3 pages in length. Be sure you are available to be in Sacramento the afternoon and following full day of the event (see schedule for exact dates). The Taxation Section does not cover any participant's expenses.

Each proposal must include the following:

1. An outline of the substance of the proposed topic with appropriate detail of the subject matter to be covered.
2. A discussion of the current law, and the reason for the proposed change, together with an explanation of the proposed change in sufficient detail to permit technical evaluation.
3. A “Problems Addressed” section identifying the problems addressed by the proposal; indicating why the problem is sufficiently important and widespread to merit attention; and stating whether other proposals have been advanced to address the same problem.
4. A “Merits of the Proposal” section, noting the proposal’s advantages and disadvantages for various categories of taxpayers or transactions, both as compared to current law and as compared to other proposals for changing the law.
5. A discussion of any important collateral consequences the proposal may have with respect to other tax laws.
6. An explanation of why the proposal is feasible - politically and economically. In this regard, authors should be cognizant of the restrictions placed on possible tax legislation by Propositions 13 and 26.
7. A statement as to with whom the author has discussed the topic in government, whether it be an individual legislator, a legislative committee staff member, or any California tax agency or legislative committee. If no such contact has been made, also note that.
8. A statement as to whether the author presently or previously has had a matter involving the issue pending before any state or local tax authority (e.g., FTB, EDD, CDTFA, BOE, County Board of Supervisors, Assessor), administrative tribunal or court.
9. A statement as to whether the author has or has had a direct personal or financial interest in the issue addressed in the paper. If yes, include an explanation.
10. The names of two suggested reviewers (neither reviewer can be a member of, employed by, or otherwise associated with the author's company or firm). Be sure these reviewers are able to meet the quick turnaround time in August (see schedule above).

**QUESTIONS AND ISSUES TO CONSIDER  
WHEN PROPOSING, DRAFTING AND REVIEWING  
TOPICS, PROPOSALS AND PAPERS**

The following questions should help you formulate proposals, draft or review papers, and anticipate questions from officials in Sacramento.

1. Why should the government take any action on this issue?
  - What makes it important enough to incur the costs of changing the current rules?
  - Why should action be taken now? Have there been any new developments, such as a new case, a new position by a California tax agency, or economic changes?

2. What are the problems with the current law?
  - How widespread are the problems? On a macro level, possible problems include cost, complexity, administrability and horizontal inequity.
  - On a micro level, for whom or what is the current regime a problem?

Consider both categories of transactions and categories of taxpayers. Be as particular as possible in identifying the problems and reasons for change.

3. What are the advantages of your proposal?
  - Whom would it help and how?
  - If you are carving out a category for special treatment when there are others arguably similarly situated, what justifies the special treatment?
4. What are the disadvantages of your solution? (Ask yourself the questions a government official would ask.)
  - Whom would it hurt? Consider groups other than your own clients; small business vs. large; in-state taxpayers vs. multistate taxpayers; individual taxpayers; fiscal year taxpayers; taxpayers subject to AMT; particular industries; particular transactions. Don't forget the government's interest.
  - Would your proposal open loopholes? How can you guard against abuse and avoid complicating the proposal?
5. What analogies to your proposal exist in the current law?
  - Do they argue in favor of or against your solution?

- Have they been developed for situations and problems that are similar to or different from your problem?
6. Why should action be taken at the level you propose (legislation vs. regulation vs. ruling)?
  7. If you are proposing administrative action, does the FTB, BOE, CDTFA or EDD have the authority?
  8. Are there or have there been other proposals to address the issue already on the table (possibly from other bar groups, the ALI or AICPA, trade associations, academia, or state or federal legislation)?
    - How do they compare to your proposal?
    - What are the advantages and disadvantages of each of those alternatives?
    - If your first choice were to be rejected, do you have an alternative proposal?
  9. Have you discussed the relevant legislative or administrative history?
    - What was the stated purpose for adopting the current rule?
    - Have you thoroughly addressed those concerns?
    - Might there be other, unexpressed (for example, political) reasons for the current law? Does your proposal address these concerns?
  10. What are the collateral consequences of your proposal for other tax laws?
  11. Might your proposal affect laws and rules outside of tax? Why should the problem be addressed through the tax laws?
  12. Is your paper as short as possible? Your paper should be thoughtful and thorough, but to the point.
  13. Do you have an accurate, brief and inviting title for the paper?

## FORMATTING INSTRUCTIONS FOR DELEGATION PAPERS

The following are FORMATTING NOTES for typing the papers. Please endeavor to use Microsoft Word in preparing the paper. It is vitally important that you follow the instructions below so that all papers are uniform when they are transmitted to Sacramento.

All papers must be prepared in strict accordance with the Formatting Notes. Any papers that are not properly formatted will be returned to the author to correct. Recommended page length is no more than 15-20 pages.

Examples of papers from the October 2019 Sacramento Delegation can be found at <https://calawyers.org/section/taxation/sacramento-delegation/> These examples should help you with the following formatting instructions.

### I. Overall document form:

T/B Margin: 1”/0.667” (units of measure: 6/4)

L/R Margin: 1.5”/1” (units of measure: 15/10)

Widow/Orphan: Yes

Justify: Full

TABS: as preset every 0.5”

Spacing: Single; 2 Hard Return between paragraphs

Font: Times New Roman (Scalable) 14 pt. (except footnotes – see “Footnotes:” below – and “Page Numbering” - see below)

Page Numbering: Begin with page “1”, but suppress printing page number on first page only. Use Times New Roman (Scalable) 12 pt. Center at bottom margin (.667”). Do not put dashes before and after the number.

Footnotes: Font: Times New Roman (Scalable) 10 Pt.

Note: If your footnote has to be split into two pages, please make sure you have “Continued” message on the second page of such footnote. In Microsoft Word, make sure that you are in normal view mode. Click “View,” then “Footnotes,” then “All Footnotes,” then “Footnote Continuation Notice,” and then type the text.

Footnotes #1 and #2 (appear on first page of proposal paper) are identical on all papers. The footnotes should read as follows:

1. The comments contained in this paper are the individual views of the author(s) who prepared them, and do not represent the position of the State Bar of California or of the Taxation Section. [this footnote must be in bold print]



