

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date

August 21,
2019

2. Department

Franchise Tax Board

3. Organizational Placement (Division/Branch/Office Name)

Audit Division/Technical Resource and Services Bureau

4. CEA Position Title

Technical Resource Technical Audit Policy Advisor

5. Summary of proposed position description and how it relates to the program's mission or purpose. (2-3 sentences)

The proposed CEA A(CEA) classification will serve as the Audit, Technical Audit Policy Advisor (TAPA) within the Technical Resource and Services Bureau (TRSB). In this position, the incumbent will serve as the highest level expert, key policy advisor and technical resource in identifying and developing policy to ascertain the true meaning of the statute and fairly administer the California Revenue & Taxation Code, as it pertains to the most complex organizational structures or the most complex tax considerations, such as new law changes at the federal and state levels resulting in conformity matters.

6. Reports to: (Class Title/Level)

Technical Resource and Services Bureau Director / CEA B

7. Relationship with Department Director (Select one)

- Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain): This position is not in a supervisory role, but would be utilized as a technical and policy expert and policy key advisor.

8. Organizational Level (Select one)

- 1st 2nd 3rd 4th 5th (mega departments only - 17,001+ allocated positions)

B. SUMMARY OF REQUEST

9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

The primary function of the Franchise Tax Board is to administer the California Revenue and Taxation Code. It is our duty to correctly apply the laws as enacted; to determine the reasonable meaning of the various tax code provisions; and, to perform in a fair and impartial manner. Interpretation of the tax code is the heart of our duty, as well as the application of the tax code to tax returns as filed, in order to ensure the true meaning of the statutory provisions are being followed. We take this duty seriously, while ensuring we do not adopt a strained construction in the belief we are protecting the revenue. The revenue is properly protected only when the true meaning of the statute is ascertained and applied.

The TRS Specialist will serve as the Technical Audit Policy Advisor (TAPA) within the Technical Resource and Services (TRS) Bureau. TRS Bureau is responsible for providing Audit staff and management (approximately 1150 employees) with technical service and support for conducting effective, sustainable audits. This specialized guidance is also shared throughout the enterprise and to external stakeholders to ensure consistency, accuracy and fairness. In this position, the incumbent will serve as the highest level expert, key policy advisor and technical resource in identifying and developing policy to ascertain the true meaning of the statute and fairly administer the California Revenue & Taxation Code, as it pertains to the most complex organizational structures or the most complex tax considerations, such as new law changes at the federal and state levels resulting in conformity matters.

The Specialist will provide expert consultation and advice to the Director, TRS Bureau; Chief, Audit Division; FTB Executive Officer; Chief Counsel; and Legal and Audit Division staff. The Specialist will also provide consultation and analysis to FTB's Legislative Bureau Director, to ensure proposed and existing law is clear, comprehensive, and administratively operative. The Specialist will represent the department on various committees with external interest, including the Internal Revenue Service, Federation of Tax Administrators, other states' taxing authorities, and other multi-state taxing organizations. In addition, the Specialist will represent FTB at FTB Board Meetings, Advisory Board Meetings and other public forums. The Specialist will share information, ideas, strategies, and tax policies with the Internal Revenue Service and any other countries' and states' tax agencies or organizations. The Specialist will also act as an advisor on the most complex audits and issues within the Audit Division and train and develop staff, including developing and implementing technical development programs. This program supports the strategic goal of a strong organization; ensuring technical staff can meet the demands of increasingly complex tax law.

Additional workloads include drafting tax legislation, regulations and rulings, facilitating technical symposiums, evaluating impacts of law changes or external trends, and working with industry groups to implement tax policy. As tax laws continually change and business transactions become more sophisticated, there is a growing need for additional program expertise with more extensive and complex knowledge of business and evolving accounting practices. The Specialist will determine the most effective communication channels for distributing information with affected internal and external stakeholders.

B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: Franchise Tax Board's Mission

"Our mission is to provide the services and information to help taxpayers file accurate and timely tax returns and pay the proper amount owed. To accomplish this mission, we develop knowledgeable and engaged employees, administer and enforce the law with fairness and integrity, and responsibly manage the resources allocated to us."

The proposed TRS Specialist is critical to the department's mission to provide the services and information to help taxpayers file accurate and timely tax returns and pay the proper amount owed. To accomplish this mission, we need an expert knowledgeable in a broad range of individual, pass through entity, and corporate multi-state and international tax principles. The incumbent must possess a profound understanding of not only California income tax laws, but of other jurisdictions, as well. The Specialist would also develop engaged employees, administer and enforce the law with fairness and integrity, and collaborate with external stakeholders. The Specialist will effectively direct and facilitate the development and implementation of tax laws and policies in today's sophisticated environment. This will require outstanding leadership and communication skills in interacting with the taxpayer community, other taxing agencies, and the country's leading authorities on state taxation.

B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

Over the last decade, tax planning has become an integral part in today's business environment. The result has been a stepped up level of sophistication of state tax planners and a corresponding increase in the complexity of state tax issues. Concurrently, the manner in which taxpayers transact business has been rapidly changing as new technologies open doors of opportunities. The globalization of business and the explosion of business transacted electronically have transformed the fundamental structures of income production. This has created a fluid environment where long-established tax principles are being challenged.

To succeed in its duty to fairly administer the California Revenue & Taxation Code, the FTB must be proactive in responding to the changing business environment. In being proactive, the department has identified the need for more clarification of existing law through regulations, legal rulings and FTB notices. In addition, taxpayers are more engaging than they have been in the past, and the opportunities to build consensus between the FTB and taxpayers are expanding with the use of Interested Parties Meetings and other public forums. This requires additional skill sets to interact at a high level with the Legislature, other taxing agencies, the taxpayer community and the country's leading authorities on state taxation.

The TRS Specialist is critical to developing and implementing Best Audit Practices, developing and training staff and meeting the department's needs as an enterprise. Currently this work is done by several different Program Specialist III members and is spread throughout the bureau. There is now a need to have one specific person work all the high priority new policy workloads. The previous workloads were always policy driven, but with the implementation of several new high profile workloads/laws (for example federal conformity under Assembly Bill 91, Cannabis laws and framework, CA Competes credit adoption and subsequent modification and expansion) there is a need for a specialist who can be a consistent presence, maintain a global/enterprise perspective and handle the communication with both internal and external partners with diplomacy and in a manner that anticipates and mitigates any relating risks related to the technical, procedural and policy impacts of these laws. As examples, Best Audit Practices and audit policy development that require immediate attention are the following:

Cannabis Laws

Landmark changes relating to cannabis laws in 2016 and 2017 under Proposition 64 and Senate Bill 94 have created a new industry that needs tools, sound policies and guidance due to limited familiarity with business income taxation. As a result, the incumbent will develop an education and compliance strategy that aligns the audit policies/practices for cannabis businesses with the department's overall strategic goal of Effective Compliance and principle of fair tax administration for both the licensed and unlicensed markets. The Specialist will ensure consistency in audit policies and assist taxpayers on the implementation of these new, highly public laws. Proposed or adopted cannabis laws are in a constant state of flux at both the federal and state levels as legislators continue to address challenges such as banking and permissible tax deductions or other economic and regulatory policies affecting the cannabis industry throughout the nation. The Specialist will need to continually monitor these state, federal, and nationwide trends for any impacts as well as ensuring the internal operations within the department and published policies, training and guidance are adjusted as needed. The Specialist will ensure the constant changes at the federal and state level related to the banking challenges that are specific to these taxpayers are timely adjusted and communicated. To accomplish this, it requires an extensive knowledge of the emerging industry and related risks or trends, including knowledge of the multitude of cannabis laws within different jurisdictions within the state of California.

New Programs

As legislation proposes programs and policies that may be housed under FTB's jurisdiction, there is a need for the development of sound policies that consider all aspects of the unique legislation and broad impacts. The Specialist will participate as early as inception through the actual law enactment where audit's input is critical, requiring extensive technical, procedural, and problem-solving expertise to accurately evaluate, prepare for and address impacts. The proposed law provisions often involve economic programs that are highly monitored by the public, press or legislature.

Federal Conformity

The Tax Cuts and Jobs Acts (TCJA) (2017) and Assembly Bill 91 (2019) created a heightened level of uncertainty for taxpayers, especially as related to California law and conformity. This major tax legislation contains numerous facets affecting individuals, businesses, and complex multi-tiered entities. TCJA's new array of laws has resulted in a complexity as to which law taxpayers are subject to for which specified dates. As the new laws are implemented in practice at the federal and state level, the Specialist will address impacts and ensure guidance to staff and California taxpayers are consistent with the intent of the significant laws.

Data Considerations

As technology evolves at an exponential rate and new data sources are created, made available or required as part of new legislation, governance related to the effective use of data within an audit environment is paramount. Systems requirements may need to be developed with innovation and adaptability for rapid technological evolution. Governance models and policies will be needed to ensure the integrity of taxpayer privacy and security when new data sources arise. Vetting and communicating these policies in an effective manner will be a high priority, along with optimal data utilization in audit.

C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

The proposed Specialist will serve as an expert level advisor to the TRS Bureau Director and Audit Division Chief on policy issues related to the most complex individual and business entity tax law matters, including pass through entities or apportioning corporations. There are a wide range of subject matters in this bureau that have significant revenue implications for the State of California. The Technical Audit Policy Advisor (TAPA) will serve as principal policy advisor in a variety of controversial and sensitive policies.

1. Developing policy in groundbreaking areas

Recently, the Legislature has proposed or passed tax or other legislation that has highly unique characteristics, often requiring the research and development of groundbreaking policies. One example has been the implementation of recent cannabis laws that have created a new landscape in California and heightened interest among the public/government at both the state and federal levels. The incumbent would communicate with internal and external stakeholders to ensure consistent policies and will inform the Division on current statewide of federal practices in this arena. The development of sound policies addressing multiple factors and perspectives is paramount to the success of these programs. The incumbent will collaborate with highest level government officials to develop policies and other trends. Another example is the California Competes credit, which has recently been extended for several years resulting in additional contract awards requiring review. The incumbent will work closely with the Governor's Office of Economic and Business Development to ensure the policies and practices represent the intended program goals.

As proposed legislation introduces brand new concepts or workloads, similar to those mentioned, incumbent will also review proposed legislation for potential impacts and costs to the Audit Programs and make recommendations to our Legislative Bureau. Due to the lack of precedent in many of these concepts, the incumbent will holistically consider the technical, political and workload impacts of such proposals. Incumbent will review tax positions, case law, and legislative intent to determine the true meaning of the statutory provisions and calculate the impacts to the Audit programs and the state general fund. This includes staying abreast of federal and other state tax cases, California Office of Tax Appeals decisions, regulation projects, new or proposed legislations at the IRS or state levels, and current audit policies. Based on the interpretations and understanding, the incumbent will be expected to recommend a course of action impacting the audit workloads, policies or practices.

2. Collaboration with stakeholders to identify barriers to compliance and propose solutions:

Based on input from our internal and external stakeholders, the incumbent will share and exchange information, ideas, strategies, and tax policies with overseers, other states and government organizations to promote transparency and ensure the true meaning of the statutory provisions are considered. Certain tax issues such as complex tax credits can cause challenges for taxpayers to comply with their income tax obligations, even when well-intended. The incumbent will work directly with the taxpayer or tax representative community to identify potential barriers and design proposed solutions and policies to address these barriers. The incumbent will then oversee the implementation of those solutions/policies within the Division. In addition, the incumbent will lead or oversee Interested Parties Meetings, seek feedback at various public forums, and provide updates to the FTB and FTB Board members with diplomacy. These efforts will have a positive impact on our critical relationships with our stakeholders nationwide.

3. Oversee new comprehensive development model

As workforce changes occur, having a development program to effectively mitigate these effects of these fluctuations by retaining highly valuable institutional and technical knowledge is essential to our programs. The incumbent will develop governance and workforce policies on the division's new development program to align with the department's strategic goals. Incumbent will oversee the creation of an innovative platform and policies for the program as well as ensuring the program/policies are nimble enough to adapt to ever-evolving external and technological environments. As tax laws change and as tax positions become increasingly complex, our intermediate and advanced level staff require a forum to discuss, share and apply a consistent interpretation of the tax laws to their sophisticated fact patterns. The incumbent will oversee the forum to help flesh out areas open to a wide interpretation, develop a training curriculum, and educate our intermediate/advanced staff on these unique and complex tax matters. In addition, the incumbent will identify opportunities and programs to develop a knowledge base of common industries we encounter, such as oil and gas, pharmaceutical or research industries. Understanding these industries is expected to bring a higher level of quality on audit findings and potentially stronger, supportable cases through the administrative process.

4. Representing FTB in public-facing forums:

The incumbent will represent the department in a variety of forums, including those where a large portion of the public is represented or other in partnership with other agencies on high profile or complex technical matters. The incumbent will use diplomacy and finesse to develop or further valuable relationships. The incumbent will oversee and monitor any action items arising from these forums, thus positively affecting credibility of the organization. Often this individual may be the sole department representative in the external-facing forum. As such, the incumbent will display professionalism, technical expertise, and executive level communication.

C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position's scope and nature of decision-making authority?

The TRS Specialist will serve as the Audit Division's expert level advisor to the TRS Bureau Director, Audit management, and staff on complex individual and business entity tax issues arising under the California Franchise Corporation and Income Tax Law. This position will be responsible for directly impacting the formulation of tax law policies, strategic decision-making, program effectiveness and the quality of services provided to the public. The incumbent will work with the senior management team by providing strategic policy advice that ultimately should have a profound impact on the department's operations. The incumbent will evaluate and determine the impact of the department's most complex individual and business entity tax positions, providing information and recommendations to the Audit Division management team for use in formulating major policy decisions and establishing the division's strategic direction.

The Specialist will identify trends and issues affecting the department, and will recommend studies and/or develop solutions to address those issues, and prepare recommendations to department senior management. The incumbent will provide recommendations for proposed legislation, regulations, FTB Notices and legal rulings- and assist in getting these items through the adoption process.

The Specialist will make recommendations on precedent-setting issues on specific cases to ensure that outcomes are consistent with program-wide objectives. In resolving these issues, the incumbent will serve as liaison with taxpayers and tax practitioners on the most complex tax law issues and questions. This complexity is determined by many factors including the:

- type of taxpayer/entity;
- size of entity (such as large multi-state/multinational corporation versus closely-held corporation, or multi-tiered partnership versus sole proprietorship);
- issues involved, such as offshore financial transactions, derivatives, and all forms of sophisticated tax sheltering devices; multiple layered and tiered pass-through entities and all forms of complex flow through transactions;
- type of industry, such as technology, telecommunication, oil & gas, financial; and
- sensitivity of the audit, including precedent setting issues or pending legislation.
- federal and state conformity matters under new or evolving federal programs.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

The proposed TRS Specialist will play a critical role in developing, implementing, and interpreting new and existing policies. The CEA will consult with the Bureau Director and Division Chief in the recommendation, development, and implementation of policies, standards, processes, and procedures as it relates to the Audit Division's strategic goals and mission.

The incumbent will be the highest-level technical expert and key policy advisor within the Technical Resource and Services Bureau, which serves the National Business and Individual and Pass-through Entity programs and other programs within the department or, in some cases, partners with other state agencies. The incumbent will analyze and provide information and make recommendations regarding issues in which no departmental policy has been established. In addition, incumbent will review resolutions of protests, appeals, litigation cases and claims in order to provide management with an opinion concerning future application of the resolutions. The incumbent will also review large or sensitive audits, make recommendations, and resolve conflicts in interpretation of the law.