California Specific Tax Rep Training

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Carlos Samaniego, EA

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YouTube Channel

- https://www.youtube.com/@TaxRepNetwork
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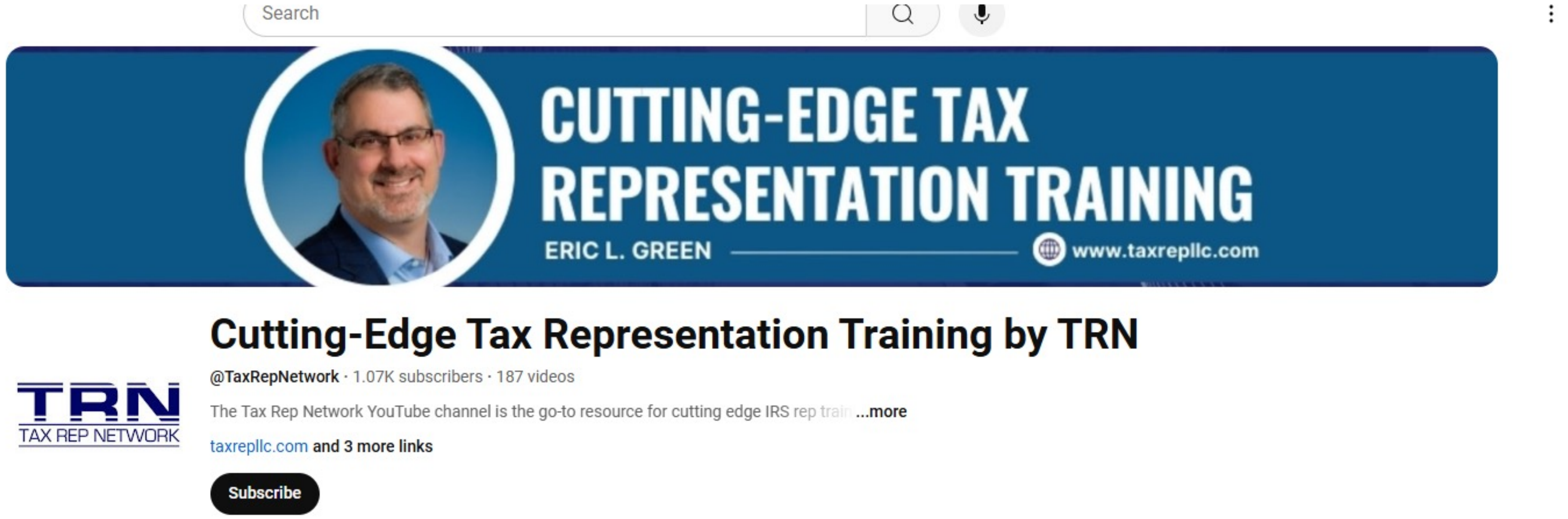

12th Annual IRS Rep Conference

https://taxrepllc.com/20251119-foxwoods/

Agenda

- CA HORROR STORIES (FTB, EDD, CDTFA) – WHEN THEY GO ROGUE!
- HOW CALIFORNIA AUDIT TRIGGERS ARE CHANGING
- UNDERSTANDING CA TAX NOTICES IRS vs FTB
- DEALING WITH FTB COLLECTIONS

Leighanne Lafrenz Nickle, CPA

- Leighanne is a California licensed CPA with a forensic accounting and tax practice in Rancho Cucamonga, California.
- Leighanne has over 20 years working in both public accounting and private industry. She owns and operates a California CPA firm, where the focus of her practice is representing taxpayers before the Internal Revenue Service, California Franchise Tax Board, the California Department of Tax and Fee (CDTFA), the California Employment Development Department (EDD), and California Child Support offices in Orange County, CA.
- In addition, she has served as an expert witness for civil and criminal court proceedings regarding forensic accounting, tax, payroll issues, and child support payments.
- Leighanne is currently on the Committee on Tax (COT) with CalCPA (California CPA). As a member of the COT, she works directly with the California Franchise Tax Board (FTB) on tax matters and acts as a liaison between the local and state chapter and the California Franchise Tax Board.
- Fun Facts about Leighanne….

Carlos Samaniego, EA

- Mr. Samaniego, is a renowned tax professional, bestselling author, and mentor. With an illustrious career, he's empowered fellow experts nationwide, receiving the 2020 Tax Professional of the Year Award.
- Carlos co-authored the Amazon bestseller "Never Give Up: Stories of Grit, Determination, Tenacity and Triumph," showcasing his influence in the industry. He's been featured on NBC, CBS, ABC, USA Today, and radio stations, sharing valuable tax insights. An EXPY awardee, Carlos's impact extends to Hollywood Live and an upcoming PBS documentary. His authored works, including "How to Make The IRS An Offer They Can't Refuse," provide practical advice for navigating tax challenges.
- Committed to family, he's a devoted husband and proud father. Carlos also advocates for animal rescue, reflecting his compassionate spirit.
- Fun Facts about Carlos…

Housekeeping

- This is a three-hour program – CPAs and EAs can get credit
- If you miss any they are all being recorded and you will receive links to the recording to watch
- Any issues, contact our support folks at team@taxrepllc.com

CA HORROR STORIES!!!

FTB, EDD, CDTFA…

The trifecta of sadness….

They all want their piece of the pie…

What happens when you pushback…

Horror stories await….

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CA HORROR STORIES!!!It all started with the CDTFA…

How does California Sales Tax Work?

- It all starts with the California Department of Tax & Fee (CDTFA)
- Taxpayer is required to collect sales tax at the time of sale (POS) – Trust Fund taxes same as Payroll Taxes, individual can be liable
- ALL SALES are taxable unless specifically exempted
- Exemptions MUST be supported by documentation (reseller's permit)
- CA Sales tax is 7.25% (Base Rate)
- District Tax in addition to base rate (.05, .25, .75 etc)

CDTFA (con't)

Common CA Sales Tax Audit Triggers

- Failure to report sales tax and file (DUH!) At least file!
- Reporting or filing late (all the time!)
- High exempt sales or nontaxable deductions taken (resale, freight out, **nontaxable labor** – this is a biggie)
- Guilty by association! (WHAT?!?!) One of your vendors being audited (Extortion much?)
- Guilty by association – Industry itself has known fraud and compliance issues (more Extortion!)

CDTFA (con't)

Common Problems in CA Sales Tax Audits

- When the numbers DO NOT MATCH!! **(NO!!!!!)**
- Sales Tax returns DO NOT MATCH Federal Income Tax Returns
- Remember exempt sales? Exempt from sales tax but not income tax! Must be included in gross income for income tax purposes.

FIX THE PROBLEM BEFORE THE AUDIT!

CA EMPLOYMENT DEVELOPMENT DEPARTMENT

The Payroll Police!!

- Remit all payroll taxes (Trust Fund)
- State tax withholding (EE)
- State Disability (EE)
- Unemployment (ER)
- Employment Training Tax (ER)

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EDD HAS GONE ROGUE…

Employment Development Department (aka "The Mob")

- Non-Profit payroll audit – everyone is an employee!!
- Partnership return audit – ended with a refund **#WINNING**
- Their newest tactic – Owner Compensation
- Latest client – NO PAYROLL???

EDD (con't)

Guys, they are getting desperate and aggressive…

- S-Corp owners with no payroll (I have personally received numerous audit cases on this withing the last 2 months)
- Misclassified workers **(THEY LOVE THIS) – AB5**
- Inconsistent reporting across forms
  - 1099s
  - W-2s

EDD (con't)

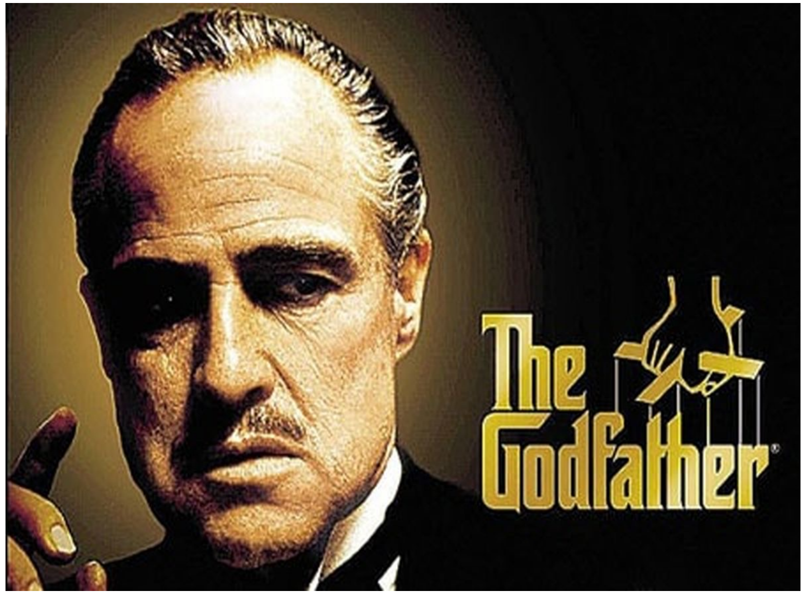
If something was reported to the IRS and you didn't match it, your return is flagged – even if it was a genuine mistake…

- **ALWAYS RECONCILE** what has been reported to the IRS!
- CA is lazy!
- Pull transcripts from IRS
- CA relies on IRS to do their dirty work!
- Payroll is where most mistakes happen

CA FRANCHISE TAX BOARD

“THE DON”

- Collection Enforcement
  1. FTB
  2. Secretary of State (SOS)



LLC Gross Receipts Tax

FTB
EST 1929

FTB (con't)

The CA FTB LOVES to create SFR's!!

(substitute for return)

- 20-year collection statute
- 4-year open tax years

Have a license with the Consumer of Business Affairs? No tax return? No problem! They will create one for you!

Got mortgage? No return? FTB to the rescue!

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CA Audit Triggers: How They Are Changing

"Old Rules" set biz owners up for failure!!

- CA started using integrated IRS/FTB data streams
- New AI algorithms
- Using industry red flag lists…sounds like a shakedown!!!
- Owner S-Corp Compensation – **RC REPORTS!**

CA Audit Triggers

"RED FLAG" Alert: Penalty Patterns in FTB Notices for 2025"

- Biggest myth in 2025 is that the IRS or FTB won't "notice' a little mistake on a small business return.
- Penalties are STEEP…and unforgiving…
- **RED FLAG trap**: Most penalties are not due to fraud. Owners think they will "fly under the radar."

CA Audit Triggers

Latest and greatest new RED FLAG triggers…

- Unusual year over year swings
- Missing FTB payments
- No reasonable comp!
- Repeated bookkeeping errors
- Disallowed deductions & related party transactions

CA Audit Triggers

Audit Risk in California — What Triggers It, and How to Avoid It

An audit doesn't happen randomly. Both the IRS and FTB use risk-scoring systems to flag tax returns with red flags, inconsistencies, or unusual activity—especially for business owners and real estate investors. This is key to know when it comes to California tax notice audit defense.

If you're in California, your risk is even higher due to:

- High income levels
- Complex deductions
- Dual-agency oversight (IRS + FTB)

CA Audit Triggers

To Conform or not to conform!

Key Points on FTB Conformity to IRS:

- California periodically updates its conformity to federal tax laws through legislation. The most recent conformity updates are detailed in specific California statutes and publications. For example, California may conform to certain provisions of the Internal Revenue Code (IRC) as of a specific date but may exclude or modify others.
- CA FORM SCH CA…**HUGE AUDIT TRIGGER**

CA Audit Triggers - Non-Conformity

California does not conform to all federal tax provisions.

- California does not conform to federal bonus depreciation rules.
- The state has its own rules for net operating losses (NOLs) and does not fully align with federal NOL carryback or carryforward provisions.
- California does not conform to the federal Qualified Business Income (QBI) deduction under IRC Section 199A.
- Separate Forms and Calculations:
- Taxpayers must often make adjustments on their California tax returns to account for differences between federal and state tax laws. For example, California uses its own forms, such as Form 540 for individual income tax returns, which require adjustments for non-conforming items (SCH CA)

AGAIN, NON-CONFORMITY = HUGE AUDIT TRIGGER

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Be Proactive!! Nothing is "audit risk free."

- Document Reasonable Compensation – use RC Reports!
- Automate FTB and estimated payments – Entities & LLCs (SMLLC) Fees!
- Keep written board minutes for S-Corps and significant LLC Actions
- Contemporaneous records and bookkeeping
- Digitize and automate support documents – Tech Stack

CA Tax Notices & Audit Defense

Most common FTB Notices

- Demand for tax return
- Notice of proposed assessment (NPA)
- Underpayment or estimated penalty notice
- Request for supporting documents
- Franchise tax nonpayment notice

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FTB COLLECTIONS

The FTB has been known to “strong-arm” state residents. But people do fight back and win.

The repercussions of an unpaid balance due to the California Franchise Tax Board (FTB) can be severe, especially for an individual and small business owner. The law allows the FTB to pursue payment of tax debts aggressively through several involuntary collection actions.

Carlos to educate us more….

Questions?

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