The Newsletter
FAUCHER LAW
TAX & BANKRUPTCY

Tax Agency Outing of Delinquent Taxpayers: A Look at the California

Franchise Tax Board's "Most Wanted" List

California's Franchise Tax Board (FTB) publishes a Most Wanted List of delinquent taxpayers on its website for both indivuals (https://www.ftb.ca.gov/about-ftb/newsroom/top-500-past-due-balances/personal-income-tax-list.html) and corporations (https://www.ftb.ca.gov/about-ftb/newsroom/top-500-past-due-balances/corporate-income-tax-list.html). The list includes the taxpayer's name, address and amount owed. To qualify, a taxpayer must owe the FTB at least $100,000. I guess simply owing $99,000 is insufficient to merit placement on the list and the free "publicity" that comes with it. The list is updated twice annually, or whenever a taxpayer on the list has paid up and their name comes off.

Purpose of List. **The California State Legislature ordered the FTB to publish the names of the 500 biggest tax cheats in 2011, believing public shaming induces people to pay up.** Does this tactic increase tax compliance? After all, the IRS doesn't publish a *Most Wanted List*, preferring to use "carrots" to get taxpayers to pay back taxes, rather than "sticks". Their reasoning is that antagonizing taxpayers reduces their legitimacy.

Problems with FTB's List. Look at the FTB's *Notice of Public Disclosure of Tax Delinquency* on page 2. The story behind it is also why I don't think the Most Wanted list helps compliance. My small business owner client was making Installment Plan payments for almost a year when his business conditions shifted, causing cashflow to decline. He missed two monthly payments while I renegotiated the payment amount based on his new circumstances. **We did everything required**: submitted a new FTB Form 1140 *Collection Information Statement*, supporting documentation showing the amount he could afford, and immediately made the new, lower payments that the FTB Collections Agent had approved. **And *then* he got this Notice!** Huh? Turns out, the FTB Collections Agent didn't tell the FTB's *Most Wanted* division that my client was back in compliance!

John and I are in our In-Boxes, waiting to get started on your matter. **Call us!**

Here's a guy who was doing his best to pay taxes owed: he was in an Installment Agreement, immediately worked with the FTB when he could no longer afford the initial payment, and then paid the new amount on time. What constructive purpose was served by threatening to put him on the Most Wanted list? Maybe the California Legislature needs to write inter-agency communication policy into the California Tax Code, because the FTB isn't figuring it out on their own.

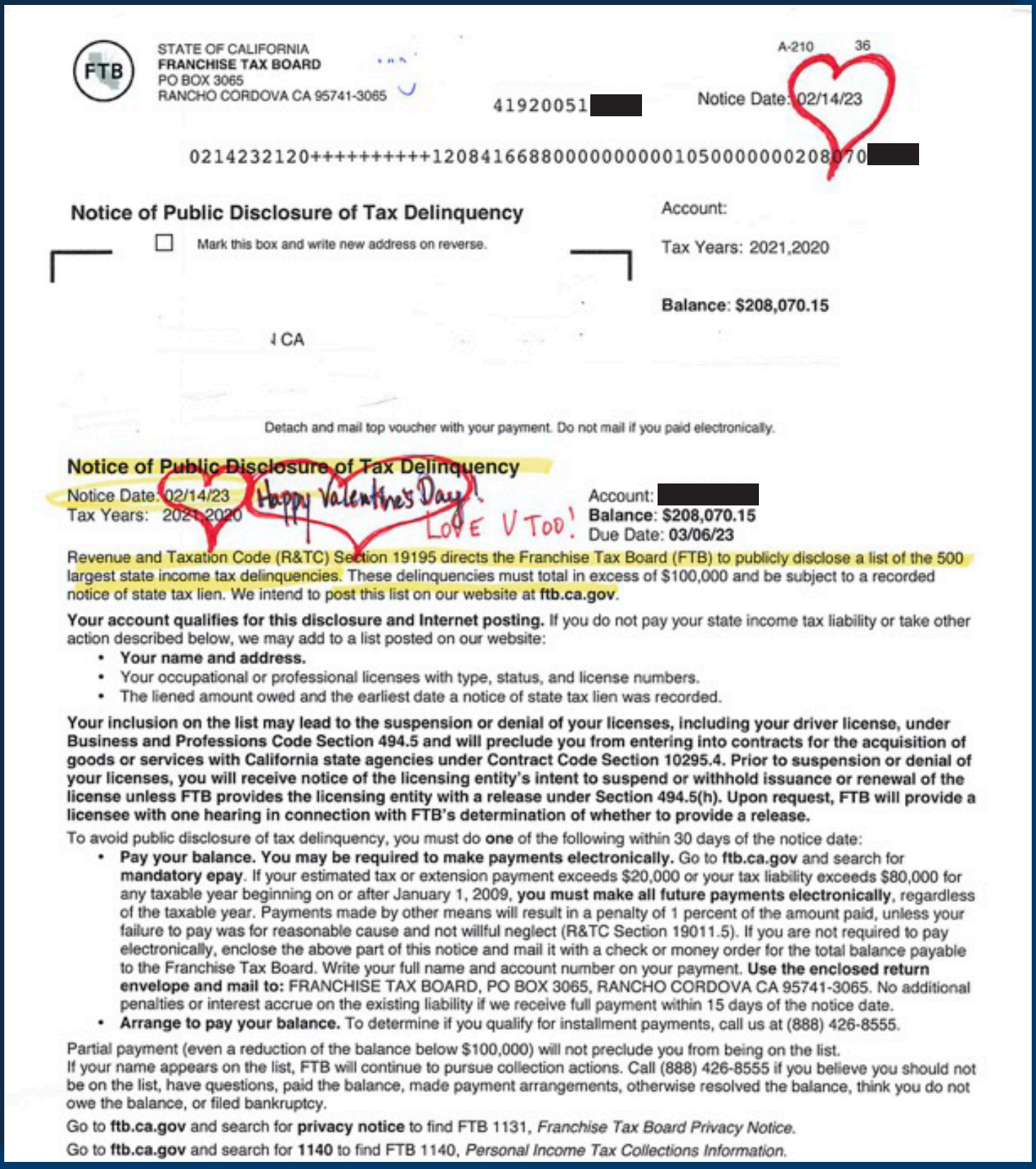
FTB's Unreasonable, "Nuclear" Response. **The FTB gives taxpayers 30 days to avoid being placed on the list: that's a short period of time, particularly when it routinely takes hours on hold to reach an FTB agent, and weeks to get an Installment Agreement approved.** The *Notice of Public Disclosure of Tax Delinquency* was the first notice my client received, almost three months after he first failed to make payments. It makes no sense for the FTB to need 90 days to send a notice but expect taxpayers to come into compliance in 30 days. And what's the rush? Doesn't the FTB want to do everything in its power to get Californians to comply? What if someone was ill? Or traveling? Thirty days is an unreasonable time frame for a taxpayer response. What the FTB *should* have done is sent a *Notice of Delinquency* or a *Notice of Proposed Tax Levy* first. **Threatening my client with the Most Wanted Listed first, especially when my client HAD BEEN IN AN INSTALLMENT AGREEMENT is a nuclear response.** How does the FTB gain from this? I like the FTB less now and my client positively loathes them now. **Has the FTB Threatened to Place *You* (or your client) On Its *Most Wanted List*? Call Me!**

INSIDE STORIES

- An FTB "Valentine"
- No-Churn Ice Cream Recipe
- Sebastian visits the Wild West

This Is What You'll Receive When the FTB Is About To Put You On It's Most Wanted List...

Here's what the FTB sent my client. Reason? He missed two Installment Plan payments while I was renegotiating the monthly amount with the FTB. It took that long because they FTB wouldn't pick up the phone without wait times of over an hour and, when I got through, the FTB Agent dragged his heels. By the time my client received this Notice, he already made the new, lower payments! In other words, he was fully compliant! C'mon, FTB! What good purpose does a Notice like this serve?



STATE OF CALIFORNIA
FRANCHISE TAX BOARD
PO BOX 3065
RANCHO CORDOVA CA 95741-3065

A-210 36

41920051[redacted] Notice Date: 02/14/23

0214232120++++++++++120841668800000000001050000000208070[redacted]

Notice of Public Disclosure of Tax Delinquency

☐ Mark this box and write new address on reverse.

Account:

Tax Years: 2021,2020

Balance: $208,070.15

CA

Detach and mail top voucher with your payment. Do not mail if you paid electronically.

Notice of Public Disclosure of Tax Delinquency

Notice Date: 02/14/23
Tax Years: 2021,2020

Happy Valentine's Day! LOVE U TOO!

Account: [redacted]
Balance: $208,070.15
Due Date: **03/06/23**

Revenue and Taxation Code (R&TC) Section 19195 directs the Franchise Tax Board (FTB) to publicly disclose a list of the 500 largest state income tax delinquencies. These delinquencies must total in excess of $100,000 and be subject to a recorded notice of state tax lien. We intend to post this list on our website at **ftb.ca.gov**.

Your account qualifies for this disclosure and Internet posting. If you do not pay your state income tax liability or take other action described below, we may add to a list posted on our website:

- **Your name and address.**
- Your occupational or professional licenses with type, status, and license numbers.
- The liened amount owed and the earliest date a notice of state tax lien was recorded.

Your inclusion on the list may lead to the suspension or denial of your licenses, including your driver license, under Business and Professions Code Section 494.5 and will preclude you from entering into contracts for the acquisition of goods or services with California state agencies under Contract Code Section 10295.4. Prior to suspension or denial of your licenses, you will receive notice of the licensing entity's intent to suspend or withhold issuance or renewal of the license unless FTB provides the licensing entity with a release under Section 494.5(h). Upon request, FTB will provide a licensee with one hearing in connection with FTB's determination of whether to provide a release.

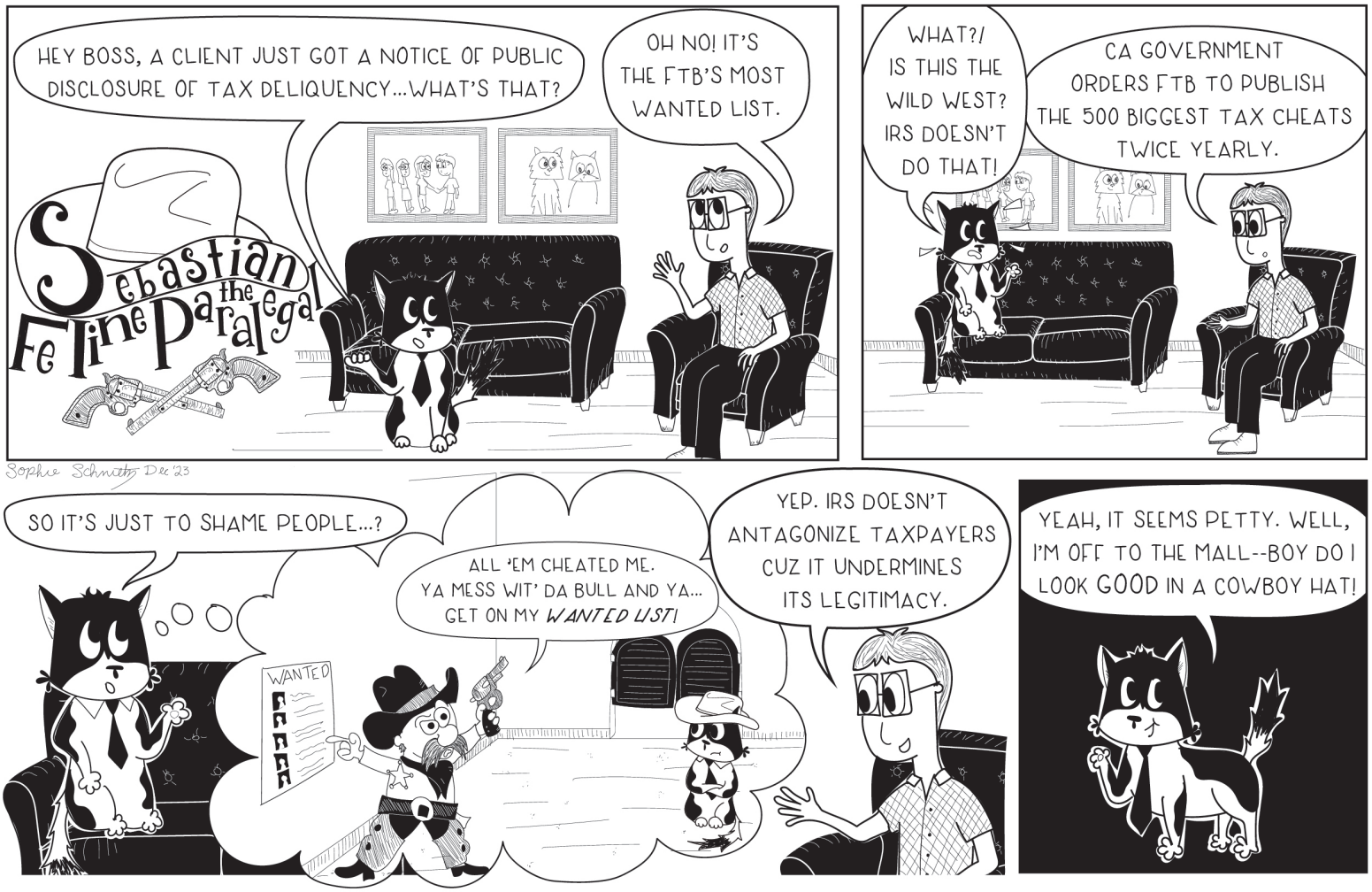
To avoid public disclosure of tax delinquency, you must do **one** of the following within 30 days of the notice date:

- **Pay your balance. You may be required to make payments electronically.** Go to **ftb.ca.gov** and search for **mandatory epay**. If your estimated tax or extension payment exceeds $20,000 or your tax liability exceeds $80,000 for any taxable year beginning on or after January 1, 2009, **you must make all future payments electronically**, regardless of the taxable year. Payments made by other means will result in a penalty of 1 percent of the amount paid, unless your failure to pay was for reasonable cause and not willful neglect (R&TC Section 19011.5). If you are not required to pay electronically, enclose the above part of this notice and mail it with a check or money order for the total balance payable to the Franchise Tax Board. Write your full name and account number on your payment. **Use the enclosed return envelope and mail to:** FRANCHISE TAX BOARD, PO BOX 3065, RANCHO CORDOVA CA 95741-3065. No additional penalties or interest accrue on the existing liability if we receive full payment within 15 days of the notice date.
- **Arrange to pay your balance.** To determine if you qualify for installment payments, call us at (888) 426-8555.

Partial payment (even a reduction of the balance below $100,000) will not preclude you from being on the list.
If your name appears on the list, FTB will continue to pursue collection actions. Call (888) 426-8555 if you believe you should not be on the list, have questions, paid the balance, made payment arrangements, otherwise resolved the balance, think you do not owe the balance, or filed bankruptcy.

Go to **ftb.ca.gov** and search for **privacy notice** to find FTB 1131, *Franchise Tax Board Privacy Notice.*

Go to **ftb.ca.gov** and search for **1140** to find FTB 1140, *Personal Income Tax Collections Information.*



No-Churn Peanut Butter Ice Cream

Anyone who knows me, knows I have a HUGE sweet tooth. This easy ice cream recipe comes together in under 20 minutes; if you throw the ingredients together in the afternoon, you'll be enjoying a cold, sweet treat by the end of dinner. With all vegan ingredients and maple syrup as the sweetener, this is an ice cream that makes me like I can go back for seconds! Make sure you use real maple syrup. I suggest you try to find the highest thickness of oat milk you can, to best replicate the consistency of cream.

¾ cup maple syrup	1 cup peanut butter
2 cups oat milk	Pinch of salt
¼ teaspoon cinnamon	1 teaspoon vanilla extract

Instructions:

- In a saucepan over medium-low heat, allow the syrup to simmer until it's reduced by 1/3 to a ½; after simmering, the syrup should measure between 1/3 and a ½ cup. Let the syrup cool completely before continuing.
- Place all ingredients into a food processor (or use an immersion blender) and blend until fully smooth (if you like a bit of crunch, you can use chunky peanut butter and blend only until all ingredients are combined).
- Pour the blended concoction into your freezer-safe container of choice (make sure you choose a container with a well-fitting lid). Let the ice cream set in the freezer for at least five hours or over-night.
- Scoop out as desired and top with your favorite ice cream sprinkles, fudge or (my favorite) more maple syrup!

Makes half gallon

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WELCOME TO FAUCHER LAW

John D. Faucher worked for 10 years as an IRS trial attorney and has been in private practice since 2008. He and his team speak the legal language. They know the **tax and bankruptcy systems** and can help you get the best result. Have other legal issues? Call us. We'll find the lawyer who's right for you, your friends, or family.

(818) 889-8080
FaucherLaw.com

"Sheriffs" at California's Franchise Tax Board Don't Mess Around:

The FTB's Most Wanted List of State Tax Delinquents

It's the Wild West here in California, and Sebastian and I are Outlaws! At least according to the agency in charge of collecting state income taxes. In this issue of ***The Newsletter***, I describe a client's run-in with the FTB's Most Wanted list of people owing California state income tax. Sebastian, my Feline Paralegal and partner in crime, gets the Wild West treatment. Finally, there's a no-churning-required ice cream recipe to help cool down if the FTB is hot on your tracks.