

# **BACKGROUND PAPER FOR The California Tax Education Council**

**Joint Sunset Review Oversight Hearing, March 14, 2023  
Senate Committee on Business, Professions, and Economic  
Development and Assembly Committee on Business and Professions**

## **IDENTIFIED ISSUES, BACKGROUND AND RECOMMENDATIONS REGARDING THE CALIFORNIA TAX EDUCATION COUNCIL**

### **BRIEF OVERVIEW OF THE CALIFORNIA TAX EDUCATION COUNCIL**

#### **Brief Overview, History, and Function**

The California Tax Education Council (CTEC) is a non-profit corporation that administers the registration and enforcement of tax preparers. CTEC was established in 1997 when the Governor and the California State Legislature transferred the responsibility for approving tax schools and certifying the education of tax preparers from the California State Tax Preparer Program in the Department of Consumer Affairs to the California Tax Education Council (CTEC) via SB 1077 (Greene, Chapter 1137, Statutes of 1996).

In what was described as a “grand experiment” to privatize the regulation of tax schools and registration of tax preparers in the State of California, CTEC was established as a new private tax industry council. No state funds were allocated to CTEC, and no staff existed to carry out the workload.

Today, CTEC is responsible for the registration and enforcement of tax preparers who charge a fee, excluding certain professionals. CTEC is also charged with approving providers of tax education and maintaining and distributing to the public a list of those approved providers. CTEC and CTEC Registered Tax Preparers (CRTPs) make up the second largest segment of tax preparation professionals serving California, following certified public accountants. Anyone who, for a fee, assists with or prepares a state or federal income tax return, excluding certified public accountants, attorneys, enrolled agents, enrolled actuaries, and certain financial institutions or their employees, must be registered with CTEC. These exempt individuals are subject to their respective professional disciplinary standards for conduct and competence.

As of June 2022, a total of 38,278 individuals registered with CTEC. This number has remained relatively stable since CTEC last underwent sunset review in 2018. When CTEC was first

created, its goal was to register between 38,000 to 48,000 tax preparers. Registration numbers have consistently been within this range since 2005.

To become a registered CRTP, an applicant must complete a total of sixty hours of education from a CTEC-approved provider—forty-five hours of federal tax education and fifteen hours of state tax education—covering basic personal income tax law, theory, and practice. CTEC does not require a standardized exam to register, though all education providers are required to have final exams. All approved CTEC self-study course providers are required to follow self-study guidelines that are similar to those adopted by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA). A grade 70% or higher must be achieved on the final exam in order for the provider to issue the student a provider's certificate of completion. Finally, all new CRTPs must purchase and maintain a \$5,000 tax preparer bond, pass a background check, including a fingerprint Livescan, obtain a PTIN (Preparer Tax Identification Number) from the IRS and pay the registration fee. Once all these requirements have been fulfilled, CTEC issues a Certificate of Completion to an applicant.

CTEC is also charged with approving all providers of tax preparer education whose classes qualify for CRTP applicant Certificates of Completion and registrants' continuing education requirements. Provider standards are set by a special CTEC committee, which also evaluates all schools seeking to become approved curriculum providers. CTEC must either approve or decline education provider applications. Currently, CTEC has a total of 103 approved providers, where fifty-two are approved for qualifying education providers and seventy-one are approved for continuing education.

To be part of CTEC, representatives from each professional society, association, or other entity operating as a California nonprofit corporation must meet the following criteria: 1) be the only representative from their respective entity; 2) which represents tax preparers, enrolled agents, attorneys, or certified public accountants; 3) with a membership of at least 400 for the last three years; and 4) which chooses to participate in CTEC. Alternatively, representatives must meet the following criteria for each for-profit tax preparation corporation: 1) be the only representative from their respective entity; 2) has at least 400 employees or franchisees, which number can include the employees of a franchisee and has been operating in California for the last three years; and 3) chooses to participate in CTEC.

CTEC has adopted the following mission statement:

***The California Tax Education Council (CTEC) will continue to protect the public by establishing professional tax education standards, approving tax education providers who comply with these standards, and facilitating tax preparer compliance.***

**CTEC Membership and Committees**

CTEC’s Board of Directors (Board) is comprised of 14 members. Each director serves in a voluntary capacity. Six directors are CRTPs appointed by the Board. CRTPs are elected for two-year terms and may be reelected at the end of their term with no limits. The remaining directors are associated with either a nonprofit membership organization representing accountants, enrolled agents, and other tax professionals or a business engaged in tax preparation. Each professional society, association, or other entity operating as a California nonprofit corporation that has represented a membership of at least 400 tax preparers, enrolled agents, attorneys, or certified public accountants for the past three years may choose to appoint a maximum of one director to the Board. Similarly, a for-profit tax preparation corporation with at least 400 employees or franchisees (which can include the employees of a franchisee) that has been operating in California for the last three years may appoint a maximum of one director. These directors serve 2-year terms and may be reelected at the end of their term with no limits.

The following nonprofit organizations have representatives on the Board:

- California Society of Enrolled Agents (CSEA)
- California Society of Tax Consultants, Inc. (CSTC)
- National Association of Enrolled Agents (NAEA)
- National Association of Tax Professionals (NATP)
- National Society of Accountants (NSA)

The following for profit corporations have representatives on the Board:

- H&R Block Tax Services, Inc
- Jackson Hewitt Tax Service
- Liberty Tax Service

Name and Short Bio	Appointment Date	Term Expiration Date	Appointing Authority
<p><b>C. Lester Crawford, Chair</b> Lester Crawford has been a CRTP since the inception of the program. In 2000, Mr. Crawford was one of four CRTPs first appointed to the California Tax Education Council. He currently is serving as chairman of the board. Mr. Crawford has previously served as chairman of the Public Awareness Committee, Budget &amp; Finance Committee and Communications &amp; Technology Committee. He has been a member of every committee on the council.</p>	5/01/2000	12/31/2024	CRTP appointed by CTEC Board of Directors
<p><b>Susan DiMaggio, EA</b> Susie DiMaggio, EA, has been an Enrolled Agent since 2006 and has operated her own Tax Resolution and Preparation business in Ventura, CA. Prior to owning her own business, she worked for a tax office for 14</p>	11/01/2014	Determined by Appointee Organization. This is a 2-year term	California Society of Enrolled Agents

<p>years. Ms. DiMaggio's areas of expertise are focused on Tax Representation before the Examinations, Appeals &amp; Collections Division of the Internal Revenue Service. Ms. DiMaggio is a Past President of the California Society of Enrolled Agents and serves as a Director for the National Association of Enrolled Agent.</p>		<p>with an option for reappointment by their organization. Her term will end 12/31/2023.</p>	
<p><b>Brandon Chanley</b> He currently lives in Chandler, AZ. Mr. Chanley has worked for Jackson Hewitt Tax Service for the past 15 years as a Senior Regional Director and works with franchisees in Texas, Oklahoma, Arkansas, Missouri, Louisiana, and Kansas. Brandon has been Jackson's Hewitt representative on the CTEC board since 2014.</p>	1/01/2014	<p>Determined by Appointee Organization. This is a 2-year term with an option for reappointment by their organization. His term will end 12/31/2023.</p>	Jackson Hewitt Tax Services
<p><b>Ray Davis</b> Ray was appointed by H&amp;R Block and is currently the Regional Director of Sales and Service covering Southern California and Hawaii. Over the last 16 years, Ray has led regions in both Northern and Southern California territories. In addition, he has been involved with helping H&amp;R Block stay up to date with all CTEC regulations for all Registered Tax Preparers.</p>	11/15/2019	<p>Determined by Appointee Organization. This is a 2-year term with an option for reappointment by their organization. His term will end 12/31/2023.</p>	H & R Block
<p><b>Karen De Vaney, CRTP</b> Since 1976, Karen has owned and operated a business office in Modesto, California. She specializes in income tax, bookkeeping and payroll for individuals and small businesses. For 16 years she served as an instructor for Yosemite Community College District. Karen taught courses in Practical Bookkeeping, Payroll Accounting, Accounting, Income Tax Preparation, Budgeting, and Small Business for over 20 years. Since 2009, Karen has served as a Director for the California Tax Education Council and she had served as a Governor's appointee to the Tax Preparer Advisory Committee for the State of California, Department of Consumer Affairs. Karen is also a past President of California Society of Tax Consultants, past President of American Businesswomen's Associations for Tuolumne River, and Golden Poppy Chapters.</p> <p>Karen currently serves as Vice President of the Central Valley Chapter of California Society of Tax Consultants, Advisor to Alliance Small Business Development Center and University of California Cooperative Extension.</p>	11/01/2009	<p>Determined by Appointee Organization. This is a 2-year term with an option for reappointment by their organization. Her term will end 12/31/2023.</p>	California Society of Tax Consultants
<p><b>Lee Reams, Sr., EA</b> Lee T. Reams, BSME, EA, is the owner and Chief Technology Officer of ClientWhys and CountingWorks. Educated as an engineer, with a</p>	1/01/1998	<p>Determined by Appointee Organization.</p>	National Association of Enrolled Agents

<p>bachelor’s degree in Mechanical Engineering, Lee left his engineering career in 1975 to expand his part-time tax practice into a full-time career with a tax practice of 700 clients. Besides writing web content, tax blogs, social media tax posts, and newsletters to support marketing efforts on behalf of CountingWorks website customers, Lee also develops CE courses and authors the 1,000-page Big Book of Taxes provided to all CountingWorks Fall Update Seminar series attendees which he is also a speaker for.</p> <p>Lee is a founding Board Member of the California Tax Education Council, is a Past President of the San Fernando Valley Chapter of Enrolled Agents and over 20-year board member. Member and Past Director for the California Society of Enrolled Agents and former Director of Blackline Systems. Father of 4, grandfather of 8, great grandfather of 16.</p>		<p>This is a 2-year term with an option for reappointment by their organization. His term will end 12/31/2023.</p>	
<p><b>Ruth Godfrey, EA</b> Ms. Godfrey has been an Enrolled Agent (EA) since 1984. She currently serves the National Society of Accountants (NSA) as the NSA liaison to the California Tax Education Council (CTEC). She previously served as Secretary/Treasurer of NSA (2019-2022).</p> <p>Ms. Godfrey is serving currently as chairman of the Audit Oversight Committee for CTEC. On the local level, Ms. Godfrey served as President of the California Society of Tax Consultants (CSTC) (1990-1991). Previously she served as President of the Ontario, California Chamber of Commerce.</p> <p>Ms. Godfrey specializes in real estate tax aspects, especially 1031 exchanges, small business tax and business planning.</p>	<p>1/01/1997</p>	<p>Determined by Appointee Organization. This is a 2-year term with an option for reappointment by their organization. Her term will end 12/31/2023.</p>	<p>National Society of Accountants</p>
<p><b>Tom O’Saben, EA</b> Tom O’Saben, EA, is the director of tax content and government relations at NATP. O’Saben has been working in the tax industry for more than 30 years, with more than 25 of those working as a tax preparer. Prior to his current position at NATP, O’Saben taught a variety of tax topics to NATP members across the country.</p> <p>O’Saben’s knowledge of the industry and implementation of tax law was also demonstrated when he worked as the assistant director of the Tax School program at the University of Illinois beginning in 2019.</p>	<p>1/01/2015</p>	<p>Determined by Appointee Organization. This is a 2-year term with an option for reappointment by their organization. His term will end 12/31/2023.</p>	<p>National Association of Tax Professionals</p>
<p><b>Fernando E. Angell III, CRTP</b></p>	<p>1/01/2020</p>	<p>12/31/2024</p>	<p>CRTP appointed by</p>

<p>Fernando Angell is a CTEC Registered Tax Preparer and has been preparing tax returns for over 19 years. He works for a small family business that provides bookkeeping and tax services.</p> <p>He is a proud veteran having served in the United States Marine Corp.</p>			<p>CTEC Board of Directors</p>
<p><b>Jodi Runyan-Schechter, CRTP</b>  Jodi Runyan-Schechter is the principal officer, and primary tax-preparer, of her family-owned and operated tax preparation and bookkeeping corporation. She has been a CTEC Registered Tax Preparer (CRTP) since 2004. Jodi has training in Personal Trusts and Notary Public functions and has served on the Board of Directors for a few community non-profits. She has also managed local small businesses with her husband, Michael Schechter.</p> <p>Jodi is a veteran of the United States Army and mother of five children, now grown. Jodi enjoys spending her new-found free time traveling and scuba diving and also volunteering with her Church.</p>	<p>11/01/2022</p>	<p>12/31/2024</p>	<p>CRTP appointed by CTEC Board of Directors</p>
<p><b>Yvette Rupp, CRTP</b>  Yvette has 30 years in the finance/mortgage industry. She has been in the tax industry and has maintained her CTEC since 2010. She has experience not only doing taxes, but she has managed tax offices as well. Yvette developed and grew to a District Manager in the Central Valley in 2014. Then, in 2018, Yvette became a franchise owner with Jackson Hewitt Tax Service. She currently has 6 locations in the Central Valley and Central Coast.</p>	<p>1/01/2021</p>	<p>12/31/2025</p>	<p>CRTP appointed by CTEC Board of Directors</p>
<p><b>Michael Carr, CRTP</b>  Michael Carr is an operator of a 7-office income tax preparation franchise. He has worked in the industry for over 26 years now.</p>	<p>1/01/2023</p>	<p>12/31/2025</p>	<p>CRTP appointed by CTEC Board of Directors</p>
<p><b>Aaron Chambers, CRTP</b>  Aaron Chambers has spent his life working in and for small to midsize closely held businesses, both as an employee and as a consultant. He is equipped with over ten years of sales and operations experience in small businesses in the retail, manufacturing, and distribution industries. He also has spent time in the public accounting realm, specializing in management consulting and tax resolution; he also has experience as a financial statement auditor.</p>	<p>1/01/2023</p>	<p>12/31/2025</p>	<p>CRTP appointed by CTEC Board of Directors</p>

While CTEC’s Board of Directors does not have any committees designated by statute, it has administratively established a number for various purposes. Committee chairs and members are directors appointed by the current Board Chair based on director interest:

- **Audit Oversight Committee:** The Audit Oversight Committee has the responsibility in overseeing the audit process and working with the outside auditor on the timely completion of the audit, issuance of the audit report and responding to the Auditor’s Management Letter. Members of the Committee include the Treasurer and two other directors that the Board Chair wishes to appoint. Neither the Treasurer nor the Budget and Finance Chair is the Chair of the Audit Oversight Committee.
- **Budget & Finance Committee:** The Committee Chair is appointed by the Board Chair. The Treasurer should be an ex-officio member of the Budget & Finance Committee. The Committee oversees and contributes to the organizational budget process to ensure a balanced budget capable of supporting the adopted programs and activities of CTEC.
- **Bylaws Committee:** The Committee Chair is appointed by the Board Chair. The Committee is responsible for the review of all amendments and submits all amendments to CTEC legal counsel for conformance to California law before submitting the proposed amendments to the Board of Directors for approval. The Bylaws Committee has the right to originate amendments and define the bylaws process.
- **Communications & Technology Committee:** The Communications & Technology Committee reviews and updates the CTEC website and online registration system.
- **Curriculum Provider Standards Committee:** The Committee sets standards and procedures for curriculum providers and evaluates the schools for approval as curriculum providers.
- **Executive Committee:** The Executive Committee oversees the pressing business of CTEC between Board meetings and reports its actions and findings directly to the Board of Directors.
- **Governance Committee:** The Committee was established to stimulate greater participation in committee activities from the registered tax preparer community and other qualified organizations that meet the requirements to appoint members to the Board. The Governance Committee works with other committees to establish policies and procedures for better inter-council communications.

- **Governmental Relations Committee:** The Committee informs and updates the Board with regard to legislative actions. This Committee is the interface between the Board and the Legislature and reviews and recommends changes to the law that may affect the mission of CTEC. Chief among its responsibilities is to prepare CTEC for its legislative Sunset Review.
- **Professional Standards Committee:** By law, CTEC has the express authority to deny registration to an applicant or discipline an existing CTEC registered preparer who has a substantially related criminal conviction or who violates CTEC's code of conduct requirements. Once an individual is identified as meeting any of the above criteria, the Council Chair appoints Committee members to work with CTEC's legal counsel to review each individual case, hear from the registrant and make a recommendation to the Board regarding the status of the individual.
- **Public Awareness Committee:** The Committee is responsible for the development and implementation of a communications program targeted to taxpayers, registered preparers, media, education providers, and anyone interested in CTEC and its mission. The goal of the Committee is to ensure the public has an understanding of what CTEC is and who CRTPs are.
- **Tax Preparer Committee:** The Committee develops and implements Board standards and procedures for the issuance of Certificates of Completion and Statements of Compliance as required by California Business and Professions Code (BPC) § 22255, subject to the approval of the Board.

CTEC does not belong to any national associations, but the Board has been invited to have a representative on the California Franchise Tax Board and California Department of Tax and Fee Administration. A CTEC Board member has attended both the California Franchise Tax Board's and California Department of Tax and Fee Administration annual advisory board meeting for the last twelve years.

### **Staff**

CTEC does not have any employees. It works exclusively with independent contractors. The program is administered through Advocation Strategies Inc., an outside firm that contracts with CTEC to provide staff support services for all of its functions. CTEC pays Advocation Strategies an administrative management fee, which is \$47,750 per month under the current contract. This fee covers all staff support, office space, and all office equipment necessary to administer the program. Advocation Strategies has been the firm administering the program since CTEC's inception in 1997. CTEC also contracts for the following services: curriculum review, advertising and public relations, audit, legal counsel, paralegal, background reviewers,



hearing officers and IT services. CTEC additionally contracts with the Franchise Tax Board (FTB) for investigation and enforcement activities on its behalf (discussed further under the section relating to Enforcement).

**Fiscal and Fund Analysis**

As a private nonprofit, CTEC does not receive any General Fund (GF) support, does not submit Budget Change Proposals, and the registration fees it collects go into a fund that is not part of the state budget. However, all enforcement penalties collected by the FTB from unregistered preparers go to the GF. CTEC’s administrative policies state that all approved budgets must be balanced, and all expenditures must be included in the Board-approved CTEC budget for the current fiscal year. CTEC’s annual revenues are primarily collected from registration fees in the fall and winter months. CTEC’s fiscal year begins July 1, three months before the beginning of the revenue stream for the fiscal year. Therefore, three months annualized operating expenses must be funded from the prior year’s revenues and provided for in the prior year’s budget.

In addition, an operating reserve equal to two months’ annualized operating expenses is included in each current year budget. The combination requires budgeted reserves equal to two months annualized expenses. The reserve includes \$50,000 restricted funds to defend against possible legal action taken against CTEC. This reserve level is mandated by CTEC policy and is not set in statute.

To fund the reserve, CTEC maintains certificates of deposit, which are reflected in the beginning balance of each fiscal year, reported for each of the past four years as follows:

- **FY 2018/19:** \$1,250,000
- **FY 2019/20:** \$750,000
- **FY 2020/21:** \$750,000
- **FY 2021/22:** \$750,000

<b>Fund Condition</b>						
	<b>FY</b>	<b>FY</b>	<b>FY</b>	<b>FY</b>	<b>FY</b>	<b>FY</b>
	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23</b>	<b>2023/24</b>
Beginning Balance	1,438,940	1,406,237	1,111,359	1,180,914	<i>N/A</i>	<i>N/A</i>
Revenues and Transfers	1,762,984	1,755,907	1,675,383	1,673,437	<i>N/A</i>	<i>N/A</i>
<b>Total Revenue</b>	3,201,924	3,162,144	2,786,742	2,854,351	<i>N/A</i>	<i>N/A</i>
Budget Authority	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>
Expenditures	1,795,687	2,050,785	1,605,828	1,657,576	<i>N/A</i>	<i>N/A</i>
Loans to General Fund	None	None	None	None	<i>N/A</i>	<i>N/A</i>

Accrued Interest, Loans to General Fund	None	None	None	None	N/A	N/A
Loans Repaid From General Fund	None	None	None	None	N/A	N/A
<b>Fund Balance</b>	1,406,237	1,111,359	1,180,914	1,196,775	N/A	N/A
<b>Months in Reserve</b>	3	3	3	2	N/A	N/A

<b>Expenditures by Program Component</b>				
	<b>FY 2018/19</b>	<b>FY 2019/20</b>	<b>FY 2020/21</b>	<b>FY 2021/22</b>
<b>Enforcement</b>	38,6641	341,811	329,387	325,407
<b>Examination</b>	N/A	N/A	N/A	N/A
<b>Registration</b>	993,250	1,310,986	951,775	916,062
<b>Administration*</b>	415,797	397,987	324,666	416,107
<b>DCA Pro Rata</b>	N/A	N/A	N/A	N/A
<b>Diversion</b>	N/A	N/A	N/A	N/A
<b>TOTALS</b>	1,795,688	2,050,784	1,605,828	1,657,576
<i>*Administration includes costs for executive staff, Board, administrative support, and fiscal services.</i>				

CTEC's renewal registration cycle begins on November 1st of each year and goes through October 31st of the following year. The fee to register with CTEC is \$33.00. The initial registration fee in 1997 was \$25.00. For those preparers who register late (after October 31st through January 15<sup>th</sup> of the following year) there is a late fee added to the \$33.00. In 2012, the late fee increased to \$55.00. For those registering late (the late registration period is from November 1st through January 15th of the following year), the total cost to renew their late registration is \$88.00. The increased late fee was initiated due to the large number of tax preparers preparing illegally.

Registration fees are not specified in statute. However, as specified in BPC § 22251.2(g), fees must be related to the regulatory cost of providing services and carrying out CTEC's responsibilities and duties and may not exceed the reasonable cost of the services or responsibilities.

Fee Schedule and Revenue							
Fee	Current Fee Amount	Statutory Limit	FY 2018/19 Revenue	FY 2019/20 Revenue	FY 2020/21 Revenue	FY 2021/22 Revenue	% of Total Revenue
New Preparer	33.00	N/A	190,905	200,772	161,304	150,216	6%
Renewal	33.00	N/A	1,125,102	1,104,279	1,118,733	1,134,199	37%
Late Fee	55.00	N/A	389,125	391,765	356,785	361,845	12%

At this time, CTEC states it does not anticipate an increase in fees. However, as of July 1, 2020, additional registration requirements for new preparers were added to the Tax Preparation Act from AB 3143 (Low, Chapter 597, Statutes of 2018). In order to accommodate these new requirements, CTEC had to contract with additional personnel (one paralegal, background reviewers, and hearing officers) to oversee these new registration requirements. A reduction in the advertising and FTB budgets during 2020/2021 and 2021/2022 was necessary to offset the cost of the additional contractors needed for the new requirements. The Board states that, after two years, it now has data on the actual amounts needed to carry out the new requirements and will be able to determine if a future fee increase will be necessary.

### **Registration of Tax Preparers**

In 1997, at the time when DCA transferred its responsibility of registering tax preparers to CTEC, there were 28,831 registered preparers in California. Information received that first year from the FTB indicated that there were anywhere between 10,000 and 20,000 unregistered preparers in California. CTEC was expected to register somewhere between 38,000 and 48,000.

Below is a listing of yearly registrations since CTEC was established:

Registration Year	Total Registrations	Registration Year	Total Registrations
07/01/97-06/30/98	28,831	07/01/09-06/30/10	43,963
07/01/98-06/30/99	29,009	07/01/10-06/30/11	44,326
07/01/99-06/30/00	29,773	07/01/11-06/30/12	42,144
07/01/00-06/30/01	28,444	07/01/12-06/30/13	39,088
07/01/01-06/30/02	29,943	07/01/13-06/30/14	39,201
07/01/02-06/30/03	32,093	07/01/14-06/30/15	41,564
07/01/03-	34,391	07/01/15-	39,965

06/30/04		06/30/16	
07/01/04- 06/30/05	36,931	07/01/16- 06/30/17	39,306
07/01/05- 06/30/06	39,226	07/01/17- 06/30/18	39,904
07/01/06- 06/30/07	40,565	07/01/18- 06/30/19	39,770
07/01/07- 06/30/08	41,881	07/01/19- 06/30/20	39,446
07/01/08- 06/30/09	44,888	07/01/20- 06/30/21	38,464
N/A	N/A	07/01/21- 06/30/22	38,278

CTEC’s annual registration numbers for the last twelve years have been within CTEC’s initial goal of registering between 38,000 and 48,000 annual registrants. CTEC’s Public Awareness and Governmental Relations committees are working with FTB to identify individuals preparing returns but not signing them, known as “ghost preparers,” and urge them to either register with CTEC or be cited and fined by FTB if they continue to unlawfully prepare tax returns. CTEC’s goal is not to fine individuals, but rather to educate them regarding the law and bring them into compliance.

Renewal applications are processed immediately. However, it takes four to six weeks to send the appropriate certificate to the renewal applicant. Nonetheless, that applicant can begin preparing taxes once their renewal application is completed online and they immediately receive a computer-generated verification that their registration has been successful. Online registration has dramatically reduced processing time.

Beginning on July 1, 2020, new applicants to the CTEC program are required to pass a fingerprinting and background check. This new procedure has lengthened the time for new applicants to become registered. Rather than an application being processed immediately, it may take two weeks to two months for an applicant to be approved and registered.

In order to meet its new legislative mandate to receive and review criminal history information, CTEC created its current denial and disciplinary process for applicants in 2019. In this new process, beginning on July 1, 2020, applicants submit their fingerprints to be processed by the California Department of Justice (DOJ), who sends background records to CTEC. The contracted paralegal, as custodian of records, reviews each DOJ record received. Those CTEC applicants with a criminal history who have convictions that are substantially related to the qualifications, functions, or duties of a registrant and are listed on the list of criminal convictions warranting background review adopted by the Board, are sent to the Background Reviewers for review. Those who have failed to fully disclose their related criminal history information on their application for registration are sent an email message with questions asking for additional information pertaining to the nature of the conviction(s). A team of Background Reviewers

receives the response (if any), DOJ record, and all applicant information and make a proposed decision to either clear the background issue or have a proposed denial letter sent.

Since inception of the program on July 1, 2020, through June 30, 2022, CTEC has denied ninety-two applications for registration. Of the ninety-two, seventy-eight applications have been denied for failure of the applicant to disclose substantially related criminal history information on the application.

It is important to note that all current registrants are not fingerprinted. Those who are renewing preparers are not required to submit fingerprints. CTEC currently does not have a backlog of pending applications.

CTEC issues applicants for registration a Certificate of Completion once they have completed their 60-hour qualifying education course from a CTEC-approved provider. Final examinations are not administered by CTEC, and CTEC does not have a standardized test that must be used by providers. The examination process is left to the provider. However, the provider’s course, including the exam, must be reviewed and approved by CTEC. All CTEC-approved providers who offer qualifying education courses are required to have a final exam.

CTEC issues an annual Statement of Compliance to individuals who are renewing their registration and have completed a 20-hour continuing education course from a CTEC-approved provider.

Non-Exempt preparers who live and prepare outside of California are not required to register with CTEC.

<b>Registration Population</b>					
		<b>FY 2018/19</b>	<b>FY 2019/20</b>	<b>FY 2020/21</b>	<b>FY 2021/22</b>
New Registration Certificate of Completion	Active	5,883	5,544	4,524	4,593
	Renewal Registration Statement of Compliance	34,113	34,020	33,976	33,680
	Delinquent*	3,457	3,756	3,677	4,737
<b>TOTAL REGISTRATION</b>		43,453	43,320	42,177	43,010
*“Delinquent” refers to those preparers who renewed their registration after the October 31 deadline and were charged a late fee.					

<b>Registering Data by Type</b>				
<b>Application Type</b>		<b>Received</b>	<b>Approved</b>	<b>Registered</b>
<b>FY 2019/20</b>	(Registration)			
	(New)	N/A	N/A	5,544

	(Renewal)	N/A	N/A	34,020
FY 2020/21	(Registration)			
	(New)	9,663	6,489	4,524
	(Renewal)	N/A	N/A	33,976
FY 2021/22	(Registration)			
	(New)			4,593
	(Renewal)	N/A	N/A	33,680

**Education**

To become a CTEC-approved education provider, an applicant must submit a completed CTEC Curriculum Provider Application. As part of the application, a digital copy of all course material must be included. CTEC conducts a review that includes the critical elements of a 60-hour and/or a 20-hour course. If the provider’s course fails the review, they have the option to start over with their approval process or appeal the findings to the Board.

Once the review is complete, the reviewer will send to CTEC’s Curriculum Provider Standards Committee a recommendation of approval or a recommendation of denial. The committee will review the recommendation and will contact the applicant with their decision. A separate approval is required to be a qualifying education provider and a continuing education (CE) provider.

The IRS has developed a national tax preparer program they have fashioned closely to the California program. The Director of Continuing Education Management for the IRS Return Preparer Office regularly attends the CTEC Board meetings.

The IRS has also implemented a course review and approval process similar to CTEC’s and has designated CTEC as an approved IRS Licensing Body. Any provider approved by CTEC is automatically approved as an IRS provider.

To date, CTEC has not received an application from a foreign education provider. Several CTEC approved providers do offer courses in Spanish.

*Qualifying and Continuing Education*

CTEC approved providers are divided into two categories: qualified education (QE) providers and continuing education (CE) providers. Each category requires a separate approval process and some providers are approved for both categories. Currently CTEC has a total of 103 approved providers, of which fifty-two are approved for qualifying education and seventy-one are approved for continuing education. Approved schools are reviewed every three years. Whenever CTEC determines that an approved provider is not adhering to the established CTEC standards, it has provisions outlined for next steps, subject to certain appeal rights.

CTEC continuously reviews its policies related to both QE and CE and has over the last several years made policy changes with regards to education. After reviewing the new joint AICPA and NASBA education standards and the IRS education standards for their national registration program, CTEC then adopted the AICPA/NASBA approach to determine the continuing education awarded to self-study courses. The Board then gave its curriculum review staff the latitude to deny approval of a course where the course and/or questions are not:

- Clearly written;
- Technically accurate;
- Current (up-to-date with current tax laws);
- Complete (sufficient detail to explain the subject matter); and,
- Sufficient to meet the course learning objectives.

CTEC approves CE providers by initially reviewing and approving one of their courses. The approved provider is then allowed to offer additional courses that have not been reviewed. CTEC verifies both QE and CE of every registered tax preparer every year. CTEC requires all approved providers to electronically report successful completion of both QE and CE courses to CTEC, and then matches those courses to individuals attempting to register online. CTEC does not allow self-certification of either QE or CE. Preparers are able to go into their personal online accounts and verify the number of education hours reported by their provider.

#### *Applicant Renewal and Continuing Education*

If an individual does not have the required CE credit for the year, CTEC will not renew the applicant's registration, and the applicant can no longer engage in paid tax return preparation in California. If they do not make the deadline, they are given until January 15 of the following year to make up the education and pay a late fee to register. If they do not register by January 15, they have to retake the 60-hour QE course and register as a new preparer. There were no CE audits conducted in the last four years, since all continuing education courses are electronically verified for every applicant every year.

#### *Course Review*

CTEC's provider approval process requires a new provider, either QE or CE, to submit a course for review. CTEC has several policies dealing with the review process. As an overview of the process outlined in the policies, CTEC contracts with a number of reviewers who verify the CE awarded by either a word count formula or pilot testing using standards very similar to those adopted by both AICPA and NASBA. This includes verifying an interactive element through the use of three review questions per CE hour at the end of each education element, and five exam questions per CE hour at the conclusion of the course.

The reviewers also look for and deny approval for courses whose material and questions are overly simplistic, and questions that are simply look-up questions with no educational value.

CTEC also requires providers to undergo a course review every three years to renew their status as approved providers.

### *Continuing Education Provider Application Types*

There are two types of CE provider applications: (1) new applications coming in from providers who are not currently approved by CTEC; and (2) continuing education provider applications being submitted by approved providers who are up for periodic review (every three years an approved provider must resubmit a completed provider application, including course materials for review). In 2022, seven new provider applications were received and all were approved. Of the thirty-two providers up for periodic review, zero were denied and six withdrew from the program.

In an effort to ensure the quality of CE courses, CTEC instituted a provider audit policy. This policy requires that the five most frequently taken courses be audited each year in addition to random audits and audits resulting from complaints. Audits are performed by members of the CTEC curriculum review staff, who subscribe to the courses just like any other student without the provider's knowledge. Staff look for courses that award excessive continuing education credits, are overly simplistic, not current, and lack substantial educational value.

### **Enforcement**

As a nongovernmental entity, enforcement for CTEC is handled differently from most other regulatory entities under the BPC. CTEC is not a client agency of the Attorney General and its enforcement cases are not typically handled through the DOJ. BPC § 22257 establishes a broad private right of action wherein any person may maintain an action for enforcement, or to recover a civil penalty in the amount of \$1,000 dollars, or for both enforcement and recovery.

### *FTB and Enforcement*

CTEC's goal, once an illegal preparer is identified, is to provide education and outreach and an opportunity to take the required education, purchase a bond and register with CTEC. Over the years, FTB's enforcement program has identified thousands of illegal preparers, provided them with information regarding CTEC requirements, and most individuals have completed the CTEC Registered Tax Preparers (CRTPs) requirements to be in compliance. Without FTB's enforcement, there would be no reason for preparers to become registered. Illegal preparers who do not become compliant are issued a penalty.

FTB's enforcement process continues to use data to identify preparer information and use correspondence to notify the tax professional of the possible need to obtain a credential prior to imposition of the "failure to register as a tax preparer" penalty.

Current process requires the FTB to verify that an unlawful entity or tax preparer is not otherwise exempt from CTEC registration as a CPA, EA, attorney, or otherwise exempt entity. When the FTB is unable to identify the individual or entity as exempt from registration, the FTB will send a



first notice and a second notice before imposing the penalty to ensure that unlawful tax preparers can respond with their exempt information or comply with the registration requirement by registering with CTEC before the penalty will be imposed. The penalty for failing to register is \$2,500 for the first failure with a ninety grace period for compliance and \$5,000 for each subsequent failure. These penalties are deposited in the General Fund. The FTB expends time and resources to confirm tax preparer activity, confirming the identity of the tax preparers, and identification of exempt tax preparers.

<b>Enforcement Statistics</b>				
	<b>FY 2019/20</b>	<b>FY 2020/21</b>	<b>FY 2021/22</b>	<b>Jan-Feb 2023</b>
<b>Complaint Intake</b>				
Received	96	183	254	
Closed	96	183	0	
<b>Compliance Action</b>				
Cease & Desist/Warning	692	1,258	776	143
<b>Citation and Fine</b>				
Citations Issued	689	792	685	
Average Days to Complete	150	150	150	
Amount of Fines Assessed	\$2,452,500	\$2,857,500	\$2,405,000	
Reduced, Withdrawn, Dismissed	70	222	65	
Amount Collected	\$1,025,038	\$1,093,065	\$1,406,478	

### *Cite and Fine*

CTEC does not have cite and fine authority. FTB is CTEC’s enforcement arm and does have that authority. FTB continues to utilize its resources to obtain tax preparer information of those who are not in compliance. It then uses the information to provide education about the regulatory requirements so that tax preparers can become compliant. When necessary, it will enforce the law by issuing penalties to those still in violation of the regulatory requirements. The first failure to register as a tax preparer penalty is \$2,500. The maximum fine of \$5,000 is imposed for each subsequent failure to register.

The most common penalties are those issued to tax preparers who are in violation of not being registered with CTEC or who do not have a valid exempt license (CPA, Attorney, or Enrolled Agent with the IRS). To FTB's knowledge, no appeals have been made to the Office of Tax Appeals, formally the Board of Equalization, FTB’s appellant agency.

FTB uses its tax collection authority in the California Revenue and Tax Code to take involuntary collection actions. Involuntary collection actions can consist of third-party contacts to collect tax

liabilities, interception of funds from the federal government, other states or other California state agencies. If a penalty is issued a tax preparer can prevent involuntary collection actions:

- Pay the liability in full;
- Enter into an installment agreement;
- Compliance within the 90 day grace period (\$2,500 tax preparer penalty).  
Before the penalty is issued, enforcement staff ensures that due process was provided. Due process consists of:
  - Notifying the tax preparer of the legal requirements to obtain a credential;
  - Notifying the tax preparer of the penalty issued;
  - Notifying the tax preparer of their balance due;
  - Notifying the tax preparer of possible collection action;
  - Ensuring the tax preparer is provided with necessary legal language prior to taking involuntary actions (e.g., lien, levy);
  - Disclosing the reasons for collection action;
  - Providing the right to a fair hearing; and,
  - Advising the tax preparer of the right to further appeal upon payment in full.

#### *Cost Recovery and Restitution*

There are no changes to the efforts to obtain cost recovery. Tax preparer penalties that are collected by FTB are remitted to the GF. There are no provisions in the law that would permit recovery of CTEC's or FTB's costs for enforcement activities. If a penalty is imposed and remains unpaid, a collection cost recovery fee which varies by year, may be imposed by FTB to recover a portion of its cost of involuntary collections.

#### *Open Meetings and Denial and Disciplinary Process*

AB 3143 (Low, Chapter 597, Statutes of 2018) created new requirements for CTEC, specifically implementing Bagley-Keene Open Meeting Act requirements and permitting CTEC to collect criminal history information. Specifically, the bill: 1) retitled the Tax Preparer Law as the "Tax Preparation Act"; 2) recast, rewrote, clarified, and revised certain provisions of the Tax Preparer Law which provides for the registration of tax preparers by CTEC and adds other specified requirements to include compliance with Bagley-Keene Open Meeting Act; 3) required CTEC establish and maintain on its internet website a searchable public registry of tax preparers registered by CTEC and provide other information; and 4) required, beginning July 1, 2020, as a condition of registration, that an applicant to register with CTEC must submit fingerprint images so that CTEC may receive criminal offender record information and subsequent arrest notification.

In order to meet its new legislative mandate to receive and review criminal history information that became effective July 1, 2020, CTEC began creating its current denial and disciplinary process for applicants in 2019. Before the new background review process requiring

fingerprinting of applicants, CTEC did not receive criminal history information. As of July 1, 2020, CTEC had not denied any applicant registration. Instead, its past registration process allowed applicants who had the required education reported by the education provider, paid the application fee, completed the online application, and reported their surety bond, to be immediately registered by the system. Those who failed to complete these steps merely had incomplete applications.

The Board responded to this mandate with its own set of procedures. First, the Board hired dedicated individuals to administer new applicant review and perform background review and hearing officer functions, following guidelines in AB 3143. Furthermore, the Board adopted the following documents: a “Designated List of Criminal Convictions” document, as well as a criminal conviction disclosure form to accompany the new preparer application. CTEC also approved a different denial and disciplinary process for review of registrants with criminal history and background checks versus new applicants.

#### *New Applicant Procedure for Criminal History Background Check Requirements*

New applicants must now completely fill out an online application, disclose all criminal convictions and submit supporting documentation, and submit fingerprint images through the Livescan process to the DOJ. CTEC must wait to receive the results of the Livescan from the DOJ before the application can be reviewed. Once the DOJ information is received and the application is complete, all applications are reviewed by staff/paralegals to determine if the individual has a record of substantially-related criminal convictions with the DOJ that requires further review. Those who either have no criminal history record or have a record of criminal convictions that meet the “clearable” criteria identified in the “Designated List of Convictions” are cleared by staff/paralegals and continue through the normal registration process. Individuals moving forward through the normal registration process must then complete the following steps: obtain sixty hours of qualifying education (reported to CTEC by the education provider); pay the registration fee; and obtain and upload a copy of the surety bond. Those who have criminal convictions that cannot be cleared by staff or the paralegal are sent to the background reviewers for review.

The background reviewers review all of the information in the file and the procedures and determine by majority vote, based on a preponderance of the evidence, whether a violation of CTEC’s law or procedures has occurred. They then consider evidence in mitigation in accordance with the Criteria For Proof of Rehabilitation to determine whether denial or disciplinary action should be proposed to be taken. The background reviewers can either clear the background issue or determine that a proposed denial or discipline letter should be sent to the applicant.

Proposed denial or discipline letters notify the applicant of CTEC’s proposed decision to deny their application or impose discipline, the reasons for the proposed action and the evidence supporting the proposed action, their right to request, in writing, an oral hearing or consideration of a written statement to oppose the proposed decision, and their deadlines to do so. While the law requires 15-days notice of the proposed action before it becomes final and effective,

applicants are given significantly more time, with their deadline to request a hearing generally being about 30 days from the date the letter is mailed. Additionally, while the law requires that the oral hearing or consideration of a written statement occur not less than five days before the final and effective date of the decision, decisions become final and effective a minimum of twenty-one days from the date of the oral hearing or consideration of a written statement.

Applicants may request either an oral hearing to oppose the proposed denial/discipline, or consideration of a written statement. If the Applicant fails to request an oral hearing or consideration of a written statement in writing by the deadline noted in the letter, the decision becomes final and effective on the date noted in the letter. Applicants who choose to oppose the proposed denial are heard by a panel of three hearing officers. According to its submitted materials, CTEC ensures that the hearing officers do not have a conflict of interest regarding the matter to be considered. The hearing officers decide, based on a preponderance of the evidence after consideration of all of the evidence for the matter, whether to approve, deny, or discipline the applicant. Applicants are notified in writing of the hearing officers' decision. Those who are approved move on to complete the registration process. Those who are disciplined also go on to complete the registration process. Those who are denied must wait five years before they can reapply.

#### *Review of Criminal History*

Once a new application is complete, staff reviews the DOJ criminal history information for each applicant. If there are no convictions, the individual has cleared the background review process and they are notified and moves forward with the registration process. If the DOJ report notes a criminal conviction, staff reviews the criminal history information to determine if it is clearable in accordance with the criteria in the Designated List of Criminal Convictions. If it is clearable, then staff clears the background issue and the individual then moves forward with the registration process. If it is not clearable, the individual is sent to the background reviewers for review. There must be at least two background reviewers to make a proposed decision on any matter, and majority rules.

The background reviewers review the criminal history information and all other evidence in the file, including documents and communication provided by the applicant. The background reviewers assess all of the information and determine whether a violation of the law or CTEC's procedures has occurred. They also consider rehabilitation in accordance with the Criteria for Proof of Rehabilitation. The background reviewers then either clear the issue or propose to impose discipline or deny the application. If the background reviewers decide to propose to impose discipline or deny the application, a letter is drafted and mailed to the applicant notifying them of the proposed decision, the reasons therefore, and the evidence supporting the proposed decision. The letter also identifies a date certain by which the applicant must request a hearing in writing, and the date on which the letter becomes final and effective if no hearing is requested.

#### *Appeal Process*

If the applicant timely notifies CTEC, in writing, that they are opposing the proposed action, they are entitled to an oral telephonic hearing or consideration of a written statement before the hearing officers. Once the request is received, CTEC ensures that the hearing officers do not have a conflict of interest, and if one does exist, the conflicted hearing officer cannot hear the matter, and must recuse themselves from the hearing. Oral hearings are held telephonically. After the hearing, the hearing officers consider all of the information before them, including factual and legal arguments, oral testimony, and all evidence in the file, and make a final decision to either approve the application, uphold the proposed decision to impose discipline or deny the application, or decide that different discipline should be imposed. Applicants are notified in writing of the hearing officers' final decision. Individuals that are denied registration or for whom discipline is imposed have the right to challenge CTEC's final decision by bringing a Petition for Writ of Mandate in Superior Court. If the application is approved, the applicant continues through the normal registration process. Discipline for applicants generally takes the form of suspension of registration or imposition of probationary terms. When the hearing officers decide that discipline should be imposed, applicants are notified of the discipline terms and allowed to move forward with the rest of the registration process. The Board also created qualifications and compensation for the paralegal, background reviewers, and hearing officers.

### *Public Meetings*

CTEC has two board meetings per year, usually in May and November. Beginning on January 1, 2019, CTEC's Board of Directors were required to follow the Bagley-Keene Open Meeting Act. At least 10 days prior to the meeting, meeting agendas are posted online. Two weeks after the meeting the minutes from the previous meeting are final and posted on the CTEC website and remain on the website until the next meeting.

All CTEC registered preparers are listed on CTEC's website. The preparer information provided includes:

- CTEC Number
- Preparer's Name
- Preparer's Mailing Address
- Preparer's Telephone Number
- "Doing Business As" Information
- Registration Valid Through: Date
- Disciplinary Actions Taken by CTEC
- Bond Information: Name, Policy number and Dates
- Paid Bond Claims Reported

CTEC sends to new preparers a CTEC window sticker, which can be displayed at a preparer's place of business, and a CTEC logo slick, which can be used on business cards and advertisements. In addition, CTEC sends a Certificate of Completion, to newly registered tax preparers and a Statement of Compliance, to those prepares renewing their registration. These certificates are required to be displayed at their place of business.

CTEC has focused on the below methods to provide consumer outreach and education:

- Podcasts
- Paid Advertisements/Social Media
- Partnerships
- Media Interviews

### *Workforce Requirements*

The Board has several basic workforce requirements: administration, curriculum review, and background and fingerprinting responsibilities. The administrative duties are contracted to an outside firm. The curriculum review duties are contracted with two independent specialists in taxation and education to review provider courses. As of July 1, 2020, new preparers to CTEC are now required to successfully pass a background investigation and submit fingerprint images to CTEC. In order to accomplish this new requirement, CTEC contracted with a paralegal, as well as three Background Reviewers who review applicants' background history information including criminal activity reports received from the DOJ, and three hearing officers who are tasked with conducting hearings for individuals proposed to be denied CTEC registration or disciplined.

### *COVID-19*

Due to the COVID-19 pandemic, the Board conducted the 2020 and 2021 committee and board meetings virtually, via the Zoom platform. CTEC has no plans to webcast future board and committee meetings. CTEC has not taken any other steps or implemented any other policies regarding registrants or consumers in response to COVID-19. CTEC renewal registrants have from August 1st to January 15th of the following year to renew their registration. Most courses are online so registrants can take their education and renew from their home. CTEC has not found it necessary to update or change statutory provisions to address COVID-19 or any future State of Emergency Declarations.

## PRIOR SUNSET REVIEW: CHANGES OR IMPROVEMENTS

The Senate Committee on Business, Professions and Economic Development and the Assembly Committee on Business and Professions (the Committees) last reviewed CTEC through the sunset review oversight process in 2018; CTEC was originally scheduled to be reviewed again in 2022. Due to the COVID-19 pandemic and strains on the Legislature in 2019 and 2020, CTEC was granted an additional one-year extension to balance workload and ensure an appropriate and thoughtful legislative review of the program. During CTEC's previous sunset review, the Committees found issues related to the administration and operations of CTEC including its licensing, enforcement, and operations. In January 2023, CTEC submitted its required sunset report to the Committees. In this report, CTEC described actions it has taken since its prior review to address the recommendations made, among other changes resulting from changing economies, the recent COVID-19 pandemics and other issues to address issues. The following are some of the more important programmatic and operational changes, enhancements and other important policy decisions or changes made. For those which were not addressed and which may still be of concern to the Committees, they are addressed and more fully discussed under "Current Sunset Review Issues."

- **CTEC implemented the requirement that meetings of the CTEC Board be subject to the Bagley-Keene Open Meeting Act.** In response to issues raised regarding CTEC's nonprofit status and increasing transparency and accountability for entities conducting business on behalf of the public, CTEC accepted changes in the prior sunset to include Bagley-Keene Open Meeting Act requirements to its organization.
- **CTEC implemented the requirement that as a condition of registration applicants submit fingerprint images and successfully pass a background check.** In response to issues raised regarding whether there would be a significant benefit in requiring criminal history background checks as a condition of registration, CTEC accepted changes in the prior sunset review to receive fingerprint images in registration applications from DOJ and FBI to be included in a background check.
- **Website enhancements.** A searchable public registry of registrants is now on the CTEC website. Tax preparers must report a paid claim against their surety bond to the Board, and the Board posts a notice of the claim on its website. CTEC now posts all disciplinary actions taken against registrants by the Board and a list of registrants on probation.
- **Updated consumer disclosures.** CTEC requires a tax preparer rendering any tax preparation services, to provide the customer in writing with the tax preparer's name, address, telephone number, evidence of compliance with the bonding requirement and the address of CTEC's internet website.

## **CURRENT SUNSET REVIEW ISSUES FOR THE CALIFORNIA TAX EDUCATION COUNCIL**

The following are unresolved issues pertaining to CTEC or areas of concern that should be considered, along with background information for each issue. There are also recommendations Committee staff have made regarding particular issues or problem areas CTEC needs to address. CTEC and other interested parties have been provided with this Background Paper and CTEC will respond to the issues presented and the recommendations of staff.

### **FISCAL ISSUES**

**ISSUE #1: (FUND CONDITION AND FISCAL)** *Is there cause for concern around CTEC's funding and fund condition? What are the referenced "actual amounts" needed to carry out new requirements, and how will CTEC be able to determine if a future fee increase will be necessary?*

**Background:** According to its background materials, CTEC only has one revenue stream - \$33.00 for each registered CRTP. With 38,000+ registrants, this amounts to \$1.2 million+ in revenue generated per year. However, this revenue is divided by almost half toward Advocation Strategies, Inc.'s monthly administrative management fees. Additionally, CTEC incurred new expenses this year due to additional registration requirements for new preparers, and therefore additional staff required to vet the criminal history of applicants. CTEC states in its background that after two years, the Board now has the "actual amounts" needed to carry out the new requirements and will be able to determine if a future fee increase will be necessary. Finally, CTEC mentioned prior cuts to FTB and advertising budgets in its background materials. While CTEC has said that it has never had a problem in its years of operation, it informed the committees it has only two months in reserves.

**Staff Recommendation:** *CTEC should share its funds conditions and information around fund conditions with the committees.*

**ISSUE #2: (COST RECOVERY AUTHORITY)** *Does CTEC have a cost recovery authority or mechanism? If not, should this be the case?*

**Background:** CTEC does not appear to have a cost recovery authority or mechanism from the materials provided. The previous sunset review in 2018 raised what this could look like, specifically with respect to the fact that enforcement penalties collected by the FTB are not deposited in a manner that would allow CTEC to utilize revenue from fines to invest in further enforcement efforts against unregistered tax preparers. It does not appear as though CTEC has made changes based on this concern. In its background, CTEC states that tax preparer penalties that are collected by FTB are still remitted to the GF, and there are no provisions in the law that would permit recovery of CTEC's or FTB's costs for enforcement activities.



**Staff Recommendation:** *CTEC should share whether it has considered a cost recovery authority or mechanism, and if not, whether this authority or mechanism is needed.*

### **REGISTRATION AND ENFORCEMENT ISSUES**

**ISSUE #3:** (AB 3143) *Is CTEC able to meet its new Bagley-Keene requirements from AB 3143? How has CTEC handled the new background review process and criminal history requirements from AB 3143? What is the timeline for the new application process? Is CTEC receiving the information it needs from state and federal partners?*

**Background:** AB 3143 (Low, Chapter 597, Statutes of 2018) created new requirements around Bagley-Keene open meetings and criminal history information for CTEC. Specifically, the bill required CTEC's Board of Directors to follow the Bagley-Keene Open Meeting Act, instituting changes such as requiring meeting agendas to be posted online at least 10 days prior to the meeting, as well as the minutes from the previous meeting be finalized and posted on the website by two weeks after the meeting and remain on the website until the next meeting. It also required, beginning July 1, 2020, as a condition of registration, that an applicant to register with CTEC must submit fingerprint images so that CTEC may receive criminal offender record information and subsequent arrest notification. With respect to fingerprinting and background check requirements, applicants are required to go to a livescan facility for this procedure. Appropriate forms are then sent by the livescan facility to DOJ for review. A report from DOJ is then sent to CTEC indicating either a clear record or a listing of criminal activity for applicants. Each report is reviewed by CTEC's paralegal who either clears the individual for registration or if the report contains criminal activity relevant to tax preparation, the report is sent on to CTEC background reviewers and hearing officers for further review.

According to its background information, in discussions with DOJ, CTEC was informed that the language used in AB 3143 creating the background and fingerprinting requirement was not adequate. Because of that, the FBI will not provide CTEC with any federal criminal history information regarding applicants. It is important that CTEC receive this information in order to correctly evaluate the information and provide accurate reports regarding new applicants and their registration status. CTEC shared with the committees at least one example of an applicant who had no criminal offenses in California but had significant federal offenses that are related to tax preparation.

**Staff Recommendation:** *CTEC should consider and share what legislative changes, if any, are needed to address this issue. CTEC should also share more about its own timeline with respect to applications. Finally, CTEC should provide an update to the committees on its current protocols to meet Bagley-Keene requirements.*

**ISSUE #4: (INVESTIGATION) Under what circumstances are complaints closed with or without referral for further investigation?**

**Background:** According to the information provided to the committees, in FY 2019-20 and FY 2020-21, every complaint received was closed without referral for investigation. However, in FY 2021-22, not a single complaint was closed without referral for investigation.

**Staff Recommendation:** *CTEC should share why the above was the case, and whether it plans to continue to refer cases for investigation with referrals.*

**ADMINISTRATIVE ISSUES**

**ISSUE #5: (BOARD MEMBERSHIP) Should all Board members be located in California?**

**Background:** Typically, Board members who sit on a particular board within an organization reside in the state where that board exists. At least one CTEC board member lives out of state.

**Staff Recommendation:** *CTEC should share why not all of its board members live in California. The Committees may wish to conform CTEC to other regulatory programs in the state that have boards comprised of California residents.*

**ISSUE #6: (WEBSITE) Can CTEC update its website to provide the public with more information and existing information in a more accessible format?**

**Background:** As part of AB 3143's implementation, CTEC made the following changes to its website: established on its internet website a searchable public registry of registrants; required CTEC to now post on its internet website all disciplinary actions taken against registrants by the Board and a list of registrants on probation; required a tax preparer rendering any tax preparation services, to provide the customer in writing with the tax preparer's name, address, telephone number, evidence of compliance with the bonding requirement and the address of CTEC's internet website.

Currently on its website, CTEC has helpful information about what a CRTP is, preparer paid bond claims, provider complaint forms, etc. However, other than a few names and abbreviations for qualifications, it does not provide information on the Board membership in terms of bios and information, such as the case with other boards and bureaus. Sunset reports are also not available on CTEC's website. Moreover, its website could be modified to ensure greater accessibility by the public, its members, and other website visitors.

**Staff Recommendation:** *CTEC should provide increased information about Board and Committee personnel on its website for the public to access. CTEC should also consider posting its sunset report on its website.*

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**ISSUE #7: (CONTRACTING) *How has the contract between Advocation Strategies Inc. and CTEC changed over the years? Has CTEC explored other providers?***

**Background:** Advocation Strategies, Inc. provides administrative management services to CTEC. Almost half of CTEC’s \$1.2+ million budget goes toward Advocation Strategies, Inc.’s annual fees. The sunset report provided does not detail what other companies CTEC might have looked into contracting with, nor whether Advocation Strategies’s rates are competitive in the marketplace and make the most sense in terms of CTEC’s overall finances, etc.

**Staff Recommendation:** *CTEC should provide information on its exploration of other provider options.*

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**ISSUE #8: (STAFFING) *How many staff contract with CTEC?***

**Background:** CTEC works directly with independent contractors to get its work done. However, the sunset report does not share how many independent contractors CTEC work with, nor how many additional independent contractors CTEC needed to hire to meet its new requirements under AB 3143, particularly with respect to criminal background and history checks.

**Staff Recommendation:** *CTEC should share any information it has as to how many staff contract with CTEC on an independent contractor basis.*

**EDUCATION ISSUES**

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**ISSUE #9: (EXAMINATIONS) *Should CTEC course providers be required to offer examinations in languages other than English?***

**Background:** As described above, CTEC does not require a standardized exam to register. The examination process is left to the provider. However, provider courses and examination questions are reviewed by CTEC curriculum reviewers to be sure they meet CTEC requirements. All CTEC approved providers who offer a 60-hour QE course or a 20-hour CE self-study course are required to have a final exam.

While CTEC does not offer courses or CE courses, it does approve of those courses. While some courses offer a Spanish language option, others do not. Given CTEC maintains 38,000+ registrants, it may be helpful to provide courses in other languages.

**Staff Recommendation:** *CTEC should share why it does not require course providers to offer courses in multiple languages besides English and potentially conduct a survey of its registrants to ensure that it is meeting their needs with respect to language options on examinations.*

**ISSUE #10: (COURSES) What are the critical elements when reviewing a 60-hour course?**

**Background:** In its background information, CTEC states that it conducts a review that includes the critical elements of a 60-hour course, but it does not clearly specify what those elements are.

**Staff Recommendation:** *CTEC should share what the critical elements when reviewing a 60-hour course.*

**ISSUE #11: (QUALIFYING AND CONTINUING EDUCATION) What is the process for becoming a qualifying (QE) or continuing education (CE) provider?**

**Background:** In its background information, CTEC states that a separate approval is required to be a qualifying education provider and a continuing education (CE) provider. However, it does not detail what this process looks like.

CTEC approved providers are divided into two categories: QE providers and CE providers. Each category requires a separate approval process and some providers are approved for both categories. Currently CTEC has a total of 103 approved providers, of which fifty-two are approved for QE and seventy-one are approved for CE. Approved schools are reviewed every three years. Whenever CTEC determines that an approved provider is not adhering to the established CTEC standards, it has provisions outlined for next steps, subject to certain appeal rights.

CTEC continuously reviews its policies related to both qualifying and continuing education and has over the last several years made policy changes with regards to education. After reviewing the new joint AICPA and NASBA education standards and the IRS education standards for their national registration program, CTEC then adopted the AICPA/NASBA approach to determining the continuing education awarded to self-study courses. The Board then gave its curriculum review staff the latitude to deny approval of a course where the course and/or questions are not:

- Clearly written;
- Technically accurate;
- Current (up-to-date with current tax laws);
- Complete (sufficient detail to explain the subject matter); and,
- Sufficient to meet the course learning objectives.

CTEC approves CE providers by initially reviewing and approving one of their courses. The approved provider is then allowed to offer additional courses that have not been reviewed. CTEC verifies both QE and CE of every registered tax preparer every year. CTEC requires all approved providers to electronically report successful completion of both QE and CE courses to CTEC, and then matches those courses to individuals attempting to register online. CTEC does not allow self-certification of either QE or CE. Preparers are able to go into their personal online accounts and verify the number of education hours reported by their provider.

**Staff Recommendation:** *CTEC should share what the process is for a QE or CE provider.*

### **COVID-19**

**ISSUE #12: (IMPACTS OF THE COVID-19 PANDEMIC)** *What, if any, impacts has CTEC experienced because of the COVID-19 pandemic?*

**Background:** In response to the COVID-19 pandemic, a number of actions were taken by the Governor, including the issuance of numerous executive orders in order to address the immediate crisis. Many executive orders directly impact the state’s healthcare workforce. According to its background paper, CTEC was not significantly impacted by the pandemic. It has not utilized any existing state of emergency statutes, and CTEC has no employees, as all contractors are teleworking. Additionally, CTEC has not taken any other steps or implemented any other policies regarding registrants or consumers in response to COVID-19. CTEC renewal registrants have from August 1st to January 15th of the following year to renew their registration. Most courses are online so registrants can take their education and renew from their home. Finally, CTEC has not found it necessary to update or change statutory provisions to address COVID-19 or any future State of Emergency Declarations.

**Staff Recommendation:** *CTEC should update the Committees on the impact to its members and tax preparers stemming from the pandemic.*

### **CONTINUED REGULATION OF TAX PROFESSIONALS** **BY THE CALIFORNIA TAX EDUCATION COUNCIL**

**ISSUE #12: (CONTINUED REGULATION BY CTEC)** *Should the registration of tax professionals be continued and be regulated by the California Tax Education Council?*

**Background:** The need for education standards and professional accountability for professionals engaged in paid tax preparation prompts a compelling need to sustain some form of regulation. Whether the current structure established through CTEC adequately serves this purpose is an issue that must be considered in the context of both public protection and regulatory efficiency.

The current sunset review timeline represents twenty years since CTEC was created through statute as a nonprofit entity, replacing a more traditional licensing program under the DCA. The “grand experiment” envisioned in this transition was to provide a type of oversight and regulation that could more efficiently and effectively oversee professional standards for tax preparers. CTEC’s present fund condition and fee scheme, neither of which implicates state budget obligations, indicates that financial efficiencies have been realized through this structure.

However, CTEC’s status as a nongovernmental entity does pose a number of challenges, as outlined in the issues section of this review, and some degree of engagement with state agencies (particularly the FTB) is necessary to effectuate CTEC’s enforcement priorities. The nonprofit

regulatory entity model also calls into question whether various laws aimed at preserving transparency and accountability for regulatory decision-makers. Additionally, while CTEC is not a state agency, registration with the council is mandatory under state law for tax preparers who are not otherwise exempt.

It is also worth discussing the fact that CTEC functions in concert with other entities also charged with regulating tax preparers. The California Board of Accountancy, whose certified public accountants are eligible to prepare income taxes without CTEC registration, represents the largest population of professional tax preparers. The State Bar regulates licensed attorneys who are also authorized to offer paid tax preparation services within the context of their ethical standards. Finally, the FTB's necessary role in handling enforcement on behalf of CTEC represents another established state agency engaged in the business of regulating those who are involved in tax preparation.

CTEC's role in California's broad regulatory scheme furthers the longstanding argument that those engaged in occupations that present relatively low risk of consumer harm, and require relatively low educated competence for entry, can be effectively and efficiently self-regulated by a nongovernmental entity. This sunset review as well as prior sunset reviews has indicated that the regulation of tax professionals by CTEC has not revealed any serious institutional deficiencies, and that it has been performed at minimal cost to the state. From this perspective, CTEC should be continued with a 4-year extension of its sunset date and continue its current registration program. However, the Legislature should closely evaluate the value of the nonprofit, nongovernmental regulatory entity model to determine how and when it is an appropriate solution to advancing public protection priorities in a prudent manner. This should include an assessment of whether the specific issues and recommendations in this Background Paper have been sufficiently addressed.

**Staff Recommendation:** *CTEC's current registration of professional tax preparers should be continued and reviewed again on a future date to be determined.*