

## To Cut California's Budget Gap, Cut One Sentence From State Whistleblower Law



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Facing a firestorm of comment and criticism over revelations that [California faces a \\$16 billion budget gap](#), California Governor Jerry Brown appealed to the public last week for ideas to cut the state's debt. Here's a painless way to find billions in cash: Create a program to encourage whistleblowers to report major cases of tax fraud.

California certainly knows the benefits that come from collaborating with whistleblowers and their counsel. Since its legislature adopted the California False Claims Act in 1987, the state has recovered over a billion dollars as a result of cases initiated by whistleblowers, including some brought by my firm.



California could recover billions in owed taxes[+]

The [California False Claims Act](#), like other state false claims laws, allows private citizens to sue companies or individuals that defraud state or local government entities. Whistleblowers are rewarded for the risks they take by receiving a share of the amount the government recovers.

The numbers alone make the case for a California tax whistleblower program. The state's Franchise Tax Board estimates the California tax gap to be as high as \$6.5 billion a year. Closing that tax gap would go a long way to closing the huge budget deficit. Whistleblowers are the most effective, efficient and least costly way to do that.

Amazingly, the California Board of Equalization and the state Franchise Tax Board have had the authority to create tax whistleblower programs since 1984, but neither has had the vision to do so. The state boards excuse their inaction by complaining that tax shelter schemes are complex and sophisticated. Shelter schemes certainly

are complex and tax evasion is rampant, but those are exactly the reasons California needs a robust whistleblower program to bring these tax abuses to light.

With the state in such dire fiscal straits, California should end nearly 30 years of inaction and establish a robust tax whistleblower program to get the help it needs to realize the billions it is owed. The state legislature could do so simply by removing a single sentence from the existing False Claims Act so that tax fraud cases could be brought under that whistleblower law. To keep the program focused on addressing the most significant tax abuses, the law should include a requirement that at least \$1 million in tax must be owed for a whistleblower to initiate a case.

[New York](#) already is tackling its tax gap with whistleblower help. Under the leadership of New York Attorney General Eric Schneiderman, [New York amended its False Claims Act](#) to permit whistleblower-initiated tax fraud cases and is putting that law to use. Schneiderman announced earlier this month that [New York was joining a groundbreaking, whistleblower-initiated case against Sprint-Nextel Corp. for sales tax evasion](#), brought under the amended New York False Claims Act. New York could collect more than \$300 million from that case.

In talking about the Sprint matter, Schneiderman summed up the fiscal drain that tax fraud schemes have on his state: “[By deliberately evading sales taxes, Sprint cost state and local governments over \\$100 million](#) that could have been used for critical services and much needed resources that our state and its citizens need given the challenging economic times we are in.”

As California faces more reductions in public works, schools and other services, it's time for lawmakers to get serious about recovering tax revenues the state already is owed. While the implementation of a strong whistleblower program will not completely solve California's debt crisis, utilizing whistleblowers to bridge the tax gap would be a dramatic step in the right direction.