



Tax News

July 2011

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Partial Release of Lien for Short Sales

With many people facing financial difficulties, distressed homeowners are trying to sell their homes for less than the loan balance. This is called a Short Sale.

Sometimes, during Short Sale transactions, there may not be enough funds in escrow accounts to pay our recorded state tax lien in full. If this happens, we may be able to assist the taxpayer with a Partial Release of Lien.

A Partial Release of Lien releases a specific piece of property from a recorded state tax lien. However, it does not release the lien in its entirety. The lien remains in effect against the taxpayer and continues to encumber other property the taxpayer owns or acquires in the future.

To expedite a Partial Release of Lien request due to a Short Sale, the following documents are required:

- Letter of explanation detailing the request.
- Estimated closing statement.
- Current preliminary title report that includes the legal description of the property.
- Current appraisal.
- Documentation to substantiate all lien payoffs through escrow.
- Lender's Short Sale Approval.
- Additional documents may be required.

The above documents should be sent by the escrow or title representative handling the Short Sale transaction and sent via overnight mail to:

Attn: Lien Resolution Unit – Mail Stop A410
Franchise Tax Board
Sacramento, CA 95827

During the evaluation process we will:

- Review the reason and substantiation for the request.
- Verify that the property is being sold at, or near fair market value.
- Determine that industry standard fees/commissions are charged.
- Confirm that only senior lien holders and/or judgment creditors are paid.

We recognize the urgency to process a Partial Release of Lien request as quickly as possible. But they can take up to 21 working days due to increased requests.

Go to our website for more [lien information](#).

2011 IRS Tax Forums

Join your colleagues for three days of informative education sessions, training, and networking. The 2011 Tax Forums feature a full agenda of the latest tax law information, hands-on workshops, networking opportunities, and exhibits of the latest products and services for your business needs.

In 2011, the Nationwide Tax Forum sites include Atlanta, GA; Dallas, TX; Las Vegas, NV; Orlando, FL; San Jose, CA; and Washington DC.

Hear the latest on key federal and state tax issues from top Internal Revenue Service (IRS) executives and leading industry experts. Earn valuable continuing professional education and certified financial planner credits. Select from more than 40 valuable and relevant tax topics.

Tax Practitioner Hotline Phone Service

In the May Tax News, we discussed the changes we made to our [Tax Practitioner Hotline service and the self-service options](#) available to you. This month, we are going to discuss when you should call the Hotline, what we can and cannot help you with, and offer some helpful hints to make your call go smoothly.

Types of Calls the Hotline Can Assist You With	Examples
Business Entity Pre-filing Assistance	<ul style="list-style-type: none">• General or specific law questions.• Explanation of forms.• Assistance with completing return.• Estimate payment requirements and dates.• Publication questions.• Assisting with tax table.• Power of attorney questions.• Electronic Fund Transfer (EFT) requirements and assistance.• Entity status inquiry.• Dissolution or surrender.• Forming a New Entity.
Personal Income Tax Pre-	<ul style="list-style-type: none">• General or specific law questions.• Mandatory E-Pay.

<p>filing Assistance</p>	<ul style="list-style-type: none"> • Explanation of forms. • Assistance with completing return. • Explain estimate payment requirements and dates. • Publication questions. • Assisting with tax table. • Power of attorney questions, address change. • 1099G and 1099INT. • Child and Dependent Care Expenses Credit. • E-File rejection code resolution.
<p>Business Entity Account Resolution</p>	<ul style="list-style-type: none"> • Billing and notice questions. • Account balance, return status. • Liens. • Non-assigned collection accounts. • Audit questions. • Filing enforcement questions. • Return processing questions and timeframes. • Refund status.
<p>Personal Income Tax Account Resolution</p>	<ul style="list-style-type: none"> • Billing and notice questions. • Account balance, return status. • Non-assigned collection accounts. • Liens. • Employer or bank levies. • Audit questions. • Filing enforcement questions. • Return processing and timeframes. • Refund status. • Installment agreement requests.

<p>Type of Calls We Cannot Assist You With</p>	<p>Who to Call for Assistance</p>
<p>Not a licensed tax practitioner.</p>	<p>Call our general information number: 800.852.5711</p>
<p>Accounts that are assigned to a collector or specific collection unit.</p>	<p>Directly call the collector you are working with or the phone number list on the notice your client received.</p>
<p>Suspended or forfeited entities.</p>	<p>Call our Collection/Revivor Unit:</p>

Business Entity installment agreement request.	888.635.0494 (Inside the U.S.) 916.845.7033 (Outside the U.S.) 916.845.7166 (LLCs outside the U.S.)
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Some helpful hints to make your call go smoothly:

- Remember our new procedures state that; we can only assist you with one client account per phone call. If call involves a personal and business entity account for same client, we can assist with both.
- A valid Power of Attorney (POA) should be on file.
- If there is no POA on file, have client's notice or tax return in hand *and* be able to answer our security and disclosure questions. We can assist you with account information specific to notice or tax return only.
- Have client's account information (SSN, FTB ID, and current FTB address on file) readily available.
- Use California entity number (except for limited partnerships) as the primary and preferred number.
- For missing payment or penalty inquires, have copy of payment, or canceled check readily available.
- When calling to resolve levy issues have bank or employer fax number readily available

IRS Offer in Compromise Program: An Option for Struggling Taxpayers

If a taxpayer is unable to pay a tax liability in a lump sum or through an installment agreement and has exhausted the search for other payment arrangements, the taxpayer may be a candidate for an offer in compromise (OIC).

An offer in compromise is an agreement between a taxpayer and the IRS that settles the taxpayer's tax liabilities for less than the full amount owed. Absent special circumstances, the IRS will not accept an OIC if the agency believes the liability can be paid in full as a lump sum or through an installment agreement.

OICs are subject to acceptance based on legal requirements. The IRS looks at the taxpayer's income and assets to make a determination regarding the taxpayer's ability to pay.

The Form 565 Booklet, [Offer in Compromise](#), contains information and all of the forms necessary to file an OIC.

Information about installment agreement options is available on [IRS.gov](#) and is included for taxpayers who do not qualify for an OIC.

Additional Resources:

- [What is an Offer in Compromise?](#)
 - [IRS Announces New Effort to Help Struggling Taxpayers Get a Fresh Start: Major Changes Made to Lien Process.](#)
 - [Streamlined Offer in Compromise Program.](#)
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FTB's Streamlined OIC Program Continues to Help Taxpayers in Need.

Our OIC program is for taxpayers who do not have, and will not have in the foreseeable future, the money, assets, or means to pay their tax liability. It allows a taxpayer to offer a lesser amount for payment of a non-disputed final tax liability.

We evaluate each case based upon its own unique set of facts and circumstances. Strong consideration is given to income, equity in assets, future earning potential, and other considerations such as age, health, or hardships that could affect future earnings and expenses. This case-by-case approach gives us the flexibility to appropriately consider all of the taxpayer's financial and personal circumstances to reach a fair and appropriate decision for the state and the taxpayer.

- In 2007, we streamlined the OIC program to expedite the processing of lower-balance offers.
- Our streamlined, 8-page OIC application is available online in a fillable format.
- No application fee.
- A non-refundable deposit is not required.

Go to our website for information about our [OIC program](#).

Are Your Clients Subject to Minimum Franchise Tax?

If your client is a Qualified Real Estate Investment Trust Subsidiary (QREITS), the client is not subject to the Minimum Franchise Tax. For more information, go to our recently published legal division guidance notice, [2011-06-02](#).

Coming Soon – Resident, Nonresident, and Real Estate Withholding Form and Processing Changes Begin August 29, 2011

Effective August 29, 2011, processing of resident, nonresident, and real estate withholding forms and payments will change to accommodate our new, automated withholding system. The new system will result in fast and accurate processing of withholding forms and payments.

Read and carefully apply the following guidelines and changes to avoid errors that could result in the assessment of penalties and interest.

Get ready to submit Form 589 online

Beginning August 29, 2011, we can no longer process a faxed Form 589 Nonresident Reduced Withholding Request. You must submit Form 589 online or by mail.

To expedite your request, submit Form 589 online. If you submit an online Form 589 and need to submit additional documentation such as IRS 8804-C, Schedule E, expense breakdowns, etc.), you must fax the documentation to us at 916.845.9512. In your fax transmittal, include your name, taxpayer ID number, and the online Form 589 confirmation number.

We will process online requests within 10 business days. The online submission option will be available on our website on August 29, 2011.

We will process forms received by mail within 21 business days.

Withholding Information Notice

Beginning August 29, 2011, we will issue you a notice when you submit withholding Forms 592, 592-F, or 593, and there is a mistake, an underpayment, or an overpayment. We will include a description of any errors or balances, and tell you how to contact us with any questions you may have.

If you have a balance due, we will mail a separate billing statement indicating the amount due. Follow the instructions on the billing statement for remitting payment.

Amending Forms 592, 592-F, and 593

Also beginning August 29, 2011, there are new guidelines on how to amend a previously submitted Form 592, 592-F, or Form 593. You must mail a new form with the correct information. Check the "Amended" box at the top of the revised form and include a letter explaining what changes were made and why.

For more information, go to [Processing Changes for Withholding Forms and Payments](#).

POA Processing Changes

Due to budget constraints, beginning in July, we will no longer be returning incorrect or incomplete POAs to taxpayers. We will send a letter indicating the errors that were made on the POA originally submitted and request that the taxpayer submit a new POA.

Go to ftb.ca.gov for more [general information on POAs](#).

Ask the Advocate



What is Happening with the Nonrefundable Child and Dependent Care Credit?

Do you have questions about the nonrefundable Child and Dependent Care credit (CDC)? Prior to the nonrefundable legislation that was passed as part of Senate Bill 86 on March 24, 2011; we began working on the regulatory process to:

1. Provide clarification as to what documentation is acceptable to identify the taxpayer's claimed qualifying children and/or dependents.
2. Provide clarification as to what documentation is acceptable to identify the taxpayer's care provider

and legal presence; and what documentation is acceptable to establish payment for care services in lieu of copies of cancelled checks and money orders.

We held an interested parties meeting here on May 31, 2011. As a result, we found practitioners' concerns were focused on the taxpayer who made cash payments to the care provider. Such providers are often part of the underground economy and therefore there are no records available to verify cash payments made to them by the taxpayer. We also heard suggestions for making the process of requesting information from the child care provider easier for the taxpayer including an idea that we provide taxpayers with a form to use for collecting the identification and payment information from the provider.

We will consider all of the ideas that came out of the interested parties meeting when drafting the regulations. My advice as Advocate is to always get a receipt for any type of cash payment (regardless of whether or not it is being claimed as part of the CDC credit) and ask the provider questions about their licensing and/or identity information before leaving your child with them. If your clients leave their children with an unlicensed provider, such as a friend, relative, or neighbor, make sure they know that the reported expenses paid to their care providers on their tax returns for the CDC credit must be verifiable. Having all of the information up front is a great way to ensure that there are no surprises later!

We will provide more information on CDC credit requirements as we move forward in the regulatory process.

Steve Sims, EA
Taxpayers' Rights Advocate

Follow me on Twitter at twitter.com/FTBAdvocate.

Event Calendar

As part of education and outreach to our tax professional community, we participate in many different presentations and fairs. We provided this calendar to show the events we are attending.

Education and Outreach			
Speaking Engagements and Small Business Fairs			
July 2011			
Date	Event Association	Subject Matter	Location
July 8	Office of CA State Controller	Small Business Seminar	Los Angeles
August 2011			
Date	Event Association	Subject Matter	Location
Aug 11	Internal Revenue Services	CA Tax Update	San Jose
Aug 20	California Society of Tax Consultants	CA Tax Update	City of Industry
Aug 25	Ventura CPA Discussion Group	CA Tax Update	Ventura
August 2011			
Date	Event Association	Subject Matter	Location
No Events Scheduled for September			

Inside FTB

Reminder: Use New Fax Numbers

On November 1, 2010, we upgraded the following business areas from physical fax machines to a more efficient electronic fax system. The **old** fax numbers were decommissioned on February 1, 2011.

Business Area	Old Fax Number	New Fax Number
Tax Practitioner Hotline	916.845.6377	916.845.9300
PIT RIN Correspondence	916.845.0484	916.843.5443
Power of Attorney (POA)	916.845.0523 916.845.0524	916.843.5440

We have updated all fax number references in our internal/external telecom and print media with the new fax numbers.

Criminal Corner

Murrieta Man Sentenced to State Prison for Grand Theft, State Income Tax Evasion

A Murrieta man was sentenced to eight years and eight months in state prison for embezzling more than \$500,000.

Charles Fischer, 55, pleaded guilty in May to several counts including grand theft, elder abuse, and state income tax evasion. Two additional enhancements applied because of the amount of Fischer's theft.

Fischer abused his position of trust as a financial advisor and embezzled the funds from one of his elderly clients over a five-year period. Part of Fischer's fiduciary duties involved controlling his client's investment and bank accounts. Instead, Fischer used the

stolen funds to purchase items such as private schools and horses for his children, new homes, and to pay off his personal credit cards. The theft was discovered when his client sought to purchase property, but could not provide documentation of his financial status. Fischer eventually came forward to admit that the client no longer had the financial capability to acquire any properties because Fischer had spent his client's money.

Restitution for \$1.3 million was ordered for the victim.

Fischer was immediately taken into custody.

Riverside Superior Court Judge Richard Fields handed down the sentence in Department 42 of the Riverside Hall of Justice. The case was prosecuted by Riverside County Deputy District Attorney Harold Anderson. This was a joint investigation between the Riverside District Attorney's Office and us.

Our criminal investigation program identifies and investigates cases of tax evasion and tax fraud to encourage compliance with California income tax laws and maintain the public trust.

Big Business

VCI 2 – Just the Facts

California's Voluntary Compliance Initiative 2 (VCI 2) begins August 1. If you or your clients participated in **Abusive Tax Avoidance Transactions (ATATs)** or failed to report income from **Offshore Financial Arrangements (OFAs)**,¹ you have until October 31 to file amended returns to correctly report these items, pay the additional tax and interest, and avoid multiple penalties through VCI 2. If you are considering taking advantage of VCI 2, here are some things you should know.

You are eligible to participate in this initiative if you filed a tax return with California for a tax year beginning prior to January 1, 2011, which either:

1. Included the benefit of an ATAT.
2. Failed to report income from an OFA.

Eligibility extends to those who are currently under audit or who are in protest or appeals. It further extends to those who participated in the Internal Revenue Service's

¹ Go to VCI 2 on our website for a complete definition of an Abusive Tax Avoidance Transaction (ATAT) and an Offshore Financial Arrangement (OFA).

Offshore Voluntary Disclosure Initiative. You are not eligible to participate if, as of July 31, 2011, you are currently under criminal tax investigation in California.

Those who participate in this initiative will not be criminally prosecuted for amounts reported during VCI 2 and will not be assessed the:

- Accuracy related penalties.
- Noneconomic Substance Transaction Penalty.
- Interest based penalty.
- Fraud penalty.

Those who are eligible to participate, but do not, will not receive these benefits and penalties could nearly double your liability. Furthermore, the eight-year statute of limitations will be extended to 12 years for assessing additional tax and penalties.

To participate in VCI 2:

1. Complete and sign a participation agreement which will be available on our website on August 1.
2. Complete and sign an amended return reversing the ATAT or including the income from the OFA.
3. Pay all tax and interest.²
4. Submit all of the above to the Franchise Tax Board by October 31.

Note: The items listed above must be submitted during the VCI 2 filing period of August 1, 2011, through October 31, 2011.

More on Penalties

We cannot waive these penalties under VCI 2:

- Large Corporate Understatement Penalty (LCUP).
- Amnesty Penalty.
- Penalties paid prior to August 1, 2011.

Questions

- Call our VCI 2 Hotline at 888.825.9868.
- Go to ftb.ca.gov and search for [vci2](#).
- Email us at vci2@ftb.ca.gov.

² Installment arrangements may be requested if you have a financial hardship. However, your final payment of tax and interest must be received no later than 6/15/2012.