



STATE OF CALIFORNIA
Taxpayers' Rights Advocate Office MS F385
FRANCHISE TAX BOARD
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SACRAMENTO CA 95741-0157

02.01.2023

California Society of Enrolled Agents
3200 Ramos Circle
Sacramento, CA 95827-2513

Dear Mr. Hilliard, EA:

I thank the California Society of Enrolled Agents (CSEA) for presenting concerns at the December 2022 Taxpayers' Bill of Rights Hearing. As the Taxpayers' Rights Advocate, CSEA's concerns are important to me.

The following responses are provided by the appropriate program areas within the department:

Payment Application

Q1. Why does FTB place payments in suspense?

- A. Payments are placed in suspense for many reasons and in many cases, it is to benefit the taxpayer. The main purpose for payment suspense is to reserve those funds for the taxpayer's intended purpose and to ensure they are available when the return is filed later. There can be several reasons for payment suspense. Examples include:
- Incorrect tax year is indicated for which the payment should be applied
 - Incorrect form is used for the payment type
 - Correct payment type is not indicated

Q2. What is the average time frame to process a payment and does FTB allow sufficient time for payments to post prior to issuing notices and taking collection actions?

- A. For California personal income tax payments, on average, electronic payments post in five business days. Paper payments generally post in 14 business days. If

a payment needs manual processing, the electronic and paper payments will post, on average, in 10 to 21 business days, respectively. For business entities, the manual validation process to post payments averages to 30 business days for both electronic and paper payments.

FTB's payment processing time frames are factored into our billing and collection processes to help ensure FTB does not take unnecessary collection actions or over-collect. This allows sufficient time for payments to post between notices issued and prior to the initiation of involuntary collection actions such as wage garnishments, bank levies, and liens. In addition, when an account reaches collection status, the collector fully analyzes the account to identify if there are any pending payments or withholding that need to be applied before continuing with advanced collection actions.

Q3. What percent of payments need manual processing?

- A. During the 2022 calendar year, FTB received approximately 11 million personal income tax payments of which about 4% required manual processing. Approximately 50,000 payments were placed in suspense. For business entities, FTB received approximately 3.5 million payments of which about 8% required manual processing. Suspense data is not available for business entities.

Q4. Why are there delays in the application of real estate withholding?

- A. Nonwage withholding payments, including payments of real estate withholding, are different than other tax payments and are not placed in suspense, but rather processed in a different system and allocated to the taxpayer once Form 593 is processed. Unlike estimate or return payments made by taxpayers, payments submitted by withholding agents, including escrow companies, are usually for multiple taxpayers, not just one. Therefore, receipt of Form 593 (and 592) is necessary to advise FTB of how much to allocate to each taxpayer. After the payment and form are processed, the credit for the withholding is transferred to the taxpayer's account in our accounting system and is available to be applied when it is claimed on the tax return.

There are several reasons nonwage withholding credit may not be applied when a taxpayer claims the credit on their return. The most common reasons are:

- Name and ID number on the tax return does not match the name and ID number on Form 592 or 593
- Nonwage withholding was claimed on the wrong line of the tax return.
- Form 592 or 593 was not received from the withholding agent or escrow company
- Amount of withholding was not entered on line 37 on Form 593

FTB's e-file program submits Form 593 data electronically as part of an e-file return. In addition, PDFs as supporting documents may be attached. Please check with your software provider to determine if their software supports the ability to e-file Form 593. It is helpful to include a copy of Form 593 to locate withholding amounts, especially in instances where the name and/or ID number on the filed tax return and Form 593 do not match.

Q5. What process is in place for fiscal year filers claiming withholding credit?

- A. Withholding is reported on a calendar tax year basis, which is used by most taxpayers. For fiscal year filers, if withholding occurs in a calendar year that does not match their tax year, and the credit was not applied to their return as claimed, they will need to contact us to have the credit moved to the correct tax year. However, taxpayers do not have to wait until filing their return to request the credit be moved, as this can be done before filing a tax return if the withholding form has been processed. We continually look for ways to improve our processes, including updates to our procedures and possible revision of Form 593.

As with other types of withholding, there are often situations where the amounts being claimed on a taxpayer's return do not match our records. This is especially common for Form 1099 MISC wages and withholding. FTB has procedures in place to try and allow the correct amount of withholding when the return is filed, including instances when the amount being claimed does not match our records. However, this is not always possible without additional information from the taxpayer or their representative. To aid in processing, taxpayers with Form 1099 MISC wages and California withholding should include a copy of Form 1099 MISC with their income tax return.

e-Filing Issues

Q1. e-Filed returns accepted with incorrect SSNs (not all are preparer errors). This error of course will require representative involvement to resolve, but it is a problem that takes extended time to fix.

- A. Currently, FTB is unable to systematically validate Social Security Numbers and names on the intake of e-filed returns. We do encourage all filers double check their information prior to filing their returns.

Q2. There are issues with e-filed returns with addresses containing apartment numbers. FTB is dropping the apartment number and when correspondence (notices and collection actions) is sent, they are not being received by the taxpayer. This leads to obvious problems when enforced collection action ensues.

- A. We verified there is not an FTB e-file problem related to an apartment number issue. FTB uses addresses submitted on tax returns as provided by the taxpayer and/or tax

practitioner. If the apartment number is omitted from the return upon submission, we will generally accept it as a new address. FTB does run all addresses through an address standardization/perfection service to ensure the address meets USPS standards and to add the 4-digit extension of ZIP Code that taxpayers usually omit.

Without specific examples, it is difficult to determine if the information was omitted from the return prior to filing or if there could be a possible issue with the address standardization/perfection process beyond the e-file submission. Should you experience any future issues with missing apartment numbers from your clients' addresses, please contact the Tax Practitioner Hotline at 916-845-7057 to report it, so it can be researched.

Q3. Another routine issue reported is that the FTB accepts returns that the IRS [Internal Revenue Service] rejects. While that could be viewed as an IRS problem, it can lead to issues with the FTB.

For example, members report that CA taxpayers on Covered California have their IRS e-filed returns rejected because no Form 8962 is included. California does not reject the same e-filed return because no Form 8962 is required. However, FTB does require reconciliation of Premium Assistance Subsidies but does not appear to have a filter to check for that upon e-filing.

If the IRS rejects a timely e-filed return, then no amended return is required as no return is on file. If the FTB accepts the corresponding return, whatever adjustments are needed to the IRS return might increase the FTB liability which would now require an amended California return to report that increase. Some taxpayers may be reluctant to file an amended return and would instead wait to see what happens. This means potential delays in the FTB getting paid taxes due. If the FTB rejects the same return as the IRS, then this issue would be alleviated and the FTB would have a correct tax assessment with an original return.

A. FTB only processes and validates the California state return. As part of the state e-file submission, a taxpayer or tax practitioner can provide a copy of their federal return as a supporting attachment; however, the federal return isn't processed by FTB and we're unaware of the status of the federal return filing with the IRS. The IRS does not provide FTB with any rejection details or edits they may be required. Furthermore, not all software providers wait for the federal e-file return to be accepted by the IRS before transmitting the state return. Once FTB accepts a California state e-file return, it is sent for further processing and could still be adjusted, and a notice issued.

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Sincerely,

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