



STATE OF CALIFORNIA
Taxpayers' Rights Advocate's Office MS F385
FRANCHISE TAX BOARD
PO BOX 157
SACRAMENTO CA 95741-0157

02.15.2023

Christine Grab

Dear Mrs. Grab:

As stated in our original Taxpayers' Bill of Rights Hearing response letter dated February 28, 2023, we provide a supplemental response to Question #4. The following responses are provided by the appropriate program areas within the department:

4. Disclosure of Protocols Regarding Withheld Payments

Respectfully, FTB disagrees with your assertion that FTB's decision not to answer this question last year due to pending litigation violated any state or federal laws.

In regard to your specific questions presented, FTB's responses to your questions are as follows:

- a) **FTB has already disclosed that credit elect payments and estimated tax payments made by married couples are withheld until that year's return is filed. From the records submitted by FTB in the Grab vs. FTB court case, it appears that many other payments are withheld too. Please provide an exhaustive list of every type of payment that is not applied to the taxpayers account immediately upon receipt by FTB, how long that type of payment is withheld, and the Revenue and Tax Code that is used to justify each of the types of payments withheld**

Part 10.2, Chapter 2, Article 5, of the Revenue and Taxation Code and California Code of Regulations, title 18, sections 18662-0 through 18662-8 govern withholding payments.

- b) **Please provide FTB's official definition of the word "timely."**

"Timely" is not specifically defined in the Revenue and Taxation Code; however, the use of "timely" in a statute would be determined in context with the surrounding statutes.

- c) If a payment is made in full by the prescribed due date, but withheld by FTB per FTB's above withholding practices, is that payment considered "timely" by FTB? If this payment is not considered timely, please provide the Revenue and Tax Code that is used to justify this practice.**

Under Revenue and Taxation Code section 19002, subdivision (c)(1), withholding payments are "deemed to have been paid on the last day prescribed for filing" the tax return.

- d) Please disclose the procedures for moving the withheld funds into the taxpayers account at the appropriate time. For example, FTB received the hard copy of my 2011 tax returns on 03-06-2014. Per FTB's policy of withholding estimated tax payments made via credit elect and by married couples until the day that year's return is filed, our two withheld payments that had been made for tax year 2011 should have been removed from suspense and applied to our account on 03-06-2014. Who is the person responsible for moving the funds? Is it the person who opens the mail? If not, is there a system in place to ensure that the person who opens the mail gets the return to the person whose job it is to move the funds?**

The process for moving withholding payments may differ depending on the information provided with the payment when it is received. In cases where the payment is not clearly identified upon receipt by FTB, and therefore not able to be automatically posted by our system, it is likely that the payment would be located and posted when a technician is working the case. This can happen as we are resolving our manual payment processing inventory, or because the tax return itself needs additional validation to be processed to the account. Additionally, it could also be resolved if the taxpayer receives a notice that they disagree with and they contact us to receive assistance resolving the notice. The time frames for these resolutions can vary somewhat, depending on the return type, time of year, or complexity of the tax return. In general, our current processing time frames are posted here: [Timeframes | Wait times | California Franchise Tax Board](#) and updated periodically as needed to reflect changes.

- e) Please specify exactly when these withheld estimated tax payments are counted in the revenue totals for the State of California for that year. Are they counted as revenue as soon as FTB receives the funds? Or are they counted as revenue when the payments have been applied to the taxpayer's account? Or are they counted as revenue at another point in time? If it is a different point in time, please provide the calculation for which date that type of payment is classified as revenue. If different types of payments are counted as revenue on different dates, please clarify which types of payments are applied on which dates.**

Yes, estimated tax payments are recorded as revenue when the funds are remitted.

- f) Who is the custodian of the suspense accounts in which the withheld payments are placed for the interim? Is it a department within FTB, or are the funds held by another agency, such as the Department of Finance or the State Controller?**

All funds are deposited into accounts within the Centralized State Treasury System (CTS) and remitted to the State Controller's Office (SCO).

- g) Are there provisions in the protocols which allow for any type of spending, borrowing or other utilization of the funds held in the suspense account for any purpose, whether routinely or sporadically?**

All funds are deposited into accounts within the CTS and remitted to SCO. All disbursements, spending, borrowing, or utilization of the funds is the responsibility of SCO as authorized in the Budget Act or by statute.

- h) If spending, borrowing or other utilization of the funds is authorized by the protocols, whether routinely or sporadically, what are the guidelines under which the monies can be utilized? Who is authorized to make these expenditures?**

All disbursements, spending, borrowing, or utilization of the funds is the responsibility of SCO as authorized in the Budget Act or by statute.

Sincerely,



Brenda Voet, EA

Taxpayers' Rights Advocate

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