

STATE OF CALIFORNIA  
**Budget Change Proposal - Cover Sheet**  
 DF-46 (REV 07/14)

Fiscal Year 2015/16	Business Unit 7730	Department Franchise Tax Board	Priority No. 3
Budget Request Name 7730-003-BCP-BR-2015-GB		Program 6280	Subprogram 6280010/6280019

**Budget Request Description**

AB 1424 – Delinquent Taxpayer Accountability Act (Stats. 2011, Ch. 455)

**Budget Request Summary**

The Franchise Tax Board (FTB) requests seven permanent positions to replace seven expiring two-year limited term positions and \$711,000 General Fund. The current positions will expire on June 30, 2015. These permanent positions will continue to administer the various provisions of the Delinquent Taxpayer Accountability Act (Stats. 2011, Ch. 455). This proposal is estimated to maintain the increased General Fund revenue generated by this Act of \$70 million in 2015/16 and each subsequent fiscal year. The work to administer the provisions of AB 1424 is ongoing in nature and these resources are critical to the continued success of the Top 500 Program.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed
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Does this BCP contain information technology (IT) components? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <i>If yes, departmental Chief Information Officer must sign.</i>	Department CIO	Date
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For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the Department of Technology, or previously by the Department of Finance.

FSR       SPR      Project No.      Date:

If proposal affects another department, does other department concur with proposal?       Yes       No  
*Attach comments of affected department, signed and dated by the department director or designee.*

Prepared By	Date	Reviewed By	Date
Department Director	Date	Agency Secretary	Date

Pending Board Approval

**Department of Finance Use Only**

Additional Review:  Capital Outlay     ITCU     FSCU     OSAE     CALSTARS     Technology Agency

BCP Type:       Policy       Workload Budget per Government Code 13308.05

PPBA	Date submitted to the Legislature
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## Analysis of Problem

### A. Budget Request Summary

The Franchise Tax Board (FTB) requests seven permanent positions to replace seven expiring two-year limited term positions and \$711,000 General Fund. The current positions will expire on June 30, 2015. These permanent positions will continue to administer the various provisions of the Delinquent Taxpayer Accountability Act (Stats. 2011, Ch. 455). This proposal is estimated to maintain the increased General Fund revenue generated by this Act of \$70 million in 2015/16 and each subsequent fiscal year. The work to administer the provisions of AB 1424 is ongoing in nature and these resources are critical to the continued success of the Top 500 Program.

### B. Background/History

The purpose of the Delinquent Taxpayer Accountability Act is to provide additional tools to FTB to collect delinquent tax debts. Information regarding current state laws and resources currently being expended by the state related to the provisions are included below:

#### **Top 250/500 Tax Debtor Program**

On September 29, 2006, AB 1418 (Stats. 2006, Ch. 716) was enacted into law. This bill required FTB to compile and make publicly available an annual list that identifies the Top 250 tax delinquencies that exceed \$100,000, selected from both the Personal Income Tax and Corporation Tax records as of December 31 of the previous year. For purposes of the Top 250 list, a tax delinquency is defined as the total amount owed by a taxpayer to the State of California for which a Notice of State Tax Lien has been recorded in any county recorder's office in the state.

The passage of AB 1424 (Stats. 2011, Ch. 455) in 2011, which amended Revenue and Taxation Code Section 19195, changed the Top 250 list to the Top 500 list and significantly increased FTB's collection enforcement authority. Through the 2012/13 BCP #4, AB 1424, FTB received seven three-year limited term positions to administer the following provisions of the Delinquent Taxpayer Accountability Act:

- Publish the Top 500 tax debtor list at least twice each year.
- Appropriately suspend occupational, professional and driver licenses held by debtors appearing on the Top 500 debtor list, except as specified.
- Effectively administer the reinstatement of licenses of taxpayers who come into compliance.
- Prohibit any state agency from entering into a contract for goods and services with a tax debtor on the Top 500 tax debtor list.

Revenue generated from AB 1424 was \$64.9 million in 2012/13 and \$74.1 million in 2013/14. The anticipated revenue for 2014/15 is \$70 million.

#### **Other State License Suspension Programs for Delinquent Debtors**

Prior to the passage of AB 1424, the license suspension programs for delinquent debtors included:

- The Contractors State License Board (CSLB) may refuse to issue, reinstate, reactivate, suspend or renew a contractor's license for the failure of a licensee to pay state taxes and any fees that may be assessed by the CLSB, the Department of Industrial Relations, the Employment Development Department, or the FTB.
- Occupational, professional and driver license denial and suspension for failure to pay court-ordered child support debts.
- The California Supreme Court may suspend or disbar an attorney from practice for an act of professional misconduct or conviction of serious crimes.

## Analysis of Problem

### C. State Level Considerations

The Delinquent Taxpayer Accountability Act created an unfunded mandate for FTB which this proposal addresses.

The purpose of the law is to provide additional tools to the FTB to collect delinquent tax debts in excess of \$100,000. AB 1424 also expanded collection activities on delinquent debts owed to FTB through reciprocal offset agreements with other states, however, FTB is not requesting resources for these expanded collection activities at this time. This proposal supports FTB's mission to fairly and effectively administer the state's tax system. The FTB mission is "is to provide the services and information to help taxpayers file accurate and timely tax returns and pay the proper amount owed. To accomplish this mission, we develop knowledgeable and engaged employees, administer and enforce the law with fairness and integrity, and responsibly manage the resources allocated to us." This proposal also fully supports FTB's Strategic Plan Goal to administer and enforce the law effectively to ensure that all taxpayers meet their obligations to file and pay the proper amount owed.

Revenue collected under this mandate will benefit the State's General Fund.

### D. Justification

In order to comply with this legislative mandate, FTB is requesting to replace seven limited term positions with permanent positions to maintain the following provisions of AB 1424:

- Publish the Top 500 tax debtor list at least twice each year.
- Appropriately suspend occupational, professional and driver licenses held by debtors appearing on the Top 500 debtor list, except as specified.
- Effectively administer the reinstatement of licenses of taxpayers who come into compliance.
- Work with other appropriate state entities to ensure they have information to ensure those other state entities do not enter into a contract for goods and services with a tax debtor on the Top 500 tax debtor list.

These positions are needed to sustain the current level of demand for collection services, address workload growth, maintain the mandatory requirements of the law, and encourage compliance.

#### **Top 500 Tax Debtor List**

AB 1424 increased the Top 250 tax debtor list to include the top 500 tax debtors. Provisions of the bill require FTB to update the Top 500 list at least twice a year and:

- Include on the list the type and status of any occupational or professional license held by a debtor on the list and the names and titles of the Principal Officers of limited liability companies and corporations appearing on the list. Principal Officers appearing on the list solely pursuant to this provision are not subject to license suspension or the prohibition on contracting with the state.
- Require taxpayer's proposed resolution of a tax delinquency to be "accepted" by FTB rather than "not rejected" in order to avoid appearing on the list.
- Allow FTB to return a tax debtor's name to the list if he/she fails to comply with the terms of the resolution that resulted in the removal of his/her name from the list.

#### **License suspension for delinquent taxpayers appearing on the Top 500 tax debtor list**

This provision requires state governmental licensing entities to withhold issuance or renewal of the license of an applicant or to suspend the license of a licensee whose name appears on a certified list provided by FTB which indicates the applicant or licensee appears on a Top 500 tax debtor list. "State governmental licensing entity" means any entity included in Sections 101, 1000, or 19420 of the Business and Professions Code (approximately 54 licensing entities). AB 1424 states that:

## Analysis of Problem

- The Department of Motor Vehicles (DMV) is only required to suspend the license of a licensee whose name appears on a certified list and is not required to withhold issuance or renewal of a license.
- The California State Bar and the Alcoholic Beverage Control have permissive authority, rather than a requirement, to withhold issuance or renewal of the license of an applicant or to suspend the license of a licensee on such certified list.

This provision requires FTB to do the following:

- Submit a certified list of tax debtors appearing on a Top 500 tax debtor list to every state governmental licensing entity. The certified list must include the name, social security number or taxpayer identification number and the last known address of the persons identified on the certified list. These agencies are required, within 30 days of receipt of a certified list from FTB, to notify taxpayers appearing on the list that they have 90 days to resolve their delinquencies with FTB. The license(s) of taxpayers who fail to do so are then subject to suspension by the issuing agency. A taxpayer, at the time he/she receives the initial notice from a licensing agency, can contest his/her pending license suspension by sending FTB a written appeal. FTB has 45 days to affirm or deny the appeal.
- Provide release forms to the state governmental licensing entity, applicant or licensee as specified.
- Taxpayers who come into compliance with FTB will have their names removed from the Top 500 list and will also have suspended licenses reinstated after paying any applicable fees to the agencies. In order to achieve compliance, taxpayers may pay the liability in full or, if unable to do so, either establish an installment agreement or verify a financial hardship. The licensing agency has five business days to reinstate the license once notified by FTB that the delinquent taxpayer is in compliance.
- Notify the state governmental licensing entity when an applicant or licensee fails to comply with an installment agreement that was the basis for receiving a release from FTB.

### **State Agency Contracts for Goods and Services**

This provision prohibits any state agency from entering into a contract for goods and services with a tax debtor on the Top 500 tax debtor list. Any contract entered into in violation of this provision is void and unenforceable.

This provision requires FTB to provide state agencies copies of its Top 500 tax debtor list. State agencies are responsible for determining if there is a contract issue. In addition, FTB sends a letter to all agencies that may contract for goods and services advising them to review the list and contact FTB for further information if they find a possible match.

## **E. Outcomes and Accountability**

It is the responsibility of FTB to administer the provisions included in AB 1424. This is an ongoing workload and as such FTB is requesting to replace the seven limited term positions to permanent positions.

Revenue generated from continued enforcement of the AB 1424 provisions is anticipated to be \$70 million in 2015/16 and each subsequent fiscal year. The revenue estimate is calculated on a cash basis (when payments are received). This estimate does not include any impact on revenues administered by other departments. In addition, it does not reflect any revenue from the provision of the bill that would allow FTB to contract with the IRS or other states to collect tax debts owed to FTB because the IRS and other states do not currently have the statutory authority to collect debts owed to FTB.

## Analysis of Problem

### F. Analysis of All Feasible Alternatives

#### **Alternative #1: Approve annual funding for \$711,000 and seven permanent positions to replace seven expiring limited term positions.**

This option provides the ongoing resources necessary to administer the provisions of AB 1424 pertaining to the Top 500 tax debtor list, occupational, professional, and driver license suspension and state contracts for goods and services during 2015/16 and future fiscal years. The work to administer the provisions of AB 1424 is ongoing in nature and these resources are critical to the continued success of the Top 500 Program.

#### **Alternative #2: Approve annual funding for \$711,000 and extend seven limited term positions three years through 2017/18.**

This option provides the resources necessary to administer these provisions of AB 1424 for the next three fiscal years. This option does not address the ongoing nature of this workload so does not constitute a permanent solution.

#### **Alternative #3: Approve annual overtime funding of \$754,000.**

This option provides overtime funding of \$754,000 to administer the legislatively mandated provisions of AB 1424. Overtime is not a practical solution since staff is needed on a daily basis to comply with the ongoing provisions of AB 1424. The nature of overtime lends itself to requiring people to work before and after regular business hours. In this case, the technical and sensitive nature of the work would mean that we would be using the same highly-trained personnel for both regular hours and overtime hours.

#### **Alternative #4: Allow the seven limited term positions to expire.**

This option does not address the ongoing nature of this workload and would require the redirection of existing resources from other critical workloads to administer the legislatively mandated workloads associated with AB 1424. This option would result in the loss of approximately \$35.5 million revenue from other workloads.

### G. Implementation Plan

- June 2015 – Limited term positions from the 2012/13 AB 1424 BCP are scheduled to expire.
- June 2015 – 607 documents to establish seven permanent positions are prepared and approved by the FTB Budget Officer and forwarded to the Department of Finance.
- June 2015 – Department of Finance notifies FTB of position approval.
- July 2015 – Positions are established with the incumbents in place.

### H. Supplemental Information

None.

### I. Recommendation

FTB recommends that Alternative #1 be approved. Approval of this alternative recognizes the ongoing nature of the work required and ensures that FTB has adequate resources to fully comply with the Top 500 tax debtor list provisions of AB 1424 from 2015/16 and beyond.

**AB 1424 Top 500 Workload Metrics**

Section	Classification	Resource Type (Perm, LT, TH, OT)	Tasks (workload)	Metrics (Vol, Rate)	2015/16 Hours	2016/17 Hours	Positions Requested	Risks
<b>Accounts Receivable Management Division</b>								
Personal Income Tax, Complex Account Resolution Team (PIT CART)	Senior Compliance Representative	Perm	Analyze accounts to determine those that qualify for the Top 500 list; including researching the largest accounts and those who might be notable.	2,800 accts; 20 minutes per acct review by 2 SCRs / twice per year	3,714	3,714		These positions are critical to the legislatively mandated (R&TC 19195 and B&PC 494.5) Top 500 program to ensure it is effectively and efficiently administered with as few errors and issues as possible. The Senior Compliance Representative classification is necessary due to the complexity and sensitivity of the cases being processed. Without these positions in place there is a significant risk of noncompliance with the law. There would also be an increased likelihood for errors which could cause negative publicity due to the sensitive nature of the Top 500 program and the notability of many of the taxpayers included on the published list.
			Calculate qualifying balances for Top 500 accounts including recognizing lien issues and dual assessments.	700 balance calculations; average approx 6 per hour / twice per year	220	220		
			Complete detailed account narratives for management, legal and investigations.	~280 narratives; average 1.25 hours per narrative / twice per year	728	728		
			Issue Notices of Public Disclosure of Tax Delinquencies.	700 notices; average 8 notices per hour / twice per year	180	180		
			Maintain excel spreadsheets for all Top 500 lists current, past and in the future with very high complexity and complicated formulas.	N/A	476	476		
			Monitor delinquent Top 500 taxpayer accounts for compliance at least twice weekly.	350 accts; average 5.5 minutes per review	3,314	3,314		
			Answer and resolve incoming calls related to Top 500 accounts.	1,440 calls; average 15 minutes per call	364	364		
			Prepare Field Action Requests (FARs) for in person contact with delinquent taxpayers on the Top 500 list.	280 FARs; average 1.1 hours per FAR / twice per year	546	546		

**AB 1424 Top 500 Workload Metrics**

Section	Classification	Resource Type (Perm, LT, TH, OT)	Tasks (workload)	Metrics (Vol, Rate)	2015/16 Hours	2016/17 Hours	Positions Requested	Risks
			Verify corporation officers using the Statement of Officers from the Secretary of State or the corporation tax return, whichever is more recent. Add and remove Case Study Indicator (CSI) codes used to track accounts and revenue.	N/A	84	84		
			Work bad address list for all accounts over \$100K that may qualify for the published list.	670 accts; average 20 minutes per account / twice per year	440	440		
			Locate occupational and driver license information and their status for the public list.	Research 500 accounts; average 0.45 hours per account / twice per year	456	456		
			Attend Top 500 staff training to address trending Top 500 issues.	N/A	364	364		
			Notify state licensing boards, bureaus and agencies of each taxpayer published on Top 500 list. Notify state licensing boards, bureaus and agencies of taxpayer compliance. Notify WebServices of necessary changes to the published list. Provide support to legal counsel for accounts where the taxpayers have filed suit against FTB.	N/A	214	214		
<b>Sub-Total Hours</b>					<b>11,100</b>	<b>11,100</b>	<b>6</b>	
	Principal Compliance Representative	Perm	Oversight and review of accounts deemed qualified for the Top 500 list including those with special circumstances.	N/A	350	350		This position is critical to the legislatively mandated (R&TC 19195 and B&PC 494.5) Top 500 program. The position acts in a lead capacity, providing oversight and review of staff work and helps ensure the program functions efficiently, effectively and with as few errors and issues as possible. Without this position in place there is a significant risk of noncompliance with the law. There would also be an increased likelihood for errors which could cause negative publicity due to the sensitive nature of the Top 500 program and the notability of many of the taxpayers included on the published list.
			Oversight and review of: --notices sent to delinquent taxpayers. --narratives provided to management, legal and investigations. --staff who edit program data including complex and complicated formulas with spreadsheets used for all Top 500 lists both current & past.	N/A	124	124		

**AB 1424 Top 500 Workload Metrics**

Section	Classification	Resource Type (Perm, LT, TH, OT)	Tasks (workload)	Metrics (Vol, Rate)	2015/16 Hours	2016/17 Hours	Positions Requested	Risks
			Ensure all delinquent taxpayer accounts are monitored at least twice weekly. Monitor incoming call queues. Coordinate the requests for field office assistance on required accounts. Oversight and review to ensure best possible address is obtained prior to mailing. Oversight and review the collection of occupational and driver license information.	N/A	156	156		
			Review contact with licensing agencies related to taxpayer compliance. Review contact with FTB WebServices for necessary changes to the published list. Oversight and review for communication between staff and legal counsel for accounts where the taxpayers have filed suit against FTB. Prepare training materials and provide training for Top 500 staff to address trending Top 500 issues.	N/A	52	52		
			Run business reports and prepare data prior to mailing notices. Issue over 4,000 pre-letters twice a year. Prepare Top 500 list - including notification to FTB WebServices and all state licensing boards & agencies twice a year.	N/A	244	244		
			Maintain excel spreadsheets for all Top 500 lists current, past and in the future with very high complexity and complicated formulas.	N/A	600	600		
			Collaborate with other units within FTB to ensure taxpayers are appropriately placed on the public list. Collaborate with all state licensing boards & agencies (54 total) to make sure taxpayers are getting their licenses suspended or reinstated appropriately. Request copies of the statement of officers from the Secretary of State.	N/A	204	204		
			Add and remove Case Study Indicator (CSI) codes and prepare spreadsheets for Bureau support to have pre letter CSI codes added and removed.	N/A	120	120		
<b>Sub-Total Hours</b>					<b>1,850</b>	<b>1,850</b>	<b>1</b>	
<b>TOTAL HOURS</b>					<b>12,950</b>	<b>12,950</b>	<b>7</b>	

**AB 1424 Fiscal Detail**

	<b>CY</b>	<b>BY</b>	<b>BY+1</b>	<b>BY+2</b>	<b>BY+3</b>	<b>BY+4</b>
<b>Personal Service</b>						
Positions (Perm)	0.0	7.0	7.0	7.0	7.0	7.0
Positions (Temp)	0.0	0.0	0.0	0.0	0.0	0.0
Exempt	0.0	0.0	0.0	0.0	0.0	0.0
Board	0.0	0.0	0.0	0.0	0.0	0.0
<b>Total Positions</b>	<b>0.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>
<b>Total Salaries and Wages</b>						
Earnings - Permanent	0	449,000	449,000	449,000	449,000	449,000
Earnings - Temporary	0	0	0	0	0	0
Earnings - Statutory/Exempt	0	0	0	0	0	0
Overtime, Holiday, Other	0	28,000	28,000	28,000	28,000	28,000
	\$0	\$477,000	\$477,000	\$477,000	\$477,000	\$477,000
<b>Total Staff Benefits</b>	0	213,000	213,000	213,000	213,000	213,000
Unallocated, Special Adjustments	0	0	0	0	0	0
<b>Total Personal Services</b>	<b>\$0</b>	<b>\$690,000</b>	<b>\$690,000</b>	<b>\$690,000</b>	<b>\$690,000</b>	<b>\$690,000</b>
<b>Operating Expenses and Equipment</b>						
General Expense	0	6,000	6,000	6,000	6,000	6,000
Printing	0	0	0	0	0	0
Communications	0	4,000	4,000	4,000	4,000	4,000
Postage	0	6,000	6,000	6,000	6,000	6,000
Insurance	0	0	0	0	0	0
Travel-In State	0	0	0	0	0	0
Travel-Out of State	0	0	0	0	0	0
Training	0	0	0	0	0	0
Facilities Operations	0	0	0	0	0	0
Utilities	0	0	0	0	0	0
Consulting: Interdepartmental	0	0	0	0	0	0
Consulting: External	0	0	0	0	0	0
Other Departmental Services	0	0	0	0	0	0
Consolidated Data Center	0	0	0	0	0	0
Information Technology	0	5,000	5,000	5,000	5,000	5,000
Pro Rata	0	0	0	0	0	0
Statewide Cost Allocation Plan	0	0	0	0	0	0
Capital Assets	0	0	0	0	0	0
Equipment	0	0	0	0	0	0
Other	0	0	0	0	0	0
Special Items of Expense	0	0	0	0	0	0
Unclassified/Special Adjustment	0	0	0	0	0	0
<b>Total Operating Expenses and Equipment</b>	<b>\$0</b>	<b>\$21,000</b>	<b>\$21,000</b>	<b>\$21,000</b>	<b>\$21,000</b>	<b>\$21,000</b>
<b>Total State Operations Expenditures</b>	<b>\$0</b>	<b>\$711,000</b>	<b>\$711,000</b>	<b>\$711,000</b>	<b>\$711,000</b>	<b>\$711,000</b>
<b>Fund Source - State Operations</b>						
General Fund	0	711,000	711,000	711,000	711,000	711,000
Federal Funds	0	0	0	0	0	0
Other/Special Funds	0	0	0	0	0	0
Reimbursements (non-add)	0	0	0	0	0	0
<b>Total State Operations Expenditures</b>	<b>\$0</b>	<b>\$711,000</b>	<b>\$711,000</b>	<b>\$711,000</b>	<b>\$711,000</b>	<b>\$711,000</b>
<b>Fund Source - Local Assistance</b>						
General Fund	0	0	0	0	0	0
Federal Funds	0	0	0	0	0	0
Other/Special Funds	0	0	0	0	0	0
Reimbursements (non-add)	0	0	0	0	0	0
<b>Total Local Assistance Expenditures</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Fund Source - Capital Outlay (if applicable)</b>						
General Fund	0	0	0	0	0	0
Federal Funds	0	0	0	0	0	0
Other/Special Funds	0	0	0	0	0	0
Reimbursements (non-add)	0	0	0	0	0	0
<b>Total Capital Outlay Expenditures</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Total Expenditures</b>	<b>\$0</b>	<b>\$711,000</b>	<b>\$711,000</b>	<b>\$711,000</b>	<b>\$711,000</b>	<b>\$711,000</b>
<b>Other Items</b>						
Unclassified	0	0	0	0	0	0
Reappropriation	0	0	0	0	0	0
Reversion	0	0	0	0	0	0
<b>Revenue</b>						
General Fund	0	70,000,000	70,000,000	70,000,000	70,000,000	70,000,000
Other/Special Funds	0	0	0	0	0	0
<b>Loans/Revenue Transfers</b>						
General Fund	0	0	0	0	0	0
Other/Special Funds	0	0	0	0	0	0