

STATE OF CALIFORNIA
Budget Change Proposal - Cover Sheet
 DF-46 (REV 05/11)

Fiscal Year 2012/13	BCP No. 4	Org. Code 1730	Department Franchise Tax Board	Priority No. 3
Program Tax Programs			Element All Tax Programs	Component

Proposal Title
AB 1424

Proposal Summary

This proposal requests \$755,000 and 7 positions in FY 2012/13 and \$612,000 and 7 positions in FY 2013/14 to implement and administer provisions of Assembly Bill 1424 (Stats. 2011, Ch. 455). Revenue generated from this proposal is estimated to be \$19 million in FY 2011/12, increasing to \$24 million in FY 2012/13.

Requires Legislation <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Code Section(s) to be Added/Amended/Repealed	
Does this BCP contain information technology (IT) components? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Department CIO	Date
<i>If yes, departmental Chief Information Officer must sign.</i>		

For IT requests, specify the date a Special Project Report (SPR) or Feasibility Study Report (FSR) was approved by the California Technology Agency, 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: <input type="checkbox"/> Capital Outlay <input type="checkbox"/> ITCU <input type="checkbox"/> FSCU <input type="checkbox"/> OSAE <input type="checkbox"/> CALSTARS <input type="checkbox"/> Technology Agency	
BCP Type:	<input type="checkbox"/> Policy <input type="checkbox"/> Workload Budget per Government Code 13308.05
PPBA	Date submitted to the Legislature

Analysis of Problem

A. Proposal Summary

The Franchise Tax Board (FTB) is requesting \$755,000 and 7 positions in FY 2012/13 and \$612,000 and 7 positions in FY 2013/14 to implement and administer the various provisions of Assembly Bill 1424 (Stats. 2011, Ch. 455). This proposal is estimated to generate revenue of \$19 million in FY 2011/12, increasing to \$24 million in FY 2012/13 and \$26 million in FY 2013/14.

We are requesting positions and funding to implement the following provisions of AB 1424:

- Increase the Franchise Tax Board's (FTB's) list of the top 250 tax debtors to include the top 500 tax debtors.
- Require the FTB to update the Top 500 tax debtor list at least twice each year.
- Require state governmental licensing entities to suspend occupational, professional and driver's licenses held by debtors appearing on the Top 500 debtor list, except as specified.
- Prohibit any state agency from entering into a contract for goods and services with a tax debtor on the Top 500 tax debtor list.
- Allow the FTB to offset tax refunds for delinquent tax debts owed to other states, but only upon a reciprocal agreement in which the other state's tax refunds are offset for delinquent tax debts owed to the FTB.

The costs associated with the following provisions of AB 1424 have not been included in this proposal since implementation of these provisions is contingent on legislation and Memorandums of Understanding (MOU) with the IRS and other states:

- Allow the FTB to contract with the IRS or other states to collect tax debts owed to the FTB.
- Allow the FTB to collect tax debts due to the IRS or other states, as specified, if/ when the IRS or other states enact similar legislation.

B. Background/History

The purpose of AB 1424 is to narrow the tax gap by providing FTB additional tools to collect delinquent tax debts. Information regarding current state laws and resources currently being expended by the state related to the provisions included in AB 1424 are included below:

Top 250 Tax Debtor List

On September 29, 2006, AB 1418 (Stats. 2006, Ch. 716) was enacted into law. This bill requires 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.

Analysis of Problem

The cost and revenue for the existing Top 250 tax debtors list since its inception in FY 2007/08 is as follows:

Resource History (Dollars in thousands)

Program Budget	2007-08	2008-09	2009-10	2010-11	2011-12 YTD
Authorized Expenditures	144	84	86	86	86
Actual Expenditures	255	139	123	110	64
Revenues	505	9,500	22,900	32,000	18,300
Authorized Positions	1	1	1	1	1
Filled Positions	1	1	1	1	1
Vacancies	0	0	0	0	0

Workload History

Workload Measure	2007-08	2008-09	2009-10	2010-11	2011-12
Taxpayer Notices Issued	250	750	1,250	2,250	2,250

License suspension for delinquent taxpayers

Current state law specifies that 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 CSLB, the Department of Industrial Relations, the Employment Development Department, or the FTB.

Current state law also authorizes occupational, professional, and driver's license denial and suspension for failure to pay court-ordered child support debts. The local child support agencies compile a list for the Department of Child Support Services (DCSS) of obligors who are more than 30 calendar days in arrears in making their child support payments. The DCSS reviews the list to verify the information is accurate and then sends the list of obligors to the various licensing boards/agencies. Once the list is received, those boards/agencies immediately send a 150-day compliance letter to the obligor. If the obligor fails to comply within the 150-day timeframe and the licensing board\agency fails to receive a release letter from the local child support agency, the occupational, professional, or driver's license is suspended by the licensing board/agency.

Current state law provides that the California Supreme Court may suspend or disbar an attorney from practice for an act of professional misconduct or conviction of serious crimes.

Tax Refund Offsets

Under current state law, the California State Controller is authorized to offset money due an individual or entity from a state agency as payment for debts due to California state agencies, cities, counties, and colleges, as well as the IRS. Income tax refunds are available for offset only after all existing income tax debts have been satisfied.

Current state law does not provide authority for California income tax refunds to be offset for debts owed to other states. Under federal law, the Treasury Offset Program (TOP) offsets federal tax refunds for delinquent non-tax debts owed to federal agencies, to child support authorities, and tax debts owed to state taxing agencies.

Analysis of Problem

Collection Agreements with the IRS and Other States

Current state law allows the FTB to contract with private collection companies to collect delinquent tax debts owed by California residents or those residing outside California. However, current state law lacks express authority for the FTB to contract with other states or the IRS for such services. In addition, current state law does not provide authority for the FTB to collect debts owed to other states and the only tool available to collect debts owed to the IRS is the above discussed tax refund offset tool.

C. State Level Considerations

AB 1424 creates an unfunded mandate for both FTB and the Board of Equalization; however, this proposal only addresses the resource needs as they relate to FTB.

The purpose of AB 1424 is to narrow the State's annual \$6.5 billion tax gap by providing the FTB additional tools to collect delinquent tax debts. This proposal supports FTB's mission to fairly and effectively administer the state's tax system. The FTB mission is "to collect the proper amount of tax revenue, and operate other programs entrusted to us at the least cost; serve the public by continually improving the quality of our products and services; and perform in a manner warranting the highest degree of public confidence in our integrity, efficiency, and fairness." This proposal also fully supports FTB's mission *Strategic Plan Goal #2 "Increase Fairness and Compliance with the Tax Law; and Goal #3 "Increase Transparency"*.

D. Justification

In order to comply with this legislative mandate, FTB must create new collection notices, modify existing collection notices and make changes to existing computer systems. We are requesting positions and funding to implement the following provisions of AB 1424:

- Increase the Franchise Tax Board's (FTB's) list of the top 250 tax debtors to include the top 500 tax debtors.
- Require the FTB to update the Top 500 tax debtor list at least twice each year.
- Require state governmental licensing entities to suspend occupational, professional and driver's licenses held by debtors appearing on the Top 500 debtor list, except as specified.
- Prohibit any state agency from entering into a contract for goods and services with a tax debtor on the Top 500 tax debtor list.
- Allow the FTB to offset tax refunds for delinquent tax debts owed to other states, but only upon a reciprocal agreement in which the other state's tax refunds are offset for delinquent tax debts owed to the FTB.

The costs associated with the following provisions of AB 1424 have not been included in this proposal since implementation of these provisions is contingent on legislation and Memorandums of Understanding (MOU) with the IRS and other states:

- Allow the FTB to contract with the IRS or other states to collect tax debts owed to the FTB.
- Allow the FTB to collect tax debts due to the IRS or other states, as specified, if/ when the IRS or other states enact similar legislation.

Analysis of Problem

Top 500 Tax Debtor List

AB 1424 increases the Top 250 tax debtor list to include the largest 500 tax debtors. The new list will be called the Top 500 tax debtor list. 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 would not be 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 the FTB rather than "not rejected" in order to avoid appearing on the list.
- Allow the FTB to return a tax debtor's name to the list if he or she fails to comply with the terms of the resolution that resulted in the removal of his or her name from the list.

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

This provision would require state governmental licensing entities to withhold issuance or renewal of the license of an applicant or to suspend the license of a licensee whose names appear on a certified list provided by FTB which indicates the applicant or licensee appears on a Top 500 tax debtor list.

- DMV would only be required to suspend the license of a licensee whose name appears on a certified list and would not be required to withhold issuance or renewal of a license.
- The California State Bar and the Alcoholic Beverage Control would 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.
- Within 30 days of receipt of a certified list from the FTB, state governmental licensing entities would be required to provide notice of the pending denial or suspension of a license to any applicant or licensee appearing on the certified list.

This provision would require 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 would be required to include the name, social security number or taxpayer identification number, and the last known address of the persons identified on the certified list.
- Create release forms.
- Provide release forms to the state governmental licensing entity, applicant or licensee as specified.
- Notify the state governmental licensing entity when an applicant or licensee fails to comply with an installment payment arrangement that was the basis for receiving a release from the FTB.

State Agency Contracts for Goods and Services

This provision would prohibit 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 would be void and unenforceable.

This provision would require FTB to provide state agencies copies of our Top 500 list. State agencies will be responsible for determining if there is a contract issue. In addition, we will

Analysis of Problem

send a letter to all agencies that may contract for goods and services advising them to review the list and contact us for further information if they find a possible match.

Tax Refund Offsets

This provision would allow the FTB to offset tax refunds for delinquent tax debts owed to other states, but only upon a reciprocal agreement in which the other state's tax refunds are offset for delinquent tax debts owed to the FTB. Offsets for delinquent income tax debts owed to other states would only occur after all other offset requests from California state agencies, cities, counties, and colleges, as well as the federal government, have been satisfied.

Collection Agreements with the IRS and Other States

This provision would:

- Provide authority for the FTB to contract with the IRS or any state imposing an income tax or tax measured by income to collect tax debts owed to the FTB.
- Provide authority for the FTB to collect tax debts due the IRS or any state imposing an income tax or tax measured by income, but only if the IRS or other state agrees to collect tax debts owed to the FTB.

This provision is not reflected in the cost estimate because implementation is contingent upon the IRS or other states enacting similar legislation, which has yet to occur. To the extent that IRS or other states enact similar legislation, FTB will submit a BCP to cover these costs at that time.

E. Outcomes and Accountability

It is the responsibility of FTB to administer the provisions included in AB 1424. The creation of new collection notices as well as modification of existing notices will be handled under the direction of the Accounts Receivable Management Division Chief. The changes to existing computer systems will be handled under the direction of the Technology Services Division Chief.

As shown in the table below, revenue generated from this bill is anticipated to be \$19 million in FY 2011/12; \$24 million in FY 2012/13; and \$26 million in FY 2013/14. This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill. 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 the FTB to contract with the IRS or other states to collect tax debts owed to the FTB because the IRS and other states do not currently have the statutory authority to collect debts owed to the FTB.

Projected Outcomes
(Dollars in thousands)

Workload Measure – Revenue	2011-12	2012-13	2013-14	2014-15	2015-16
Top 250 List					
Occupational License Suspension	2,200	2,900	3,100	3,300	3,500
Driver's License Suspension	8,300	17,400	18,800	20,300	21,900
Additional Provisions (expand to 500 and Refresh List)	5,900	800	900	900	900
Offset Tax Refunds – Other States	2,400	3,000	3,300	3,700	4,000
TOTAL	18,800	24,100	26,100	28,200	30,300

F. Analysis of All Feasible Alternatives

Alternative #1: Approve funding for \$755,000 and 7 positions.

This option provides the resources necessary to implement AB 1424 and comply with all provisions of the new law, except collection agreements with the IRS and other states. To the extent reciprocal agreements are put in place at a future date, FTB will submit a BCP to cover these costs at that time. Provisions for reciprocal agreements are contingent on legislation and MOUs with the IRS and other states.

Alternative #2: Approve overtime funding of \$840,000.

This option provides overtime funding of \$840,000 to implement AB 1424 and comply with the ongoing provisions of the new law, except for collection agreements with the IRS and other states. To the extent reciprocal agreements are put in place at a future date, FTB will submit a BCP to cover these costs at that time. Provisions for reciprocal agreements are contingent on legislation and MOUs with the IRS and other states.

Overtime is not a practical solution to implementing the provisions of AB 1424 since staff will be needed on a daily basis to comply with the ongoing provisions of the new law. 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 #3: Approve funding for \$650,000 and 7 positions.

This option would only include implementing the first two provisions, "Increase FTB's list of the Top 250 tax debtors to the Top 500 tax debtors and updating the Top 500 list at least twice each year." This alternative fails to fully comply with AB 1424. Under this alternative, FTB would not implement the provisions related to:

- License suspension for delinquent taxpayers appearing on the Top 500 tax debtor list.
- Prohibit any state agency from entering into a contract for goods and services with a tax debtor on the Top 500 tax debtor list.

Alternative #4: Do not approve the proposal.

This approach fails to comply with AB 1424.

G. Implementation Plan

- January 1, 2012 - AB 1424 would be effective and generally operative, and would be specifically operative and apply as follows:
 - To any licensee whose name appears on a Top 500 tax debtor list on or after July 1, 2012.
 - To any state contract executed on or after July 1, 2012.
- April 2012 – FTB publishes Top 500 tax debtor list.
- June 2012 – 607 documents to establish 7 positions are prepared and approved by the FTB Budget Officer and forwarded to the Department of Finance.
- June 2012 – DOF notifies FTB of position approval.
- July 1, 2012 – Positions are established and FTB begins hiring.

Analysis of Problem

H. Supplemental Information *(Check box(es) below and provide additional descriptions.)*

None Facility/Capital Costs Equipment Contracts Other _____

I. Recommendation

FTB recommends that Alternative 1 be approved. Approval of this Alternative will ensure that the FTB has adequate resources to fully comply with the provisions of AB 1424.

BCP No 4	Date October 11, 2011	Proposed Title AB 1424	Program Tax Program
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	Positions			FY 2011/12	FY 2012/13	FY 2013/14
	CY	BY	BY + 1	CY	BY	BY + 1
Total Salaries & Wages 1/	.0	7.0	7.0	\$ 0	\$ 567,000	\$ 460,000
Salary Savings	.0	-5	-5	\$ 0	-\$ 29,000	-\$ 29,000
Net Total Salaries and Wages	.0	6.5	6.5	\$ 0	\$ 538,000	\$ 431,000
Total Staff Benefits 2/				\$ 0	\$ 179,000	\$ 171,000
Salary Savings				\$ 0	-\$ 12,000	-\$ 12,000
Net Total Staff Benefits					\$ 167,000	\$ 159,000
Total Personal Services				\$ 0	\$ 705,000	\$ 590,000

Operating Expenses and Equipment

General Expenses /3	\$ 0	\$ 14,000	\$ 6,000
Printing	0	0	0
Communications /4	0	5,000	5,000
Postage /5	0	6,000	6,000
Travel-In-State	0	0	0
Travel Out-of-State	0	0	0
Training	0	0	0
Facilities Operations /6	0	14,000	0
Utilities	0	0	0
Consulting & Professional Services - Interdepartmental	0	0	0
Consulting & Professional Services - External	0	0	0
Data Center Services	0	0	0
Information Technology /7	0	11,000	5,000
Equipment	0	0	0
Other/Special Items of Expense	0	0	0

Total Operating Expense & Equipment

\$ 0 \$ 50,000 \$ 22,000

Total State Operations Expenditures

\$ 0 \$ 755,000 \$ 612,000

Fund Source	Item Number		
	Org	Ref	Fund
General Fund	1730	001	0001
Totals			

\$ 0 \$ 755,000 \$ 612,000
0 0 0
0 0 0
0 0 0
\$ 0 \$ 755,000 \$ 612,000

Total Local Assistance Expenditures

\$(0) \$(0) \$(0)

Fund Source	Item Number		
	Org	Ref	Fund
Totals			

\$ 0 \$ 0 \$ 0
0 0 0
0 0 0
\$ 0 \$ 0 \$ 0

- 1/ Itemized positions by classification on the Personal Services Detail worksheet.
- 2/ Benefit detail on the Personal Services Detail worksheet.
- 3/ General Expense at \$825 per position. Plus minor equipment at \$1109 per new position.
- 4/ Communication at \$698 per position.
- 5/ Postage costs for additional mailing 11,000 notices.
- 6/ Facilities Costs: Modular keyboards, Comm/Wiring, Electrical, Remove Shelving & Floor Bolts
- 7/ Software and Hardware for PCs at \$1522 per PC, \$223 on-going cost for PCs .

BCP No 4	Date October 11, 2011	Proposed Title AB 1424	Program Tax Program
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Salaries and Wage Detail

Classification	Positions			Salary Range	Dollars			
	CY 2011/12	BY 2012/13	BY + 1 2013/14		CY 2011/12	BY 2012/13	BY + 1 2013/14	
Administrative Services Division								
Staff Info Sys Analyst Spec OT				\$ 5,065	\$ 6,466	\$ 0	\$ 10,000	\$ 10,000
Total Administrative Services Division	.0	.0	.0			\$ 0	\$ 10,000	\$ 10,000
Adjust for Part Year Positions	.0	.0	.0					
Net Positions/ PYs before salary savings	.0	.0	.0					
Finance & Executive Services Division								
Acctg Tech OT				\$ 2,638	\$ 3,209	\$ 0	\$ 18,000	\$ 18,000
Total Finance & Executive Services Division	.0	.0	.0			\$ 0	\$ 18,000	\$ 18,000
Adjust for Part Year Positions	.0	.0	.0					
Net Positions/ PYs before salary savings	.0	.0	.0					
Accounts Receivable Management Division								
Principal Compliance Rep PERM	0.0	1.0	1.0	\$ 4,833	\$ 5,874	\$ 0	\$ 64,000	\$ 64,000
Sr Compliance Rep.,Ftb PERM	0.0	6.0	6.0	\$ 4,619	\$ 5,616	\$ 0	\$ 368,000	\$ 368,000
Total Accounts Receivable Management Division	.0	7.0	7.0			\$ 0	\$ 432,000	\$ 432,000
Adjust for Part Year Positions	.0	.0	.0					
Net Positions/ PYs before salary savings	.0	7.0	7.0					
Technology Services Division								
Staff Info Sys Analyst Spec OT				\$ 5,065	\$ 6,466	\$ 0	\$ 70,000	\$ 0
Staff Prog Analyst Spec OT				\$ 5,065	\$ 6,466	\$ 0	\$ 9,000	\$ 0
Assoc Info Systems Analyst OT				\$ 4,619	\$ 5,897	\$ 0	\$ 28,000	\$ 0
Total Technology Services Division	.0	.0	.0			\$ 0	\$ 107,000	\$ 0
Adjust for Part Year Positions	.0	.0	.0					
Net Positions/ PYs before salary savings	.0	.0	.0					
Total Salaries and Wages								
Positions	.0	7.0	7.0			\$ 0	\$ 567,000	\$ 460,000
Part Yr Adj	.0	.0	.0					
P.Y.s	.0	7.0	7.0					

Staff Benefits Detail

	2011/12	2012/13	2013/14
OASDI /8	\$ 0	\$ 33,000	\$ 27,000
Health/Dental/Vision Insurance /9	0	64,000	64,000
Retirement - Miscellaneous /10	0	71,000	71,000
Worker's Compensation /11	0	3,000	3,000
Industrial Disability Leave/12	0	0	0
Non Industrial Disability Leave /13	0	0	0
Unemployment Insurance /14	0	0	0
Medicare /15	0	8,000	6,000
Total Staff Benefits	\$ 0	\$ 179,000	\$ 171,000

8/ For permanent and overtime, 6.2% of net salary.

9/ Health - For Permanent \$9,048 per net personnel year; Dental - For permanent \$561 per net personnel year;

Vision - for permanent \$104 per net personnel year.

10/ For permanent, 17.528% of net salary.

11/ 0.7% of net salary for permanent.

12/ 0.02% of net salary for permanent.

13/ 0.05% of net salary for permanent.

14/ 12.95% of net salary for temporary help.

15/ 1.45% of net salary for permanent.

Supplemental Information

(Dollars in thousands)

BCP No. 4	Proposal Title
	AB 1424

Equipment	CY	BY	BY +1
Total	\$0	\$0	\$0

Consulting & Professional Services	CY	BY	BY +1
Total	\$0	\$0	\$0

Facility/Capital Costs	CY	BY	BY +1
Communication wiring; electrical, removal of shelving and floor bolts, carpet - labor and materials, modular keyboards		14	
Total	\$0	\$14	\$0

One-Time/Limited-Term Costs Yes No

Description	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
Total	0.0	\$0	0.0	\$0	0.0	\$0

Full-Year Cost Adjustment Yes No

Provide the incremental change in dollars and positions by fiscal year.

Item Number	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
Total	0.0	\$0	0.0	\$0	0.0	\$0

Future Savings Yes No

Specify fiscal year and estimated savings, including any decrease in positions.

Item Number	BY		BY +1		BY +2	
	Positions	Dollars	Positions	Dollars	Positions	Dollars
Total	0.0	\$0	0.0	\$0	0.0	\$0