

6. VOLUNTARY CASE RESOLUTION SECTION

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Last Revision: 10/03/2018

6.0.1.1 Account Transfers within FTB Business Areas

Background

Certain situations require transfer of account within Franchise Tax Board (FTB) for special handling. These accounts include, but are not limited to:

- Bankruptcy – Personal Income Tax (PIT) and Business Entity (BE)
- Innocent Spouse
- Offer in Compromise (OIC) - PIT and BE
- Decedent Cases (PIT only)
- Frivolous Activity Non-Filer (FAN)
- Court Ordered Debt Collections (COD)
- Exempt Organizations
- Special Investigations (SI)
- Field Transfer

Purpose

Accounts are transferred for resolution required by specialized areas/units and for specialized collection. Timely account transfers can expedite resolution by preventing duplication of collection efforts.

Responsibility

FTB employee should recognize when an account can be more effectively worked by another area or when specialized procedures are warranted. FTB employee will recommend a transfer of these cases to the appropriate area.

Action

Account transfers will be recommended based on, but not limited to, the following criteria:

Transfers between Central Office Units

Occasionally accounts will be transferred between central office units to prevent duplication of collection efforts or to ensure the timely and proper specialized actions. In each instance, the collection file summary in the Accounts Receivable Collection System (ARCS) and Taxpayer Folder (TPF) should state the reason for the transfer and where the account is being transferred.

Bankruptcy

- If a collector is working an account where the taxpayer has indicated that they are in bankruptcy, Receivership or Assignment for the Benefit of Creditors for Business Entities, and it appears that the Bankruptcy Section has not received notification of the bankruptcy, the collector should refer the account to the Bankruptcy Section. The Bankruptcy Section handles the following types of bankruptcies; Chapter 7, Chapter 9, Chapter 11, Chapter 12, Chapter 13, and Chapter 15, as well as Receiverships and Assignment for the Benefit of Creditors.
 - If the collector has someone on the phone, they should transfer the call to the Bankruptcy Section general phone number. (See Internal Contact list)
 - If the collector has correspondence from the taxpayer, or from a representative for PIT or BE accounts, stating that they are in bankruptcy and there is no bankruptcy flag, the collector should immediately contact the Bankruptcy Section to determine the quickest way to refer the correspondence over. This helps ensure no collection action will take place, if it is determined that the taxpayer is in a bankruptcy.
 - If the collector does not have any correspondence from the taxpayer or representative, regarding the bankruptcy for PIT or BE accounts, have the caller fax the bankruptcy petition paperwork to the collector. Immediately contact the appropriate Bankruptcy Section and provide the taxpayer's name, social security number or entity number, phone number. Determine the quickest way to refer the correspondence over.
- Bankruptcy cases enter into EWBS through an automated notification system or manually by the Bankruptcy Section. EWBS updates TI, BETS ((***)), and ARCS. TI and BETS updates the TPF.
 - Any outstanding EWOTs, OTWs, COTWs, or Liens recorded or filed after the bankruptcy filing, will be released by the system, or reviewed by bankruptcy staff to determine the appropriate action.
- All correspondence received for accounts that are assigned to bankruptcy, should immediately be referred to the Bankruptcy Section for processing.
 - For correspondence received through Case Management (CM), Collectors should refer the account to the Bankruptcy

Workbasket (BPUWB). All paper correspondence received should immediately be uploaded to CM and/or TPF and forwarded to the Bankruptcy Section workbasket. If a taxpayer needs to fax correspondence to the Bankruptcy Section. (See FTB Internal Contact List) for the fax number.

- All calls received for accounts flagged "Bankruptcy", should be immediately forwarded to the Bankruptcy Section.

Note: If the bankruptcy is completed and the collector has questions regarding any issue pertaining to bankruptcy, they should contact the Bankruptcy Section.

Innocent Spouse

- If a collector is working an account where the taxpayer has indicated they have submitted an FTB 705, Request for Innocent Joint Filer Relief, and it appears the Innocent Spouse Unit has not received notification of the request, the collector should refer the account to the Innocent Spouse Unit. If the collector receives a call requesting Innocent Spouse, the collector should provide and FTB 705, to the taxpayer.
- If the collector has a taxpayer on the phone and the taxpayer indicates they submitted a FTB 705 form, they should provide the taxpayer with the phone number of the Innocent Spouse Unit, See Internal Contact list for phone number and transfer the call.
- If the collector receives a FTB 705 form or Innocent Spouse related correspondence, the collector should upload the documents using CM. In CM, route the documents to the Special Programs Workbasket with the category of Innocent Spouse.

(See FTB Internal Contact List) for the phone and fax number for the Innocent Spouse Unit.

Offer in Compromise (OIC)

- If the collector is on the phone and the taxpayer indicates they submitted an OIC, the collector should provide the taxpayer with the phone number for the OIC Unit. See internal contact list for phone number and transfer the call.
- If a collector is otherwise working an account where the taxpayer or business entity has indicated they have an active OIC and it appears the OIC Unit has not received notification of the OIC, the collector should refer the account to the OIC Unit. If the collector receives an OIC application or OIC related correspondence, upload

the documents using CM. In CM, route the documents to the Special Programs Workbasket with the category of OIC.

- o See internal contact list for the phone and fax numbers for the OIC unit.

Decedent

- If a collector receives information that a taxpayer or spouse is deceased, they should do the following: Confirm the date of death by death certificate, Lexis Nexis, family member, or obituary.
- If the balance is below ((\$***)), and there is no surviving spouse, enter ((\$***) on the TI command line and input the date of death. The case can be routed to ((\$***) with lead approval.
- Route any correspondence received regarding the deceased taxpayer to the Special Programs Workbasket in CM with the category of Decedent Correspondence.
- If there is a surviving spouse and a joint ARCS account, contact the Decedent Program to request a probate check (see internal contact list). The Decedent Program will flag the ARCS account "Primary (or Secondary) Does Not Require Decedent Actions." The collector will continue collections on the surviving spouse.
- If there are two ARCS accounts, the Decedent Program will complete the work on the decedent case and both accounts will be flagged "Primary (or Secondary) Does Not Require Decedent Action." Both cases should be assigned to the same collector.
- If the collector is not successful in resolving the spouse's case, and results in a discharge, follow unit procedures to discharge the surviving spouse account. The account(s) should not be routed back to the Decedent Program.

Note: Accounts with a surviving liable spouse do not qualify for routing to the Decedent Program.

Frivolous Activity Non-Filer (FAN)

- All incoming correspondence that is received on an account that is flagged FAN will be routed to the FAN Unit initially. The FAN Unit will forward all correspondence to the area or collector that has a pending item.
- All correspondence that is forwarded to an area outside of the FAN Unit will be forwarded as a "new assignment" in CM and should not

be returned to the FAN Unit when a collector has completed working it.

- If no collection action is pending on incoming correspondence, it will not be forwarded to a collection area.
- If correspondence containing frivolous language is received from anyone other than the FAN Unit, and there are no notes indicating that the FAN Unit has received/reviewed the document, route the correspondence to the Special Programs Workbasket with the category of "FAN."

Court-Ordered Debt Collections (COD)

Calls regarding a COD account should be transferred to COD (see internal contact list) between the hours of 8:00 a.m. – 5:00 p.m. Monday through Friday.

See internal contact list for the phone number.

Exempt Organization

Entities must apply for tax-exempt status and be approved by the Exempt Unit before they are considered tax-exempt in California. Nonprofit and tax-exempt are different.

For questions on who can be tax-exempt and how to obtain tax-exempt status, refer the caller to the exempt organization webpage. Instruct them to go to **ftb.ca.gov** and search for **exempt organizations**.

If the organization is currently exempt, check BETS under conversation ((***)). If there is an alphabet letter in the Exempt Section, then the entity is tax-exempt. If there is no alphabet letter, the entity is not tax-exempt.

The Exempt Unit does not have the functionality to work cases in ARCS. The account should not be transferred, in ARCS, to the Exempt Unit.

If the entity states they are tax-exempt or nonprofit, transfer the call to the Exempt Unit between the hours of 7:00 a.m. – 4:30 p.m. Monday - Friday.

See internal contact list for the phone number.

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/22/2018

6.1.1.1 Business Entity Automated Notices

Background

Franchise Tax Board (FTB) issues notices to business entities with missing returns or balances due. These notices provide business entities opportunities to voluntarily comply with their tax obligations.

Purpose

FTB notices educate business entities about their legal rights and responsibilities, and provides them with FTB contact information. Notices are used as a method to ensure due process, gain compliance, and minimize enforcement costs. See CPM Section 3.1.3.1 Due Process.

Responsibility

FTB must notify business entities in writing about outstanding tax issues, to ensure that the business entity has received due process, and allow reasonable time for the business entity to comply.

Action

There are multiple FTB systems that issue notices to ensure due process and encourage voluntary compliance. The most common notices are issued from:

Business Entity Tax System (BETS):

- Request for Past Due Tax Return
- Official Demand for Past Due Tax Return
- Single Period Return Information Notice
- Consolidated Return Information Notice
- Notice of Balance Due

Business Entity Accounts Receivable Collection System (BE ARCS):

- Past Due Notice Annual Notice
- Formal Demand Notice
- Final Notice Before Levy
- Notice to File Tax Returns
- Final Notice Before Suspension or Forfeiture
- Final Notice Before Contract Voidability

- Pre Suspension Notice

Integrated Non-filer Compliance System (INC):

- Demand for Tax Return
- Notice of Proposed Assessment

Note: The names of the notices may vary for different entity types.

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Last Revision: 10/22/2018

6.0.2.1 Field Office Transfers

Background

Every reasonable effort should be made to resolve collection accounts from Central Office. However, sometimes we are unable to gain compliance from taxpayers or business entities and need to transfer the account to the field office for resolution. Our field collectors give Franchise Tax Board (FTB) a physical presence in the community. They visit taxpayers or businesses to encourage compliance, identify income activity, tax evaders, document asset information, and seize assets when appropriate.

Purpose

If taxpayers do not voluntarily resolve their tax accounts, we must compel compliance. This can include transferring the account for field collection actions. However, we try to use the most appropriate and least intrusive collection actions possible to resolve their tax account before a field transfer is recommended. There are several types of personal and business entity accounts that qualify for field transfers, including, but not limited to:

- Self-employed taxpayer.
- Active Business Entities are Doing Business As (DBA) with valid addresses.
- Taxpayer/Business Entity with viable assets, including vehicles, vessels, aircraft, art work, collectables, multiple real estate properties, etc.
- Taxpayers who change jobs frequently (e.g. trades-people, sales representatives).
- Verified Earnings Withholding Order for Taxes (EWOT)/Continuous Order to Withhold Taxes (COTW) non-compliance accounts.
- Taxpayers that repeatedly pay filing enforcement assessments without filing tax returns.
- Taxpayers that repeatedly refuse to file their tax returns or pay their tax balances.
- Taxpayers that routinely abandon one business and start a new one to avoid tax liabilities.
- Accounts with consistent under-withholding (aka W-4 activity).

Responsibility

Desk collectors should perform the following actions before requesting a field transfer:

Request a Field Action Request (FAR). See CPM section, Case Processing, 4.1.2.5.

FAR criteria is used to determine whether a case should be handled as a Field Office Transfer or an On-Site request. There are exceptions on whether an account should be transferred to the field as a field transfer. For these exceptions, contact the field office collection lead for assistance.

Transfer or FAR is appropriate when the assigned collector determines that a field presence is warranted and the gathering of information by a field collector, will positively impact the resolution of the account.

Before transferring or requesting a FAR, the following should be considered:

- Has the case been worked properly?
- Is it more cost effective for the case to be handled by the field collector?
- Will the presence of a field collector help to obtain third party or public record information to resolve the account?
- Have you identified the legal and registered owner of the vehicle/vessel/real property, or the physical location of a business?
- Is it cost effective to ask a field collector to travel for the request?
- Have we exhausted all other collection actions (i.e. liens, levies, etc.)?
- Exception: when an account is at risk (such as a taxpayer liquidating assets to avoid collections), then a collector can request a field transfer before exhausting collection actions.
- Verify liens and extensions are issued and recorded or filed.
- Verify that the account has ((***) a valid address.
- Exception: An account ((***) may qualify for a field referral if the taxpayer has a significant non-compliant history. Consult a field supervisor/lead in the appropriate office to determine if an account meets this exception.
- Confirm the basis of a field transfer. There must be a viable asset, such as a likelihood of income or a known physical asset. A field

transfer request must demonstrate the field action has a realistic potential to resolve an account such as:

- An Earnings Withholding Order for Taxes (EWOT) is sent to employers to levy income.
- A Continuous Order to Withhold (COTW) is sent to payors to levy payments.
- An Order to Withhold (OTW) is sent to banks and other financial institutions to levy bank funds.

Action

Desk collectors should document PIT and BE ARCS with the information described below:

- Note the case history, i.e. the basis of the field transfer or FAR, and the criteria met:
 - Due process status
 - Delinquent tax issues
 - Third party language notice date
 - Identify missing years
 - Pending items for the Field Collector to address
 - BE Only - Business Entity status (i.e. active, suspended, etc.)
 - Any DBAs
 - Liens issued or a reason why liens were not issued
 - List the verified phone numbers, and physical addresses (home, business, rental property(s), etc.)
 - Include employment information, bank information, and other asset information
 - Collection actions taken
 - FAR – identify the information you want the field collector to discover
- Document the basis of the field transfer and the criteria met.
- List the taxpayer's name /business entity officers' names, their social security numbers, and their verified phone numbers and physical addresses (business, home, etc.).

- Include business activity (e.g. business operation facts), bank information, and other asset information.
- Identify the field office that is requested to accept the field transfer or FAR.
- Complete a new history text in PIT or BE ARCS and in the descriptor input: "Field Action Request."

Field Action Request Guide - Need updates

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Last Revision: 10/22/2018

6.1.2.1 Business Entities Tax Systems (BETS) Billing Notices

Background

Business Entities Tax System (BETS) is an accounting system that processes corporation returns, payments, and transactions including exempt corporations, partnerships, and limited liability companies (LLC). BETS began processing corporation and partnership documents in December 1995 and LLC documents in July 2000.

Purpose

BETS notices inform business entities of balances due, errors made on returns, missing returns (also known as Delinquency Locator Control - DLC), and a variety of refund situations. In addition, BETS notices advise business entities of their legal rights and responsibilities, filing requirements, withholding information, and provide them a way to contact us for additional information. BETS also generates a notice to advise entities a payment has been received but we have no record of a tax return being filed.

Note: See Section 3.1.3.1. Due Process

Responsibility

It is the responsibility of Franchise Tax Board (FTB) employee to verify that a BETS notice has been issued.

Action

BETS will automatically issue notices for balances due and for missing year tax returns (DLC). This includes short periods beginning on or after January 1992. In the event a notice has not been issued, and is pending in BETS, FTB staff should request a notice be issued or released via a support request. See unit manual for support request guidelines.

BETS generates initial notices for:

- Unpaid tax

- Unpaid penalty
- Unpaid interest

Once a notice is produced and is sent by BETS or INC, the account information for that specific tax year passes to the Business Entities Accounts Receivable Collection System (BE ARCS).

BETS billing notices:

- Request for Past Due Tax Return
- Official Demand for Past Due Tax Return
- Single Period Return Information Notice
- Consolidated Return Information Notice
- Notice of Balance Due

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Last Revision: 10/22/2018

6.1.2.2 Business Entities Accounts Receivable Collection System (BE ARCS) Notices

Background

As of February 2001, new tax year liabilities enter the Business Entities Accounts Receivable Collection System (BE ARCS) from the Business Entities Tax System (BETS) and are held there pending the business entity response. There are multiple BE ARCS functional areas and different billing cycles based on case histories. Prior to February 2001, collection notices were sent from the Collection Account Processing System (CAPS).

Purpose

The purpose of BE ARCS billings is to advise business entities of their legal rights and responsibilities, and provide them a way to contact us for additional information.

Responsibility

Franchise Tax Board (FTB) employee must review an account's billing history and verify that a BE ARCS notice has been issued to ensure due process has been served per the California Taxpayers' Bill of Rights.

Action

After an initial holding period of 30 to 45 days, BE ARCS evaluates and assigns each account to a:

Location – Based on entity type (e.g., Corporation, Limited Liability Company, Partnership, or Exempt).

Functional Area – Based on risk level (low, moderate, or high) and/or account type.

State – Based on the next required collection action. All accounts within the same functional area that require the same next collection action (such as an outgoing telephone call), are grouped into the same State.

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FTB employee has the ability to manually issue notices while the account is in the automated billing cycle.

Common ARCS notices:

- Past Due Notice
- Formal Demand Notice
- Intent to Lien Notice
- Final Notice Before Levy
- Notice to File Tax Returns
- Final Notice Before Suspension or Forfeiture
- Final Notice Before Contract Voidability

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Last Revision: 10/03/2018

6.1.2.3 Notice of Proposed Assessment (NPA)

Background

When an adjustment to a tax return results in additional tax due or an entity has failed to file a tax return, a Notice of Proposed Assessment (NPA) may be issued. NPAs are issued to business entities on the basis of:

- Additional tax due based on an audit of an original or amended tax return
- Internal Revenue Service information
- Missing year tax returns NPA
- Transferee NPA
- Jeopardy NPA

Entities have 60 days to protest the validity of a NPA. After 60 days, the NPA becomes final. A Notice of Balance Due (also known as NPA final bill) is mailed. The Notice of Balance Due states the tax, penalties, and interest assessed are considered due and payable within 15 days from the notice date. Protesting a Jeopardy NPA does not stop collection action.

Purpose

The purpose of the NPA is to inform the business entity of the proposed tax assessment and allows time to protest the assessment. The purpose of the Notice of Balance Due (NPA final bill) is to inform the entity that the assessment is final and due and payable within 15 days from the notice date.

A missing year NPA may, under certain circumstances, be issued when an entity fails to file a tax return. A transferee NPA may, under certain circumstances, be issued to a transferee when assets are taken or transferred from the business entity, without paying the business entity's tax liabilities. A jeopardy NPA may, under certain circumstances, be issued when the Franchise Tax Board (FTB) is or will be at risk of not collecting an outstanding amount due if immediate collection action is delayed.

Responsibility

FTB employee must ensure that business entities receive due process on all assessments. Due process requires that the notices are validly issued and the taxpayer has the opportunity to dispute the adverse action.

Action

FTB employee are able to generate a missing year or transferee NPA through the Business Entities Tax System (BETS) via a support request. Audit NPAs are issued by audit employee. Usually within 30 days after the 60 days protest period, BETS will issue a Notice of Balance Due. Once the Notice of Balance Due is issued from BETS, the tax year liability enters into the Business Entities Accounts Receivable Collection System (BE ARCS) billing cycle FTB staff must ensure that this process has occurred prior to taking collection actions. Refer to your unit's manual.

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Last Revision: 10/22/2018

6.1.3.1 Payment Deferral ((***)

Background

Currently, there is no provision in the Revenue and Taxation Code for extensions of time for payment of tax due for business entities. However, business entities may be faced with a financial hardship and be unable to pay the entire balance in full all at once. If payment of the full balance due will create a financial hardship, Franchise Tax Board (FTB) employee may allow payments ((***)). The determination needs to be thoroughly documented. If a payment deferral is granted, involuntary collection actions should cease during this period.

Purpose

The purpose of a payment deferral is to allow business entities an opportunity to pay their debt in full ((***)).

Responsibility

After reviewing the account history, FTB employee will determine on a case-by-case basis if a request for payment deferral will be granted.

Action

FTB employee may allow payments ((***)). The determination must be well documented. If a deferral is granted, involuntary collection actions should cease during this period, which may include a case hold in the Business Entities Accounts Receivable Collection System (BE ARCS). FTB employee must ensure the account is in the appropriate state in BE ARCS based on unit procedure.

FTB employee will verify the following:

- Account information (e.g., address, bank, telephone number, Entity status)
- Whether all tax returns have been filed (missing returns do not prohibit the deferral or payment in full (PIF) ((***)
- Address previously discharged balances

- Pending Notices of Proposed Assessment (NPA)
- Recent involuntary collection actions

FTB employee will advise the taxpayer of any of the following:

- Missing tax returns
- Consequences of not following through with their promise to PIF ((***) e.g., involuntary collections, fees, tax liens, etc.
- Mandatory Electronic Funds Transfer

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Last Revision: 09/19/2018

6.1.3.2 Installment Agreements ((***)

Background

Revenue and Taxation Code (R&TC) Section 19008 grants the Franchise Tax Board (FTB) discretionary authority to allow a Business Entity Installment Agreement (IA) in cases of financial hardship. A business entity may be eligible for an IA, which allows it to make partial payment of taxes due, plus applicable interest and penalties, over the installment period. I/A's generally require equal monthly payments. If an Installment agreement is approved, a \$50 service fee is assessed to recover the cost associated with setting an IA. This is necessary to reimburse FTB for the cost to administer this service.

Purpose

The purpose of an IA is to allow business entities an opportunity to satisfy their debt over a period of time ((***)). I/As are intended to assist business entities that do not have the ability to make immediate payment in full. If the business entity has (1) sufficient funds to pay the liability; (2) the ability to borrow the funds to pay the liability; and/or (3) other resources available to facilitate payment of the liability, then the business entity must pay the balance in full.

Responsibility

After reviewing the account history and financial records, FTB employee will work with the business entity, on a case-by-case basis, in order to determine the appropriate duration and payment amount of the I/A.

Action

The I/A payment, as well as the duration of the agreement, is based on the business entity's direct ability to pay and/or the resources available to the business in order to facilitate payment. The last three months of bank statements may be required in order to determine the appropriate payment amount and the duration of the I/A. Approval of an I/A is at FTB's discretion and FTB employee is authorized to request additional supporting documents if necessary ((***)). The determination must be thoroughly documented in the

Taxpayer Folder. If the I/A is approved, involuntary collection actions should cease during this period.

Per R&TC Section 19008, unless the entity provides a written waiver or FTB determines collection of the tax is in jeopardy, FTB must NOT take collection action(s) during the following periods:

- During the period an IA request is pending.
- If the offer (I/A) is rejected, during the 30 days thereafter and, if a request for review of the rejection is filed, during the period that the review is pending.
- During the period that the IA is in effect.
- If the agreement is terminated (see termination section below) during the 30 days thereafter; and if a request for review is filed, the period that the review is pending.

FTB employee will verify the following:

- Business activity and type of business
- Account information (address, bank, telephone number, entity status)
- All tax returns have been filed
- Discharged balances
- Pending Notices of Proposed Assessment (NPA)
- Any recent involuntary collection actions
- Financial Statement ([FTB 9310, DBC California Statement of Financial Condition](#), bank statements, profit/loss statement, accounts receivable, credit denial letter)
- Liens (County and/or SOS) filed ((****)) (or document why a lien was not filed issued)

Note: See CPM section 4.1.1.12 to determine if a Financial Statement is required.

Upon approval of an IA, the collector will:

- Inform the business entity a \$50 fee will be added to their account balance and collected through the IA.
- Inform the business entity a lien may be filed.

- Set the payment plan and properly route the account. Route to entry I/A state per unit procedures.
- Issue FTB 9312, Business Entity Installment Agreement Acceptance Letter.

Note: If the IA is approved, follow your unit procedures in addition to the instructions above.

Rejection, Termination, or Default of an IA:

If the IA is rejected for whatever reason, FTB is required to send notice and provide information on why the FTB rejected the request for the I/A. The notice provides instructions on how the Business entity may request an administrative review of the rejection.

A [FTB 9314, Business Entity Installment Agreement Cancellation Notice](#) will be issued if the business entity defaults on the payment arrangement. (To access FTB 9314 form series go to the forms index.) Under California Law, FTB is required to send a 30 day notice to the business entity prior to termination of the IA to inform them of the intent to terminate the IA. The notice provides an opportunity for the business entity to address the default and/or the termination of the IA or to request an administrative review. Collection actions may not resume until 30 days after the termination of the IA (30 days after the notice of intent to terminate and during any time that a review of the termination is pending).

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Last Revision: 10/03/2018

6.1.4.1. Discharged Accounts

Background

Every reasonable effort is made to collect an outstanding debt. (A debt is any amount of taxes, licenses, fees or money owing to the state for any reason that is due and payable.)

When a debt is uncollectible or is not economical to pursue (i.e., the amount of the debt does not justify the cost of its collection), Franchise Tax Board (FTB) may be discharged by the Controller from accountability for the collection of such debt. The authority to be discharged from accountability for the collection of debt is provided by [Government Code Sections 12433-12439](#).

When a debt is uncollectible or not economical to pursue, it is removed from the automated billing cycle or an assigned collector and reassigned to a functional or holding state referred to as "discharge status." Routing an account to discharge or discharge status does not mean the account is "discharged." Instead, it means an account was determined to be uncollectible or not economical to pursue and FTB should request to be discharged from accountability for the collection of the debt.

To be discharged from the accountability for the collection of a debt, FTB must file an application with the Controller. If the Controller grants FTB a discharge from accountability for the collection of a debt, then FTB is relieved from having to take collection action on the debt. However, the business entity or person owing the debt remains responsible for paying the debt and the debt remains due with applicable penalty and interest accruing, unless the debt is extinguished.

FTB can still collect on a discharged debt subject to due process and applicable statutes of limitations. For example, if a new payor or asset is located, FTB employee can resume collection action using the new asset information after the business entity or person owing the debt has received due process and until the statute of limitations for collections expires.

Although not required to do so under statutory law, FTB may send an account status notice (FTB Form 4076) to a business entity or person owing the discharged debt to remind such business entity or person that the outstanding debt remains due and to provide a breakdown of the balance due.

Purpose

Once FTB is discharged from accountability for the collection of a debt, FTB is relieved from having to take collection action on the debt unless circumstances change, such as a new payor or asset is located, or the debt is extinguished. The business entity or person owning the debt remains responsible for paying the debt and the debt remains due with applicable penalty and interest accruing, unless the debt is extinguished.

Responsibility

It is the responsibility of the FTB employee to ensure that all reasonable collection actions have been exhausted or the amount of the debt does not justify the cost of its collection before making a recommendation that FTB should request to be discharged from accountability for the collection of a debt by the Controller.

Action

Once an account has been determined uncollectible or not economical to pursue, a summary of actions taken must be documented and the account should be routed to the appropriate Business Entities Accounts Receivable Collection System (BE ARCS) state.

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- All determinations related to the effect of bankruptcy are to be made by the Bankruptcy Section.

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Extinguishing a Liability (GC Write Off)

Under [Government Code Section 12437\(a\)](#), a discharge granted to FTB from accountability for the collection of a debt pursuant to [Government Code Sections 12433 through 12439](#) does not release any business entity or person owing a debt from payment of that debt unless the liability is extinguished. In other words, when FTB is granted a discharge from accountability for the collection of a debt, the business entity or person owing the debt remains responsible for paying the debt and the debt remains due with applicable penalty and interest accruing, unless the liability is extinguished.

Under [Government Code Section 12437\(b\)](#), a liability is extinguished and a business entity or person is released from liability for payment of that debt only when two requirements are met:

- (I) A discharge from accountability for collection of such liability has been granted to FTB pursuant to [Government Code Sections 12433 through 12439](#), *and*
- (II) One of the following conditions has occurred with respect to that liability:
 1. The liability is for an amount less than five hundred dollars (\$500).
 2. The liable person has been deceased for more than four years and there is no active probate with respect to that person.
 3. FTB has determined that the liable person has a permanent financial hardship.
 4. The liability has been unpaid for more than 30 years.

When both requirements of [Government Code Section 12437\(b\)](#) are met, the liability will be extinguished and the business entity or person is no longer liable for payment of that debt. Once a liability has been extinguished, it may no longer be collected.

Each of the four conditions under the second requirement of Code Section 12437(b) is discussed below:

1. Liability is for an amount less than five hundred dollars (< \$500).

Under [Government Code Section 12437\(b\)\(1\)](#), a liability is extinguished if FTB has been granted a discharge from accountability for collection of that liability *and* the liability is for an amount less than five hundred dollars (< \$500). For purposes of [Government Code Section 12437\(b\)\(1\)](#), the liability is considered on a tax year basis, with interest calculated through the current date, and for the entire balance owed on that tax year.

1. Liable person has been deceased for more than four years *and* there is no active probate with respect to that person.

Under [Government Code Section 12437\(b\)\(2\)](#), a liability is extinguished if FTB has been granted a discharge from accountability for collection *and* the liable person has been deceased for more than four years and there is no active probate with respect to that person. For purposes of [Government Code Section 12437\(b\)\(2\)](#), no active probate means there are no assets being administered in a trust or probate estate. Consideration should be made as to whether the liability is a joint and several liability because there may be another person liable for the debt, such as a surviving spouse.

2. FTB has determined that the liable person has a permanent financial hardship.

Under [Government Code Section 12437\(b\)\(3\)](#), a liability is extinguished if FTB has been granted a discharge from accountability for collection of that liability by the Controller *and* FTB has determined that the liable person has a permanent financial hardship.

3. The liability has been unpaid for more than 30 years.

Under [Government Code Section 12437\(b\)\(4\)](#), a liability is extinguished if FTB has been granted a discharge from accountability for collection of that liability *and* the liability has been unpaid for more than 30 years. For purposes of [Government Code Section 12437\(b\)\(4\)](#), a liability is considered on a tax year basis and for the tax year liability and most taxpayer liabilities, the 30-year time period begins to run on the latest statutory lien date (SLD) (also known as the assessment date) provided by Revenue and Taxation Code Section 19221 for the subject tax year.

Do not confuse the 30-year period under [Government Code Section 12437\(b\)\(4\)](#) with the 20-year statute of limitations for the collections of outstanding tax liabilities under [Revenue and Taxation Coded Section 19255](#). See [CPM Section 4.1.1.8](#) for information on the 20-year statute of limitations for the collections of outstanding tax liabilities.

FTB Not Required to Collect Where Account Balance Totals \$500 or Less.

Under [Government Code Section 12438](#), FTB is not required to collect taxes, licenses, fees or money owing to the state for any reason if the amount to be collected is five hundred dollars (\$500) or less. The \$500 limitation applies to the total of all amounts owed by the taxpayer. This means that if a taxpayer's account has a total balance of \$500 or less, including interest to date, then FTB is not required to collect that balance. However, all amounts remains owing and the taxpayer or person remains liable for such amounts.

Reference

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[Government Code Sections 12433](#)

[Government Code Sections 12434](#)

[Government Code Sections 12435](#)

[Government Code Sections 12436](#)

[Government Code Sections 12437](#)

[Government Code Sections 12438](#)

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/22/2018

6.2.1.1 Letters and Forms

Background

Franchise Tax Board (FTB) generates millions of letters, forms, and documents each year, which are mailed to taxpayers, third parties, representatives, etc. These letters are to request information from taxpayers, third parties, request payment, or inform of audit issues, etc. Although most letters issued already exist as form letters, there are instances where an FTB staff member may need to draft a free-form letter. When a free-form letter is needed, it is important to use language that is clear and concise. ((****))

Forms are also used when a taxpayer or representative wants to communicate information to FTB. For example, [form FTB 3520 - Power of Attorney](#) provides information to authorize an appointed individual to represent the taxpayer in regards to their tax matters.

Purpose

FTB's letters, forms, or special documents advise taxpayers of their legal rights and responsibilities, and provide them a way to contact us for additional information. Additionally, letters are used to provide taxpayers with due process, an opportunity to pay their balances, and for tax administration purposes.

A sequence of three collection letters is automatically issued at 30-45 day intervals including one notice from the accounting system. In addition, the Taxpayer Bill of Rights requires FTB to provide an Annual Notice of the amount owed to the taxpayer. The Accounts Receivable Collection System (ARCS) issues an Annual Notice every year on accounts with open balances. The Annual Notice is not issued on discharged liabilities. Accounts with a discharge status are issued an Account Status letter.

Responsibility

FTB must notify taxpayers in writing about outstanding tax liabilities and allow reasonable time for taxpayers to comply. FTB employee are responsible for using the appropriate letters, forms, or documents when obtaining and conveying information to taxpayers.

Action

When issuing forms, letters, or documents, FTB employee should remember the following:

- Forms and letters are available for most situations requiring written communication with taxpayers or third parties. The text has been approved by FTB and should be used when appropriate. Any form developed for purposes of sending to taxpayers must go through the formal forms review process. Please contact your Publications manager for assistance.
- Forms and letters are available for most situations requiring written communication with taxpayers or third parties. The text has been approved by FTB and should be used when appropriate. Any forms developed for purposes of sending to taxpayer must go through the formal review process. Please contact your Publications manager for assistance.
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 - Forms and letters must neither be changed nor expanded to alter their meaning and content. When a form or letter does not precisely fit a given circumstance, a free-form letter may be used.
- Whenever a form or letter is used to request personal or confidential information from an individual other than the taxpayer, a privacy notification letter ((***)) must be enclosed, unless the form or letter itself contains such a notification. [Revenue and Taxation Code Section 19504.7](#) states the taxpayer must be notified annually of the possibility of third party contacts. (See Section [3.2.3.3 Taxpayers' Bill of Rights](#), or refer to the [Disclosure Manual - Requests from FTB to Other Third Parties Section 3100](#).)

[Under the California Civil Code Section 1798.85 \(a\)\(5\)](#) effective January 1st, 2007, all state agencies are prohibited from mailing documents containing a Social Security Number (SSN) to individuals (with certain exceptions discussed below). The purpose of this law is to protect the privacy of California taxpayers and reduce the potential for identity theft if the notices get lost in the mail or the notices are stolen.

FTB converted its systems to replace the SSN with a 10 digit FTB-ID on all bills, notices and other mailings to individual taxpayers. The FTB-ID is created in the Taxpayer Information (TI) system.

This law does not change the requirement for individuals to include their SSN on tax returns. The law does not prohibit FTB from using the SSN for internal systems, and we will continue to do so.

The notable exceptions where the SSN may continue to be used for mailings are:

- Mailings to individuals where state or federal law requires the SSN. Examples are the 1099 documents that FTB mails to taxpayers, as the IRS requires the SSN.
- Mailings to third parties such as banks or financial institutions, employers, other state or local agencies, and the IRS. Examples include levies and garnishments. Liens require the SSN to have the first five numbers redacted.
- Mailings to tax practitioners or authorized taxpayer representatives may include the SSN. However, use caution and do not include the SSN if FTB is mailing a copy to the taxpayer.

While the system changes have been made to replace the SSN with FTB-ID on documents generated after January 1, 2007, certain documents containing the SSN may still need to be mailed to taxpayers for prior years. The SSN must be redacted (or blackened out to be unreadable) from these documents prior to mailing. If this affects your workloads, please review your unit procedures and provide additional instruction where needed.

Redaction Procedures for SSN

The SSN must be redacted from all prior year documents including audit files, notices, bills, etc. The SSN may be blackened out with felt tip marker or black tape.

1. First make a copy of the original document, and then redact the SSNs.
2. Make two copies of the redacted document's; one to send to the taxpayer and one to upload in the Taxpayer Folder. A copy is kept in order to respond in the event of a taxpayer complaint or if a legal issue arises.

It is recommended that the correspondence to the taxpayer state, "The Social Security Number (SSN) in the enclosed documents has been removed pursuant to [California Civil Code Section 1798.85\(a\)\(5\)](#) which generally prohibits state agencies from printing the SSN on any materials mailed to the individual". Refer to FTB 1180, Franchise Tax Board Redaction Notice.

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Please contact Disclosure Section specialists at 916.845.3226 if you have questions about SB 25 or the redaction steps. If there are questions about the system implementations for SB 25 you may find a contact person on the ((***)).

Reference

[Disclosure Manual - Requests from FTB to Other Third Parties Section 3100](#)

[Government Code Section 11019.7](#)

[Revenue and Taxation Code Section 19504.7](#)

[Form FTB 3520 - Power of Attorney](#)

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NOTE: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/03/2018

6.2.1.2 Personal Income Tax (ARCS) Billing Notices

Background

Beginning in 2001, new tax year liabilities entered the Personal Income Tax (PIT) Accounts Receivable Collection System (ARCS) from the Taxpayer Information (TI) system. The ARCS application provides users the ability to perform a large variety of online transactions, dependent upon user authority and capability level.

There are multiple functional areas and different billing cycles based upon case history. Prior to 2001, collection notices were sent from the Collection Account Processing System (CAPS).

When an account has a balance due in TI, the account is automatically sent to a holding state in ARCS. If a liability still exists after 30 to 45 days, ((***)), ARCS automatically routes it to the appropriate state for further automated action.

Purpose

The purpose of the ARCS billing notices is to advise taxpayers of their legal rights and responsibilities, and provide them a way to contact us for additional information.

Responsibility

Franchise Tax Board (FTB) employee must review an account's billing history and verify the proper ARCS notices have been issued before taking any manual collection actions.

Action

After an initial holding period of 30–45 days, PIT ARCS evaluates and assigns each account to:

ARCS Functional Area – Based on risk level (low, moderate, or high).

ARCS State – Based on the next required collection action. All accounts within the same functional area that require the same next collection action (such as an outgoing telephone call) are grouped into the same State.

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Note: The Statement of Tax Due (STD) letter from TI serves to provide the taxpayer with due process. Upon this notice being generated, ARCS will create an account using the external bill date. The external bill date tells ARCS the notice date. ((***)

Income Tax Due Notice (ITD) ((*)**:

The Income Tax Due Notice (ITD) is generated from ARCS on accounts ((***) days ((***) from the date the STD was mailed. This notice advises the taxpayers if the balance due is not paid in full (PIF) within 30 days from the date of the notice we may impose a collection fee, contact third parties, file state tax liens, and take other collection actions.

Anytime a tax year is manually reopened, the collector must determine whether an ITD must be sent. The collector must manually send the ITD within three days of reopening a zero balance due year.

Note: Reversal of discharge alone does not meet this criteria.

For example, if a collector:

- Reopens a previously paid in full debt to move erroneously allocated payments,
- Adjusts an assessment on a previously discharged or zero balance due year, or
- Assesses a fee or penalty, then the collector must send a notice (ITD) within 3 days of the transactions.

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NOTE: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/03/2018

6.2.2.1 Personal Income Tax Notice of Proposed Assessment (NPA)

Background

The Notice of Proposed Assessment (NPA) informs the taxpayer that Franchise Tax Board (FTB) intends to assess additional tax and/or penalties to a tax year, whether as a result of a missing return, or an audit of the information provided by the taxpayer on a filed return. Taxpayers have 60 days to protest the validity of the proposed assessment. If the taxpayer files a protest within the prescribed timeframe, the protest will be reviewed and a Notice of Action (NOA) that affirms, revises, or withdraws the NPA is issued. If the taxpayer does not agree with the FTB's decision of their protest, they can appeal that decision to the Office of Tax Appeals (OTA).

If the taxpayer does not protest the NPA or appeal the NOA within 30 days, the assessment is final after 60 days. A Statement of Tax Due (STD) is mailed stating that the tax, any applicable penalties, and interest are due and payable. The taxpayer may pay the balance due on the STD (or any billing notice) without additional interest charges if paid within 15 days from the STD notice date.

Purpose

The purpose of the NPA is to inform the taxpayer of an adjustment to a filed return, or to assess tax when a return is not filed and we receive information that a return is due. The NPA provides the taxpayer with their rights and procedures to protest the proposed assessment.

Responsibility

FTB employees must ensure taxpayers receive due process on all assessments. Due process requires that the notices are validly issued and the taxpayer has the opportunity to dispute the action.

Action

Audit employees use the Personal Audit Workstation System to issue an NPA. Filing Enforcement issues NPAs from the Integrated Nonfiler Compliance System. The NPA is used by collection staff in issuing missing

year assessments, transferee assessments, EWOT Non-remit assessments and jeopardy assessments.

Usually within 30 days after the protest/appeal period expires, TI issues an STD. Once the STD is sent, the tax year liability enters into the Accounts Receivable Collection System billing cycle, and the liability becomes collectible 15 days from the notice date. FTB staff must ensure that this process has occurred prior to taking involuntary collection actions.

Note: After the issuance of the NPA, the liability is collectible after 61 days. After 31 days from the issuance of the NOA, the liability is collectible.

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 010/03/2018

6.2.3.1 Personal Income Tax Payment Deferral ((***)

Background

Currently, there is no provision in the Revenue and Taxation Code for extensions of time for payment of tax due for a taxpayer. However, a taxpayer may be faced with a financial hardship and be unable to pay the entire balance in full all at once. If payment of the full balance due will create a financial hardship, Franchise Tax Board (FTB) employee may allow payments ((***)). The determination must be well documented in the Taxpayer Folder (TPF). If a payment deferral is granted, involuntary collection actions should cease during this period.

Purpose

The purpose of a payment deferral is to allow the taxpayers an opportunity to pay their debt in full ((***)).

Responsibility

After reviewing the account history, FTB employee will determine on a case-by-case basis if a request for payment deferral will be granted.

Action

FTB employee may allow payments ((***)). The determination must be well documented in the TPF. If a deferral is granted, involuntary collection actions should cease during this period, which may include a case hold. FTB staff must ensure the account is in the appropriate state in the Personal Income Tax Accounts Receivable Collection System based on your unit's procedure.

FTB employee will address the following:

- Account information (e.g., address, bank, telephone number)
- Whether all tax returns have been filed; missing returns do not prohibit payment in full (PIF) ((***)
- Previously discharged balances
- Pending Notices of Proposed Assessment (NPA)

- Recent involuntary collection actions

FTB employee will advise the taxpayer of any of the following:

- Missing tax returns
- Consequences of not following through with their promise to PIF ((***) (e.g. involuntary collection actions, fees, tax liens, etc.)
- Mandatory Electronic Funds Transfer

Reference

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/03/2018

6.2.3.2 Personal Income Tax Installment Agreement Information ((***)

Background

[Revenue and Taxation Code Section 19008](#) provides Franchise Tax Board (FTB) the authority to allow an Installment Agreement (I/A) in certain circumstances or in the case of financial hardship. Under [Revenue and Taxation Code Section 19591](#), the FTB is authorized to impose service fees on taxpayers for administering installment agreements. The service fee is adjusted annually in the Governor's Budget. The current service fee is \$34 for 2016.

Purpose

An I/A allows an individual taxpayer the opportunity to satisfy an unpaid tax liability in full through monthly installment payments and prevent involuntary collection action. FTB employee should encourage taxpayers to make the largest monthly payment possible, taking into consideration their financial standing.

Responsibility

Under California Law, [Revenue and Taxation Code Section 19008\(b\)](#), FTB is required to accept an IA request from an individual taxpayer. Per [Revenue and Taxation Code, Section 19008\(a\)](#), FTB may, in case of financial hardship, as determined by the FTB, allow a taxpayer to enter into an installment agreement to make full or partial payments. FTB employee should accept an IA request if the taxpayer has meet the following criteria:

- The tax liability does not exceed ((***)).
- The installment duration does not exceed 36 months.
- The taxpayer's (valid) income tax returns are filed ((***)).
- The taxpayer does not have an active EWOT or COTW in place. FTB's general policy is that we will not release an EWOT or COTW in favor of an IA.
- The taxpayer is not in a current installment agreement (IA).
- The taxpayer has a good history of compliance.
- The taxpayer does not have a history of default ((***)).

- FTB determines that an I/A will not result in a financial hardship and/or financially unable to pay the liability in full when due. The taxpayer submits any information as the FTB may require to make this determination.

FTB staff will determine on a case-by-case basis, after reviewing the account history, if paying the liability in full will result in a financial hardship. A financial statement (F/S) ((***) may be requested in order to review a taxpayer's full financial situation.

Note: See CPM Section 4.2.1.17 to determine if a financial statement is required.

Action

Installment Agreement (I/A)

FTB staff should review the taxpayer's account to verify that the taxpayer qualifies for an IA. In situations where a taxpayer does not meet the minimum payment requirements, an F/S may be requested to determine the taxpayer's ability to pay. Eligibility for an IA in situations where the taxpayer owes more than ((***)) in tax and/or requires longer than 60 months to pay in full will be considered on a case-by-case basis based on review of a financial statement. Lead approval is generally required on accounts with balances over ((***)); follow your unit procedures.

Note: FTB employee should encourage taxpayers to make the largest monthly payment possible taking into consideration their financial standing.

In general, a taxpayer will be granted an IA if they:

- Have filed all required tax returns ((***)).
- Do not have a history of default ((***)).
- Owe no more than ((***)) of tax, not including penalties and interest. See [Revenue and Taxation Code Section 19008\(b1\)](#).
- Agree to set a payment amount **based on the debtor's ability to pay**, not to exceed 60 months or less without consideration of interest that will accrue.

Note: A Notice of State Tax Lien may be recorded or filed as a condition of the IA.

IA Defaults:

An IA is in default and considered for involuntary collection actions if any of the following occurs:

- New liabilities accrue.
- Payments are dishonored (Electronic Funds Transfer (EFT) or Non-EFT).
- Failure to make ((***) payments while in an IA.
- The taxpayer passes away. Contact the Decedent Program at 916-845-3048.

Under [Revenue and Taxation Code Section 19008](#), FTB must notify the taxpayer of the default and FTB's intent to terminate the IA. FTB will mail an Intent to Terminate Installment Agreement Notice ((***) notifying the taxpayer their IA will be terminated in 30 days from the date of the notice, unless they request an independent administrative review during the 30 day period. This notice also informs the taxpayer that, in the event of a termination, collection action will recommence 30 days after the termination and can include garnishment of wages, filing liens, imposing collection fees, contacting third parties, seizing deposit accounts, or seizing and selling real and personal property. ((***)

Taxpayers are required to make IA payments through EFT from their financial institutions. ((***)

Installment Agreement Rejections:

[Revenue and Taxation Code Section 19008\(d\)\(1\)](#) prohibits FTB from issuing a levy during the period an IA request is under review. After review, if the IA request is rejected, for whatever reason, FTB should not take any involuntary collection action for 30 days after the date of the rejection and during the time an independent administrative review of the rejection is pending.

When rejecting an IA request, it is critical that form (FTB 4121) be sent to the taxpayer informing the taxpayer of the reason for the rejection and advising the taxpayer of the administrative hearing rights.

Over 60 Month Installment Agreements:

A taxpayer may not have the ability to make payments to FTB due to unemployment, disability, or some type of financial hardship. It is the responsibility of the collector to obtain as much information in order to make an appropriate decision that is in the best interest of the taxpayer as well as protecting the interest of the state.

Collector's Responsibilities:

1. Obtain a financial statement (FTB 3561).
2. Obtain supporting documentation as required by the financial statement and FTB policy.
3. Determine payment amount based on ability to pay.
4. File liens, if appropriate.

Note: See CPM Section 4.2.1.17 to determine if a financial statement is required.

Installment Agreement Over ((*)**

FTB employee must receive an F/S to approve an IA for all self-employed taxpayers. For taxpayers earning wages, the collector can use FTB system information to verify income and reasonable expenses and a financial statement may be completed over the phone. The financial statement information must be well documented in the Accounts Receivable Collection System (ARCS) and Taxpayer Folder. FTB staff must route the account for supervisor or lead approval of the IA.

Hardship Installment Agreement Review:

Taxpayers that have proven a financial hardship must have their IAs reviewed at least once every two years. The review process will determine if the taxpayer still qualifies for hardship or is able to make payments.

Voluntary Wage Allotments:

Voluntary Wage Allotment is an authorization by taxpayers to deduct an amount from their wages, per paid period by their employer (FTB Form 2901). A Voluntary Wage Allotment may be considered when an Earnings Withholding Order for Taxes (EWOT) or Continuous Order to Withhold (COTW) has a higher order, such as an Internal Revenue Service or Child Support Order, and will result in no funds from the FTB garnishment. The taxpayer can terminate the Voluntary Wage allotment at any time without a release from FTB. This type of arrangement should not be solicited but on a rare occasion may be granted, with lead approval.

The taxpayer must meet the same qualifications of an IA to qualify for a Voluntary Wage Allotment. This action may be considered when a garnishment exceeds 25 percent or the employer is an out-of-state employer.

Note: Do not release an EWOT or COTW in lieu of a Voluntary Wage Allotment agreement. See Installment Agreement rejection in the event the Voluntary Wage Allotments is terminated.

References

[Form FTB 3567 Installment Agreement Request](#)

[Form FTB 3561 Financial Statement](#)

[Revenue and Taxation Code Section 19008](#)

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[CACT Reference Guide – Installment Agreement](#)

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/03/2018

6.2.3.3 Personal Income Tax Provisional Payment Plan

Background

Currently, there is no provision in the Revenue and Taxation Code for Provisional Payment Plans (PPP). However, taxpayers may be faced with a situation where they do not qualify for a formal Installment Agreement because not all required returns have been filed ((***)). The PPP has replaced case holds for promises to file missing tax returns. The PPP will allow taxpayers who have filing enforcements ((**)) to make payments while preparing missing valid personal income tax returns.

Purpose

The PPP is intended to assist taxpayers that do not have the ability to make an immediate payment in full. The purpose of the PPP is to allow taxpayers the opportunity to begin making payments on filing enforcements while missing returns are being prepared and processed.

Responsibility

After reviewing the account history, employee will work with the taxpayer, on a case-by-case basis, in order to determine the appropriate duration and payment amount of the PPP.

Action

The amount of the PPP, as well as the duration of the agreement, is based on the taxpayer's ability to pay. A financial statement may be required in order to determine the appropriate payment and duration for the PPP. Approval of the PPP is at the Franchise Tax Board's discretion. ((**)).

In general, taxpayers will be granted a PPP if they:

- File all required valid personal income tax returns within 30 days.
- Pay the amount agreed upon.
- Have no continuous legal actions in place.

Consider a PPP if all the following apply:

- No active Order to Withhold is in place.

- Continuous Order to Withhold/Earnings Withholding Order for Taxes payor responses include Leave of Absence, Seasonal/Sporadic, Higher Order.
- Taxpayer does not have a history of non-compliance.
- ((***)).
- Taxpayer will not accrue additional liabilities where the case balance no longer satisfies criteria.
- Agrees to set a payment amount *based on the debtor's ability to pay* within 60 months or less without consideration of interest that will accrue ((***)).

Upon approval of the PPP, the collector will:

- Inform the taxpayer that a \$34.00 fee will be added to their account and collected.
- Set the payment plan and properly route the account per unit procedures.
- Send FTB 4029 PP Provisional Payment Plan Acceptance letter to the taxpayer.

If the PPP defaults:

A FTB 4029C PP, Provisional Payment Plan Default Notice will be issued if the taxpayer defaults on the PPP. In order to adhere to the Taxpayers' Bill of Rights, we must notify the taxpayer of the default and termination of the PPP. Collection actions will resume if the debtor fails to address the outstanding liability within 30 days.

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/03/2018

6.2.4.1. Discharge Accounts

Background

Every reasonable effort is made to collect an outstanding debt. (A debt is any amount of taxes, licenses, fees or money owing to the state for any reason that is due and payable.)

When a debt is uncollectible or is not economical to pursue (i.e. the amount of debt does not justify the cost of its collection.) Franchise Tax Board (FTB) may be discharged by the Controller from accountability for the collection of debt. The authority to be discharged from accountability for the collection of debt is provided by is provided by [Government Code Sections 12433 – 12439](#).

When a debt is uncollectible or not economical to pursue, it is removed from the automated billing cycle or an assigned collector and reassigned to a functional or holding state referred to as “discharge status.” Routing an account to discharge or discharge status does not mean the account is “discharged.” Instead, it means an account was determined to be uncollectible or not economical to pursue and FTB should request to be discharged from accountability for the collection of the debt.

To be discharged from the accountability for the collection of a debt, FTB must file an application with the Controller. If the Controller grants FTB a discharge from accountability of the collection of a debt, then FTB is relieved from having to take collection action on the debt. However, the person owing the debt remains responsible for paying the debt and the debt remains due with applicable penalty and interest accruing, unless the debt is extinguished.

FTB can still collect on a discharged debt subject to due process and applicable statutes of limitation. For example, if a new payor or asset is located, the FTB employee or the automated collection system can resume collection action using the new asset information after the person owing the debt has received due process and until the statute of limitations for collections expires.

Although not required to do so under statutory law, FTB may send an account status notice (FTB Form 4076) to a person owing the discharged debt to remind such person that the outstanding debt remains due, and to provide a breakdown of the balance due.

Purpose

Once FTB is discharged from accountability for the collection of a debt, FTB is relieved from having to take collection action on the debt unless circumstances change, such as a new payor or asset is located, or the debt is extinguished. The person owing the debt remains responsible for paying the debt and the debt remains due with applicable penalty and interest accruing, unless the debt is extinguished.

Responsibility

It is the responsibility of the FTB employee to ensure that all reasonable collection actions have been exhausted or the amount of the debt does not justify the cost of its collection before making a recommendation that FTB should request to be discharged from accountability for the collection of a debt by the Controller.

Action

Once an account has been determined uncollectible or not economical to pursue, a summary of actions taken should be documented and the account should be routed to the appropriate supervisor or lead for approval.

The determination of whether the employee should recommend that FTB should request to be discharge from accountability for the collection of a debt is based on various criteria, including, but not limited to the following:

- Taxpayer's assets and financial condition
- Ability to locate the taxpayer
- Taxpayer's compliance

Do not route an account to discharge status if any of the following conditions exist:

- Pending filing enforcement assessments
- Pending audit assessments
- Payments in suspense (refer to lead for exceptions)

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Examples of Accounts to Recommend Manual Discharge

- All efforts to locate the taxpayer and attachable assets have been unsuccessful. Every reasonable lead has been checked out with negative results. Notices of state tax liens are recorded and/or filed to protect California’s interest. See CPM Section 7.0.1.2.
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Extinguishing a Liability (GC WRITE OFF)

Under Government Code Section [12437\(a\)](#), a discharge granted by the Controller to FTB from accountability of the collection of a debt does not release any person from payment of that debt unless the liability is extinguished. In other words, when FTB is granted a discharge by the Controller from accountability for the collection of a debt, the taxpayer or person remains responsible for paying the debt and the debt remains due with applicable penalty and interest accruing, unless the liability is extinguished.

Under Government Code Section [12437\(b\)](#), a liability is extinguished and a person is released from liability for payment of that debt only when two requirements are met:

- (I) A discharge from accountability for collection of such liability has been granted to FTB pursuant to [Government Code Sections 12433 through 12439](#), and
- (II) *One* of the following conditions has occurred with respect to that liability:

4. The liability is for an amount less than five hundred dollars (\$500).
5. The liable person has been deceased for more than four years and there is no active probate with respect to that person.
6. FTB has determined that the liable person has a permanent financial hardship.
7. The liability has been unpaid for more than 30 years.

When both requirements of Government Code Section 12437(b) are met, the liability will be extinguished and the person is no longer liable for payment of that debt. Once a liability has been extinguished, it may no longer be collected.

When both requirements of Government Code Section 12437(b) are met, the liability will be extinguished and the person is no longer liable for payment of that debt. Once a liability has been extinguished, it may no longer be collected.

Each of the four conditions under the second requirement of Government Code Section [12437\(b\)](#) is discussed below:

8. Liability is for an amount less than five hundred dollars (< \$500)

Under Government Code Section 12437(b)(1), a liability is extinguished if FTB has been granted a discharge from accountability for collection of that liability and the liability is for an amount less than five hundred dollars (< \$500). For purposes of Government Code Section 12437(b)(1), the liability is considered on a tax year basis, with interest calculated through the current date, and for the entire balance owed on that tax year.

9. Liable person has been deceased for more than four years and there is no active probate with respect to that person

Under Government Code Section 12437(b)(2), a liability is extinguished if FTB has been granted a discharge from accountability for collection and the liable person has been deceased for more than four years and there is no active probate with respect to that person. For purposes of Government Code Section 12437(b)(2), no active probate means there are no assets being administered in a trust or probate estate. Consideration should be made as to whether the liability is a joint and several liability because there may be another person liable for the debt, such as a surviving spouse.

10. FTB has determined that the liable person has a permanent financial hardship.

Under Government Code Section [12437\(b\)\(3\)](#), a liability is extinguished if FTB has been granted a discharge from accountability for collection of that liability by the Controller and FTB has determined that the liable person has a permanent financial hardship.

11. The liability has been unpaid for more than 30 years.

Under Government Code Section [12437\(b\)\(4\)](#), a liability is extinguished if FTB has been granted a discharge from accountability for collection of that liability by the Controller and the liability has been unpaid for more than 30 years. For purposes of Government Code Section [12437\(b\)\(4\)](#), a liability is considered on a tax year basis and the 30-year time period begins to run on the latest statutory lien date (SLD) (also known as the assessment date) provided by Revenue and Taxation Code Section 19221 for the subject tax year.

Do not confuse the 30-year period stated in Government Code Section 12437(b)(4) with the 20-year statute of limitations for the collections of outstanding tax liabilities under Revenue and Taxation Code Section [19255](#). See CPM Section 4.2.1.16 for information on the 20-year statute of limitations for the collections of outstanding tax liabilities. Most tax year liabilities are abated at the 20 year mark for "due and payable" under Revenue and Taxation Code Section 19255. The 30 year Government Code extinguishment applies to tax years that have been stayed from collections for reasons such as bankruptcy.

FTB is Not Required to Collect Where Account Balance Totals \$500 or Less

Under Government Code § 12438, FTB is not required to collect taxes, licenses, fees or money owing to the state for any reason if the amount to be collected is five hundred dollars (\$500) or less. The \$500 limitation applies to the total of all amounts owed by the taxpayer. This means that if a taxpayer's account has a **total** balance of \$500 or less, including interest to date, then FTB is not required to collect that balance. However, all amounts remains owing and the taxpayer or person remains liable for such amounts may refrain from collecting that amount.

Reference

FTB Form [4982](#)
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Note: (()) = Indicates confidential and/or proprietary information.

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