

**Amend Revenue and Taxation Code Section 6479.3 of the Sales and Use Tax Law to require taxpayers with sales and use tax liabilities averaging \$20,000 or more per month, rather than \$10,000 or more per month, to remit their tax payments via an electronic funds transfer.**

**Source: Sales and Use Tax Department**

**Existing Law.** Under the Sales and Use Tax Law,<sup>1</sup> taxpayers with monthly tax liabilities that average \$10,000 or more must remit their tax payments via an electronic funds transfer (EFT) under Board of Equalization (BOE)-prescribed procedures. Failure to remit the funds under those procedures subjects taxpayers to specified penalties. Similar provisions are contained in the Property and Special Tax and Fees programs. However, under those programs, the monthly tax liability must average \$20,000 or more before an EFT requirement is imposed.

**This Proposal.** This proposal would amend the Sales and Use Tax Law to increase the threshold for mandatory EFT payments from \$10,000 to \$20,000 or more in monthly tax liability.

**Background.** Section 6479.3 was added to the Sales and Use Tax Law in 1991<sup>2</sup> to provide a faster, more secure way of transferring funds, eliminate the float time associated with check payments, and also enable the BOE to more timely identify and start delinquent tax collection efforts. Prior to Senate Bill 467's enactment, tax payments were submitted solely by mail. Senate Bill 467 initially required only those taxpayers whose average monthly tax liabilities were \$50,000 or more to remit by EFT. That measure also provided that, after two years (beginning January 1, 1995), those taxpayers whose monthly tax liabilities averaged \$20,000 or more were also required to remit by EFT. This threshold remained at \$20,000 until January 1, 2006. A budget trailer bill<sup>3</sup> sponsored by the Assembly Budget Committee reduced the \$20,000 threshold to \$10,000 or more per month beginning January 1, 2006. The \$10,000 threshold has remained in law since then.

The BOE's Centralized Revenue Opportunity System (CROS) soon will replace its legacy computer systems. This proposal is intended to align the BOE's tax programs to simplify implementation of CROS, and to minimize confusion for EFT taxpayers that remit their liabilities under the different tax programs.

**Revenue Impact.** Increasing the EFT threshold from \$10,000 to \$20,000 would affect 15,273 taxpayers with total sales and use tax liabilities of \$2.5 billion. The resulting decreased interest income is approximately \$21,000 annually.

*Section 6479.3 of the Revenue and Taxation Code is amended to read:*

6479.3. (a) Any person whose estimated tax liability under this part averages ten ~~twenty~~ thousand dollars ~~(\$10,000)~~ (\$20,000) or more per month, as determined by the board pursuant to methods of calculation prescribed by the board, shall remit amounts due by an electronic funds transfer under procedures prescribed by the

<sup>1</sup> Revenue and Taxation Code (RTC) Section 6479.3.

<sup>2</sup> Senate Bill 467, Ch. 476, Stats. 1991.

<sup>3</sup> Assembly Bill 139, Ch. 74, Stats. 2005.

board. Any person who collects use tax on a voluntary basis is not required to remit amounts due by electronic funds transfer.

(b) Any person whose estimated tax liability under this part averages less than ~~ten~~ twenty thousand dollars (~~\$10,000~~) (\$20,000) per month or any person who voluntarily collects use tax may elect to remit amounts due by electronic funds transfer with the approval of the board.

(c) Any person remitting amounts due pursuant to subdivision (a) or (b) shall perform electronic funds transfer in compliance with the due dates set forth in Article 1 (commencing with Section 6451) and Article 1.1 (commencing with Section 6470). Payment is deemed complete on the date the electronic funds transfer is initiated, if settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(d) Any person remitting taxes by electronic funds transfer shall, on or before the due date of the remittance, file a return for the preceding reporting period in the form and manner prescribed by the board. Any person who fails to timely file the required return shall pay a penalty of 10 percent of the amount of taxes, exclusive of prepayments, with respect to the period for which the return is required.

(e) (1) Except as provided in paragraph (2), any person required to remit taxes pursuant to this article who remits those taxes by means other than appropriate electronic funds transfer shall pay a penalty of 10 percent of the taxes incorrectly remitted.

(2) A person required to remit prepayments pursuant to this article who remits a prepayment by means other than an appropriate electronic funds transfer shall pay a penalty of 6 percent of the prepayment amount incorrectly remitted.

(f) Except as provided in Sections 6473 and 6477, any person who fails to pay any tax to the state or any amount of tax required to be collected and paid to the state, except amounts of determinations made by the board under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511), within the time required shall pay a penalty of 10 percent of the tax or amount of tax, in addition to the tax or amount of tax, plus interest at the modified adjusted rate per month, or fraction thereof, established pursuant to Section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

(g) In determining whether a person's estimated tax liability averages ~~ten~~ twenty thousand dollars (~~\$20,000~~) (\$10,000) or more per month, the board may consider tax returns filed pursuant to this part and any other information in the board's possession.

(h) Except as provided in subdivision (i), the penalties imposed by subdivisions (d), (e), and (f) shall be limited to a maximum of 10 percent of the taxes due, exclusive of prepayments, for any one return. Any person remitting taxes by electronic funds transfer shall be subject to the penalties under this section and not Section 6591.

(i) The penalties imposed with respect to paragraph (2) of subdivision (e) and Sections 6476 and 6477 shall be limited to a maximum of 6 percent of the prepayment amount.

(j) The board shall promulgate regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for purposes of implementing this section.