

Amend Section 7063 of the Sales and Use Tax Law to require the Board to post a list of the largest 500 tax delinquencies of more than \$100,000, and within that list, enable the Board to include those accounts for which a notice of state tax lien has been filed with the Office of the Secretary of State.

Source: Honorable Jerome E. Horton

Current Law

Since January 1, 2007, Section 7063 of the Revenue and Taxation Code has required the Board to make available as a matter of public record each quarter a list of the largest 250 tax delinquencies of more than \$100,000 in tax. Prior to making a tax delinquency a matter of public record, however, the law requires the Board to provide a preliminary written notice by certified mail, return receipt requested, to the person or persons held liable for the tax. The law further specifies that for purposes of compiling the list, the tax delinquency must have been recorded as a notice of state tax lien in any county recorder's office in this state.

Since the beginning of this program, 23 qualifying taxpayers, whose account balances represent a total of \$25 million in sales and use tax liabilities, have come forward to take care of their debts. Of the \$25 million in liabilities, \$3.4 million has been collected to date. Fifteen of the 23 taxpayers are resolving their tax debts through installment payment agreements, and eight have paid their liabilities in full. The list, updated quarterly, currently includes debtors with \$288 million in tax liabilities. Of that amount, \$57 million in liabilities are jointly owed by more than one taxpayer on the list. The law specifies that tax liabilities under appeal, litigation, or bankruptcy proceedings are not includable on the list.

This Proposal

This proposal would require the Board to expand the list of the largest tax delinquencies from 250 accounts to 500 accounts. In addition, this proposal would specify that for purposes of compiling the list, the tax delinquency must have been recorded either as a notice of state tax lien in any county recorder's office in this state, or filed as a notice of state tax lien with the Secretary of State.

Staff has estimated that by increasing the list to 500 accounts, over \$100 million in additional tax liabilities would be included, thereby increasing the potential for more taxpayers to come forward and resolve their outstanding tax liabilities.

In addition, in certain cases, the Board files liens with the Secretary of State and not with any particular county recorder's office. (A lien on personal property is filed with the Secretary of State; a lien on real property is recorded in any county recorder's office in the state). Under current law, those tax debts for which a lien is filed with the Secretary of State are not eligible for posting. By adding language to include liens filed with the Secretary of State, additional accounts would be eligible for the list.

Section 7063 of the Revenue and Taxation Code is amended to read:

7063. (a) Notwithstanding any other provision of law, the board shall make available as a matter of public record each quarter a list of the ~~250~~ 500 largest tax delinquencies in excess of one hundred thousand dollars (\$100,000) under this part. For purposes of compiling the list, a tax delinquency means an amount owed to the board which is all of the following:

(1) Based on a determination made under Article 2 (commencing with Section 6481) or Article 3 (commencing with Section 6511) of Chapter 5 deemed final pursuant to Article 5 (commencing with Section 6561) of Chapter 5, or that is "due and payable" under Article 4 (commencing with Section 6536) of Chapter 5, or self-assessed by the taxpayer.

(2) Recorded as a notice of state tax lien pursuant to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code, in any county recorder's office in this state, or filed as a notice of state tax lien with the Secretary of State pursuant to Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of the Government Code.

(3) For an amount of tax delinquent for more than 90 days.

(b) For purposes of the list, a tax delinquency does not include any of the following and may not be included on the list:

(1) A delinquency that is under litigation in a court of law.

(2) A delinquency for which payment arrangements have been agreed to by both the taxpayer and the board and the taxpayer is in compliance with the arrangement.

(3) A delinquency for which the taxpayer has filed for bankruptcy protection pursuant to Title 11 of the United States Code.

(c) Each quarterly list shall, with respect to each delinquency, include all the following:

(1) The name of the person or persons liable for payment of the tax and that person's or persons' last known address.

(2) The amount of tax delinquency as shown on the notice or notices of state tax lien and any applicable interest or penalties, less any amounts paid.

(3) The earliest date that a notice of state tax lien was filed.

(4) The type of tax that is delinquent.

(d) Prior to making a tax delinquency a matter of public record as required by this section, the board shall provide a preliminary written notice to the person or persons liable for the tax by certified mail, return receipt requested. If within 30 days after issuance of the notice, the person or persons do not remit the amount due or make arrangements with the board for payment of the amount due, the tax delinquency shall be included on the list.

(e) The quarterly list described in subdivision (a) shall include the following:

(1) The telephone number and address of the board office to contact if a person believes placement of his or her name on the list is in error.

(2) The aggregate number of persons that have appeared on the list who have satisfied their delinquencies in their entirety and the dollar amounts, in the aggregate, that have been paid attributable to those delinquencies.

(f) As promptly as feasible, but no later than 5 business days from the occurrence of any of the following, the board shall remove that taxpayer's name from the list of tax delinquencies:

(1) Tax delinquencies for which the person liable for the tax has contacted the board and resolution of the delinquency has been arranged.

(2) Tax delinquencies for which the board has verified that an active bankruptcy proceeding has been initiated.

(3) Tax delinquencies for which the board has verified that a bankruptcy proceeding has been completed and there are no assets available with which to pay the delinquent amount or amounts.

(4) Tax delinquencies that the board has determined to be uncollectible.

(g) A person whose delinquency appears on the quarterly list, and who satisfies that delinquency in whole or in part, may request the board to include in its quarterly list any payments that person made to satisfy the delinquency. Upon receipt of that request, the board shall include those payments on the list as promptly as feasible.

(h) Notwithstanding subdivision (a), a person whose delinquency appeared on the quarterly list and whose name has been removed pursuant to paragraph (1) of subdivision (f) shall comply with the terms of the arranged resolution. If a person fails to do so, the board shall add that person's name to the list of delinquencies without providing the prior written notice required by subdivision (d).