



STATE BOARD OF EQUALIZATION STAFF CHAPTERED BILL ANALYSIS

Date Enacted:	July 19, 2005, Ch. 74	Bill No:	AB 139
Tax:	Sales and Use Tax	Author:	Assembly Budget Committee
Related Bills:	AB 1765		

BILL SUMMARY

This budget trailer bill, among other things unrelated to the Board, requires taxpayers whose average monthly sales and use tax liabilities average \$10,000 or more, to remit their tax payments electronically.

ANALYSIS

Current Law

Under existing law, Section 6479.3 of the Revenue and Taxation Code provides the statutory authority to require taxpayers with monthly tax liabilities averaging \$20,000 or more to remit their tax payments via an electronic funds transfer (EFT). Under the law, taxpayers that meet the \$20,000 threshold, are required to remit those funds under procedures prescribed by the Board. A person's failure to remit the funds under those procedures are subject to specified penalties.

Proposed Law

This bill amends Section 6479.3 to require taxpayers with sales and use tax liabilities averaging \$10,000 or more per month to remit their tax payments via an EFT under procedures prescribed by the Board.

The bill became effective the day of enactment, July 19, 2005.

Background

Section 6479.3 was added to the Sales and Use Tax Law in 1991 (SB 467, Ch. 473) in order to provide a faster, more secure way of transferring funds and to also enable the Board to identify and start delinquent tax collection efforts earlier. Prior to the enactment of SB 467, tax payments were submitted by mail. SB 467 initially required only those taxpayers whose average monthly tax liabilities were \$50,000 or more to remit by EFT. Additional provisions incorporated in SB 467 provided that, after two years (beginning January 1, 1995), those taxpayers whose monthly tax liabilities averaged \$20,000 or more were additionally required to remit by EFT. This threshold has remained at \$20,000 since January 1, 1995.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

COMMENTS

1. **Sponsor and purpose.** This budget trailer bill is sponsored by the Assembly Budget Committee in order to implement the 2005-06 Budget agreement regarding the operations of state government.
2. **AB 1765 could chapter out these provisions.** AB 1765 is a Board-sponsored measure to also amend Section 6479.3. Under this statute, aside from the mandatory requirements for certain taxpayers to remit their payments via EFT, additional provisions are contained in the statute to allow other taxpayers to voluntarily remit by EFT if they desired to do so. However, the law requires those who voluntarily opt to remit by EFT to continue to remit via EFT for a minimum of one year. The Board is sponsoring AB 1765 to delete the one-year minimum provision. The Board believes the one-year minimum requirement is no longer necessary, and could actually serve as a disincentive to sign up. If AB 1765 is signed, it appears the changes to Section 6479.3 enacted by this measure would be chaptered out.
3. **The bill is effective immediately.** The language of Section 6479.3 provides that the taxpayers who meet the \$10,000 threshold are required to remit the amounts due by an EFT under procedures prescribed by the Board. Since the bill became effective on July 19, 2005, the Board has already begun developing procedures to accommodate the new taxpayer base and we expect that the procedures would be in place no later than January 1, 2006. Therefore, the new EFT taxpayers will make their first payment via EFT by January 31, 2006. This payment will represent the liability for the 4th Quarter 2005 reporting period, which is due on or before January 31, 2006.
4. **Operative date before January 1, 2006 would place a burden on taxpayers.** Board staff reviews taxpayer accounts each year and notifies taxpayers when they are required to pay by EFT. A packet is mailed to the taxpayer which includes a letter notifying the taxpayer of their requirement to pay taxes by EFT, instructions on EFT debit and credit payment methods, the Board's Publication 80, *Electronic Funds Transfer Information Guide – Sales and Use Taxes*, and the Board's Form BOE-555-EFT, *Authorization Agreement For Electronic Funds Transfer (EFT)*, including instructions on how to complete the authorization form, and a return envelope. The packet provides information on the payment methods, registration, filing tax returns, due dates, and more. To register for the EFT program, the taxpayer must do the following:
 - Read the letter of instruction for procedures and due dates;
 - Read the EFT Credit and Debit Instructions to determine which payment method they would prefer to use (i.e., Automated Clearing House (ACH) credit or debit method);
 - Read Publication 80, *Electronic Funds Transfer Information Guide*, for additional instructions on registering, making payments, and filing returns;
 - If the taxpayer selects the ACH Debit method, the taxpayer must contact the State's data collection service and provide them with payment information. The taxpayer can contact the data collection service by telephone (toll-free), PC software and modem, or over the Internet;

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

- If the taxpayer selects the ACH Credit method, the taxpayer must contact his or her financial institution directly and instruct them to transfer the payment to the Board's bank account. The taxpayer's financial institution may require forms to be completed to initiate the payment process;
- Complete BOE-555-EFT, *Authorization Agreement for Electronic Funds Transfer (EFT)*, and mail the authorization agreement to the Board in the enclosed return envelope. Taxpayers who select the ACH Debit method must include a voided check with the authorization form.

For many taxpayers, registering for the EFT program and understanding the steps involved to make that first EFT payment can be confusing. It can be very time-consuming reading through the materials and taxpayers often call the Board's EFT Help line with questions on registering and making payments. Consequently, adequate lead time is essential to having a successful electronic payment program.

- 5. Operative date of January 1, 2006 is a reasonable timeframe.** The Board's current timeline for notifying and processing taxpayers EFT authorization forms is about six months. In June of each year, the Board reviews accounts to determine those accounts required to pay by EFT and those accounts that can be removed from the EFT program. The first notification letters are mailed to taxpayers on September 15th, and include all of the Board materials that are mentioned under Comment 4. Taxpayers are instructed to return the authorization form within 15 days. However, since **approximately two-thirds of taxpayers do not respond to the first notification letter**, a follow-up letter, including Board materials, is mailed to taxpayers on November 15th.

When the Board receives the authorization form, it reviews the form for accuracy. If the form was not completed properly, the Board contacts the taxpayer to verify the correct information. In some cases, a new form must be completed by the taxpayer. For example, if a taxpayer requests to pay by ACH debit method, but signs on the signature line for ACH credit method, a new form must be completed and returned to the Board.

Once the authorization form has been verified, the Board sends a confirmation letter with the taxpayer's EFT start date. If the taxpayer selected the ACH debit method, the Board provides the taxpayer with a temporary security code. The taxpayer then needs to contact the data collection service to create a permanent security code before the reporting of the first payment.

Additionally, the Board conducts a "prenote" (prenotification) test on ACH debit payments to validate the taxpayer's bank account number. This test uses a zero-dollar amount and is made at least ten days prior to origination of the first ACH debit payment. Since the taxpayer does not provide a bank account for ACH credit payments, the Board does not perform a prenote test on these transactions. However, the Board advises taxpayers who select the ACH credit method to conduct a prenote test to validate the Board's routing number and bank account number.

After all information is verified and tests have been conducted, the banking information is key-entered twice into the Board's computer system to ensure the

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

accuracy of the data.

While the EFT method has proven to be an efficient method of payment, many taxpayers initially experience problems in registering and in making their first payments. Taxpayers are resistant to change and initially find the payment method confusing to use. Board staff usually experiences numerous phone calls in answering taxpayer questions. For these reasons, it is important to have an adequate timeline that will allow the Board to register several thousand new accounts, in addition to assisting and educating taxpayers on this new payment method.

COST ESTIMATE

Costs would be incurred in identifying and notifying taxpayers that meet the new threshold who would be required to make tax payments by EFT. Additional costs would include reviewing the EFT authorization agreements, registering taxpayers, programming, revising publications, and answering numerous inquiries from the public. These costs would be offset by the additional interest revenues gained by the earlier receipt of tax revenues.

REVENUE ESTIMATE

Requiring those taxpayers that have a monthly sales and use tax liability of between \$10,000 and \$20,000 to remit their tax payments electronically would result in increased interest income of approximately \$200,000 annually.

Analysis prepared by:	Sheila T. Sarem	916-445-6579	07/25/05
Revenue estimate by:	Dave Hayes	916-445-0840	
Contact:	Margaret S. Shedd	916-322-2376	
mcc			0139-1ss

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.