

AGENDA — December 18, 2002 Business Taxes Committee Meeting
Proposed Regulation 1707, *Electronic Funds Transfer*
REVISED DECEMBER 12, 2002

<p>Action 1 — Consent Items Agenda, pages 1- 4.</p>	<p>Adopt proposed Regulation 1707 as recommended by staff to implement the provisions of Revenue and Taxation Code sections 6479.3 and 6479.5.</p>
<p>Action 2 – Authorization to Publish</p>	<p>Recommend publication of the proposed Regulation 1707 as adopted in the above action.</p> <p>Operative Date: None. Implementation: 30 days following OAL approval.</p>

AGENDA — December 18, 2002 Business Taxes Committee Meeting
Proposed Regulation 1707, *Electronic Funds Transfer*
REVISED DECEMBER 12, 2002

Action Item	Staff's Proposed Regulatory Language
<p>Action 1 — Consent Items Exhibit 2, pages 1 and 2</p>	<p>Regulation 1707. ELECTRONIC FUNDS TRANSFER</p> <p>(a) DEFINITIONS.</p> <p>(1) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer.</p> <p>(2) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.</p> <p>(3) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person's bank account and crediting the state's bank account for the amount of tax due. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.</p> <p>(4) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.</p> <p>(5) “Federal Reserve Wire Transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state's bank account. Electronic funds transfers pursuant to Revenue and Taxation Code section 6479.3 may be made by Federal Reserve Wire Transfer only if payment cannot, for good cause, be made according to subdivision (a), and the use of Federal Reserve Wire Transfer is preapproved by the Board. Banking costs incurred for the Federal Reserve Wire Transfer transaction charged to the person and to the state shall be paid by the person originating the transaction.</p>

AGENDA — December 18, 2002 Business Taxes Committee Meeting
Proposed Regulation 1707, *Electronic Funds Transfer*
REVISED DECEMBER 12, 2002

Action Item	Staff's Proposed Regulatory Language
	<p>(b) PARTICIPATION.</p> <p>(1) MANDATORY PARTICIPATION. Persons with an estimated monthly tax liability of twenty thousand dollars (\$20,000) or more are required to remit amounts due by electronic funds transfer under procedures prescribed by the Board. To identify mandatory participants, the Board shall conduct an annual review of all persons with sales and use tax permits. The review is performed by calculating an average monthly tax liability for a twelve-month period. Persons whose average monthly tax liability equals or exceeds twenty thousand dollars will be required to remit payments by electronic funds transfer. If a person did not begin making sales until after the beginning of the designated twelve-month review period, then the monthly tax liability will be calculated based upon the number of months in which sales were made (for example, in a calendar year review period, if the person obtains a seller's permit and begins making sales in May, the total tax liability would be divided by eight to determine the average monthly tax liability since there are eight months remaining in the evaluation period). Persons registering to collectreport and pay sales or use tax for the first time, except certain successors, will not be required to participate in the electronic funds transfer program until an annual review is conducted.</p> <p>A successor will be regarded as having an estimated tax liability in excess of twenty thousand dollars (\$20,000) per month when the monthly tax liability of the predecessor exceeded twenty thousand dollars per month or the predecessor was a mandatory participant in the electronic funds transfer program. If the successor purchases a portion of a business that is required to participate in the mandatory electronic funds transfer program (i.e.e.g. a multiple outlet business that only sells some, but not all, of its locations), the average monthly tax liability of the purchased locations will be computed to determine if the successor meets the threshold to be identified as a mandatory participant in the electronic funds transfer program.</p> <p>After an annual review, if a person drops below the threshold for mandatory participation, the Board shall provide notification, in writing, that the status has been changed from mandatory participation to voluntary participation in the electronic funds transfer program. If, at that time, a person wishes to discontinue making electronic funds transfer payments, a written request must be made to the Board. Payments must continue to be remitted by electronic funds transfer until the taxpayer is notified by the Board, in writing, of an effective date of withdrawal from the program. Any person who fails to comply with the mandatory participation requirements under this article shall be liable for penalty as provided under Revenue and Taxation Code section 6479.3.</p>

AGENDA — December 18, 2002 Business Taxes Committee Meeting
Proposed Regulation 1707, *Electronic Funds Transfer*
REVISED DECEMBER 12, 2002

Action Item	Staff's Proposed Regulatory Language
	<p>(2) VOLUNTARY PARTICIPATION. Any person not meeting the criteria for mandatory participation set forth in subdivision (b)(1) of this regulation may participate in the program on a voluntary basis. A person must register with the Board prior to participation and must remain in the program for a minimum of one year. After that time, if a person wishes to discontinue making electronic funds transfer payments, a written request must be made to the Board. Payments must continue to be remitted by electronic funds transfer until notified by the Board, in writing, of an effective date of withdrawal from the program.</p> <p>(c) DATE OF PAYMENT. Payment is deemed complete on the date the electronic funds transfer is initiated, if the settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If the 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.</p> <p>(d) FILING OF RETURNS. In addition to a tax payment made by electronic funds transfer, a return must be filed on or before the due date. Any person who fails to comply with this provision shall be subject to penalty charges as provided under Revenue and Taxation Code section 6479.3.</p> <p>(e) FAILURE TO PAY BY ELECTRONIC FUNDS TRANSFER. Any person required to pay taxes by electronic funds transfer must continue to do so until the Board advises them<u>that person</u> otherwise in writing. Any person required to pay taxes by electronic funds transfer, as set forth in subdivision (b)(1) of this regulation, that<u>who</u> does not pay through electronic funds transfer but uses another means (i.e.<u>e.g.</u>, pay by check), will be assessed a penalty as provided by Revenue and Taxation Code section 6479.3.</p> <p>(f) REPORTING PREPAYMENTS. Any person required to make prepayments will not receive and is not required to file prepayment forms (BOE-1150 or BOE-1150-B); however, a payment must still be made by electronic funds transfer.</p> <p>(g) ZERO AMOUNT DUE. When no tax is due for a given period, <u>a zero dollar transaction must be made by electronic funds transfer or</u> the Board must receive written notification stating <u>that no tax is due for that period</u>, as such, or a zero-dollar transaction must be made by electronic funds transfer.</p> <p>(h) EMERGENCIES. In emergency situations, a Federal Reserve Wire Transfer transaction may be used to transmit a payment. A Federal Reserve Wire Transfer is an electronic payment system used by federal reserve banks to transfer funds instantaneously. Generally, this method of payment</p>

AGENDA — December 18, 2002 Business Taxes Committee Meeting
Proposed Regulation 1707, *Electronic Funds Transfer*
REVISED DECEMBER 12, 2002

Action Item	Staff's Proposed Regulatory Language
	is not approved for recurring transactions. Authorization must be received from the Board prior to making a payment by Federal Reserve Wire Transfer. The person who originates the transfer shall be responsible for any fees incurred by the Federal Reserve Wire Transfer transaction.

G:\BTC\BTC TOPICS - 2002\02-0704 EFT-Reg 1707\Papers\1707 IPAgenda revised.doc

Issue Paper Number 02-022



- Board Meeting
- Business Taxes Committee
- Customer Services and Administrative Efficiency Committee
- Legislative Committee
- Property Tax Committee
- Other

Proposed Regulation Regarding Requirements for Electronic Funds Transfer Reporting Regulation 1707, *Electronic Funds Transfer*

I. Issue

Should the Board adopt proposed new Regulation 1707, *Electronic Funds Transfer*, to implement the provisions of Revenue and Taxation Code sections 6479.3 and 6479.5?

II. Staff Recommendation

Staff recommends the Board adopt new Regulation 1707 to implement, interpret, and make specific the provisions of Revenue and Taxation Code sections 6479.3 and 6479.5.

There is no operative date since Regulation 1707 describes current polices and practices. See Issue Paper discussion on pages 3 and 4, and Agenda action item 1.

III. Other Alternative(s) Considered

Do not adopt new Regulation 1707.

FORMAL ISSUE PAPERIssue Paper Number 02-022**IV. Background**

Revenue and Taxation Code (“RTC”) sections 6479.3 and 6479.5 were added by Senate Bill 467 (Statutes 1991, Chapter 473). The Electronic Funds Transfer program was implemented as a result of RTC section 6479.3, which required the Board of Equalization to administer the Electronic Funds Transfer (“EFT”) payment process for specific types of tax payments. RTC section 6479.5 defines the terms used in RTC section 6479.3. Also, RTC section 6479.3(j) states: “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.” RTC sections 6479.3 and 6479.5 are attached as Exhibits 3 and 4 respectively.

On January 1, 1993, holders of sales and use tax permits whose estimated monthly tax liability was \$50,000 or more were required to participate in the EFT program. Effective January 1, 1995, those persons with an estimated monthly tax liability of \$20,000 or more were also required to participate in the EFT program.

On February 1, 1995, staff issued Operations Memorandum No. 1024 to implement and interpret the EFT program. In addition, Publication 80, *Electronic Funds Transfer Information Guide*, was made available to the public.

The process of remitting tax payments by EFT provides a significantly more efficient and effective method of collecting tax payments. The process eliminates the possibility that the taxpayer’s payment is lost in the mail. Also, the process enables the Board to identify delinquent payments earlier and to start collection efforts immediately. The handling of check payments has inherent delays or “float” caused by the mail, processing, and clearing time. Consequently, a tax payment can be postmarked on the due date, but the State may not gain use of the receipts for a week or more due to processing delays. Also, since EFT filers are not required to file their prepayment forms, processing costs are reduced.

Staff proposes new Regulation 1707 (Exhibit 2) to implement, interpret, and make specific the provisions of RTC sections 6479.3 and 6479.5.

Interested Parties Meetings – August 27, 2002 and October 9, 2002

Meetings were held on August 27, 2002 and October 9, 2002 to discuss the proposed Regulation 1707. No outside interested parties attended the meetings, nor were any written comments received.

At the August 27 meeting, Board Member John Chiang requested that staff research other states’ laws and regulations to determine how other states administer their EFT programs. Most states have similar programs to that of California. However, some differences noted include the threshold for mandatory EFT filing, the manner of payment (many states just require that the payment be remitted in immediately available funds which includes cashier’s checks), and the method for computing the threshold (some states will total all accounts listed under a taxpayer in computing the threshold, whereas others will consider them separately). A comparison of EFT provisions by state is shown in Exhibit 5.

Issue Paper Number 02-022

V. Staff Recommendation

A. Description of the Staff Recommendation

Staff recommends the Board adopt proposed Regulation 1707, Electronic Funds Transfer, to implement, interpret, and make specific the provisions of RTC sections 6479.3 and 6479.5.

RTC section 6479.3(a) states:

“Any person whose estimated tax liability under this part averages twenty thousand dollars (\$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 board. Any person who collects use tax on a voluntary basis is not required to remit amounts due by electronic funds transfer.”

RTC section 6479.3 left it to the Board’s discretion to determine how this monthly average would be computed. The proposed Regulation 1707 sets forth the procedures the Board uses to calculate when this threshold for EFT filing is met, specifically with respect to the initial identification of mandatory EFT filers. RTC section 6479.5 defines the terms used in the EFT program and these definitions are incorporated into Regulation 1707(a).

Further, the regulatory language proposed prescribes the methods used by the Board in implementing the EFT program.

Staff recommends no operative date since Regulation 1707 describes current polices and practices.

B. Pros of the Staff Recommendation

Puts in regulatory form the interpretation the Board has used since it began implementing the provisions of RTC section 6479.3 and 6479.5.

Clarifies the Board’s procedures for computing the threshold for mandatory EFT participation.

Fulfills the requirement of RTC section 6479.3(j) which specifies the Board to promulgate a regulation to interpret the provisions of RTC section 6479.3.

C. Cons of the Staff Recommendation

Requires regulatory change.

D. Statutory or Regulatory Change

No statutory change is required. However, approval of staff’s recommendation will require adoption of the proposed Regulation 1707.

E. Administrative Impact

Staff will be required to notify taxpayers of the new regulation and to revise Publication 80, *Electronic Funds Transfer Information Guide*.

FORMAL ISSUE PAPER

Issue Paper Number 02-022

F. Fiscal Impact

1. Cost Impact

Staff will notify taxpayers of the new regulation through a Tax Information Bulletin (TIB) article and a revision to Publication 80. Staff estimates that workload associated with the publishing and distribution of the TIB and the revision of Publication 80 will be absorbed by existing staff and will not require any additional budget augmentation.

2. Revenue Impact

None. See Revenue Estimate, Exhibit 1.

G. Taxpayer/Customer Impact

Will increase taxpayer awareness and understanding as to how the Board administers its EFT program and how it computes the threshold for mandatory participation in the program.

H. Critical Time Frames

There is no operative date since Regulation 1707 describes current policies and procedures.

VI. Alternative 1

A. Description of the Alternative

Do not adopt staff's proposed Regulation 1707, *Electronic Funds Transfer*.

B. Pros of the Alternative

None.

C. Cons of the Alternative

There will be no regulatory language to implement, interpret and make specific the provisions of RTC sections 6479.3 and 6479.5 as required by RTC section 6479.3(j). RTC section 6479.3(j) states: "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."

D. Statutory or Regulatory Change

None.

E. Administrative Impact

None.

FORMAL ISSUE PAPER

Issue Paper Number 02-022

F. Fiscal Impact

1. Cost Impact

None.

2. Revenue Impact

None. See Revenue Estimate, Exhibit 1.

G. Taxpayer/Customer Impact

The provisions of RTC sections 6479.3 and 6479.5 will not be made specific by regulatory form. Most significantly, no explanation of the method used to compute the threshold for mandatory EFT participation will be readily available.

H. Critical Time Frames

None.

Prepared by: Program Planning Division, Sales and Use Tax Department

Current as of: December 2, 2002

REVENUE ESTIMATE

STATE OF CALIFORNIA
BOARD OF EQUALIZATION



**PROPOSED REGULATION REGARDING REQUIREMENTS FOR
ELECTRONIC FUNDS TRANSFER REPORTING
REGULATION 1707, *ELECTRONIC FUNDS TRANSFER***

Staff Recommendation

Staff recommends the Board adopt new Regulation 1707 to implement, interpret, and make specific the provisions of Revenue and Taxation Code sections 6479.3 and 6479.5.

There is no operative date since Regulation 1707 describes current polices and practices.

Alternative 1

Do not adopt new Regulation 1707.

Background, Methodology, and Assumptions

Staff Recommendation:

There is nothing in the proposed new Regulation 1707 that would impact revenues.

Alternative 1:

Alternative 1 has no revenue effect.

Revenue Estimate

Revenue Summary

The staff recommendation has no revenue effect.

The alternative proposal has no revenue effect.

Preparation

Bill Benson, Jr., Research and Statistics Section, Administration Department prepared this revenue estimate. Mr. Dave Hayes, Manager, Research and Statistics Section, Administration Department and Ms. Charlotte Paliani, Program Planning Manager, Sales and Use Tax Department reviewed this revenue estimate. For additional information, please contact Mr. Benson at (916) 445-0840.

Current as of November 14, 2002

Regulation 1707. ELECTRONIC FUNDS TRANSFER

Reference: Sections 6479.3 and 6479.5, Revenue and Taxation Code.

(a) DEFINITIONS.

(1) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer.

(2) "Automated clearinghouse" means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(3) "Automated clearinghouse debit" means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person's bank account and crediting the state's bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(4) "Automated clearinghouse credit" means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(5) "Federal Reserve Wire Transfer" means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state's bank account. Electronic funds transfers pursuant to Revenue and Taxation Code section 6479.3 may be made by Federal Reserve Wire Transfer only if payment cannot, for good cause, be made according to subdivision (a), and the use of Federal Reserve Wire Transfer is preapproved by the Board. Banking costs incurred for the Federal Reserve Wire Transfer transaction charged to the person and to the state shall be paid by the person originating the transaction.

(b) PARTICIPATION.

(1) MANDATORY PARTICIPATION. Persons with an estimated monthly tax liability of twenty thousand dollars (\$20,000) or more are required to remit amounts due by electronic funds transfer under procedures prescribed by the Board. To identify mandatory participants, the Board shall conduct an annual review of all persons with sales and use tax permits. The review is performed by calculating an average monthly tax liability for a twelve-month period. Persons whose average monthly tax liability equals or exceeds twenty thousand dollars will be required to remit payments by electronic funds transfer. If a person did not begin making sales until after the beginning of the designated twelve-month review period, then the monthly tax liability will be calculated based upon the number of months in which sales were made (for example, in a calendar year review period, if the person obtains a seller's permit and begins making sales in May, the total tax liability would be divided by eight to determine the average monthly tax liability since there are eight months remaining in the evaluation period). Persons registering to collect sales or use tax for the first time, except certain successors, will not be required to participate in the electronic funds transfer program until an annual review is conducted.

A successor will be regarded as having an estimated tax liability in excess of twenty thousand dollars per month when the monthly tax liability of the predecessor exceeded twenty thousand dollars per month or the predecessor was a mandatory participant in the electronic funds transfer program. If the successor purchases a portion of a business that is required to participate in the mandatory electronic funds transfer program (i.e. a multiple outlet business that only sells some, but not all of its locations), the average monthly tax liability of the purchased locations will be computed to determine if the successor meets the threshold to be identified as a mandatory participant in the electronic funds transfer program.

After an annual review, if a person drops below the threshold for mandatory participation, the Board shall provide notification, in writing, that the status has been changed from mandatory participation to voluntary participation in the electronic funds transfer program. If, at that time, a person wishes to discontinue making electronic funds transfer payments, a written request must be made to the Board. Payments must continue to be remitted by electronic funds transfer until the taxpayer is notified by the Board, in writing, of an effective date of withdrawal from the program. Any person who fails to comply with the mandatory participation requirements under this article shall be liable for penalty as provided under Revenue and Taxation Code section 6479.3.

(2) VOLUNTARY PARTICIPATION. Any person not meeting the criteria for mandatory participation set forth in subdivision (b)(1) of this regulation may participate in the program on a voluntary basis. A person must register with the Board prior to participation and must remain in the program for a minimum of one year. After that time, if a person wishes to discontinue making electronic funds transfer payments, a written request must be made to the Board. Payments must continue to be remitted by electronic funds transfer until notified by the Board, in writing, of an effective date of withdrawal from the program.

(c) DATE OF PAYMENT. Payment is deemed complete on the date the electronic funds transfer is initiated, if the settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If the 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) FILING OF RETURNS. In addition to a tax payment made by electronic funds transfer, a return must be filed on or before the due date. Any person who fails to comply with this provision shall be subject to penalty charges as provided under Revenue and Taxation Code section 6479.3.

(e) FAILURE TO PAY BY ELECTRONIC FUNDS TRANSFER. Any person required to pay taxes by electronic funds transfer must continue to do so until the Board advises them otherwise in writing. Any person required to pay taxes by electronic funds transfer, as set forth in subdivision (b)(1) of this regulation, that does not pay through electronic funds transfer but uses another means (i.e., pay by check), will be assessed a penalty as provided by Revenue and Taxation Code section 6479.3.

(f) REPORTING PREPAYMENTS. Any person required to make prepayments will not receive and is not required to file prepayment forms; however, a payment must still be made by electronic funds transfer.

(g) ZERO AMOUNT DUE. When no tax is due for a given period, the Board must receive written notification stating as such, or a zero-dollar transaction must be made by electronic funds transfer.

(h) EMERGENCIES. In emergency situations, a Federal Reserve Wire Transfer transaction may be used to transmit a payment. A Federal Reserve Wire Transfer is an electronic payment system used by federal reserve banks to transfer funds instantaneously. Generally, this method of payment is not approved for recurring transactions. Authorization must be received from the Board prior to making a payment by Federal Reserve Wire Transfer. The person who originates the transfer shall be responsible for any fees incurred by the Federal Reserve Wire Transfer transaction.

6479.3. Electronic funds transfer payments.

(a) Any person whose estimated tax liability under this part averages twenty thousand dollars (\$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 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 twenty thousand dollars (\$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. The election shall be operative for a minimum of one year.

(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 twenty thousand dollars (\$20,000) 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.

6479.5. **Definitions.** (a) “Electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, or by Federal Reserve Wire Transfer (Fedwire).

(b) “Automated clearinghouse” means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

(c) “Automated clearinghouse debit” means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person’s bank account and crediting the state’s bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(d) “Automated clearinghouse credit” means an automated clearinghouse transaction in which the person through his or her own bank, originates an entry crediting the state’s bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(e) “Fedwire transfer” means any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state’s bank account. Electronic funds transfers pursuant to Section 6479.3 may be made by Fedwire only if payment cannot, for good cause, be made according to subdivision (a), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

EFT COMPARISON BY STATE

STATE	EFT THRESHOLD	COMMENTS
ALABAMA	\$25,000 calendar year	Generally by ACH (Debit) but the state can grant permission to use ACH (credit)
ALASKA		NO SALES TAX
ARIZONA	\$20,000 annual	Immediately available funds. 10% penalty for failure to file by EFT.
ARKANSAS	\$20,000 calendar year	Penalty 5 % for failure to remit by EFT. Also, will not be eligible for 2 % prompt payment discount.
CALIFORNIA	\$20,000 average monthly	Penalty of 10% for failure to timely file the required return and also for failure to remit by EFT. No "prepayment form" needs to be filed when paid by EFT.
COLORADO		Does not have a mandatory EFT program.
CONNECTICUT	\$100,000 annual	Based on preceding year. If returns not filed or delinquent, the state uses information available to it.
DELAWARE		Does not have a mandatory EFT program.
DISTRICT OF COLUMBIA		Does not have a mandatory EFT program.
FLORIDA	\$50,000 fiscal year	Generally by ACH (debit) but the state can grant permission to use ACH (credit). Fedwires allowed on an exception basis. State law describes a "reasonable cause" for failure to file by EFT for purposed of relief of penalty. Has a "grace period" for first 6 months that taxpayer is required to file by EFT.
GEORGIA	\$100,000 average monthly, \$20,000 or more per payment	Specifically states EFT transfer must be initiated by 3 p.m. (Eastern time) on last banking day prior to due date. Commissioner is authorized to waive interest on first two scheduled EFT payments if late due to reasonable cause.
HAWAII		Does not have a mandatory EFT program.
IDAHO	\$100,000 any payment due	If pay by check, five days interest is charged. Penalty of \$500 if due to payer's negligence or disregard for the law. Interest can not be waived.
ILLINOIS	\$50,000 average monthly	Dept. notifies taxpayer of EFT filing requirement by August 1, and taxpayer must start Oct 1.
INDIANA	\$20,000 annual	
IOWA	Taxpayers that are required to file bi-weekly	Allows EFT. Fedwire, with approval.
KANSAS	\$100,000 calendar year	
KENTUCKY	\$10,000 calendar year	
LOUISIANA	\$20,000 any payment due	
MAINE		Does not have a mandatory EFT program.
MARYLAND	\$20,000 any return payment	
MASSACHUSETTS	\$250,000 annual	If \$25,000 or more annual sales and use tax liability, can file voluntarily.
MICHIGAN	\$720,000 annual tax liability	
MINNESOTA	\$120,000 annual	
MISSISSIPPI	\$20,000 any payment due	By Fedwire or by any other means approved by state. Funds must be immediately available.
MISSOURI		Does not have a mandatory EFT program.
MONTANA		NO SALES TAX.
NEBRASKA		Does not have a mandatory EFT program.

STATE <input type="checkbox"/>	EFT <input type="checkbox"/> THRESHOLD <input type="checkbox"/>	COMMENTS <input type="checkbox"/>
NEVADA		Does not have a mandatory EFT program.
NEW HAMPSHIRE		NO SALES TAX.
NEW JERSEY	\$20,000 annual	Penalty and interest can be abated.
NEW MEXICO	\$25,000 average monthly	If taxpayer has several accounts, the average tax payment is computed by combining all accounts listed under taxpayer. Still allows checks but they must be received at least one banking day before due date (if New Mexico bank) and two banking days (if not New Mexico bank).
NEW YORK	\$1,000,000 annual tax liability	Taxpayers with separate FEIN will be treated separately in computing threshold.
NORTH CAROLINA	\$240,000 annual	
NORTH DAKOTA	\$100,000 any payment due	Immediately available funds.
OHIO	\$600,000 for second preceding calendar year	Penalty 5 percent, cannot exceed \$5,000. No penalty assessed on first two tax payments after EFT requirement is met.
OKLAHOMA		Does not have a mandatory EFT program.
OREGON		NO SALES TAX
PENNSYLVANIA	\$20,000 any payment due	EFT requirement may be satisfied by certified or cashier's check delivered in person.
RHODE ISLAND	\$25,000 any payment due	
SOUTH CAROLINA	\$20,000 any payment due	Immediately available funds.
SOUTH DAKOTA		Electronic Tax Payment Plan available. Fedwires for emergencies only.
TENNESSEE	\$10,000 any payment due	Immediately available funds.
TEXAS	\$500,000 annual	Once threshold met, payments over \$10,000 must be by EFT.
UTAH	\$96,000 annual	Cash, Fedwire, cashier's check allowed in cases of hardship with prior approval. Even if taxpayer is not notified they meet threshold, they are still required to file by EFT if they meet the threshold.
VERMONT		Does not have a mandatory EFT program.
VIRGINIA	\$20,000 average monthly	
WASHINGTON	\$240,000 annual	
WEST VIRGINIA		Does not have a mandatory EFT program. Proposed legislation for a mandatory program.
WISCONSIN		Does not have a mandatory EFT program.
WYOMING		Does not have a mandatory EFT program.