

# Memorandum

**To** : Ms. Cynthia Bridges  
Executive Director (MIC 73)

**Date:** August 27, 2014

**From** : Mr. Jeffrey L. McGuire, Deputy Director  
Sales and Use Tax Department (MIC 43)



**Subject** : **Board Meeting September 23, 2014**  
**Item N: Administrative Agenda**  
**Proposed Revision to Compliance Policy and**  
**Procedures Manual Chapter 5, Returns**

In accordance with the established procedures for audit and compliance manual revisions, I am submitting the proposed revision to Compliance Policy and Procedures Manual (CPPM) Chapter 5, *Returns*, sections 550.000 through 550.040.

The proposed revision, which incorporates current policies and procedures, has been reviewed and approved by SUTD management, provided to Board Members, and posted at <http://www.boe.ca.gov/sutax/pmr.htm> to solicit comments from interested parties. No comments were received from Board Members or other interested parties.

The revised section is attached for your reference. We request your approval to forward this item to the Board Proceedings Division for placement on the Administrative Agenda as a consent item at the September 2014 meeting.

If you have any questions, please let me know or contact Ms. Susanne Buehler at 324-1825.

JLM:rs  
Attachment

Approved:

**STATE BOARD OF EQUALIZATION**



BOARD APPROVED

At the September 23, 2014 Board Meeting

Joann Richmond  
Joann Richmond, Chief  
Board Proceedings Division

  
Ms. Cynthia Bridges  
Executive Director

cc: (all with attachment)

Mr. David Gau (MIC 101)

Ms. Lynn Bartolo (MIC 57)

Mr. Wayne Mashihara (MIC 46)

Ms. Susanne Buehler (MIC 92)

Mr. Kevin Hanks (MIC 49)

## DELINQUENCY CONTROL

550.000

### GENERAL

550.010

Delinquency control is the automated process in IRIS that part of the Board's operation that identifies delinquent accounts where the taxpayer has failed to file one or more returns, and controls the preparation of automated notices and various reports pertaining to these accounts. ~~Delinquent accounts, as referred to in this section, are:~~

- ~~• Accounts that have failed to file tax returns,~~
- ~~• Accounts that have been mailed a Notice to Appear — Revocation Proceeding for any reason, and~~
- ~~• Accounts that have had their licenses or permits revoked for any reason.~~

IRIS automatically initiates the delinquency control cycle for accounts that have failed to file returns; however, ~~A~~accounts that are considered delinquent for other reasons, for example, failure to pay a balance due, are initiated by staff as “cause delinquencies.” ~~A Notice to Appear — Revocation Proceeding may be sent both to Sales and Use Tax (SUT or SUTD) accounts that have failed to file returns and to accounts with cause delinquencies are both subject to revocation. Under RTC section 6070, before a seller's permit can be revoked, taxpayers must be provided 10 days' notice in writing specifying the time and place of a hearing to show cause why their permit(s) should not be revoked. The BOE-431-S1, Notice of Immediate Action Required – Your Seller's Permit May Be Cancelled (Revoked), specifies the time and place of such hearing.~~

~~The procedures outlined in this section pertain to sales and use tax accounts. Cigarette, use fuel, diesel fuel, motor vehicle fuel and alcoholic beverage tax delinquencies are controlled by the Special Taxes Department (STD). All notification~~Some Special Taxes and Fees (STF) accounts are subject to revocation. Notification of delinquencies, hearings, and revocations for ~~STDF~~STDF accounts will be issued by ~~STDF~~STDF. Both the Calendar of Sales Tax Functions and the Special Tax Calendars are available on eBOE.

To prevent the erroneous mailing of a Notice of Immediate Action Required, Notice to Appear, or Notice of Revocation, staff in the office of control must promptly process closeouts, withholds, payments, returns and other documents that clear delinquencies. These documents, including “No Sales” tax returns, must be sent to headquarters no later than the day following their receipt in the district office.

~~Licenses issued under the Alcoholic Beverage Tax Law are nonrevocable by the Board. The Alcoholic Beverage Tax Law does, however, provide that the Board shall give written notice to the Department of Alcoholic Beverage Control whenever any taxpayer's bond is canceled or becomes unenforceable, or whenever there is a failure~~

~~to report and pay any taxes or penalties which are due. Upon proper notice, the Department of Alcoholic Beverage Control will confiscate the license and notify the Board of its action. See CPPM 748.000 for a detailed discussion of this process. Delinquent motor vehicle fuel tax balances are not part of the Board's delinquency control function, but are the responsibility of the State Controller.~~

## **DELINQUENCY CONTROL CYCLE**

**550.020**

~~The following schedule applies to SUT accounts. If a taxpayer fails to file their return by its due date, the automated delinquency control cycle initiated by IRIS ~~for failure to file a return consists of~~will:~~

- ~~Establishing a delinquent record approximately three weeks~~Notify taxpayers of the delinquency by sending a *Courtesy Notice* by email or postal service approximately 14 days after the due date of the return,
- ~~Issuing a Delinquency Notice within five weeks~~Mail a BOE-431-S1, *Notice of Immediate Action Required – Your Seller's Permit May Be Cancelled (Revoked)*, also referred to as a citation or hearing notice, if a delinquency is not cleared within 40 days ~~from~~after the due date of the return (hearing dates are scheduled approximately 12-14 days from the date of the BOE-431-S1),
- ~~Route the account to a collector's work list in the Automated Compliance Management System (ACMS) approximately 50 days after the due date of the return, Sending a Notice to Appear — Revocation Proceeding approximately 60 days after the issue of the Delinquency Notice,~~
- ~~Revoke the permit approximately 48 days after the hearing date, and~~
- ~~Sending Mail a BOE-433-S, *Notice of Revocation*, approximately 90 days after the issue of the Notice to Appear — Revocation Proceeding, and 20 days after the revocation date.~~  
~~Retaining the record until the delinquency is cleared and the permit or license is reinstated.~~

~~For STF accounts, refer to the Special Tax Calendars for the dates that the BOE-429, *Notice of Delinquency*, BOE-431, *Notice to Appear*, and BOE-433, *Notice of Revocation*, are sent.~~

The delinquency control cycle for cause delinquencies starts when staff establishes the cause delinquency record through ~~an on-line request~~IRIS. The point at which a cause delinquency is to be initiated is at the discretion of staff. The rest of the process follows the same cycle as a system initiated delinquency, except that a ~~*Delinquency Courtesy Notice or Notice of Delinquency*~~ is not issued and the account will receive a ~~*Notice to Appear — Revocation Proceeding*~~*Notice of Immediate Action Required or Notice to Appear* during the next scheduled ~~*Citation Addressing*~~ date. The issuance of the ~~*Notice notice*~~ is in accordance with the ~~*Delinquency Processing Date Chart*~~ — Calendar of Sales Tax Functions.

~~**Notice to Appear — Revocation Proceeding**~~**Notice of Immediate Action Required (BOE-431-S1) or Notice to Appear (BOE-431 for STF Accounts)**

~~Notices to Appear — Revocation Proceeding~~ These notices are not mailed to the following:

- Accounts ~~that have a withhold placed for~~ ~~on which~~ the delinquent periodic delinquency to be cited, ~~has either a date~~ or those that have a permanent withhold.
- Accounts that have an active account level withhold for ~~either a date or a B~~ bankruptcy.
- Closed-out accounts.
- Accounts that are currently in an active citation ~~/ or~~ revocation cycle.
- ~~Accounts with outstanding revocations.~~
- Use Tax accounts, ~~or (Final Notices are mailed to Use Tax accounts).~~
- Part-time accounts that do not have a cause delinquency established.

### **Final Notices**

~~A Final Notice is mailed to a recorded active delinquent use tax account that has not cleared periodic delinquencies. Final Notices are not mailed to closed-out accounts.~~

### **Notice of Revocations (BOE-433-S or BOE-433 for STF accounts)**

A *Notice of Revocation* is mailed to accounts that have not cleared the delinquency cited in the ~~an active delinquent account for which the Notice to Appear — Revocation Proceeding~~ Notice of Immediate Action Required or Notice to Appear ~~has been mailed providing the accounts are still cited at before~~ the time the *Notice of Revocation* is ~~produced~~ generated. A ~~Notices~~ of Revocation ~~are~~ is not mailed to the following accounts:

- Closed-out accounts.
- Use Tax accounts, ~~or~~.
- Part-time accounts that do not have a cause delinquency established.

## **DELINQUENCY CONTROL RECORD**

**550.030**

~~Delinquency control records are~~ Delinquent return information is accessible through IRIS's DEL menu. These records reflect active ~~or~~ and closed ~~out~~ accounts that have not filed returns, active accounts which have been mailed a ~~Notice to Appear — Revocation Proceeding~~ Notice of Immediate Action Required or a Notice to Appear for any reason, and active accounts which have been mailed a *Notice of Revocation* for any reason. The record initiated by the system is termed a "periodic" delinquent record. As noted above in CPPM section 550.020, a staff initiated record is a "cause" delinquent record.

### **Periodic Delinquent Record**

In addition to automatically establishing a periodic delinquent record when an account fails to file a return, IRIS also establishes a delinquency when:

- An account is reinstated after being closed-out in error with an effective date prior to the current reporting period.

- ~~Change forms are processed affecting reporting periods~~ Changes to an account are made that may create periodic delinquent records. Some examples are retroactive change of reporting basis, change of starting or closeout date, transfer of returns between accounts, etc.
- An application for a new or converted account is processed with a starting date prior to the current reporting period.
- A partial period return is filed. A return is considered partial period when the return does not cover the entire period to be reported. An example would be when a taxpayer files a monthly return for a quarterly return period.

### **Cause Delinquency Records**

Cause delinquency records are established ~~through on-line requests from district offices or the Special Procedures Section. The on-line function in IRIS, which~~ provides staff ~~with~~ the ability to ~~make an account delinquent, cite an account, or revoke an account~~ initiate the delinquency cycle when a taxpayer fails to comply with ~~Board~~ BOE policy. The cause delinquency ~~record allows a Notice to Appear — Revocation Proceedings to be issued and~~ can be established for the following reasons:

- Failure to Ppay Balance Due ~~(A/R)~~,
- Failure to Comply with requirements under the Sales and Use Tax Law,
- Failure to Post Security,
- Failure to Post Additional Security,
- Failure to Post Replacement Security,
- Failure to Comply with SG requirements for Motor Vehicle Fuel Distributors (SG accounts), or
- Failure to comply with requirements under the Cigarette and Tobacco Products Licensing Act Law.

## **DELINQUENCY CONTROL RECORD CLEARANCE**

**550.040**

### **Periodic Delinquency**

A periodic delinquency is cleared when any non-partial tax return ~~or facsimile~~ for a delinquent period is processed ~~in headquarters~~.

Processing changes affecting reporting periods may also clear a periodic delinquency record. Some examples are retroactive change of reporting basis, change of starting or closeout date, and, transfer of returns between accounts. ~~A reinstatement application will not clear a periodic delinquent record.~~

### **Cause Delinquency**

Cause delinquencies described in CPPM 550.030 are cleared in IRIS by district or

headquarters staff when the taxpayer clears the cause for which the delinquent record was established, ~~or by an on line request from the district office or from headquarters.~~

### **Revocations**

~~Inoperative r~~Revocations are cleared by districts ~~using on line delinquency actions in the IRIS system. Whether an account was revoked for a delinquent return or for cause (e.g. failure to pay a balance due), revocations are cleared when the account is either reinstated or closed. Active revocations are cleared by reinstatement application or closeout.~~

~~Reinstatement applications or closeout will also clear delinquent records established for cause (failure to post security, failure to pay delinquent balances or failure to comply with a particular section of the law).~~

~~To prevent the erroneous mailing of a Notice to Appear — Revocation Proceeding or a Notice of Revocation, the district office must promptly process closeouts, withholds, payments, returns and other documents that clear delinquencies. These documents, including “No Sales” tax returns, must be sent to headquarters no later than the day following their receipt in the district office. District offices will establish on line withholds when appropriate.~~