

Memorandum

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

Date : February 26, 2015

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

Subject : **Board Meeting March 25-26, 2015**
Item N: Administrative Agenda
Proposed Revisions to Compliance Policy and Procedures Manual
Chapters 6 and 7

I am requesting approval to forward the attached revisions to CPPM Chapter 6, *Closeouts and Clearances*, and Chapter 7, *Collections*, to the Board Proceedings Division to be placed as a consent item on the Administrative Agenda at the March 2015 meeting.

The proposed revision of Chapter 6, section 645.050 increases the threshold amount for initiating a waiver of liability.

The proposed revision of Chapter 7, section 732.050 increases the threshold amount for initiating a successor liability. The proposed revisions of sections 755.010 through 755.020 increase the threshold amount for an individual's weekly disposable earnings, thus reducing the amount subject to levy under an Earnings Withholding Order.

These revisions have been reviewed and approved by SUTD management, provided to Board Members, and posted on the Board's website 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.

If you have any questions, please let me know, or contact Ms. Susanne Buehler at (916) 324-1825.

JLM:rs
Attachment

STATE BOARD OF EQUALIZATION

BOARD APPROVED

At the March 26, 2015 Board Meeting

Joann Richmond
Joann Richmond, Chief
Board Proceedings Division



Approved

Cynthia Bridges
Ms. Cynthia Bridges
Executive Director

cc: (all with attachment)
Mr. David Gau (MIC 101)
Mr. Wayne Mashihara (MIC 46)
Ms. Susanne Buehler (MIC 92)
Ms. Lynn Bartolo (MIC 57)
Mr. Richard Parrott (MIC 88)
Mr. Kevin Hanks (MIC 49)
Mr. John Thiella (MIC 73)
Mr. Marc Alviso (MIC 101)
Mr. Chris Lee (MIC 101)
Mr. Gary Lambert (MIC 43)

CLEARING DELINQUENCIES OF SMALL ACCOUNTS

645.050

Generally, part time itinerant, or temporary accounts fall into this category. Frequently, excessive amounts of time and effort are necessary to clear delinquencies even though a small liability is involved.

The Waiver of Liability process in IRIS may be used to reduce costs when closing out a small account. Where delinquencies exist, security is not available, there is no successor, the taxpayer cannot be located, and the potential tax liability is less than ~~\$100~~500, initiate a Waiver of Liability.

SUCCESSOR BILLINGS

732.050

The law requires the BOE to issue a notice of successor liability to the purchaser of a business or stock of goods in order to enforce the purchaser's successor liability. A notice of successor liability is issued for any amount owed by the predecessor over ~~\$100500~~, up to the purchase price of the business or stock of goods. Once the notice of successor liability is mailed, the successor has 30 days to petition the liability prior to the initiation of collection action (RTC section 6814). If the successor files a timely petition of the amount determined to be due, the account will not enter into active collection status in ACMS pending the outcome of the petition.

WAGE GARNISHMENTS

755.000

GENERAL

755.010

The state is the levying officer for wage garnishments (Code of Civil Procedure (CCP) section 706.074). Earnings owed to a taxpayer by his or her employer are only reachable by:

1. Earnings Withholding Order for Taxes (EWO), (Form BOE-425-E).
2. Jeopardy Earnings Withholding Order for Taxes (Form BOE-425-E).

EWO's may not only be served on out-of-state employers ~~when the employee's job location and residence is also outside the state~~ in certain circumstances (see CPPM section 731.025). Following is a description of each of these instruments, as well as instructions for their use.

EARNINGS WITHHOLDING ORDER FOR TAXES (EWO)

755.020

Receipt of an EWO generally requires the employer to begin withholding earnings on the first workday occurring ten or more days after service of the EWO. Under CCP 706.074 and USC Title 15, section 1673, the maximum amount that may be withheld from the aggregate disposable earnings of an individual for any workweek is the lesser of:

1. Twenty-five percent (25%) of weekly disposable earnings, or
2. The amount of weekly disposable earnings that exceed ~~30 times the federal 40 times the state~~ minimum hourly wage in effect at the time the earnings are payable.

The EWO remains in effect until the total amount indicated in the EWO is paid or the EWO is withdrawn. If the taxpayer terminates his or her employment, the EWO continues in effect for one year after such termination. If employment resumes (with the same employer) within the year following termination, the EWO remains in effect.

Priority

~~The EWO has priority over all private creditors except Orders Assigning Salary (for support) and Earnings Withholding Orders for Support. These apply to child and or spousal support. If a residual amount of disposable earnings remains after the employer withholds the amounts required by either of these orders, then the Board of Equalization's (BOE) EWO may reach the residual amount.~~

~~Under the doctrine of "first in time is first in right," an EWO served upon the employer by another state agency will have priority over the BOE's EWO if the employer receives the other agency's EWO first. Similarly, if the BOE and the I.R.S. serve an EWO upon the State Controller to attach a state employee's wages, the first EWO received by the State Controller takes priority.~~

~~Priority for Earnings Withholding Orders is as follows:~~

- ~~1. Court Order Assigning Salary/Wages (for support), and Earnings Withholding Order for Support~~
- ~~2. Earnings Withholding Order for Taxes~~
- ~~3. Earnings Withholding Order~~

~~An EWO served by court order takes precedence over other wage garnishments. However, if a residual amount of disposable earnings remains after the employer withholds the amounts required by the court-ordered EWO, then BOE's EWO may reach the residual amount.~~

~~Regarding EWOs for taxes, the rule is "first in time is first in right." Only one EWO for taxes may be in effect at any given time. If an employer is withholding under a prior EWO for taxes, any subsequent EWO for taxes is ineffective and must be withdrawn until the prior has been satisfied or withdrawn. This is true even if the prior EWO for taxes was modified to require less than the amount allowed under the law.~~

*****NOTE*****

CPPM section 755.020 continues, however no changes are being made to the rest of the section at this time.