

# Memorandum

To : Mr. David Gau  
Chief Deputy Director (MIC 101)

Date: November 25, 2015

From : Lynn Bartolo, Acting Deputy Director  
Sales and Use Tax Department (MIC 43)

*Susanne Buehler  
for Lynn Bartolo*

Subject : **Board Meeting December 16, 2015**  
**Item N: Administrative Agenda**  
**Proposed Revision to Audit Manual (AM) Chapter 1 and**  
**Compliance Policy and Procedures Manual (CPPM) Chapters 1, 2, and 5**

I am requesting approval to forward the attached revisions to the Board Proceedings Division to be placed as consent items on the Administrative Agenda at the December 2015 meeting. The following sections are being added to incorporate current policies and procedures:

- AM Chapter 1, Section 0101.66, *Reporting Breaches of Confidential Information*
- CPPM Chapter 1, Section 130.035, *Reporting Breaches of Confidential Information*
- CPPM Chapter 2, Section 203.125, *Automatic License Renewals (ALR)*

In addition, the following section is being deleted due to the expiration of the relevant statute:

- CPPM Chapter 5, Section 535.100, *Electronic Payments – One Day Late*

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.

LB:rs

Attachment

Approved



Mr. David Gau  
Chief Deputy Director

STATE BOARD OF EQUALIZATION



BOARD APPROVED

At the December 16, 2015 Board Meeting

Joann Richmond  
Joann Richmond, Chief  
Board Proceedings Division

cc: (all with attachment)

Mr. Wayne Mashihara (MIC 47)

Ms. Susanne Buehler (MIC 92)

Mr. Richard Parrott (MIC 57)

Mr. Kevin Hanks (MIC 49)

Mr. John Thiella (MIC 73)

Mr. Marc Alviso (MIC 101)

Mr. Chris Lee (MIC 101)

Ms. Leila Hellmuth (MIC 43)

## REPORTING BREACHES OF CONFIDENTIAL INFORMATION

**0101.66**

In accordance with the Information Practices Act (Civil Code section 1798 et seq.) and Board of Equalization policy, any loss, compromise, or theft of taxpayer information must be immediately reported by staff to their supervisor or manager.

The format in which information is maintained is immaterial to this reporting requirement, but common examples of how taxpayer information may be stored includes but is not limited to:

- Hard copy (e.g., audit working papers, IRIS printouts, taxpayer forms)
- Computer hard drive
- USB or other data storage device

In addition, any detection or suspected breach of computerized data by any unauthorized person(s) must be reported promptly to supervisors or managers.

In each instance, management will report the loss, compromise, theft, or breach to the Disclosure Officer in the Legal Department's Settlement and Administration Division. When necessary, the Disclosure Officer will notify the Chief Counsel, and a determination as to the appropriate action will be made after review of all pertinent facts.

Following are applicable references that may also contain additional reporting requirements:

- Board of Equalization Administrative Manual (BEAM) section 2205 – Lost, Stolen or Destroyed Property, and section 8025 – Lost, Stolen or Destroyed Computer Equipment
- State Administrative Manual (SAM) section 5300 – Information Security
- Budget Letter (BL) 05-32 – Encryption of Portable Computing Devices
- Budget Letter (BL) 03-03 – Notification of Information Technology Incidents and Computer Crimes
- Civil Code section 1798.29

## **REPORTING BREACHES OF CONFIDENTIAL INFORMATION**

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**Cigarette and Tobacco Products**

Licensees with accounts registered under the Cigarette and Tobacco Products Licensing Program are required to annually renew their Cigarette and Tobacco Products license(s). The renewals are requested through the Online Registration system. Licensees will not be able to renew their cigarette and tobacco products license using the express login option and must log in using their User ID and password.

The Board of Equalization (BOE) will send two notifications, one by U.S. mail and the other by email, approximately 60 days prior to the date the license expires. The notifications will inform the licensees that their license is about to expire and will instruct them to log on to BOE's website to complete the renewal process. A follow-up reminder will be sent by email 30 days before the license is set to expire to those not yet renewed.

Retailers (LRs) who have allowed their license to expire will be required to pay a reinstatement fee for their retailer's license to be reactivated as it is automatically closed once the license expires. The reinstatement fee is \$100 for each license location which has expired and been closed out as a code 9. Currently, the reinstatement fee **only** applies to retailers.

Wholesalers (LWs) and Distributors (LDs) are required to annually renew their license(s) on or before January 1, and they must include a remittance fee of \$1,000 per business location. The annual renewal notification is sent by mail and email in mid-October. If not renewed by late November/early December, a follow-up reminder is sent by email. If they allow their license to expire, their account will automatically be closed out as a code 9 effective December 31. If they wish to reinstate their license, there is no reinstatement fee; however, the \$1,000 annual renewal fee is required.

Licensed Manufacturers or Importers (LM or LTs) of cigarette and tobacco products must also annually renew their license(s). The annual renewal notification is sent by mail and email in mid-October, with a follow-up email going out in late November/early December to those not yet renewed. There are no renewal fees; however, if they allow their license to expire, their account will be closed out as a code 9 effective December 31.

**International Fuel Tax Agreement (IFTA)**

Accounts registered under the IFTA program are required to renew their IFTA license and obtain new IFTA decals on an annual basis by completing a renewal application. Renewal applications are completed and processed through the Online Registration system. Licensees must log in using their User ID and password as Express Login will not grant them access.

The BOE will send three license renewal notification emails. The first email is sent approximately 45 days prior to the date the license expires, informing the licensee about the renewal requirement and process. The second email is sent approximately 30 days prior to the license expiration date, notifying the licensee a renewal is due. The third email is sent to all accounts that have not renewed informing the licensee their account will be closed for failure to file a renewal application.

Accounts that do not renew will be automatically closed out as a code 9 effective December 31. Licensees wishing to reopen their account may do so by completing a renewal application.

## **ELECTRONIC PAYMENTS - ONE DAY LATE**

**535.100**

~~Under certain conditions, the BOE may impose interest on a daily basis for an electronic payment or prepayment of taxes or fees (taxes) that is one business day past the date the tax or prepayment was due. Specifically, if the Board Members, meeting as a public body find, taking into account all facts and circumstances, that it is inequitable to compute interest on a monthly basis when a taxpayer is only one day late in making an electronic payment of taxes, interest will be computed on a daily basis, provided all of the following apply:~~

- ~~• Payment was made by electronic means (e.g., payments made by Electronic Funds Transfer, credit card, or ACH debit when a return is filed online) and was made no more than one business day after the due date,~~
- ~~• The taxpayer was granted relief from all penalties that applied to the payment of the tax, prepayment, or fee, and~~
- ~~• The taxpayer filed a request for an oral hearing before the Board.~~

### **Definition of “One Business Day Late”**

~~An electronic payment is deemed complete on the date the funds transfer is initiated, if settlement to the state’s demand account occurs on or before the following banking day. 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. To be considered “one business day late,” the payment must settle in the state’s demand account on the second banking day following the due date. The following time restrictions apply:~~

- ~~• **EFT accounts – ACH debit:** a payment must be made before 3:00 p.m. Pacific Time in order for the payment to settle on the next banking day.~~
- ~~• **Non-EFT accounts – online return/payment (ACH debit) and credit card payments:** a payment must be made before 12:00 midnight Pacific Time in order for the payment to settle on the next banking day. Please note that payments made before midnight by credit card settle on the following day, regardless of holidays or weekends.~~

### **Eligible Periods**

~~The effective date of the relevant Revenue and Taxation Codes in the table below is January 1, 2011, and is operative through January 1, 2016. Taxpayers may request the alternative interest calculation for periods prior to the effective date if the statute is open for the return period in question. Board Members may approve alternative interest calculation requests through December 31, 2015. Accordingly, unless the operative dates in the statutes are extended, the last approvals of these requests will be at the December 2015 Board Meeting.~~

<b>Tax or Fee Program</b>	<b>Revenue and Taxation Code</b>
Sales and Use Tax	6591.6
Motor Vehicle Fuel Tax	7655.5
Use Fuel Tax	8876.5
Diesel Fuel Tax	60207.5
Cigarette and Tobacco Products Tax	30281.5
Alcoholic Beverage Tax	32252.5
Tax on Insurers	12631.5
Energy Resources Surcharge	40101.5
Emergency Telephone Users Surcharge	41095.5
Hazardous Substances Tax	43155.5
Integrated Waste Management Fee	45153.5
Oil Spill Response, Prevention, and Administration Fees	46154.5
Underground Storage Tank Maintenance Fee	50112.1
Fee Collection Procedures Law <sup>†</sup>	55042.5

### **How to Request Alternative Interest Calculation**

~~Taxpayers must submit a BOE-734, *Request for Oral Hearing/Electronic Payments—One Day Late*. There is no online request function for these requests. The form allows taxpayers to request an oral hearing, request a refund of interest paid in excess of daily interest due, and provides an opportunity for a taxpayer to waive their right to appear before the Board at the oral hearing. The form also advises taxpayers where to send the form based on the tax or fee program. Publication 159-EFT, *efile Guide for EFT Accounts*, and the EFT Frequently Asked Questions page on the BOE website also contain information explaining how to request an alternative interest calculation.~~

### **Board Approval**

~~Requests received must be approved by the Board Members meeting as a public body. When staff recommends the Board approve or deny the request and the taxpayer waives the right to appear, the case will be placed on the Board calendar by the Board Proceedings Division as a Nonappearance Matter consent item. When staff recommends the request be denied, staff will send the taxpayer a notice of the intent to deny. The notice will advise the taxpayer that if they previously waived the right to appear but now want to appear before the Board, they must contact the Department within 15 days. If the taxpayer requests to appear at the oral hearing, the item will be placed on the Board calendar as either a Sales and Use Tax or Special Taxes and Fees Hearing.~~

<sup>†</sup>~~The fees and taxes collected pursuant to the Fee Collection Procedures Law include the following programs: California Tire Fee, Covered Electronic Waste Recycling Fee, Marine Invasive Species Fee, Natural Gas Surcharge, Water Rights Fee, and Lumber Products Assessment.~~

## **Staff Responsibility**

A summary prepared by staff for the Board will include the following:

- ~~Confirmation that penalties have been relieved or are on the same Board calendar requesting approval for relief,~~
- ~~Type of electronic payment,~~
- ~~Due date of payment,~~
- ~~Actual payment date and time or settlement date,~~
- ~~Interest amount due,~~
- ~~Amount of daily interest due, and~~
- ~~Amount of interest that will be adjusted if the Board approves the request.~~

~~If the Board approves the request, the amount of interest will be adjusted in IRIS by RAU for SUTD accounts, or by the Appeals and Data Analysis Branch for Special Taxes and Fees accounts.~~