

# Memorandum

To : Honorable Betty T. Yee, Chair  
Honorable Judy Chu, Vice-Chair  
Honorable Bill Leonard  
Honorable Michelle Steel  
Honorable John Chiang  
c/o Ms. Marcy Jo Mandel

Date: August 29, 2007

From : Randie Henry, Deputy Director  
Sales and Use Tax Department



Subject : **Additional Tax Gap Proposals and Legislative Ideas**

As requested, below is a list of possible BOE policy changes that would not require additional resources or legislation, as well as a list of legislative ideas pending staff analysis.

### Non-Legislative Proposals

The following items came up during the development of the Tax Gap as items that could be implemented without resources or legislation. As a follow-up to the Tax Gap BCP, we are providing this list to the Board for informational purposes as things we will be further analyzing for potential implementation. These proposals are intended to create efficiencies in our audit and compliance programs and may lead to accelerated collection of revenues. Staff plans to review and evaluate each of the areas noted, and begin to implement changes during the current fiscal year when possible.

- Encourage out-of-state retailers to register for collection of California use tax. Staff proposes sending letters to out-of-state retailers that do not have California nexus and encouraging them to voluntarily register to collect use tax on sales made to California customers.
- Modify seller's permit security requirements. Eliminate current security requirements that have not shown to efficiently improve collections. Consider new security requirements possibly based on industry types that have historical collection problems.
- Automate filing liens and levies. Accounts would still have to meet current delinquency standards before the lien or levy was filed. Improves efficiency by automating a manual process.
- Allow liens for less than \$2,000. Increases chances for collection on smaller dollar amounts.
- Shorten the delinquency cycle. Staff believes that by sending delinquency notices sooner, taxpayers will be less likely to incur successive late penalties. In other words, if taxpayers are notified of a delinquency quickly, they may make their current payment timely to avoid another late penalty.

- Place liens on vehicles, vessels, and aircraft when used in the course of a business where an outstanding liability exists. Utilizes a collection tool already in place.
- Involve collectors in exit discussions of audits. Increases the likelihood of collection by including a compliance expert early in the collection process.
- Automate notices to appear for a dishonored check regardless of amount (currently only done for high dollar amounts). Increases chances for collection on smaller dollar amounts.
- Audit certain high risk businesses more frequently (a one or two-year audit cycle). A shorter time between audits will encourage taxpayers to correct problems promptly because they know another audit is coming up.

The policy changes listed above were solicited and provided by both field and headquarters staff. Additional ideas will be reviewed as part of the SUTD's on-going evaluation of its audit and compliance programs.

As the analysis on the above ideas is completed, SUTD will provide the Board Members with additional information on how the proposals will impact taxpayers and Board operations.

#### Legislative Ideas

Below are proposed tax gap ideas developed to date that require legislative change. Ideas 1 – 8 were suggested by staff, while ideas 9 – 13 were suggested by interested parties during the development of the Tax Gap BCP.

1. Include a "look-up" table in the income tax return indicating average use tax amounts incurred based on income ranges.
2. Require use tax education for tax professionals.
3. On the income tax return, require taxpayers to itemize details for purchases of equipment over a specified dollar amount.
4. Add detail to the signature block of the income tax return to include certification of correct reporting of use tax (currently only refers to income tax).
5. Reinstate and make permanent the 12-month test for purchases of vehicles, vessels, and aircraft.
6. Make permanent the voluntary disclosure agreement provisions of Revenue and Taxation Code section 6487.06.
7. Prohibit the issuance or renewal of any state issued license when sales or use tax is delinquent or unpaid and the license is related to the business that incurred the tax liability. For example, prohibiting the renewal of a construction contractor's license because of unpaid use tax owed on consumed construction materials.
8. Require third-party reporting of information related to sales of tangible personal property in California. For example, require alcohol distributors to periodically report all sales data in an electronic format.

9. Allow for specified in-state accounts receivable to be sent to a private collection agency.
10. Provide an exemption from use tax for the first \$800 of tangible personal property purchased from outside California.
11. Classify on-line marketplace operators as the agents of the marketplace sellers and require the operators to collect and remit the tax due on transactions in California.
12. Allow a private collection agency to collect use tax from buyers that may have participated in a fraudulent private party vehicle or vessel transaction. The collection agency would compare data reported to DMV with industry value guidebooks and investigate apparent underreported transactions. (Note: this investigative and associated billing process is already performed by the Board's Consumer Use Tax Section with collection handled by the Centralized Collection Section.)
13. Provide an incentive such as a 1% rebate of the use tax collected to out-of-state retailers without nexus when they voluntarily register to collect the California use tax.

None of these legislative ideas have been evaluated at this time. Following standard procedures, the ideas will be analyzed and presented to the Board's Legislative Division for consideration with other 2008 legislative ideas. If warranted, the ideas would be developed into proposals and handled through the Board's Legislative Committee process for Board Member approval and additional public comment.

If you have any questions, please contact me at (916) 445-1441.

Approved:

  
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Ramon J. Hirsig  
Executive Director

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