State of California | Board of Equalization

Memorandum

To : Ms. Kristine Cazadd
Interim Executive Director

Date: March 8, 2011

From : Jeffrey L. McGuire, Deputy Director
Sales and Use Tax Department

Subject : **Board Meeting, March 22-24, 2011**
Item P3- Sales and Use Tax Department's Deputy Director Report
Issue Paper on Financial Institution Records Matching (FIRM) Proposal

At the March 22-24, 2011 Board Meeting, we will be presenting the issue paper on whether BOE should become part of the Franchise Tax Board's proposed legislation on FIRM.

Please place this item on the March 22, 2011 Board Meeting agenda under P3.2.

JLM:sb

Attachment

cc: Ms. Diane Olson (MIC 80)

Approved: _____
Kristine Cazadd
Interim Executive Director

☐ For Information
☐ For Discussion
☒ For Decision Making

BOARD OF EQUALIZATION
INFORMAL ISSUE PAPER

Financial Institution Records Matching (FIRM)

Issue

Should the Board of Equalization (BOE) be included in a budget trailer bill that would require banking institutions to provide information on taxpayers who are indebted to the State of California for taxes?

Background

Current federal law (Sections 666 and 669A of Title 42 of the United States Code and Sections 466 and 469A of the Social Security Act) mandates the Financial Institution Data Match (FIDM) for the collection of delinquent child support debts. This process involves the matching of child support obligors with financial institution customer records in order to identify and levy the obligor's funds. FTB is the agency in California responsible for collecting child support debts, as well as corporate franchise and state income taxes. Federal law currently prohibits the information received through FIDM to be used for any purpose other than child support collection, thereby making this potentially valuable collection resource unavailable for use in franchise and income tax collections by FTB.

To allow this type of data to be used in the collection of franchise and income tax debts, the Legislature is considering a budget trailer bill that would require the FTB to coordinate with financial institutions doing business in this state to establish a Financial Institution Record Match system (FIRM) using automated data exchanges to the maximum extent feasible. The process would be very similar to the FIDM process described above. However, since FIRM is a separate program, its use would not be restricted to child support collections. Programs similar to FIRM for income tax collection exist in other states, such as Indiana, Kentucky, Maryland, Massachusetts, Minnesota, New Jersey, and New York.

FIRM will require, on a quarterly basis, financial institutions to provide FTB the name, record address and other addresses, social security number or other taxpayer identification number, and identifying information for each delinquent tax debtor as identified by FTB who maintains an account at the financial institution as defined. Financial institutions may not disclose to the account holder, depositor, co-account holder, or co-depositor that their identifying information has been received and furnished to the FTB.

The Legislature is considering enacting legislation in a budget trailer bill requiring FTB to implement FIRM and has asked if the BOE would consider being included in the legislation.

Discussion of the Issue

Because of the budget crisis where key public services are facing potential cuts, the state must do a better job of employing modern collection techniques and information technology to collect tax liabilities. Implementing FIRM will do

this by requiring financial institutions to match its customer records against the BOE's database of individuals with final tax liabilities. Most of the revenue collected by the BOE comes in voluntarily; however enforced collection actions such as notices of levy sent to the tax debtors' banks are taken when efforts to gain voluntary compliance have been exhausted.

If BOE was to be included in FIRM, the result would be more efficient collections. BOE staff would have accurate "real-time" financial information that would prevent levy notices being sent to incorrect financial institutions. Also, BOE staff time in further researching for tax debtors' banking information would be reduced. If FIRM is implemented for BOE, staff estimates that the BOE would generate $12.3 million in additional revenue annually. The additional revenue would come from greater timeliness in sending notices of levy to banks with accounts held by tax debtors discovered through FIRM and from efficiencies gained by reducing the search time for the collection of assets.

To implement the new legislation, BOE would create a file containing the Social Security Number (SSN) or Federal Employer's Identification Number (whichever is available) and the first and last name of the debtor. The file would be created quarterly and sent using a secure transmission method to the FTB. The FTB would append the BOE data to their file which would be sent to the banking institutions. FTB would then send a file of the matched data back to BOE, where BOE staff would load the data into the BOE's collection system, called the Automated Compliance Management System (ACMS) where it would be available to the collection staff. Staff would now have the financial institution data available to send notices of levy when efforts to gain voluntary compliance are exhausted. The data being transmitted to financial institutions is the same as contained on each notice of levy, but instead of it being transmitted on an individual basis, it would be transmitted through a batch process. Therefore, FIRM would not pose a further risk to confidential taxpayer information being transmitted outside of BOE. In addition, FIRM would not change our current levy process that is a manual system of a collector determining when progressive collection action is necessary (i.e., not an automated process). Instead, FIRM would add financial data that may not have been previously available to BOE's collection system.

The changes necessary to implement FIRM could be performed by contract programmers. BOE staff has estimated that it will take over 1,200 hours to program and test the systems for this legislation. The cost is estimated to be $108,000 assuming a contract rate of $90/hour. In addition, BOE would need to pay the portion of FTB's cost, estimated at $20,000, to set-up the new process that is attributable to including the BOE data in the process. Therefore, the total one-time cost to BOE is estimated to be $128,000, making the benefit-to-cost ratio 96 to 1. The costs to implement could be absorbed. Annual maintenance time is also expected to be absorbable.

Alternatives

Alternative #1:

Pursue legislation that would require the banking industry to provide the required bank account information to the FTB and BOE.

Pros:

- Additional revenue of $12.3 million would be generated annually.
- Maintains consistency of resources available to be used for the collection of tax between FTB and BOE.
- Avoids sending notices of levy to incorrect financial institutions.
- Provides another means of receiving real-time data from a third party that will assist when collection action is determined to be needed.

Cons:

- One-time cost of $128,000 would be incurred.
- Creates a new process that will require staff time to maintain.

Alternative #2:

Do not pursue the legislation.

Pros:

- Implementation costs of $128,000 would be avoided.
- No staff time would be expended to maintain the new process.

Cons:

- $12.3 million in annual additional revenue would not be generated.
- Notices of levy will continue to be sent to incorrect financial institutions.
- Some tax debtor financial information may not be discovered.

Recommendation

Alternative #1 should be selected to generate an additional $12.3 million in annual revenue with a benefit-to-cost ratio of 96 to 1.

Preparation and Reviews

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Current as of: March 8, 2011