What's Inside . . .

Introduction 1
Pay the full amount due or tell us why you can't 1
Let us know if you believe your billing is wrong 1
We will honor your rights as a taxpayer 1
Items to note 2
Payment options 2-3
Collection and Enforcement Actions 4-6
Liens • Levies • Additional Security • Till-tap and Keeper Warrants • Permit Revocations
Refunds 7
For More Information 8

Tax Collection Procedures

How can I pay a tax or fee liability? What actions may be taken if I don't pay?

Publication 54 • California State Board of Equalization • October 2009

Introduction

If you have received a Notice of Determination (billing), it means you have a tax or fee liability that is due and payable by the date indicated.

If you have received such a billing, you need to know:

- Options for paying the amount due, and
- Tax collection and enforcement actions we can take if you do not pay the bill or make arrangements to pay.

This publication is designed to answer those questions.

We will be glad to work with you to resolve your tax or fee problem. Please contact us right away if you have any questions about your bill.

Although most of the information in this publication focuses on the Board of Equalization's (BOE) Sales and Use Tax Program, similar provisions exist for most of the tax and fee programs we administer.

Pay the full amount due or tell us why you can't

You should pay the entire amount due. If you cannot, we recommend that you pay as much as you can now. By doing so, you will minimize the amount of interest you will owe because interest accrues on the unpaid tax or fee balance. For your convenience, we accept credit card payments (see page 2).

If you do not make an effort to pay your liabilities, we can ask you to find a way to pay them, such as selling or mortgaging any assets you have or getting a loan.

If you cannot pay the full amount, you should contact the BOE office that sent you the billing as soon as possible since you may be eligible for an installment payment agreement (see pages 2 and 3).

If the debt is not paid, we are authorized by law to take collection actions, which could include levying your bank account, wages, or other income or seizing and selling your assets (see pages 4-6).

Let us know if you believe your billing is wrong

If you believe the billing is wrong, let us know as soon as possible. Call the number on your billing, write to the BOE office that sent you the billing, call our Taxpayer Information Section at 800-400-7115, or visit your nearest BOE office.

To help us evaluate the billing, mail us a copy of the billing along with copies of any records, tax returns, canceled checks (front and back), or any other documentation you have that will help us understand why you believe your billing is wrong or has previously been paid. Please do not send original documents. If we find you are correct, we will adjust your account.

We will honor your rights as a taxpayer

You have certain rights under the Taxpayers' Bill of Rights and due process laws. For example, you have the right to be treated professionally, fairly, and courteously by BOE employees. You also have the right to:

- Meet with a BOE supervisor if you cannot resolve a dispute with the employee who handles your case.
- Request copies of documentation from your account file.
- Receive information and assistance in simple language to help you comply with the various tax and fee laws we administer.

For more information, please request a copy of publication 70, *The California Taxpayers' Bill of Rights.*

See page 8 for the telephone number and address of the Taxpayers' Rights Advocate Office.

Open communication is very important. *If you cannot make a payment on time, please let us know immediately and keep in touch until the issue is resolved.*

BOARD OF EQUALIZATION MEMBERS (Names updated 2012)

CYNTHIA BRIDGES
Executive Director

BETTY T. YEE
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MICHELLE STEEL
Third District
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Fourth District
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JOHN CHIANG
State Controller

Items to Note

We may share your tax information with other government agencies

While most of the information you provide to us is confidential, some is subject to public disclosure, such as the information on your seller's permit. Under certain conditions your account information, including underreporting and outstanding liabilities, may be shared with other government agencies.

We may contact a third party for information about your business affairs

We are authorized by law to obtain information from any party who may have information regarding your business affairs. This may include notifying your suppliers or vendors if your account is revoked.

We need to know if you are involved in bankruptcy proceedings

Contact your nearest BOE office if you have filed a petition for bankruptcy. While the proceeding may not eliminate your tax debt, we may suspend collection actions—such as liens and levies—for a period of time while your bankruptcy case remains pending.

If you are no longer a business partner, your liability may be limited

Partners are separately and jointly responsible for liabilities incurred (until the BOE is notified of changes in ownership). However, if you can prove that you left the partnership after January 1, 1994, there is a provision that holds you responsible only for the quarter in which you left the business and three subsequent quarters.

You may not be required to pay if you qualify as an innocent spouse or innocent registered domestic partner

Under the Sales and Use Tax Law, a person who qualifies as an *innocent spouse* or *innocent registered domestic partner* is not liable for tax, interest, and penalty charges. To qualify, all of the following conditions must be met:

- The liability must be attributable to your spouse or registered domestic partner, and
- You must establish that you did not know of the liability, and that a reasonably prudent person in your circumstance would not have had reason to know of the liability, and
- We must determine that it would be inequitable to hold you liable for the liability, taking into account whether you significantly benefited directly or indirectly from the nonpayment, and taking into account all other facts and circumstances.

If your request for innocent spouse or innocent registered domestic partner relief is denied, you may be eligible for "equitable relief," which weighs a variety of factors, such as your economic situation and whether as a result of dissolution, responsibility for the tax was assigned to you or your spouse or registered domestic partner. Additional information may be requested to make that determination.

Further information is available in publication 57, *Innocent Spouse Relief from Sales and Use Tax.*

You may personally be required to pay taxes owed by a corporation, partnerships, or limited liability partnerships or company

Under certain circumstances, responsible individuals may be liable for tax, penalty, and interest owed by corporations, partnerships, limited liability partnerships, and limited liability companies.

If you have received a billing indicating that you are being held personally liable and you believe you are not, please contact the BOE office that sent you the billing.

Payment Options

We accept credit card payments or we can work with you to make other payment arrangements. You may be eligible to pay under an installment payment agreement, or you may be eligible to propose an offer in compromise.

■ Credit Card

You may pay your liability by credit card. We accept credit cards issued by VISA, MasterCard, American Express and Discover/Novus. For additional information on credit card payments, please visit our website at *www.boe.ca.gov* (click on "Make a Payment"). You can also make a credit card payment by calling 800-2PAY-TAX (800-272-9829).

Note: A convenience fee of 2.5% of the transaction amount ($1.00 minimum) applies to all credit card payments. The convenience fee is retained by the credit card processor and is not revenue to the BOE.

■ Installment Payment Agreement

You may be eligible for an installment payment agreement, which allows you to pay the full payment of your debt in smaller, more manageable amounts. Installment payment agreements generally require equal monthly payments. You may be required to make these payments by electronic funds transfer. As explained on page 3, it may be more expensive to pay in installments.

The amount of your installment payment is based on the amount you owe and your ability to pay that amount. You will be required to submit

BOE-403-E, *Individual Financial Statement*, to help us determine the amount you can pay. We may also require supporting documentation.

Approval of an installment payment agreement is at the BOE's discretion. We may also require you to periodically provide us with updated financial information so we can review the terms of your agreement.

If you do not pay in full or contact us to make other arrangements, we are authorized to take collection actions as described on pages 4-6. If you cannot meet an established due date, you should contact the collector assigned to your account to avoid possible collection actions.

Streamlined Installment Payment Agreement

If you owe between $500 and $5,000, you may qualify for a Streamlined Installment Payment Agreement (SIPA). Unlike a regular installment agreement, you are not required to file a financial statement to help us determine the amount you can pay. If you are interested in a SIPA, please let us know.

You must be willing to make equal monthly payments to pay the liability in full, including accrued interest, in three years or less.

A SIPA may not be approved if you have a collection action pending or have previously broken promises to pay.

Before I apply, what else should I know about an installment payment agreement?

It may be more costly

An installment payment agreement is more costly than paying all the liabilities you owe and may be more costly than borrowing funds to pay the amount you owe.

Why? While you are making payments on your tax or fee debt through an installment payment agreement, we will continue to charge interest on the unpaid portion of the tax or fee liability. The interest rate on a bank loan or a cash advance on your credit card may be lower than the combination of penalties and interest that we charge on unpaid billings.

If you received an audit billing, we may waive the ten percent "finality" penalty

If you were charged a ten percent finality penalty on an audit because you did not pay your liability by the due date on the billing notice, we may waive the penalty if your installment payment agreement is initiated and accepted within 45 days of the due date of the notice. Your installment payment agreement must be successfully completed for the penalty to be waived.

We may still file a state lien on your property

We may still file a state lien—even if your installment payment agreement is accepted (liens are discussed on page 4). However, we may withhold the lien based on the financial documentation submitted with your initial payment.

We may terminate the agreement under certain conditions

We may terminate the installment payment agreement if you pay late, miss a payment, don't file and/or pay all required tax returns, or if you do not comply with other terms of the agreement. We will send you a letter giving you 15 days to pay in full or provide a satisfactory explanation.

As noted earlier, the finality penalty will not be waived if we terminate the installment payment agreement.

After 15 days, we may take further collection action without notification (see pages 4-6 for more information).

How do I apply?

You should contact us as soon as possible if you would like to request installment payments for a sales or use tax liability. Contact the BOE office that sent you the billing.

For other tax or fee programs, call our Taxpayer Information Section, 800-400-7115.

What should I do if my financial situation changes after my installment payment agreement is approved?

Your installment payment agreement is based on your financial situation. Consequently, you should immediately contact the collector assigned to your account, as identified on your installment payment agreement, if there is a change in your financial situation and you need to change your installment payment agreement.

■ Offer in Compromise

The Offer in Compromise Program allows eligible tax and feepayers to satisfy their liabilities by paying a lesser amount. The program applies to most taxes and fees and is available if the following apply:

- You agree with the liability and the liability is final, and
- We determine you do not have, and will not have in the foreseeable future, the income, means or assets to pay the liability in full.

To make an offer, you must submit BOE-490, *Offer in Compromise Application*, or BOE-490-C, *Offer in Compromise Application for Corporations, LLC's, Partnerships, etc.* BOE-490 and BOE-490-C are available on our website at *www.boe.ca.gov* (click on "Forms & Publications"), from any BOE office, or by calling our Taxpayer Information Section at 800-400-7115.

Answers to several of the most commonly asked questions about the Offer in Compromise Program are available on our website and in publication 56, *Offers In Compromise*.

Collection and Enforcement Actions

As explained below, collection and enforcement actions will be taken if you do not pay your tax liability on time or do not make other arrangements to pay the debt—such as applying for an installment plan or an offer in compromise.

Note—Jeopardy Determinations

If you received a *Jeopardy Determination,* you are subject to the same collection and enforcement action described in this publication, but the filing and notification deadlines are different. Jeopardy determinations are tax billings that are immediately due and payable and are issued in instances where collection of a liability would be jeopardized by delay. For more information, see publication 17, *Appeals Procedures: Sales and Use Taxes and Special Taxes*.

We may place a lien on your property

A lien is a legal claim to your property used as security or payment for your tax debt.

We must mail you a preliminary notice at least 30 days before filing a lien with the county recorder. The notice must:

- Specify the statutory authority for filing the lien,
- Show the earliest date on which the lien may be recorded, and
- Explain the remedies available to you to prevent the filing of the lien.

What a lien does

When a *Notice of State Tax Lien* is recorded, your creditors are publicly notified that we have a claim against all your real property, including property you acquire after the lien has been recorded.

The lien attaches to all your real property, such as your house or rental property.

It is not our policy to seize and sell your primary residence, but we will enforce the lien on your residence if you sell or refinance your home.

Once a lien is recorded, your credit rating will be negatively affected. Your ability to get a loan to buy a house or a car, get a new credit card, or sign a lease may be compromised.

After we have recorded a lien, we can release it, as explained below.

Note: Even though a lien can be released, it remains on your credit history for seven years (unless the lien was filed in error).

Releasing a lien

The lien placed on your property will be released if:

- You pay your full tax or fee liability, including interest and other charges, or
- The billing (tax or fee determination) is adjusted to zero after the lien has been filed.

We will issue a *Release of the Notice of State Tax Lien* after you have paid the debt or we have adjusted your billing. If you pay your liability in full and need a release of lien immediately, you must pay in certified funds in your nearest BOE district office and let them know that you need the release of lien.

In some instances, we will release the lien placed on part of your real property if your liability is secured by the remaining property on which we have placed a lien. We will also release a lien if we discover that we filed it in error.

A lien is valid for 10 years from the date it is filed and can be renewed twice if the liabilities included on the lien remain unpaid. Consequently, a lien may be in effect for up to 30 years.

Requests for copies of the lien release

At your request, we will send out copies of the lien release. For example, you may want to have copies mailed to escrow agents, title companies, or to you.

When requests are received in our headquarters office, every effort is made to mail the release of lien as soon as possible. If a BOE district office receives your request, it will be forwarded to our headquarters office.

Withholding a lien

In general, we will withhold filing a lien if all of the following occur:

- You enter into an acceptable installment payment agreement,
- The agreement will satisfy the liability within one year,
- You successfully maintain the agreement, and
- You have not had collection problems before with the BOE.

We may levy your property

If you do not pay your liabilities or make arrangements to settle your debt, we may levy (seize) any type of real or personal property that you own or have an interest in.

Levies are different from liens. A lien is a *claim used as security* for the tax debt, whereas a levy actually *takes the property* to satisfy the tax debt.

We will usually levy property only after we have sent you a *Demand for Payment* and you have neglected or refused to pay the tax.

Examples

- We could levy property that is yours but held by someone else—for example, your wages, dividends, bank accounts, licenses, rental income, accounts receivables, the cash value of your life insurance, or commissions, or
- If you hold an alcoholic beverage license, we could seize and sell that license, or
- We could seize and sell property that you hold—for example, your boat, home, or vehicle.

If your property is levied or seized and you have questions, you should contact the BOE employee who took the action. You may also ask a BOE supervisor to review your case. You may also want to discuss the matter with the Taxpayers' Rights Advocate Office.

Levying your bank account

If we levy your bank account, the levy generally only captures the funds on deposit at the time the bank receives the levy (up to the amount of the levy).

The bank must hold the captured funds you have on deposit for 10 days. This period allows you time to file for a hardship hearing, to show that the funds are exempt from levy under federal or state law, or to make other satisfactory arrangements to pay.

After 10 days, the bank must send the money plus additional interest if it applies, to the BOE. It is more difficult to get a refund on levied funds. To discuss your case, call the BOE employee whose name is shown on the *Notice of Levy*.

We must release your levy if any of the following occur:

- You pay the tax, penalty, and interest you owe in certified funds (cash, cashier's check, or money order).
- We determine the levy is creating a significant economic hardship for you.

If we have mistakenly levied your account

If you paid bank charges because of a mistake we made when we levied your account, you may be entitled to reimbursement. You must file a reimbursement claim with us within 90 days after your bank charged you the fee.

Levying your salary or wages

We may issue a levy on your wages, or an *Earnings Withholding Order*, which typically seizes 25 percent of your after-tax income from each paycheck.

If you request a hardship hearing, one will be provided to you by a BOE supervisor. You will be asked to complete BOE-403-E, *Individual Financial Statement*, and provide supporting documentation of your inability to pay. If you have a documented hardship, the withholding order may be reduced or released.

If we levy your salary or wages, the levy will end when:

- The levy is released,
- You pay your tax debt, or
- The time expires for legally collecting the tax.

To discuss your case, call the BOE employee whose name is shown on the *Earnings Withholding Order*.

Releasing your property

If the BOE seizes property you hold, such as your home or vehicle, we may release the property prior to its sale date if:

- You pay the amount of the BOE's interest in the property,
- You enter into an escrow arrangement,
- You furnish an acceptable bond,
- You make an acceptable agreement for paying the tax, or
- The expense of selling your property would be more than the tax debt.

Returning levied property

We can consider returning levied property if:

- It is determined that we did not follow our own procedures.
- You have entered into an installment payment agreement (see page 2).
- Returning the property will help you pay your liabilities.
- Returning the property is in the state's and your best interest.

We may require a higher security deposit

If you have an active business and have had a poor compliance history—such as failing to pay a tax return when due or paying with a check that is dishonored, we may require you to post security to protect the state's interests. If you have already posted security, we may increase the amount of required security. Generally, you may be required to post an amount equal to six months of the average tax owed by the business. The minimum security requirement for a seller's permit is $2,000, the maximum is $50,000. Security may be returned after an account has had no payment problems for three consecutive years.

For security requirements for programs other than Sales and Use Tax, you may call our Taxpayer Information Section at 800-400-7115 for assistance.

We may issue a "till-tap" or "keeper" warrant

If you have an active business and have not paid sales tax that is due and final, we may serve a civil warrant to the California Highway Patrol or the local sheriff to enter your business and collect the gross receipts or contents of the cash register(s).

A till-tap warrant typically gives instructions to the officer to collect the contents of the till (cash register(s)) upon arrival at the place of business.

A keeper warrant typically instructs the officer to leave a representative at the place of business for a full day and to collect the proceeds of the business. A keeper warrant, however, may be requested for a period of 10 days.

We will generally use either warrant only after verbal and written requests and other avenues of collection have been unsuccessful.

By law, we can collect the warrant fees that are assessed by the law enforcement agency from the business owner.

We may revoke your seller's permit

We may revoke your seller's permit if you do not file a tax return on time or pay a sales or use tax liability on time. We may also revoke your permit if we require you to post security but you do not.

Typically, we will not revoke a permit unless we have exhausted all other remedies.

Hearing notification

The Taxpayers' Bill of Rights requires that you be given 60 days notice prior to revocation of your permit. A revocation hearing will be scheduled and you will be notified in writing of the hearing date 10 days in advance. In that 10 days, you must show cause why the permit should not be revoked. If you do not respond, your permit will be revoked. If you do respond, your arguments will be considered at the hearing.

If your permit is revoked and you engage in business afterward, you are guilty of a misdemeanor and may be prosecuted for each sale. Each offense is punishable by imprisonment not exceeding one year and/or a fine of up to $5,000, at the discretion of the court.

To reinstate your permit you must file and pay all delinquent returns and past due taxes, and pay a reinstatement fee of $100 per business location.

If your permit is revoked and you do not pay the tax liability that is owed, we may consider criminal prosecution as a last resort.

Your alcoholic beverage license may be suspended

The Business and Professions Code provides that an alcoholic beverage license may be suspended if a taxpayer is three or more months delinquent in the payment of taxes or penalties due under the Revenue and Taxation Code. Consequently, you should contact your nearest BOE office immediately if you hold any alcoholic beverage license and are delinquent in filing your tax returns or delinquent in paying liabilities due.

We may cancel your DMV dealer license

As provided in the Vehicle Code, if you hold a dealer license issued by the Department of Motor Vehicles, we may cancel that license if your seller's permit is revoked for more than 30 days.

This publication summarizes the law and applicable regulations when the document was written, as noted on the cover. However, changes in the law or regulations may have occurred after that date. If there is a conflict between the text in this publication and the law, the latter is controlling.

Refunds

After you have paid the tax portion of your liability, you may file a claim for refund if you believe that you were overcharged or did not owe the liability.

Collection action for any penalties and interest due will be suspended until your refund request is resolved.

Filing deadlines

The deadline for filing a claim for refund is determined by whichever of the following dates occurs *last:*

- Three years from the due date of tax return on which you over paid.
- Six months from the date you overpaid tax.
- Six months from the date a determination (billing) became final.
- Three years from the date we collected an involuntary payment, such as from a levy or lien.

Be sure to file your claim for refund by the applicable deadline. If you do not file your claim on time, you will not be eligible to receive a refund, even if you may have paid too much tax.

If you make more than one payment to pay off your tax or fee liability, *you must file a timely claim for refund for each individual payment*.

For More Information

Publication 17, *Appeals Procedures: Sales and Use Taxes and Special Taxes* and publication 117, *Filing a Claim for Refund,* provide additional information on claims for refund.

Publication 17 also explains the BOE's settlement program, which may apply to refund claims. Under this program, the BOE may settle the disputed claim by refunding a portion of the liability paid by the taxpayer, subject to review of the facts of the case and subject to approval by the Members of the Board.

For More Information

(updated December 2012)

Billing Questions

Before calling any of the numbers listed below, please call the telephone number listed on your bill.

Field Offices

City	Area Code	Number
Bakersfield	1-661	395-2880
Culver City	1-310	342-1000
El Centro	1-760	352-3431
Fairfield	1-707	427-4800
Fresno	1-559	440-5330
Irvine	1-949	440-3473
Norwalk	1-562	466-1694
Oakland	1-510	622-4100
Rancho Mirage	1-760	770-4828
Redding	1-530	224-4729
Riverside	1-951	680-6400
Sacramento	1-916	227-6700
Salinas	1-831	443-3003
San Diego	1-858	385-4700
San Francisco	1-415	356-6600
San Jose	1-408	277-1231
Santa Rosa	1-707	576-2100
Van Nuys	1-818	904-2300
Ventura	1-805	677-2700
West Covina	1-626	480-7200

Out-of-State Field Offices

Chicago, IL	1-312	201-5300
Houston, TX	1-281	531-3450
New York, NY	1-212	697-4680
Sacramento, CA	1-916	227-6600

Special Taxes and Fees

State Board of Equalization, MIC:88
PO Box 942879
Sacramento, CA 94279-0088

Phone	1-800-400-7115
Fax	1-916-323-9297

Taxpayer Information Section

1-800-400-7115

TTY:711

To speak to a representative:
Call between 8:00 a.m. and 5:00 p.m., Monday-Friday (Pacific time), excluding state holidays, if you have a general tax question.

Forms and Publications

View and print BOE forms and publications from our website at *www.boe.ca.gov.* To receive a form or publication by mail, call our Taxpayer Information Section at 1-800-400-7115. Several frequently requested forms and publications can also be obtained from our automated faxback system. (Call our Taxpayer Information Section and select the automated services option.)

Taxpayers' Rights Advocate

If you have not been able to resolve a problem through normal channels, we encourage you to contact the Taxpayers' Rights Advocate for help.

Taxpayers' Rights Advocate, MIC:70
State Board of Equalization
PO Box 942879
Sacramento, CA 94279-0070

1-888-324-2798	toll-free phone
1-916-324-2798	phone
1-916-323–3319	fax

Website

www.boe.ca.gov

You can view and print many publications and forms, read about or contact your Board Members, get information on tax rates, learn about the BOE's settlement program, or obtain other valuable information.