

Compliance Policy and Procedures Manual

Chapter 5

Returns



Business Tax and Fee Department
*California Department of
Tax and Fee Administration*

This is an advisory publication providing direction to staff administering the Sales and Use Tax Law and Regulations. Although this material is revised periodically, the most current material may be contained in other resources including Operations Memoranda and Policy Memoranda. Please contact any California Department of Tax and Fee Administration office if there are concerns regarding any section of this publication.

COMPLIANCE POLICY AND PROCEDURES MANUAL

RETURNS
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RETURNS

500.000

GENERAL STATEMENT ON RETURNS

505.000

WHO MUST FILE RETURNS

505.010

Under section 6452 of the Revenue and Taxation Code (RTC), every seller and every person liable for sales tax must file a return with the Board. In addition, every person who purchases tangible personal property that is subject to the use tax must file a return if he or she did not pay the use tax to a retailer required to collect the tax. RTC section 6453 requires sellers to show their gross receipts from retail sales on the returns or the total sales price of property subject to use tax. Purchasers must show the total sales price of the property purchased, the storage use, or consumption of which property became subject to use tax during the preceding reporting period.

Accordingly, each taxpayer who has an active account under any of the revenue laws administered by the Board is required to file returns and pay amounts due at regular intervals as prescribed by law and required by the Board. Unless returns are filed, the Board remains uninformed as to the amount of tax due. A return must be filed even though there may be no transactions to report or tax to pay. In addition, sellers and purchasers not currently registered by the Board may be required to file returns if they make sales or untaxed purchases sufficient to qualify them as retailers or consumers.

RETURNS SUBJECT TO AUDIT VERIFICATION

505.020

All of the revenue laws administered by the Board provide for the self-assessment of taxes due there under. All of the returns on which the self-assessments are made are subject to verification by audit.

RETURN FILING

505.030

Filing a return is one of many online services available on the BOE website. Online filing is available for most Sales and Use Tax (including TATs SR S, SR Y, SR X, SR Z and SC), Motor Fuels Tax, International Fuel Tax Agreement, and Cigarette Tax accounts. Most taxpayers file electronically and will not receive return forms in the mail. However, some taxpayers are ineligible to file electronically (CPPM section 505.032) and others are exempted (CPPM section 505.035). Although BOE may not provide paper returns to most taxpayers, paper returns received from taxpayers will continue to be accepted.

Taxpayers can file returns electronically through the BOE online filing system. BOE does not charge a fee for online filing, and the online filing system is available daily except between the hours of 7:00 pm Sunday and 5:00 am Monday. Taxpayers can either log in as a registered user, or by using the Express Login feature. To create a User ID, the taxpayer will need the account number, express login code, and the taxpayer's full name as registered with the BOE. Taxpayers who log in using the Express Login feature will only need their account number and the eight-character express login code. The express login code is provided to taxpayers at the time of registration and can be found on many BOE correspondences and on the TAR AI screen in IRIS.

Taxpayers may also file a return electronically through a direct transmit service provider. Direct transmit service providers are third-party providers who have successfully completed BOE acceptance testing and have been authorized to receive return and payment information from taxpayers and forward to the BOE for processing. These third-party providers may not offer all of the same features as the BOE online filing system. A list of certified direct transmit service providers is provided on the BOE website. Taxpayers should be advised that BOE staff does not provide support or assistance with direct transmit providers' websites.

RETURN FILING**(CONT.) 505.030**

The Direct Transmit Program uses Simple Object Access Protocol and Extensible Markup Language (XML) to allow tax return data to be electronically transmitted directly to BOE. Taxpayers transmitting returns on their own behalf (i.e. without using a registered provider) must submit a BOE-400-XML, *Application for Direct Transmission of Tax Returns*, and successfully complete all applicable system testing to be certified as a Direct Transmitter. Testing and certification is done by the eServices Team. Detailed information is available to taxpayers on the BOE website. Applications and inquiries may be submitted by email to eDirect@boe.ca.gov.

Returns that are filed using the BOE online filing system can be viewed, printed, and reprinted at a later date by taxpayers who are registered users. This is done by selecting “View History/Status” after logging in. Taxpayers who filed returns using the Express Login feature will not be able to view or print previously filed returns until they have created a User ID and log in with their User ID and Password.

Taxpayers should also be made aware that failure to receive notification of a return due date from BOE does not relieve the taxpayer of the obligation to file a timely return. Taxpayers are responsible for filing within the time specified by law.

ACCOUNTS INELIGIBLE FOR ELECTRONIC FILING**505.032**

The following accounts are currently ineligible to file a return electronically:

- Accounts that require reporting on schedules other than Schedule A (district tax), B (local tax), C (local tax), E (local tax), G (prepaid fuel), and/or Schedule A and B (fuel purchases and prepaid fuel for SG accounts).
- Accounts filing amended or corrected returns (except Cigarette Manufacturers and Distributers).
- BOE-designated confidential accounts or “Safe at Home” program accounts (victims of domestic violence).
- Accounts claiming the aircraft adjustments for local tax and require a supplemental schedule.

EXEMPTION FROM ELECTRONIC FILING**505.035**

Taxpayers may request an exemption from electronic filing. If an exemption is granted, the taxpayer will continue to receive return forms in the mail from BOE. Generally, requests received for exemption are granted for a one-year period. Permanent exemption requests may also be granted. To make the request, taxpayers submit a BOE-245-OYE, *Efiling Exemption Request*. The completed form, containing a written explanation of the circumstances and signature of an owner, partner, or corporate officer, is processed by the Return Analysis Unit.

For those taxpayers who do receive paper returns, the BOE provides standard return forms, which expedites the processing of returns after they are filed. The mailed form includes certain preprinted taxpayer information such as the account number, the tax area code, and a bar code to expedite processing.

Return forms are also available on the BOE website, however identifying information such as the taxpayer’s name, address, account number and the period covered by the return must be manually entered onto the form.

Failure to receive a return form from the BOE does not relieve the taxpayer of the obligation to file a timely return. Taxpayers are responsible for filing within the time specified by law. Taxpayers may obtain sales and use tax return forms from any BOE office, by calling the Customer Service Center at 1-800-400-7115, or by accessing the BOE website at www.boe.ca.gov.

EXEMPTION FROM ELECTRONIC FILING**(CONT.) 505.035**

Taxpayers may also file a return without using a return form. See CPPM 505.090 for the information that must be provided if a BOE return form is not used.

ASSISTANCE PROVIDED TO TAXPAYERS**505.040**

Taxpayers can receive assistance with filing their returns by calling the Customer Service Center (CSC) at 1-800-400-7115, or by calling their local field office. Additionally, help is available in person at all in-state district offices and branches.

When assisting taxpayers with their returns, it is particularly important for staff to inform taxpayers about the proper method of completing schedules for reporting local and district taxes. The BOE has a legal obligation to collect, allocate and disburse taxes on behalf of counties, cities, and special tax districts. If taxpayers fail to correctly prepare the subsidiary schedules, the BOE will be unable to properly allocate local and district taxes.

Occasionally, taxpayers may contact BOE when they realize an error has been made on a tax return filed online. A return filed online may be cancelled and a new return filed if CSC is contacted on the same day the return is filed. Otherwise, the return cannot be cancelled and the taxpayer must file an amended return. For information regarding amended returns, see CPPM section 505.120.

PREPARATION OF TAX RETURNS BY BOE EMPLOYEES**505.045**

BOE staff should always assist taxpayers who are seeking guidance on how to file their returns. However, BOE staff may only help in physically preparing a taxpayer's return in exceptional cases where the taxpayer has difficulty in reading or writing English, or is physically incapacitated and unable to file without assistance. The taxpayer must provide the records necessary to prepare the return and request that the return be prepared by staff. In addition, if the physically incapacitated taxpayer is able to produce records but is unable to request help in person, return assistance may be provided over the phone without the taxpayer being present. Whenever staff provides this kind of assistance, comments which include the return period being filed must be entered in IRIS under the TAR AI screen.

In such cases, staff will use the Express Login method on the BOE website to file the return. In the "Preparer Name" field, the employee will enter his or her own name and enter "BOE Employee" in the "Preparer Title" field. Staff will not make the payment electronically for the taxpayer, but will select the "paper check" option for payment. Staff will print the confirmation page for the taxpayer and add the notation "PREPARED FROM UNVERIFIED DATA FURNISHED BY THE TAXPAYER," accompanied by the employee's signature. The confirmation page and payment voucher, if applicable, will be given to the taxpayer.

If the account is ineligible or exempt from online filing, staff will assist the taxpayer with the paper return and include the same notation as above, along with the employee's signature.

Under no circumstances should BOE staff log into a taxpayer's account on the BOE online system or their own BOE computer to file a tax return. To ensure staff is following this procedure, management will periodically monitor for returns filed from BOE staff computers. Similarly, in no case should a BOE employee sign a paper return for the taxpayer or prepare a return without the taxpayer being present.

RETURN FORMS FURNISHED BY DISTRICT OFFICES**505.050**

Most taxpayers file online via the BOE website and do not need return forms. However, taxpayers who have received an exemption (see CPPM section 505.035) or are ineligible to file electronically (see CPPM section 505.032) may need a return form provided. In addition, if the online system is not available and taxpayers request the return form, it should be provided.

District staff should ensure the taxpayer's name, address, area code, account number and filing period are entered on the return provided to the taxpayer. This information will be entered automatically if the return is generated from the return print menu in IRIS (TAR RT). However, if a return form is downloaded from the BOE website, this information must be entered manually.

If a taxpayer registers for a permit, license or account near the due date of a return and is assisted by BOE staff, the taxpayer should be advised of the due date of the return and how to file. If the taxpayer is not eligible to file online, the return form(s) should be provided. District staff should also enter comments in IRIS regarding which returns were furnished. See the Calendar of Sales Tax Functions or Special Tax Calendars for applicable dates. Copies of the calendars are available on eBOE under the "Sales Tax" or "Special Tax" tabs.

When paper returns are provided to taxpayers who are ineligible or have received an exemption from online filing, it is important that the proper form(s), supplemental schedules, and return instructions also be provided. When returns are printed in IRIS, the required schedules will generally be printed automatically.

Instructions are available on the BOE website. For Sales and Use Tax returns, the BOE-401-INST, *Instructions for Completing the BOE-401-A, State, Local, and District Sales and Use Tax Return*, should be provided. Instructions for subsidiary schedules and for some Property and Special Taxes returns can be found on the last page of the return or schedule. Subsidiary schedules may include:

- BOE-531-A2, *Schedule A — Computation Schedule for District Tax.*
- BOE-531, *Schedule B — Detailed Allocation by County of 1% Uniform Local Sales and Use Tax.*
- BOE-530, *Schedule C — Detailed Allocation by Suboutlet of Uniform Local Sales and Use Tax.*
- BOE-530-B, *Local Tax Allocation for Temporary Sales Locations and Certain Auctioneers.*
- BOE-531-F, *Schedule F — Detailed Allocation by City of 1% Uniform Local Sales and Use Tax.*

However, taxpayers who need return forms should generally be instructed to obtain them from the BOE website or if unable to obtain online, to file a return in letter form. (See CPPM 505.090.) The taxpayer is under an obligation to report and pay the amount of tax due before it becomes delinquent, but BOE is under no legal obligation to furnish returns. Late filing and payment of a return because of failure to receive a return form is not normally considered a cause for the abatement of penalty charges.

PREPAYMENT FORMS FURNISHED BY DISTRICT OFFICES

505.060

Prepayment forms should only be provided to taxpayers who are on a quarterly prepayment filing basis and who have received an exemption from online filing. If a taxpayer does not receive a prepayment form and requests one from a district office, staff should provide the form. For Sales and Use Tax accounts, second quarter prepayments are reported on a BOE-1150-B, but all other quarterly prepayments are reported on a BOE-1150. These forms are available on the prepayment print menu in IRIS (TAR PF). The forms generated from IRIS will automatically have the taxpayer's name, address, area code, account number, and the month for which the prepayment is being made.

RETURN FORMS REQUIRING ADDRESS CHANGES

505.070

The United States Postal Service does not forward third class mail if the mailing address is incorrect. Consequently, forms that are mailed to taxpayers that are returned to the BOE as undeliverable are directed to the district offices or the initiating headquarters section so that the condition causing their return may be corrected. Priority should be given to re-mailing the returns by first class mail when a forwarding address is known. First class envelopes are available from the Supply Unit in Headquarters (envelope #E 14-G). Any corrections to the registration record should be made in IRIS.

When returns are filed with Headquarters indicating a change of address, Headquarters will provide information and copies of the filed returns to the appropriate district of control. The Local Revenue and Allocation Unit and the Customer Service Center are authorized to make mailing address, DBA and minor business address (e.g., a suite number) changes. All other changes must be made by the district office or initiating Headquarters section.

WHAT CONSTITUTES A RETURN

505.090

Electronic Returns

RTC section 6479.31, and the applicable Special Taxes and Fees law sections, provide that any return filed electronically in a form as required by the BOE shall be deemed to be a valid original document.

Written Correspondence Accepted as a Return

Return forms are available on the BOE website and completed forms received in the mail will be accepted. Occasionally, however, a taxpayer will send a paper return that is not on a form provided by the BOE. In those cases, the return will be considered valid when the following information is included:

1. A request that the correspondence be accepted as a return or a statement, regardless of how brief, indicating that the taxpayer is attempting to file a return,
2. The reporting period for which the correspondence (return) is filed, and
3. The amount of tax due or that no tax is due.

Even though the correspondence may only report the net tax figure, it may be accepted as a return if the information listed above is provided. When the taxpayer has shown due diligence in making every effort to submit what he or she feels is a return, the correspondence submitted should be accepted as a return.

WHAT CONSTITUTES A RETURN**(CONT.) 505.090**

If a taxpayer's check shows the reporting period and the measure of the tax being paid, it may be processed as a return. As a general rule, if tax due can be calculated from the information provided, the correspondence should be processed as a return. A transmittal letter, memorandum, or note accompanying a payment of tax generally does not qualify as a return if any of the items listed above are missing. For instance, a statement that a payment represents tax due for a particular reporting period is not sufficient because the taxpayer has not indicated that the correspondence represents a return. If the taxpayer is paying tax and intends to send the return separately, the tax payment is not accepted as a return. However, it is important to always consider the taxpayer's intent. Asking the question "Is the taxpayer attempting to file his or her tax return or just sending the tax payment for the period?" will help in determining how to process the correspondence and any payment.

Any tax return form received in Headquarters or the field without tax information but with a tax payment should be processed as a return. The Return Analysis Unit, or appropriate Special Taxes and Fees section, has responsibility to review these returns to determine if this is a recurring problem and if appropriate, bill a 10% penalty for not filing a timely return.

RETURNS WITHOUT PAYMENT**505.100**

If a return in any form is received after the due date without the required remittance of the tax, the delinquency will be cleared, but these returns will be billed and become collection items.

FULLY PAID RETURNS**505.110**

Returns will be considered fully paid even though the payment accompanying the return is underpaid, if the underpayment does not exceed \$10.00 including penalty and interest. If the shortage exceeds \$10.00, the taxpayer will be notified and, if necessary, billed (see CPPM 545.000).

PAYMENT OPTIONS**505.112**

When tax/feepayers file a prepayment or return online and owe taxes or fees, they are given several payment options. They can pay direct from their bank account (ACH debit), pay by credit card, or pay by check or money order. Please see CPPM section 510.035 for payment requirements for mandatory Electronic Funds Transfer (EFT) participants. In addition, most tax/feepayers with past due liabilities can make a payment online from their bank account or with a credit card. For more information regarding credit card payments, see CPPM section 505.115.

To make an ACH debit payment from a bank account, tax/feepayers must log in on the CDTFA website with their User ID and password, or by using the Express Login method. A unique express login code is assigned to each account (see CPPM section 505.030). To make an online payment from a checking or savings account, tax/feepayers need the following information to complete the transaction:

- Bank account number,
- Bank routing number, and
- Account type (checking or savings).

PAYMENT OPTIONS**(CONT.) 505.112**

When tax/feepayers enter incorrect bank information when paying by ACH debit at the time they file online, the CDTFA is sometimes notified through a Notification of Change report from the tax/feepayer's financial institution instead of dishonoring the payment. The CDTFA sends the tax/feepayer a written notification informing them that the bank information must be corrected. If they do not comply with the CDTFA's request to correct banking information, the Return Analysis Unit, Return Processing Branch, or Motor Carrier Office will add Account Characteristic Code (ACC) 44 on non-EFT accounts to prevent the bank information from pre-populating when tax/feepayers attempt to pay by ACH debit at the time they file online. If a subsequent ACH debit payment is made with an online filing and it contains corrected bank information, the code will be removed to allow the prefill option.

If tax/feepayers want to pay by check or money order when they file prepayments or returns online, they must select the "Pay by Check" option. After the filing is submitted online, a voucher will print below the confirmation page. The voucher shows the amount due, including penalty and/or interest, if applicable. Mailing instructions are included on the voucher.

PAYMENT BY CREDIT CARD**505.115**

Generally, most taxpayers can use a credit card to make prepayments, return payments, and payments towards an account balance on the following types of accounts:

- Sales and/or Use Tax,
- Prepayment of Sales Tax on Motor Vehicle Fuel Distributions (SG),
- Special Taxes and Fees, or
- Consumer Use Tax.

A list of authorized credit cards and their applicable service fees is available on the BOE website at <http://www.boe.ca.gov/> on the "Make a Payment" page. The service fee will be paid directly to the credit card processing vendor by the taxpayer and will not be seen on any IRIS screens since it is not revenue to the BOE.

Taxpayers who are required to pay by EFT should not pay by credit card as they will be subject to penalties. This is because the law specifically defines electronic funds transfer payments as those made by ACH Credit, ACH Debit, or Federal Reserve Wire Transfer.

Credit card payments can be made online or by touch-tone phone. The number can be accessed from the "Make a Payment" page. When using the Internet option the taxpayer will be routed to the credit card processing vendor's website.

If a taxpayer files a paper return, the taxpayer should also mark the box on the form indicating they have paid by credit card. *Even though a taxpayer pays by credit card, the taxpayer must still complete the return or prepayment filing timely.*

For payments of \$100,000 or more, taxpayers must call BOE's credit card processing vendor for assistance. The name and telephone number of the vendor is on the BOE website. The taxpayer may also need to contact their credit card issuer for preapproval.

PAYMENT BY CREDIT CARD**(CONT.) 505.115**

If the taxpayer sends a paper return in which the liability is \$15,000 or more, and the taxpayer does not check the box on the return to indicate payment is by credit card, the Cashier Unit will process the return as non-remittance (NR) or partial remittance (PR) and will provide notification to the district (via e-mail) that the taxpayer has not paid. Districts should review PAY BA for the credit card payment. If no payment is found and the taxpayer states that they paid by credit card, the district should contact the Return Analysis Unit to have the payment traced.

Although taxpayers must make credit card payments through a processing vendor, general questions regarding this program will be handled by the BOE's Customer Service Center (CSC). Account specific inquiries regarding credit card payments will be referred to the Return Analysis Unit or appropriate Special Taxes and Fees staff. General information and frequently asked questions can also be found on the BOE website.

AMENDED RETURNS**505.120**

Taxpayers should be instructed to file amended returns when they discover an error was made on the return originally filed. Whenever possible, photocopies of original returns, or "Confirm Filing" pages for electronically filed returns and any applicable schedules, should be used. Corrected figures should be entered to the side of the original figures in a different color than the original figures. A cover letter explaining the changes should be attached to the amended return and the notation "AMENDED RETURN" should be written on the top of the document. If taxpayers are unable to obtain a copy of the original confirmation page or their original paper return, a return form obtained from the BOE website can be used but must include the amended notation and a cover letter. If a new return is filed without indication that it is an amended return, it will be posted to IRIS as a duplicate or supplemental return.

ALTERATIONS OF RETURNS BY BOE EMPLOYEES

505.130

Under no circumstances should a BOE employee alter a return or any other form or document after it has been signed and delivered to the BOE by the taxpayer.

RETURNS WITH PAYMENTS DIRECTED TO ANOTHER STATE OR NON-STATE AGENCY IN ERROR

505.140

Other state agencies sometimes receive remittances intended for the BOE and, conversely, BOE may receive remittances actually intended for other state agencies. In both circumstances, the agency to whom the payment is misdirected will try to send the payment to the correct agency. BOE will redirect all types of payments to the correct agency, including EFT and credit card payments. The amounts for misdirected EFT and credit card payments will be remitted to the correct agency by check.

Remittances intended for the BOE and ultimately received from another state agency will be regarded as timely if postmarked, or received by the other state agency, on or before the due date of the tax. Under such circumstances, penalty and interest will not apply.

Payments received by non-state agencies (e.g. Internal Revenue Service) and private companies cannot reasonably be construed as payments made to the state. Therefore, even though the BOE may ultimately receive a misdirected payment from a non-state entity, a late payment is subject to penalty and interest even if it was received by the non-state entity prior to the due date of the payment. However, a person may be relieved of the penalties pursuant to RTC 6592, or the similar law section for Special Taxes and Fees programs, if all requirements set forth in this statute are met.

FLOOR STOCK TAX RETURNS

505.150

Floor stock tax returns are issued when an excise tax rate has been increased and the increase must be collected for unsold inventory on which tax was paid at the prior rate. Taxes affected are generally fuel taxes, alcoholic beverage taxes, and cigarette and tobacco product taxes. Most of the excise taxes are collected at the manufacturer or distributor level, but a rate increase also applies to any inventory that has not been sold to the final consumer or intermediate retailer as of the operative date of the tax. For example, when the Cigarette and Tobacco Products Tax was increased operative January 1, 1999, cigarette and tobacco product distributors and sales tax retailers were responsible for reporting the increased amount of tax on inventory that was still unsold as of that date.

Generally, those taxpayers who are responsible for reporting the additional tax are identified by the respective headquarters units responsible for administering the tax. However, district offices will have the ability to identify and issue returns to retailers not identified by the headquarters units.

Because each floor stock tax may differ, districts should follow the guidelines or operations memo issued for a specific floor stock tax. See also CPPM 292.000.

SALES AND USE TAX RETURNS AND PREPAYMENTS 510.000

REPORTING PERIODS OF RETURNS 510.010

The Sales and Use Tax Law provides that returns are due and payable either:

- Quarterly. (RTC section 6452.)
- Quarterly with prepayment. Upon notification by the Board, accounts with an average tax measure exceeding \$17,000 per month will be placed on a quarterly prepayment basis. These accounts are required to make two monthly prepayments per quarter in addition to the regular quarterly return. (RTC section 6471) See CPPM 510.025 for due dates.
- Other than quarterly periods. Taxpayers may be required upon notification to file returns monthly, annually or for other fiscal periods. (RTC section 6455.)

DUE DATES OF RETURNS 510.015

Accounts reporting quarterly must file and pay within one month following the close of the reporting period.

Accounts reporting monthly must file and pay within one month following the close of the reporting period.

Accounts reporting on a calendar or fiscal yearly basis must file and pay within one month following the close of the reporting period. Whenever a calendar or fiscal yearly reporting account closes out before the end of the reporting year, a closing return must be filed on or before the last day of the month following the close of the quarterly period in which the business was discontinued.

Returns for temporary accounts must be filed on or before the last day of the month following the month in which the last sale took place.

PENALTY AND INTEREST FOR FILING RETURNS OR PAYMENTS LATE 510.020

Persons who file late returns or payments under the Sales and Use Tax Law must pay a penalty of 10 percent of the tax. Interest also applies at the modified adjusted rate per month, or fraction thereof, established pursuant to RTC section 6591.5, from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment. Although there are separate 10 percent penalties for late payment and for late filing, effective January 1, 1997, the maximum penalty that can be imposed on any one return is 10 percent. See Exhibit 1 for rates and computation method.

DUE DATES AND AMOUNTS DUE FOR PREPAYMENT RETURNS 510.025

First, Third and Fourth Quarters

For the first, third and fourth calendar quarters, the first prepayment is due on or before the 24th day of the month following the first month of the quarter. The second prepayment is due on or before the 24th day of the month following the second month of the quarter.

The taxpayer must pay not less than 90 percent of the taxpayer's combined state and local sales and use tax liability for that month, or an amount equal to one-third the measure of tax liability reported on the sales and use tax return filed for the corresponding quarterly period of the previous year, multiplied by the state and local tax rate in effect during the month for which the prepayment is made, provided the taxpayer or the taxpayer's predecessor was in business during the entire quarter.

DUE DATES AND AMOUNTS DUE FOR PREPAYMENT RETURNS

(CONT.) 510.025

Second Quarter

The first prepayment of the second quarter is due on or before the 24th day of the month following the first month of the quarter. The taxpayer must pay not less than 90 percent of the taxpayer's combined state and local sales and use tax liability for that month, or an amount equal to one third the measure of tax liability reported on the sales and use tax return filed for the corresponding quarterly period of the previous year, multiplied by the state and local tax rate in effect during the month for which the prepayment is made, provided the taxpayer or the taxpayer's predecessor was in business during the entire quarter.

The second prepayment of the second quarter will be for the period May 1 through June 15, and is due on or before June 24. The taxpayer is required to pay either:

An amount equal to 90 percent of the combined state and local sales and use tax liability for May, plus 90 percent of the amount of state and local sales and use tax liability for the first 15 days of June,

OR

One hundred thirty-five (135) percent of the tax liability for May,

OR

Fifty (50) percent of the tax liability reported on the sales and use tax return filed for the corresponding quarterly period of the previous year, multiplied by the state and local tax rate in effect during the months for which the prepayment is made, providing the taxpayer or the taxpayer's predecessor was in business during the entire quarter.

PENALTY FOR FILING LATE PREPAYMENTS**510.030**

Persons who make a prepayment after the due date but before the due date for the quarterly return must pay a penalty of 6 percent of the amount of the prepayment.

If the failure to make a prepayment is due to negligence or disregard of the law, a penalty of 10 percent of the deficiency is due as provided in RTC section 6478.

Except for cases of negligence or intentional disregard, persons who fail to make any prepayment prior to the normal due date of the quarterly return, but file a timely sales and use tax return and payment for the quarter, will be assessed a penalty of 6 percent of the required prepayment amount of the tax liability, as prescribed in RTC section 6477, for the period for which the prepayment was due. These penalties are not cumulative; only one penalty will apply.

If prepayment penalties are relieved, a taxpayer is still liable for interest from the date on which the prepayment would have been due until the date of payment. See RTC section 6592.5.

PREPAYMENTS REPORTED ON QUARTERLY RETURNS

510.032

When taxpayers file their quarterly returns online, previously paid prepayments (excluding any penalties) will be prefilled in the system. If a prepayment was filed showing zero (0), the prefilled amount will also be zero (0). If a prepayment was not filed, the prepayment field will be blank. These fields are modifiable by the taxpayer at the time they file their quarterly return. However, the following circumstances will not prefill prepayment amounts:

- Paper prepayment forms paid by credit card,
- Online prepayments paid by credit card or paper check where the payment loads to IRIS prior to the prepayment filing,
- Any payment that has been moved in IRIS to a prepayment period,
- Any payment applied to an existing prepayment difference (paper or filed online), or
- Any prepayment where the payment was dishonored.

ELECTRONIC FUNDS TRANSFER (EFT) PREPAYMENTS

510.035

Persons who qualify for the mandatory EFT program must remit their prepayments electronically and are not required to file a prepayment form. Persons filing through EFT are not sent prepayment forms. Due dates for EFT sales and use tax prepayments are the same as set forth in CPPM section 510.025. For information on the Mandatory EFT program that applies to both sales and use tax and special taxes and fees, see CPPM section 520.000.

USE TAX RETURN DOES NOT CONSTITUTE SALES TAX RETURN

510.045

A person who incurs sales tax liability, but who files only a Combined State and Local Consumer Use Tax Return, is not considered to have filed a sales tax return. For example, a person files a use tax return and pays the amount of use tax due, but also incurs a sales tax liability. The person does not report or pay the sales tax liability. Penalty and interest will be added to all amounts of sales tax due whether subsequently reported on returns or established by billing orders. See RTC section 6452, which provides that returns must be filed for sales tax and use tax.

TAX ACCRUED PRIOR TO DATE OF APPLICATION FOR PERMIT

510.050

When an applicant has engaged in business prior to making application for a seller's permit, the designated reporting basis becomes effective on the actual starting date of the business. Staff should not use an alternate reporting basis for sales made prior to obtaining a permit unless there is evidence that the taxpayer would qualify for the alternate basis. For example, a quarterly taxpayer should not be placed on an annual basis for sales made prior to registration unless documentation indicates that the taxpayer qualified as an annual filer for the unregistered periods. All delinquent tax liability should be determined and collected

TAX ACCRUED PRIOR TO DATE OF APPLICATION FOR PERMIT**(CONT.) 510.050**

at the time the application is taken.

If an account is placed on a monthly reporting basis, penalty and interest for prior delinquent periods are computed as if the account was on a quarterly reporting basis. For example, if an application for a seller's permit is made on July 15 of a given year with a starting date of January 15 of the same year, the permit holder is required to file monthly returns for January through May. Penalty and interest charges will apply as of May 1 for January, February and March return liability. No delinquency charges will apply to April and May returns provided payment is made on or before July 31 of the same year. The returns should be clearly identified with the notation "Tax accrued prior to date of application" to prevent the assessment of additional charges when the returns are processed in headquarters.

If compelling reasons make it impractical to acquire signed tax returns from the applicant, a Compliance Assessment may be used to clear the delinquent periods involved. The same rules as stated above will apply insofar as penalty and interest charges are concerned. See CPPM 540.170 for information about Compliance Assessments.

PRE-COLLECTION OF RETAIL SALES TAX ON FUEL — "SG" ACCOUNTS 510.060

Sellers of motor vehicle fuel, diesel fuel, and aircraft jet fuel who accept resale certificates for fuel sold must collect a prepayment of the retail sales tax on each gallon of fuel sold (see CPPM 285.000). These sellers must file form BOE-401-DB monthly, reporting the gallons removed, entered, or sold and pre-collected. The due date for "SG" returns is the last day of the month following the month in which the fuel was removed, entered, or sold.

CONSOLIDATED RETURNS 510.070

A person who operates several places of business under the exact same ownership may be allowed to report sales for all locations on one return, rather than holding a separate permit for each location. Consolidated seller's permits are issued in these instances. (See CPPM 245.000.)

The holder of a consolidated permit, must also complete and attach to the return form BOE-530, a "Schedule C — Detailed Allocation by Suboutlet of Uniform Local Sales and Use Tax," showing the amount of local tax allocated to each separate location according to local taxing jurisdictions identified by area code. However, if all of the locations are situated in one local taxing jurisdiction, the supplemental schedule is not required.

Consolidated permit holders who have operations away from their permanent place of business, such as contractors and vending machine operators, are required to allocate the local tax for these operations on Schedule B or Form BOE-531, in addition to filing Form BOE-530. Holders of permanent permits that sell at temporary locations may report the local tax on Form BOE-530-B. For more information on local tax allocations, see Exhibit 5.

BOE-401-EZ SALES AND USE TAX RETURNS**510.075**

The BOE-401-EZ, Sales and Use Tax Short Form was developed to provide simplified reporting for sales tax accounts that make all their sales in a single taxing jurisdiction (i.e., all taxable sales and use are subject to the total tax rate in effect at the taxpayer's business location). Taxpayers who meet certain requirements may file the BOE-401-EZ.

The BOE-401-EZ is printed and addressed on the Board's laser printer and mailed with a "worksheet" duplicate copy. Instructions are on the back of the worksheet. Total tax is computed by determining taxable measure and multiplying the measure by the combined tax rate in effect at the business location. The combined tax rate is printed on the return.

BOE-401-EZ Filing Requirements:

- All of the taxpayer's taxable sales and use of tangible personal property must be subject to the total tax in effect at their business location.
- Only single outlet accounts and accounts with multiple outlets in the same taxing jurisdiction qualify for "EZ" reporting.
- "EZ" filers cannot sell fuel. Fuel sellers must file BOE-401-GS, which includes a Schedule G for claiming sales tax prepayments on fuel purchases. (See CPPM 510.060.)
- "EZ" filers cannot sell automobiles, boats or aircraft. (Automobile, boat or aircraft sellers must collect transactions (sales) and use tax based on the address where the automobile, boat or aircraft is registered. These sellers require a return that includes a Schedule A for reporting district taxes.)
- "EZ" filers cannot make partially exempt sales to aircraft common carriers (Regulation 1805) or engage in fixed-priced contracts and leases. Such transactions require local tax adjustments that cannot be made on the BOE-401-EZ return.
- "EZ" filers cannot be on a prepayment reporting basis and cannot claim sales tax paid to other states. The BOE-401-EZ does not provide a means for claiming these credits.
- "EZ" filers may only claim sales for resale, nontaxable sales of food products, sales to the United States Government, nontaxable labor, and sales in interstate or foreign commerce as exempt transactions. Any other exempt transactions cannot be claimed on the BOE-401-EZ.

Assigning and deleting the "EZ" Return code from an Account

- Taxpayers that qualify and request to file on the BOE-401-EZ should be assigned the Return Type code "2." Taxpayers do not need to sign any request form.
- Taxpayers who are coded for BOE-401-EZ filing but no longer qualify must have the Return Type code "2." deleted from their registration record using the on-line account maintenance function.
- Taxpayers coded for "EZ" filing must use the regular sales and use tax return, BOE-401-A, for any reporting period for which they need to report tax at different rates or claim exemptions not allowed on the BOE-401-EZ.

SCHEDULES ACCOMPANYING RETURNS OF CERTAIN TAXPAYERS**510.080**

To enable the Board to make proper allocation of local sales and use tax to cities and counties under the Bradley-Burns Uniform Local Sales and Use Tax Law, some taxpayers must submit a supplemental Schedule B or Form BOE-531, Detailed Allocation by County of 1% Uniform Local Sales and Use Tax, with their returns. Schedule B provides for a breakdown of the tax to those counties that are entitled to receive it.

Supplemental Schedule B is required of the following types of taxpayers:

- Auctioneers.
- Retailers under RTC section 6015.
- Vending Machine Operators.
- Construction Contractors.
- Accounts making sales shipped from out-of-state locations with title passing out of state.
- Sellers who are making purchases ex-tax for use at locations for which a seller's permit is not required.
- Lessors of motor vehicles. These lessors must enter on Schedule B the total local tax reported on Schedule F, Detailed Allocation of 1% Uniform Sales and Use Tax-Leased Vehicles.

See Exhibit 5 for information about which local tax allocation schedules should be filed by specific types of taxpayers.

**CONSUMER USE TAX RETURNS (TAXABLE ACTIVITY TYPES SA, SB, SP, SI):
VEHICLES/MOBILEHOMES, VESSELS, AIRCRAFT, CUSTOMS**

510.090

The Consumer Use Tax Section (CUTS) administers the Sales and Use Tax Law as it applies to three major categories of transactions:

- The purchases of vehicles and mobilehomes made from persons not licensed or certificated pursuant to the Vehicle Code or Health and Safety Code.
- The purchases of vessels and aircraft from a person not required to hold a seller's permit by reason of the number, scope, and character of the person's sales of the same.
- Purchases made in foreign countries and hand carried through U.S. Customs by California residents.

Consumer Use Tax returns used specifically for CUTS' programs are:

- BOE-401-CSA for Vehicles/Mobilehomes.
- BOE-401-CSB for Vessels.
- BOE-401-CSP for Aircraft.
- BOE-401-CSI for Customs Declarations.
- BOE-1169-B for Vessels (cover letter/return/current due date).
- BOE-1169-P for Aircraft (cover letter/return/current due date).
- BOE-1381-B for Vessels (cover letter/return).
- BOE-1381-P for Aircraft (cover letter/return).
- BOE-1166 for Customs Declarations (cover letter/return).

In addition to the above forms, consumers may report use tax due on vessels and aircraft by using the tear-out portions of Publications 79 and 79A.

RETURNS

CONSUMER USE TAX RETURNS (TAXABLE ACTIVITY TYPES SA, SB, SP, SI):

VEHICLES/MOBILEHOMES, VESSELS, AIRCRAFT, CUSTOMS

(CONT.) 510.090

These returns are not to be confused with the Consumer Use Tax return BOE-401-E sent to purchasers who *regularly* incur use tax liabilities and have an SU account with the Board.

Procedures for the administration of liabilities by CUTS are detailed in CPPM Chapter 8, scheduled for completion in December 2001. Until the completion of Chapter 8, these procedures can be found in Exhibit 4.

USE TAX INFORMATION RETURNS

510.100

Persons Required to File

Per RTC section 7055, in the administration of the use tax the Board may require the filing of reports by any person or class of persons having in his or their possession or custody information relating to sales of tangible personal property the storage, use, or other consumption of which is subject to the tax.

Due Date and Content

The returns must be filed quarterly on or before the last day of the month following the close of each calendar quarter. The returns must show:

1. The name and address of each purchaser.
2. Description and sales price of property.
3. Date the order is taken.
4. Approximate date the property will be delivered to the purchaser.

The persons soliciting the orders do not incur any tax liability and, therefore, no tax is paid with these returns. Their purpose is to supply the Board with information relative to persons who incur use tax liability. The filing of information returns is required by RTC section 7055 and Regulation 1687, *Information Returns*.

MAIL REMITTANCES

510.110

The effective date of payment is the postmark date. If the check, money order or other negotiable instrument was dated prior to the postmark date, the effective date will be the postmark date. However, if there is correspondence or other dated information not under the control of the taxpayer, such as a registered mail receipt, then that date will be considered the effective date of payment.

Payments delivered by recognized delivery services, such as Federal Express, will be treated in the same manner as payments received through the U.S. Postal Service.

POSTAL METER DATES

510.120

Since postal meters can be controlled by the taxpayer, postal meter dates do not have the same significance as post office postmark dates. When a postal meter date and a post office postmark date both appear on an envelope, the post office postmark date is the determining date. If only a postal meter date is present, that date will become the effective date.

REMITTANCES AND RETURNS RECEIVED WHEN OFFICES ARE CLOSED

510.130

Remittances and returns which are slipped under the door or through the mail slot of any Board office after closing time and found upon opening the office on the next business day, will have an effective date of the last business day preceding the day on which the office is opened and the documents found.

PAYMENTS MAILED BUT NOT RECEIVED**510.140**

If a remittance is placed in the mail but is not received by the Board, a replacement remittance mailed after the due date may be considered as having been received as of the date of mailing the original remittance, provided that person who mailed the remittance furnishes satisfactory proof that the original remittance was mailed timely. Satisfactory proof must be provided through a declaration of timely mailing as described in CPPM 510.150.

CANCELLATION OF PENALTY AND INTEREST ASSESSED ON A LATE MAILING**510.150**

For staff to consider a cancellation of penalty and interest charges assessed because of apparent late mailing of a return and/or payment, the person who deposited the return and/or payment in the mail must file a declaration of timely mailing (DTM) under penalty of perjury. The DTM must state that the original return and/or payment for the period in question was:

- Properly addressed, and
- Delivered timely to a United States Postal Service facility or other mail delivery service vendor (for example, Federal Express, Mail Boxes, etc.), and
- Mailed with sufficient postage.

Form BOE-135, Declaration of Timely Mailing, is available for these requests. A declaration may also be filed in letter form as long as it contains all the required elements and includes the statement that the declaration is being filed under penalty of perjury.

If received in the district, the document should be transmitted to headquarters Return Analysis Section with the recommendation of a compliance supervisor. If district staff believe that the facts in the declaration are incorrect, the district recommendation should provide an statement of why the facts are thought to be incorrect.

EFFECT OF HOLIDAYS ON DUE DATES**510.160**

Legal holidays include any day so appointed by the President of the United States or by the Governor of this state.

If a legal holiday falls on a Sunday, the following Monday is then a legal holiday and the tax can be paid on Tuesday without penalty or interest if the tax due date was on Saturday, Sunday or Monday. For a list of legal holidays, see Exhibit 3.

RETURNS

EFFECTIVE DATE OF PAYMENT FOR RETURNS — DECISION TABLE

510.170

CONDITION					
Due Date of Payment Falls on Weekend or Legal Holiday		Y	Y		
Payment Received in Postmarked Envelope	Y				
Payment Received Through Mail Slot (Not Mailed) Prior to 8 A.M. First Business Day After Due Date		Y			
Payment Received in Any Manner (Except U.S. Mail or Other Commercial Delivery Service) On or Before Due Date			Y	Y	
Payment Received For in Field or Office First Business Day After Due Date			Y		Y
Payment Received After Due date in Postal Metered Envelope					Y

ACTION - EFFECTIVE DATE IS:					
Postmark Date	X				
First Prior Business Day		X	X		
Date Payment Received in Office or Field			X	X	
Postmark Date Takes Precedence, if Available					X

EFFECTIVE DATE OF ACCOUNTS RECEIVABLE PAYMENTS — DECISION TABLE

510.180

CONDITION — CHECK OR MONEY ORDER IS:					
Dated Prior to Postmark Date	Y				
Dated Same Day as Postmark Date		Y			
Check Received Through Mail Slot (Not Mailed) Prior to 8 A.M.			Y		
Received in District Office (Not Mailed) After 8 A.M.				Y	
Result of Enforced Collection Action by Levy or Warrant					Y

ACTION — EFFECTIVE DATE OF PAYMENT IS:					
Postmark Date	X	X			
First Prior Business Day			X		
Date Payment Received in District Office				X	
Date Funds Became Board Property					X

Note: For payments received by entities on behalf of the Board, such as by law enforcement agencies under warrants or by courts under restitution agreements, the effective payment date is the day on which the entity receives the payment. For example, if a law enforcement agency collects a sales and use tax or special tax liability pursuant to a warrant, the effective date of payment is the day on which the law enforcement agency collects the funds. See CPPM 742.020.

STATUTORY DATE FILING ON SATURDAY, SUNDAY, OR HOLIDAYS**510.190**

Certain actions by taxpayers and the Board are limited by statutory periods. This section is concerned with what constitutes timely action when the last day for action falls on a Saturday, Sunday or holiday with respect to:

- Issuing determinations, RTC section 6487.
- Waiving the statute of limitations, RTC section 6488.
- Filing petitions for redetermination, RTC section 6561.
- Filing claims for refund, RTC section 6902.
- Filing suits for refund, RTC sections 6933 and 6934.

Government Code section 6707 states:

When the last day for filing any instrument or other document with a State agency falls upon a Saturday, Sunday or holiday, such act may be performed upon the next business day with the same effects as if it had been performed upon the day appointed.

SPLIT RETURNS IN BANKRUPTCY CASES**510.200**

A return for a period that includes liabilities incurred during both a bankruptcy period and a post-bankruptcy period must be split to accurately record those amounts that are collectible. The date on which the petition is filed is included in the post-bankruptcy period. For general information on bankruptcy filings and appropriate collection actions, see CPPM 754.000. Information on splitting returns is in CPPM 754.055.

FUEL TAX SWAP

515.000

GENERAL

515.010

Assembly Bill x8 6 and Senate Bill 70 (Chapters 11 and 9, Statutes 2010) provided for both an excise tax rate increase and a corresponding sales and use tax rate decrease on sales of motor vehicle fuel (MVF), excluding aviation gasoline. This Fuel Tax Swap became effective July 1, 2010.

Beginning July 1, 2011, the sales and use tax rate on sales of diesel fuel increased, while the state excise tax on diesel fuel simultaneously decreased. Users who are exempt from the excise tax on diesel fuel are also exempt from the sales and use tax rate increase if an exemption certificate is furnished to the seller at the time of the purchase.

The BOE is required to annually raise or lower the excise tax rates on gasoline and diesel fuel so the same amount of revenue (by estimation) generated is equal to what would have been generated had the sales and use tax and excise tax rates on gasoline and diesel fuel remained unchanged. The gasoline and diesel fuel excise tax collection points did not change. Suppliers continue to be responsible for collecting the tax at the new rates upon removal from the terminal rack or entry into California.

SALES AND USE TAX RETURN FORMS

515.020

Taxpayers generally file their returns online and the system calculates the amounts due. Those unable to file online or who have requested and received an exemption from online filing, will use the BOE-401-GS, *State, Local, and District, Sales and Use Tax Return*, the BOE-401-DB, *Prepayment of Sales Tax on Fuel Sales*, and the BOE-531-G, *Schedule G – Fuel Sellers Supplements to Sales and Use Tax Return* available only through IRIS.

MOTOR VEHICLE FUEL TAX RETURN FORM

515.030

The BOE 501-PS, *Supplier of Motor Vehicle Fuel Tax Return* is available on the BOE website for reporting the multiple rates that apply to motor vehicle fuel products in this state. To claim a credit for MVF sold or used in an exempt manner at a prior rate, schedules supporting the inventory at the prior rate are required. For more detailed information on reporting requirements, see BOE 810-FTE, *Instructions for Preparing Motor Fuels Schedules*.

DIESEL FUEL TAX RETURN AND CLAIM FOR REFUND FORMS**515.040**

The BOE 501-DD, *Supplier of Diesel Fuel Tax Return*, is used to report the multiple rates that apply to diesel fuel in this state. In addition, the BOE 770-DU, *Diesel Fuel Claim for Refund on Nontaxable Uses*, the BOE 770-DV, *Diesel Fuel Ultimate Vendor Report/Claim for Refund*, and the BOE 770-DZ, *Claim for Refund on Nontaxable Sales and Exports of Diesel Fuel* are used for claims for refund at multiple rates. To claim a refund or credit for diesel fuel sold or used in an exempt manner at a prior rate, schedules supporting the inventory at the prior rate are required. For more detailed information on reporting requirements, see BOE-810-FTE, *Instructions for Preparing Motor Fuels Schedules*.

**MANDATORY ELECTRONIC FUNDS TRANSFER (EFT)
PROGRAM****520.000****Criteria for EFT Payments**

Any person whose estimated tax liability averages \$10,000 or more in sales and use tax, or \$20,000 or more in lumber fees or special taxes and fees, per month, as determined by BOE, shall remit amounts due by EFT. However, persons who collect use tax on a voluntary basis are not required to remit amounts due by EFT.

Any person who is not required to file by EFT, may voluntarily remit amounts due by EFT through online payment methods offered by BOE. They may also elect to register to pay by Automated Clearing House (ACH) Debit through a third party vendor or by ACH Credit by completing an Authorization Agreement for Electronic Funds Transfer (BOE-555-EFT or BOE-555-ST). Taxpayers who request to be removed from the EFT Program must contact the EFT Team in the Return Analysis Unit (RAU) for sales and use tax accounts, or the Special Taxes Policy and Compliance Division's (STPCD) Compliance Branch for special taxes and fees accounts.

Note: Even though EFT payers transfer funds electronically, they are still required to file their sales and use tax or special taxes return.

For sales and use tax accounts, the EFT Team in RAU handles EFT registration, removal from the EFT program, taxpayer questions, correspondence, and any special processing for EFT accounts. Inquiries that cannot be handled by district offices should be referred to the EFT Team. For special taxes and fees accounts, EFT registration, removal from the EFT program, taxpayer questions, correspondence, and any special processing are handled by the STPCD's Compliance Branch.

EFT Payment Due Dates

Due dates for EFT payments on sales and use tax returns are the same as set forth in CPPM 510.010 and 510.015. Questions regarding EFT payments for sales and use tax should be referred to the EFT Team in RAU. Questions regarding EFT payments for special taxes and fees should be referred to the STPCD's Compliance Branch.

Taxpayers who are placed on EFT must make EFT payments on any returns due subsequent to the effective date of the EFT requirement. For example, if a taxpayer is informed that EFT payments for sales and use tax must be made starting January 1, the taxpayer must use EFT to pay the liability for the return due on January 31, even though the liability was incurred prior to the effective date.

For an electronic payment to be timely, the transferred funds must settle (be deposited) into BOE's bank account by the first banking day following the tax due date.

EFT Payment Methods

There are two methods for making EFT payments: ACH Debit and ACH Credit. Under the ACH Debit payment method, taxpayers initiate a payment online through BOE, through the BOE third party vendor's online option, or by telephone. These methods authorize BOE to debit the taxpayer's bank accounts and credit BOE's bank account. Under the ACH Credit payment method, taxpayers instruct their financial institutions to transfer funds to BOE's bank account. Some financial institutions are not able to process ACH credit transactions.

To initiate ACH Debit payments through BOE's third party vendor or to initiate ACH Credit payments, taxpayers must complete the Authorization Agreement for Electronic Funds Transfer (BOE-555-EFT or BOE-555-ST) to designate the payment method and provide authorization for funds transfers. If taxpayers do not register by completing the BOE-555-EFT or BOE-555-ST for ACH Debit, they can enter bank information when they pay online through BOE but will not be able to initiate payments through the third party vendor.

When taxpayers register for ACH Debit and file their returns and prepayments online, the bank account information contained in IRIS will be prefilled on the "Preparer and Payment Information" page. The payment information fields can be modified, however any new banking information will not be reflected in IRIS and will only apply to the current payment. The payment effective date defaults to the current date, but can be changed to a future date as long as it corresponds with a valid banking day (ACH debit only). This allows taxpayers to schedule their payment in advance but have debited from the bank account on any banking day up to the tax due date. Payment must be completed by 3:00 p.m. Pacific time on the tax due date to settle into BOE's bank account timely.

If taxpayers file online and choose to pay by ACH Debit at the time of filing, they do not need to make a separate EFT payment. However, they do have the option to file online and make their EFT payment separately through BOE's online payment option, ACH Debit through a third party vendor, ACH Credit, or by Federal Reserve Wire Transfer (Fedwire). Fedwires are not approved for ongoing transactions due to the significant risk of error and extra processing fees. Fedwires must be preapproved by the EFT Team for sales and use tax accounts, and STPCD's Compliance Branch for special taxes and fees accounts. Credit card payments are not an acceptable method of electronic payment for mandatory EFT accounts.

Penalties Applicable to EFT Accounts

Any person required to pay by EFT who fails to file a return or pay the amount of taxes/fees due on or before the due date shall pay a penalty of 10 percent of the amount of the taxes due, exclusive of prepayments.

Any person required to pay their taxes by EFT whose payments are not made by EFT shall pay a penalty of 10 percent of the taxes/fees incorrectly paid.

Any person who does not make a timely payment of prepayment amounts by EFT, and/or does not pay the prepayment amount by EFT, is subject to a penalty limited to a maximum of 6 percent of the prepayment amount due. However, if the amount remains unpaid after the return due date, the penalty is adjusted to 10 percent.

If more than one penalty applies to a reporting period, the combined penalties cannot exceed 10 percent of the taxes due and payable on any one return.

For more detailed information on EFT payments and interest and penalty provisions, refer to publication 75, *Interest, Penalties and Fees*.

Return of Duplicate Payments or Overpayments and Claims for Refund

When a taxpayer makes a duplicate/erroneous EFT payment or overpayment, the taxpayer must contact BOE to either request the funds be returned or reversed, or to file a claim for refund. Staff should direct taxpayers to request their bank return any erroneous payments, if possible. If the duplicate/erroneous payment is an unapplied remittance in IRIS, the taxpayer is not required to file a claim for refund and staff should expedite the return of the funds upon the taxpayer's request. Other requests may require the taxpayer to file a claim for refund. Supervisory approval thresholds are the same for the return of unapplied remittances and claims for refund.

Full and partial refunds of amounts \$100,000 and under are processed by the various units according to tax/fee program (sales and use tax and lumber fees or special taxes and fees) and method of refund request.

Claims for refund for a *full remittance* in excess of \$100,000 are processed by the EFT Team in RAU for sales and use tax and lumber fees, and the Return Processing Section (RPS) for special taxes and fees. Refund claims that are for a *portion of a remittance* in excess of \$100,000 are processed by the Audit Determination and Refund Section (ADRS) for sales and use tax and lumber fees, and the Appeals and Data Analysis Branch (ADAB) for special taxes and fees.

Approval or denial of claims for refund are generally delegated to the appropriate section or unit administrator, however, refunds in excess of \$50,000 require approval by the appropriate Deputy Director (or designee).

In addition, if BOE determines that a claim for refund of an erroneous EFT payment in excess of \$50,000 should be granted or denied, the decision must be made available as a public record for at least ten days before it becomes effective.

Generally, approval or denial of claims for refund in excess of \$100,000 must be approved by the Board Members. However, Rule 5237 of the Rules for Tax Appeals gives authority to the Executive Director to approve claims for refund in excess of \$100,000 in cases involving a duplicate or erroneous payment that is made by a taxpayer through the EFT program. When the amount for which a claim is being made exceeds \$100,000, the following procedures must be followed.

MANDATORY ELECTRONIC FUNDS TRANSFER (EFT) PROGRAM**(CONT.3) 520.000****RAU (Sales and Use Tax and Lumber Fees) and RPS (Special Taxes and Fees) —**

Claims for the refund of a **full remittance** in excess of \$100,000 that was made via EFT are to be directed to the Administrator of the EFT Team in RAU for sales and use tax and lumber fees, or the Administrator in RPS for special taxes and fees. The taxpayer's written request will be reviewed along with all supporting documentation. Once verified, a memo addressed to the Executive Director requesting approval to expedite the refund will be prepared by the Deputy Director of the responsible department (or designee). This memo will include a brief description of the reason for the erroneous payment and a summary schedule of the amounts involved. The Executive Director's reply will be returned to the Deputy Director making the request.

After receiving the Executive Director's approval, a refund is to be made and the taxpayer's accounts receivable payment history must be corrected to reflect the refund. Whenever possible, the ACH reversal process will be used to return the remittance. This procedure may be used for an ACH credit transaction or an ACH debit transaction that is beyond the five-day window allowed for the taxpayer to initiate a return through their financial institution. In cases where the ACH reversal process is not available, the Cashier Unit will be informed of the erroneous payment. The Cashier Unit will then request the Accounting Section issue a refund check from the appropriate account.

To minimize any inconvenience to the taxpayer, all reasonable steps will be taken to expedite the processing of the refund. All written correspondence between staff regarding such matters will be hand-delivered when possible and preceded with an email explaining the situation and required action. All parties involved in the processing of the refund should be notified immediately upon approval. All efforts will be made to ensure that refunds of erroneous EFT payments are processed within five (5) business days of receipt of the refund request.

Note: Any claim for refund granted over \$50,000 must be made available as a public record for at least ten days before it becomes effective.

ADRS (Sales and Use Tax and Lumber Fees) and ADAB (Special Taxes and Fees) —

Claims for refund of a **portion of a remittance** in excess of \$100,000 that was made via EFT are to be directed to ADRS for sales and use tax and lumber fees, and ADAB for special taxes and fees. ADRS or ADAB will review all supporting documentation and verify the erroneous overpayment. Once verified, a memo addressed to the Executive Director requesting approval to expedite the refund will be prepared by the Deputy Director of the responsible department (or designee). This memo will include a brief description of the reason for the erroneous remittance and a summary schedule of the amounts involved.

If approved by the Executive Director, ADRS or ADAB will initiate the refund in the most expeditious manner. All documentation and notification of approvals for the refund will be maintained in the same manner as set forth for refunds processed by the EFT Team or RPS.

Note: Any claim for refund granted over \$50,000 must be made available as a public record for at least ten days before it becomes effective.

Refund payments may take the form of an ACH reversal or, if a reversal is not possible, a check will be issued. Credit interest will be considered in accordance with Regulation 1703(b)(5).

Questions about EFT refunds for sales and use tax and lumber fees should be directed to the EFT Team in RAU, or to ADRS. For special taxes and fees, questions should be directed to RPS or ADAB.

RETURNS

COLLECTION COST RECOVERY FEE (CRF)

525.000

COLLECTION COST RECOVERY FEE – GENERAL

525.010

A Collection Cost Recovery Fee (CRF) is imposed on each final billing greater than \$250 that remains unpaid more than 90 days after the demand notice is issued (SB 858, Chapter 721, Statutes 2010). The statutes enacted by SB 858 for each tax program are identified in the following table.

Sales and Use Tax Law (6833)	Hazardous Substances Tax Law (43449)
Use Fuel Tax Law (9035)	Integrated Waste Management Fee Law (45610)
Private Railroad Car Tax Law (11534)	Oil Spill Response, Prevention, and Administration Fees Law (46466)
Cigarette and Tobacco Products Tax Law (30354.7)	Underground Storage Tank Maintenance Fee Law (50138.8)
Alcoholic Beverage Tax Law (32390)	Fee Collections Procedures Law ¹ (55211)
Timber Yield Tax Law (38577)	Diesel Fuel Tax Law (60495)
Emergency Telephone Users Surcharge Law (41127.8)	Energy Resources Surcharge Law (40168)

These statutes require that the CRFs assessed be equal to the actual collection costs incurred by the BOE. The statutes also authorize the BOE to collect the CRF in the same manner as it collects a tax or fee liability (e.g., levies, wage garnishments, liens). The CRF should also be included when escrow or tax clearance requests are received. The statutes also authorize the BOE to waive the CRF upon a tax/feepayer’s written request in cases where a tax/feepayer fails to pay a liability due to reasonable cause and circumstances beyond their control.

CRF NOTIFICATION

525.020

The CRF statutes require the BOE to inform tax/feepayers by demand notice that a failure to pay a liability may result in collection action, including the assessment of a CRF. To meet this requirement, a bill note (#958 or #963) is printed on all demand notices.

CRF ASSESSMENT

525.030

The CRF applies to each final liability (difference) greater than \$250 that remains unpaid for more than 90 days following the issuance of a demand notice². The liability does not need to include tax, fees or assessments for the CRF to be assessed; the CRF will apply even if only interest and/or penalty amounts remain due. The CRF does not accrue interest or incur penalties. Generally, only one CRF is assessed per liability. Separate liabilities for sales and use tax (PER) and lumber products assessment (LUM) that are not linked together will each be assessed a separate CRF if the liability meets the CRF assessment criteria. Furthermore, a CRF is not a deficiency determination and cannot be petitioned.

¹ The taxes and fees 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, Lumber Products Assessment, Fire Prevention Fee, and Lead-Acid Battery Fee.

² The CRF does not apply to Cigarette/Tobacco internet (UI) accounts. This is because the taxpayer is issued two accounts (CI and UI) and receives a bill on each account for the same internet purchase. A CI account is issued for billing the Cigarette/Tobacco Products Tax and the UI account is set up for billing the Use Tax.

CRF ASSESSMENT

(CONT.) 525.030

When a CRF is assessed, a separate liability (difference) is created in IRIS and a Notice of Collection Fee (CRF Notice) is automatically produced and mailed to the tax/feepayer. Liabilities encompassing multiple reporting periods (e.g., audits, multiple period compliance assessments) will only be subject to one CRF. Conversely, if multiple liabilities (differences) exist for a specific reporting period, a separate CRF will be assessed for each. It is important to remember that, when clearing more than one delinquent tax/fee return on an account using a compliance assessment (CAS), all periods must be included in a single CAS.

CRF differences are identified in IRIS with the FO Type "CLB," Difference Type "COC" and Difference Reason "CRF." A CRF difference has the same period dates as the associated, fee-originating difference and will generally appear below the fee-originating liability on the DIF DA screen in IRIS.

Once a CRF is assessed, IRIS will automatically keep the CRF differences in sync with the fee-originating difference. Transactions impacting a fee-originating difference (e.g., payments, revenue adjustments) may result in the amount of a CRF difference increasing or decreasing. For example, a payment is moved to a fee-originating liability after a CRF is assessed. If the payment has an effective date prior to the CRF assessment date and results in the fee-originating liability being less than \$250, the CRF difference will automatically adjust to zero.

There is a slight delay from the time a transaction occurs on a fee-originating difference until the CRF is adjusted. This delay occurs because the syncing process only occurs when specific "jobs" are run in IRIS. These jobs run frequently throughout the day.

The IRIS screen DIF CF provides basic information regarding both the fee-originating and CRF differences, including the current balance of each difference. This screen can be viewed by typing "c" on the "Action" line of either the fee originating or the CRF difference from the DIF DA screen. Additionally, the DIF CF contains the following three fields:

Expected Qualifying Notice Date or Qualifying Notice Date – The date on which a demand notice was issued and contained the fee-originating liability. In certain circumstances, a fee-originating difference may have more than one qualifying demand date. For example, when a bankruptcy case is closed, a new demand notice will automatically be generated. The date of the post-bankruptcy demand notice will become the qualifying demand date for those differences that are not assessed the CRF prior to the tax/feepayer entering bankruptcy. Once the CRF has been assessed, the field label will change to "Qualifying Notice Date."

Expected Assessment Date or Assessment Date – The date on which the CRF is expected to be assessed. The expected date may not be the actual assessment date since the assessment of a CRF can be delayed for various reasons such as the existence of a payment plan or an active bankruptcy case. Once the CRF has been assessed, the field label will change to "Assessment Date" and the date displayed in this field will not change.

First Billed Date – The date on which the CRF was first billed.

CRF EXCLUSION**525.035**

Cost of collection amounts (e.g., warrant costs, liquor license renewal fees paid by the BOE), reinstatement fees, liabilities on federal government accounts (Ownership Type code "F"), and liabilities on UI accounts are not subject to the CRF.

Tax/feepayers may avoid the CRF by either paying their liability in full or by entering into a payment plan prior to the CRF being assessed. IRIS will compare the date information in the payment plan "Effective Date" field in the Automated Compliance Management System (ACMS) to the CRF assessment date(s) that exist on an account. In instances where the Effective Date entered is prior to the CRF assessment date, the CRF is automatically backed out by IRIS.

In instances where a payment plan is terminated or cancelled, IRIS will automatically apply the CRF to each liability for which more than \$250 remains due and which is more than 90 days past due.

A CRF will not be assessed on liabilities where a sundry withhold, stop demand, or active legal bankruptcy status exists in IRIS. The sundry withhold and stop demand statuses will only prevent a CRF from being assessed but will not result in cancellation of a CRF previously assessed. With regard to accounts with active legal bankruptcy status, CRFs assessed on or after the bankruptcy effective date (petition date) will automatically be adjusted to zero. IRIS will automatically generate a new demand notice when a sundry withhold or stop demand status is removed or when a legal bankruptcy case is closed. A CRF will only be assessed if, 91 days following the "new" demand notice date, the unpaid liability is greater than \$250 and is not included in a payment plan.

Lastly, the CRF will not be assessed on liabilities that were discharged from bankruptcy, in pending write-off status, or written-off prior to CRF being assessed. A written-off liability will only be subject to the CRF if it is removed from write-off status, a demand notice was issued, and the liability meets all CRF assessment criteria (i.e., greater than \$250, more than 90 days past due, not in a payment plan).

CRF RATES**525.040**

The CRF amount varies based on the amount of the unpaid liability on the date the CRF is assessed. Additionally, a CRF will be assessed on each unpaid liability that exists on an account. CRF rates are posted on the BOE website at www.boe.ca.gov/sutax/collection_cost_recovery_fee.htm.

The CRF rates will be recalculated and adjusted biennially to ensure the total CRFs assessed are equal to the total collection costs incurred by the BOE. Revised CRF rates will only apply to liabilities not previously assessed a CRF. Staff in the Tax Policy Division (TPD) is responsible for calculating the CRF rates. The proposed CRF rates will be submitted to the Board Members for approval. TPD staff is responsible for ensuring approved CRF rates are updated in IRIS. Any proposed revisions to the CRF rates approved by the Board Members will become effective on January 1 of the following calendar year.

CRF ADJUSTMENTS - MANUAL**525.045**

The CRF is automatically assessed in IRIS when a fee-originating liability has met all CRF assessment criteria. As a result, instances may arise where the CRF is assessed inappropriately. The following procedures should be followed when manual adjustment of a CRF is required.

The responsible collector must review the account and confirm the CRF was assessed in error. If the CRF was assessed inappropriately, the responsible collector will create an email with the subject line containing "CRF" and the tax/feepayer's account number. The email must include the Difference ID and Period Dates for each CRF difference that requires adjustment, and the reason(s) why an adjustment of the CRF is needed. This same information must also be entered into a comment on the account in IRIS and ACMS.

The responsible collector will send the email to a supervisor for approval. If approved, the supervisor must add comments in IRIS and ACMS stating the CRF adjustment request is approved. For Sales and Use Tax accounts, the supervisor will forward the email to the Return Analysis Unit (RAU) email group "BTFD-RAU Electronic Maintenance Requests." For Special Taxes and Fees accounts, the Collection Section supervisor will email the appropriate Return Processing Branch supervisor, and the Motor Carrier Collection supervisor will email the appropriate supervisor.

Staff receiving the approved request will process it by performing a legal adjustment (LAJ) in IRIS on the identified CRF differences. Incomplete requests will not be processed and will be returned to the requester for completion.

There may be an occasion where a cancelled CRF must be reassessed. For example, if a payment plan is terminated or cancelled (PRM status removed in IRIS), reversal of the CRF adjustment will be necessary if the fee-originating liability still meets all CRF assessment criteria. In this situation, staff must identify the dollar amount of each CRF that must be reestablished, based on the dollar amount remaining due of the fee-originating liability as of the date the payment plan was terminated or cancelled. The CRF rates in effect on the date the payment plan is terminated or cancelled must be used when determining the amount of the CRF to be reestablished. For example, if a payment plan is terminated or cancelled in 2016, the 2016 CRF rates should be used.

The procedure to reestablish the CRF is the same as the procedure to request the adjustment of the CRF as explained above.

**REQUESTS FOR RELIEF FROM PENALTIES, FEES, INTEREST,
AND REQUESTS FOR EXTENSIONS FOR FILING RETURNS 535.000**

RELIEF REQUESTS AND EXTENSIONS IN GENERAL 535.010

Under certain statutes in the Revenue and Taxation Code (RTC), the BOE may grant relief from penalties, interest, and/or collection cost recovery fees, or grant extensions for filing returns or payments due under the revenue laws that it administers.

Requests for relief are generally submitted online at the BOE website. Staff should encourage taxpayers/feepayers (taxpayers) without internet access to visit a field office or another location with internet access to complete the request. However, if these options are not possible, staff may print and mail the following forms available on eBOE:

- BOE-735, *Request for Relief from Penalty, Collection Cost Recovery Fee, and/or Interest*
- BOE-135, *Declaration of Timely Mailing*
- BOE-468, *Request for Extension of Time to File a Tax Return*

In cases where a paper request is received in a field office, staff should forward the document to the appropriate headquarters section, unit, or branch. For accounts administered by the Sales and Use Tax Department, requests relating to self-assessed liabilities are processed by the Return Analysis Unit, and requests relating to BOE-assessed liabilities are generally processed by the Petitions Section. For accounts administered by the Special Taxes Policy and Compliance Division, requests relating to self-assessed liabilities are processed by the Compliance Branch, and requests relating to BOE-assessed liabilities are generally processed by the Appeals and Data Analysis Branch. The requests are entered in the Difference Subsystem (DIF RR) in IRIS by headquarters staff.

Field office staff has a responsibility to make appropriate recommendations to headquarters sections or units processing the requests.

ONLINE REQUESTS AND EXTENSIONS 535.012

To submit a request online, taxpayers must first log in with their User ID and password, or by using the Express Login method. Taxpayers who log in using their User ID and password will be able to view the status of their request, but those who use the Express Login method will not. In addition, any person who is not an owner of the business (e.g. CPA, bookkeeper, authorized representative) must obtain specific permission to submit an online request for their client. A BOE-91-B, *Tax/Fee Payer Authorization for Tax Preparer to Perform Electronic Services*, may be submitted by taxpayers to grant authority to their representatives.

The following types of requests may be made online:

- Declaration of Timely Mailing (DTM),
- Extensions of Time to File a Tax/Fee Return (Extension),
- Relief from Penalty (ROP),
- Relief from Interest Due to an Unreasonable Error or Delay by BOE or the DMV (ROI),
- Relief from Penalty and Interest due to a Disaster (DIS), and
- Relief from the Collection Cost Recovery Fee (CRF).

Once the online request is submitted, a confirmation page is provided with the status of the request. In addition to a confirmation page, taxpayers who provide an email address will receive an email acknowledgement of their submission.

SYSTEM PROCESSING OF ONLINE REQUESTS**535.015**

Upon submission of the online request, the system will review the taxpayer's account and take one of the following immediate actions:

- Automatically grant the request,
- Automatically deny the request,
- Advise the taxpayer via email and/or through the confirmation page that BOE is unable to process the request and provide directions on how to proceed, or
- Place the request in Pending status and create an assignment for staff to resolve.

Automatic Grant – The types of requests that can be automatically granted are DTM, ROP, and Extensions. When one of these requests meets certain criteria, as outlined in RTC sections 6459 and 6592 and similar statutes for special taxes, and the amount subject to relief is under \$5,000, the system will automatically grant the request. Generally, automatically granted requests do not create assignments; however, staff may receive a follow up assignment such as an unapplied payment assignment to review and process. The taxpayer is advised of the automatic grant via email and/or the confirmation page. In addition, a statement of account with the proper bill notes is automatically sent to the taxpayer, when applicable.

Automatic Denial – Only DTMs and Extensions may be automatically denied. When a request for DTM or Extension meets certain criteria (i.e. does not meet the requirements under the applicable RTC sections), the system will automatically deny the request. Automatically denied requests do not create an assignment for staff. The taxpayer is notified via email and/or the confirmation page that their request was denied.

Unable to Process – Requests in which the taxpayer must take an additional action before it can be processed will be placed in an Unable to Process status. An example is when a taxpayer requests relief from penalty but the return has not been filed. The taxpayer is advised via email and/or the confirmation page that their request could not be processed and includes an informational message listing possible conditions that were not met to allow for processing of their request. Once the taxpayer has corrected all the conditions (e.g. filed the tax or fee return), the taxpayer may resubmit the request or contact BOE to process the original submitted request.

Pending – When a request does not meet the criteria for any of the above actions, the system places the request in Pending status. The taxpayer is advised via email and/or the confirmation page that the request is being reviewed and may take between 30 to 90 days for processing, depending on the type of request. An assignment is created in Assignment Control (ASC) in IRIS for all pending requests. Assignments are routed to the appropriate unit/section staff. All requests for ROI, DIS, and CRF are placed in Pending status due to the complexity of these requests.

STAFF PROCESSING OF ONLINE REQUESTS**535.017**

Assignments are automatically created in ASC for pending online requests and are routed to the proper office, workgroup, and role using set criteria. Additionally, unapplied payment assignments, as well as other assignments requiring staff action, are also assigned in ASC. Staff in the following units/sections will receive these assignments to process:

- Return Analysis Unit
- Petitions Section
- Special Taxes Audit and Carrier Division
- Special Taxes Policy and Compliance Division
- Motor Carrier Office
- Consumer Use Tax Section

RETURNS

STAFF PROCESSING OF ONLINE REQUESTS

(CONT.) 535.017

In some cases, requests may require supervisory approval to be finalized. If approval is required, an assignment will automatically generate in ASC for the designated approver to review.

All online relief requests may be accessed from the ASC AB or ASC IB (Assignment Control) or the DIF BQ (Difference Browse) screens in IRIS. Staff with the appropriate user security access levels will be able to navigate to view and/or process the requests through the following screens:

Request Types	IRIS Screens Accessed from DIF BQ or ASC	IRIS Processing Screens	Final Processing Screens
Declaration of Timely Mailing	DIF W1	DIF W1	W1
Extension of Time to File a Tax/Fee Return	DIF W2	DIF W2	W2
Relief from Penalty	DIF W3	DIF W8	W7
Relief from Interest Due to an Unreasonable Error or Delay by BOE or the DMV	DIF W4	DIF W8	W7
Relief from Penalty and Interest due to Disaster	DIF W5	DIF W8	W7
Relief from Collection Cost Recovery Fee	DIF W6	DIF W8	W7

Staff responsible for processing relief requests must update the online request status with their recommendation and must follow internal procedures to ensure proper correspondence is sent to taxpayers (i.e. statements, letters, etc.). There may also be instances when no further action is required by staff. For example, if an online request is a duplicate, does not meet system/administrative conditions to process, etc., staff may change the status of the assignment to "NFA," meaning no further action is required, which will finalize the online request and close the assignment.

AUTHORITY FOR GRANTING EXTENSIONS

535.020

Authority to grant an extension to file a sales and use tax return is given by RTC section 6459, and similar statutes for other programs administered by the BOE. The maximum length of time an extension may be granted under all programs is one month. Any request for an extension must be filed with the BOE no later than one month after the return due date. Requests filed at any other time cannot be considered regardless of the basis for the request.

When an extension has been granted, the taxpayer must pay, in addition to the tax, the interest at a rate established by RTC section 6591.5. If the tax is not paid within the extension period, the late penalty will be due in addition to the tax and interest.

REASONS FOR GRANTING EXTENSIONS**535.030**

Extensions may be granted only for good cause. The following are some of the reasons that constitute or illustrate what is meant by good cause:

1. Death or serious illness of the taxpayer.
2. Death or serious illness of a member of the taxpayer's family or the person who prepares returns.
3. Catastrophes such as fire, flood, etc.
4. Bankruptcy or assignment for benefit of creditors.
5. A legal attachment placed against the taxpayer's bank account by a person, firm or agency other than the Board and without the taxpayer's knowledge.
6. Business emergencies other than those relating to financial difficulties.
7. Insufficient time to compile the return because of the necessity to assemble data from distant points or to post transactions.
8. Misunderstanding regarding a change of reporting basis.
9. Lack of qualified help necessary to compile the return in the required time due to employee terminations or strike.
10. Failure of an inexperienced employee to prepare and mail the return in the time required.
11. Return mislaid, lost or inadvertently filed with taxpayer's records and discovered too late for timely filing.
12. Inadvertent failure to enclose remittance with return.
13. Returned to sender by the post office because of insufficient postage.
14. Return and payment mailed to a federal, city or county agency in error. A timely return and payment mailed to another state agency in error does not require a request for an extension even though the return and payment are sent to the Board after the due date.
15. Absence of the person responsible for preparing the return or signing the check for a period of time sufficient in length to interfere with the timely filing of the return.

This is not a complete list of reasons for which extensions may be granted; other circumstances may develop which would also warrant an extension being granted. Lack of funds with which to make payment is never considered cause for granting an extension. Neither will an extension be granted if the taxpayer is delinquent for a previous period or owes a delinquent balance.

EXTENSIONS — STATE VENDORS / DELAYED STATE BUDGET

535.035

Each year the state is mandated to adopt a budget on or before June 30th. When this does not occur, the state is unable to pay its vendors until a budget is adopted. Under these circumstances some state vendors may be unable to timely file their sales tax returns or make their tax payments. Revenue and Taxation Code section 6459(b) allows the Board to grant extensions for filing and paying sales tax returns where:

- A state budget has not been adopted by July 1; and
- The taxpayer requesting the extension is a creditor of the state who has not been paid by the state due to the lack of a budget.

Extensions granted under section 6459(b) expire on the last day of the month in which a budget is adopted or one month from the due date of the return or prepayment, whichever is later. Taxpayers receiving this extension are not liable for penalties if they file and pay their taxes within the extension period. While interest applies from the date on which the tax would have been due without the extension until the date of payment, no interest is due on that portion of the payment equivalent to the amount due to the taxpayer by the state on the due date of the payment. The following examples illustrate the application of interest for extensions granted under section 6459(b).

	Taxpayer A	Taxpayer B
Taxable Sales to the State	\$ 200,000	\$10,000
Sales Tax (7.25%)	(a) 14,500	(a) 725
Amount State Owes Taxpayer (including tax)	\$ 214,500	\$10,725
Taxable Sales to Other Than the State	\$ 10,000	\$200,000
Sales Tax (7.25%)	(b) 725	(b) 14,500
Total Sales Tax (a+b)	\$ 15,225	\$ 15,225

Taxpayer A and Taxpayer B both receive an extension under RTC section 6459(b) and pay their taxes within the extension period. Taxpayer A would not incur any interest charges since the amount the state owed the taxpayer (\$214,500) was greater than the amount the taxpayer owed the state (\$15,225). Taxpayer B would incur interest charges on \$4,500 since the taxpayer owed the state a greater amount (\$15,225) than what the state owed the taxpayer (\$10,725).

The Return Analysis Section (RAS) is responsible for processing extension requests and for performing adjustments to penalty and interest amounts resulting from approved requests.

EXTENSION GRANTED STATE AGENCIES

535.040

The Board has granted to the Department of Finance a blanket extension of one month for all state agencies, to provide for cases where delay is unavoidable. Interest will not be assessed if the state agency files its sales tax or use tax claim with the State Controller on or before the due date of the tax return.

EXTENSION OF TIME GRANTED TO CERTAIN POLITICAL SUBDIVISIONS

535.050

Because of unavoidable delays in obtaining signatures in approval of claims and issuance of warrants by various boards and public officers, a general one-month extension, pursuant to RTC section 6459, is granted to all municipalities, school districts and other political subdivisions of this state, similar to that granted to departments of the state government.

REQUESTS FOR RELIEF FROM PENALTY - REASONABLE CAUSE**535.055**

Requests for relief from penalty can result in the reduction or elimination of penalty amounts previously assessed. Under certain criteria, requests submitted online may be automatically granted or denied (see CPPM section 535.015). For those not automatically processed, staff will make a recommendation whether the request should be granted, denied, or denied in part.

Statutes identified for each tax and fee program in the following table provide for relief of certain specified penalties in instances where a person's failure to make a timely return or payment was due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect. Taxpayers seeking relief are required to file a request with the BOE that includes a statement setting forth the facts upon which the claim for relief is based. Online requests include a "Declaration of Intent to Submit a Relief Request," which states that the taxpayer's statement is made under "penalty of perjury." If a written request is received, it must also include the statement that it is signed under "penalty of perjury" (BOE-735, *Request for Relief from Penalty, Collection Cost Recovery Fee, and/or Interest*, contains the penalty of perjury statement).

Tax or Fee Program	Revenue and Taxation Code
Sales and Use Tax	6592
Motor Vehicle Fuel Tax	7657
Use Fuel Tax	8877
Tax on Insurers	12636
Cigarette and Tobacco Products Tax	30282
Alcoholic Beverage Tax	32255
Timber Yield Tax	38452
Energy Resources Surcharge	40102
Emergency Telephone Users Surcharge	41096
Hazardous Substances Tax	43157
Integrated Waste Management Fee	45155
Oil Spill Response, Prevention, and Administration Fees	46156
Underground Storage Tank Maintenance Fee	50112.2
Fee Collection Procedures Law ¹	55044
Diesel Fuel Tax	60209

For more information on relief from penalty requests, see CPPM section 535.010.

¹ 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.

RECONSIDERATION OF DENIED REQUEST FOR RELIEF FROM PENALTY 535.060

When a request for relief from penalty is denied, a letter is sent to the taxpayer with the reason for the denial. The letter also includes a statement that the decision may be reconsidered if the taxpayer provides new information within 15 days. (Note that if the penalty has already been paid in full, the taxpayer's recourse is to file a claim for refund.) The 15-day period should not be regarded as absolute, and staff may consider information received after the 15 days. The letter also explains that if the taxpayer provides additional information and the request for relief is still denied by BOE staff, the request for relief will then be reviewed by the Deputy Director.

Requests for Reconsideration for Penalties over \$100,000

The Deputy Director will review the request and send the taxpayer a letter containing his or her recommendation. The Deputy Director will submit the recommendation to grant or deny the request for reconsideration to the Board Members for approval. The letter to the taxpayer will also include the anticipated date the Board Members will consider the request.

Requests for Reconsideration for Penalties of \$100,000 or Less

The Deputy Director will review the request and send the taxpayer a letter containing his or her decision. These requests will not be submitted to the Board Members. If the taxpayer disagrees with a decision to deny the request for reconsideration, staff should inform the taxpayer that he or she may pay the amount due of the denied request and file a timely claim for refund.

If an amount exceeding \$50,000 is to be granted, the proposed determination to refund, credit, or cancel such amount must be available as a public record for at least 10 days prior to its effective date. For accounts under the Integrated Waste Management Fee Law, the threshold for making the determination a public record is any refund, credit, or cancellation of amounts over \$15,000.

**REQUEST FOR RELIEF FROM INTEREST -
UNREASONABLE ERROR OR DELAY**

535.065

RTC 6593.5 and similar provisions for special taxes and fees (see following table) provide the BOE authority to grant relief of all or part of the interest imposed, provided the reason for the failure to pay is due in whole or in part to an unreasonable error or delay by an employee of the BOE acting in his or her official capacity. Additionally, if the failure to pay use tax on a vehicle or vessel registered with the DMV was the direct result of an error by the DMV in calculating the use tax, interest may be relieved. No significant aspect of the error or delay can be attributable to an act of, or failure to act by, the taxpayer.

Tax or Fee Program	Revenue and Taxation Code
Sales and Use Tax	6593.5
Motor Vehicle Fuel Tax	7658.1
Use Fuel Tax	8878.5
Private Railroad Car Tax	11409
Cigarette and Tobacco Products Tax	30283.5
Alcoholic Beverage Tax	32256.5
Timber Yield Tax	38455
Energy Resources Surcharge	40103.5
Emergency Telephone Users Surcharge	41097.5
Hazardous Substances Tax	43158.5
Integrated Waste Management Fee	45156.5
Oil Spill Response, Prevention, and Administration Fees	46157.5
Underground Storage Tank Maintenance Fee	50112.4
Fee Collection Procedures Law ²	55046
Diesel Fuel Tax	60212

Taxpayers seeking relief under these statutes should submit their request online setting forth the facts on which the claim for relief is based. Online requests include a “Declaration of Intent to Submit a Relief Request,” which states that the taxpayer’s statement is made under “penalty of perjury.” If a written request is received, it must also include the statement that it is signed under “penalty of perjury” (BOE-735, *Request for Relief from Penalty, Collection Cost Recovery Fee, and/or Interest*, contains the penalty of perjury statement).

**GUIDELINES FOR CONSIDERATION OF INTEREST
RELIEF FOR UNREASONABLE ERROR OR DELAY**

535.070

Each request for relief of interest should be evaluated on its own merits and only the interest attributable to an unreasonable error or delay by the BOE or DMV is eligible for relief. The following are guidelines that may assist staff in determining if an unreasonable error or delay has occurred. Circumstances that may be considered as causing an unreasonable delay include, but are not limited to, the following:

- The auditor was on sick leave for an extended period, or left the BOE, and the audit was not timely reassigned.

² 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.

- A BOE employee misplaced audit work files/papers, resulting in reconstruction of data or requesting duplicate information from a taxpayer.
- Mail was sent to an incorrect address when BOE had prior knowledge of the correct address and failed to update the records timely.
- A taxpayer failed to file a timely return or payment due to their reliance on erroneous, *documented* verbal advice from the BOE.
- An account was closed in error by BOE staff, which caused the taxpayer to be unable to pay the taxes or fees when due. (This would not include accounts closed due to apparent inactivity caused by the failure of the taxpayer to notify BOE of an address change.)
- BOE staff caused an unusual delay in registration of the taxpayer.
- The BOE mailed a billing for the collection of a fee based on incorrect information provided by another agency, causing a delay in issuing a correct billing.

Circumstances that would not qualify for consideration of relief from interest include, but are not limited to, the following:

- Action was delayed because of a regulatory or policy change being considered by the BOE.
- Audits and appeals that involved complex issues or required extensive examination of records which resulted in additional time needed for completion.
- The taxpayer failed to timely notify the BOE of a change of address.
- The taxpayer failed to register with the BOE in a timely manner, or failed to provide required information and/or documentation in a timely manner.
- Another state or federal agency (e.g., DMV, Department of Housing and Community Development, Federal Aviation Administration, or US Coast Guard) failed to inform the taxpayer of the need to register with the BOE which resulted in a delay in assessment of the taxes or fees.
- The taxpayer received a billing for unpaid, self-assessed taxes or fees within the statute of limitations.
- DMV calculated the use tax because the taxpayer did not present a bill of sale, which resulted in an understatement of the actual sales price and an assessment of the difference.

STAFF PROCESSING OF RELIEF OF INTEREST REQUESTS FOR UNREASONABLE ERROR OR DELAY

535.075

A comprehensive analysis of each case is required and the evidence to support relief from interest must be convincing. Copies of documentary evidence should be provided whenever possible. To ensure no further perceived delays are noted, a recommendation for relief should be made within 30 days from receipt of the request. Recommendations for relief are prepared by the office where the alleged delay or error occurred. These offices will receive either a paper request or an assignment in Assignment Control (ASC) for online requests, which can be viewed in IRIS on the DIF BQ screen.

For SUTD, if an online Relief from Interest (ROI) request is referred to a division, section, or district office from the Petitions Section or Return Analysis Unit (RAU) for a recommendation, the pending assignment (ONLROIRQ or ONLROIBA) will be reassigned in Assignment Control (ASC) to that division, section, or district office, using one of the following in-baskets:

Office: District Office (e.g., AA, GH, FH) Workgroup: DOADMIN
Office: RAS Workgroup: RAS Role: BTRxx (where xx = terminal digit)

The responsible office will review the ROI assignment in the DIF BQ screen in IRIS, and will either provide a written response to the taxpayer with a copy to the Petitions Section/RAU if the request is \$5,000 or less, or if the request is over \$5,000, send a memo with their recommendation via email to the appropriate SUTD-Petitions email box or the SUTD-RAU Electronic Maintenance Requests email box. The assignment should then be reassigned in ASC to the originating individual from Petitions Section or RAU.

Staff Processing Interest Relief Requests over \$100,000

The responsible office must submit their recommendation for approval or denial in a memo which includes the following information:

- Taxpayer's name and account number,
- Summary of the taxpayer's reason for requesting relief,
- The tax period involved and the measure on which relief is based,
- The interest from/to dates, and the dollar amount of relief being requested,
- Division, section, or district office summary of the circumstances involved, including the facts as determined by review leading to the recommendation to approve or deny the request, and if appropriate, a statement stating it was not possible to prove or disprove the taxpayer's position,

RETURNS

STAFF PROCESSING OF RELIEF OF INTEREST REQUESTS FOR UNREASONABLE ERROR OR DELAY

(CONT. 1) 535.075

- Documentation included with the recommendation should be identified, or if no documentation is available, this should be stated,
- Division, section, or district office recommendation to approve or deny the request,
- If the recommendation is to approve the request, information regarding corrective steps taken to prevent the unreasonable error or delay from recurring, and
- Name and signature of the supervisor making the recommendation.

For SUTD, recommendations under section 6593.5 for sales and use tax are reviewed by the Audit and Information Section (AIS) and may be submitted via email to the SUTD-Section 6593.5 Relief of Interest Requests email box. All other recommendations are reviewed by the appropriate Property and Special Taxes Department (PSTD) Division Chief. An Executive Summary for Action is prepared by AIS or the PSTD Division Chief, and submitted to the appropriate Deputy Director. The Deputy Director reviews each recommendation to ensure consistent application of the law and to determine if further corrective action is required to prevent recurrence of the unreasonable error or delay. After this review, the request will be submitted to the Board Members for consideration. AIS will notify the supervisor submitting the relief request of the Department's recommendation and the supervisor will notify the taxpayer of the Department's decision.

Staff Processing Interest Relief Requests Between \$5,001 and \$100,000

SUTD and PSTD Deputy Directors, or their designees, have been delegated the authority to grant relief of interest requests of \$100,000 or less. The procedure stated previously for requests over \$100,000 should be followed for requests between \$5,001 and \$100,000, except the final decision will be made by the appropriate Deputy Director, or designee.

If an amount exceeding \$50,000 is to be granted, the proposed determination to refund, credit, or cancel such amount must be available as a public record for at least 10 days prior to its effective date. For accounts under the Integrated Waste Management Fee Law, the threshold for making the determination a public record is any refund, credit, or cancellation of amounts over \$15,000.

BTFD Staff Processing Interest Relief Requests of \$5,000 or Less

The BTFD Deputy Director delegated authority to grant or deny requests of \$5,000 or less to the following designees:

- District Administrators,
- Administrator, Return Analysis and Allocation Section,
- Administrator, Use Tax Administration Section,
- Supervisor, Consumer Use Tax Section, or
- Supervisor, Audit and Information Section.

The designees identified above will make the decision to grant or deny relief, notify the taxpayer in writing, and make or request the necessary updates to the IRIS system. Interest relief requests on consumer use tax accounts impacted by alleged errors made by DMV will be processed by the Consumer Use Tax Section. Other cases where the area responsible for the error or delay is not supervised by the first five designees listed above will be processed by AIS. If the designee does not have the ability to enter updates in IRIS, a copy of the letter to the taxpayer may be emailed to the appropriate SUTD-Petitions email box or the SUTD-RAU Electronic Maintenance Requests email box. Additionally, where applicable, the associated online relief assignment in ASC should be reassigned back to the originating office.

**STAFF PROCESSING OF RELIEF OF INTEREST REQUESTS
FOR UNREASONABLE ERROR OR DELAY**

(CONT. 2) 535.075

PSTD Staff Processing Interest Relief Requests of \$5,000 or Less

The PSTD Deputy Director delegated authority to approve or deny these requests to the appropriate Division Chief or their designee. The Division Chief or their designee will make the decision to grant or deny relief in their area of responsibility, notify the tax or fee payer, and make or request the necessary updates to the IRIS or Teale system.

Requests for Relief of Interest - Audit Liabilities

In cases where the interest relates to an unbilled audit, the memo from the Deputy Director or designee will authorize relief of interest where appropriate and the SUTD district office or PSTD division will include the adjustment as part of the audit report. In cases where the audit has been billed, approved relief requests will be forwarded through the normal adjustment channels, similar to penalty relief. Copies of the reply from the Deputy Director or designee are to be included in the audit working papers.

Information Entered in IRIS for Requests for Relief of Interest

IRIS users who are authorized to make adjustments may select the period of interest to abate through the DIF RR screen in IRIS for a paper request, or the DIF W4 screen in IRIS for an online request. Users may select a partial period or the entire period, and will enter the reason code UED (Unreasonable Error or Delay). When interest is relieved for only a portion of the taxable measure, a manual calculation of the interest amount may be required. This amount can be entered through the Legal Adjustment (LA) screen in the Difference (DIF) subsystem.

INTEREST RELIEF REQUEST REPORT

535.085

On a calendar year basis, the Board Members are provided a summary of relief requests considered under this section. With the implementation of the online relief request process, a yearly interest relief report is electronically generated. The information is reviewed and compiled for each department and provided by the Data Analysis Section to AIS by January 31st of each year. AIS reviews the data, makes adjustments, and summarizes the information into a report. The table below is a sample that may be used. Any format is acceptable if it contains the following fields: Cases Approved, Cases Denied, Cases Pending, and Total Cases. For each field, both the count and dollars should be provided in relevant incremental ranges.

Interest Relief Requests
Sales & Use Tax Department/Property & Special Taxes Department
January 1, 20XX through December 31, 20XX

Range	Cases Approved		Cases Denied		Cases Pending		Total Cases	
	Count	Dollars	Count	Dollars	Count	Dollars	Count	Dollars
\$0 to \$1,000								
\$1,001 to \$5,000								
\$5,001 to \$25,000								
\$25,001 to \$50,000								
\$50,001 to \$200,000								
\$200,001 to \$500,000								
over \$500,000								
<i>Totals</i>								

Transmittal memoranda are prepared by AIS for Department and Executive approval of the report and subsequent submission to the Board Members.

**RECONSIDERATION OF DENIED REQUESTS FOR RELIEF
OF INTEREST FOR UNREASONABLE ERROR OR DELAY****535.090**

In the letter notifying the taxpayer their interest relief request has been denied, the headquarters section or district office will include a statement explaining that the decision may be reconsidered if the taxpayer provides new information within 15 days, provided the amount in question has not been paid in full and no active appeals cases exist (please note that if the amount has been paid, the taxpayer's recourse is filing a claim for refund). The letter will also explain that if the taxpayer provides additional information and their request for relief is still denied by BOE staff, their request for relief will then be reviewed by the Deputy Director. Staff should not regard the 15-day period as an absolute, and may consider information received after the 15 days.

Requests for Reconsideration of Relief of Interest over \$100,000

The Deputy Director will review the final recommendation on all relief of interest reconsideration requests over \$100,000 prior to the case being approved for placement on the Board calendar. The Deputy Director will send the taxpayer a letter indicating whether the recommendation is to grant or deny the reconsideration request for relief, and will include the anticipated date it will be submitted to the Board Members for consideration.

Requests for Reconsideration of Relief of Interest of \$100,000 or Less

For SUTD, the Deputy Director will review the staff recommendation and will send the taxpayer a letter indicating his or her decision to grant or deny the reconsideration request for relief. For Special Taxes and Fees, the applicable division Chief will review the staff recommendation and make the final decision for reconsideration of requests for \$100,000 or less.

If an amount exceeding \$50,000 is to be granted, the proposed determination to refund, credit, or cancel such amount must be available as a public record for at least 10 days prior to its effective date. For accounts under the Integrated Waste Management Fee Law, the threshold for making the determination a public record is any refund, credit, or cancellation of amounts over \$15,000.

If the taxpayer disagrees with a denial after their request for reconsideration, they should be advised to pay the denied amount and file a timely claim for refund.

REQUEST FOR RELIEF FROM CRF**535.095**

Online requests for relief from CRF(s) are placed in a pending status and routed to the proper office, workgroup, and role using set criteria. The tax/feepayer's request will only be considered if the tax/fee, interest, and penalty of the fee-originating liability is paid in full. Relief request assignments from CRF are based upon the fee-originating liability.

Sales and Use Tax

When a request involves CRFs assessed on multiple liability types, both the self-assessed and the BOE-assessed assignments will be created for both the RAU and the Petitions Section.

While the Petitions Section processes the majority of the BOE-assessed relief requests, they do not process requests to remove the penalty for negligence in reporting prepayments (Penalty Type NIP), or relief of the associated CRF liability. These requests are handled by RAU.

Special Taxes and Fees

Relief request assignments will be processed by the Return Processing Branch, the Appeals and Data Analysis Branch (ADAB), or the Motor Carrier Office (MCO) based upon the fee-originating liability on which the CRF was assessed.

State-Assessed Properties Division

Relief request assignments involving Timber Tax accounts will be signed off by the Timber Tax Principal Property Appraiser (PPA); the Senior Forest Property Appraiser is the designee in the PPA's absence.

Reconsideration Requests

As with denied requests for relief of statutory penalties, denied requests for relief of the CRF can be reconsidered. Requests must be submitted in writing within 15 days following the date the denial letter was sent to the tax/feepayer, and should include documentary evidence to support their request. The 15-day period is intended to be a reasonable guideline and is not absolute as staff may still consider information received after the 15 days.

Staff who worked the original request for relief will work the reconsideration request. Reconsideration requests that are recommended for denial must be forwarded to the Business Tax and Fee Department Deputy Director. If the Deputy Director or designee agrees with staff's recommendation to deny the request, the Deputy Director or designee will send a letter to the tax/feepayer with his or her decision.

PROCESSING OF RETURNS IN DISTRICT OFFICES**540.000****CURRENT RETURNS****540.010**

Under the provisions of RTC section 6452, a taxpayer may file a return with any office of the Board of Equalization. For administrative efficiency, the filing of current returns (other than final returns) in the district, branch or area offices (district offices) should be kept to a minimum. Taxpayers should be encouraged to send returns directly to Sacramento in the envelope furnished with the return.

RETURNS FILED OUTSIDE OF STATUTE OF LIMITATIONS**540.015**

Staff should not request or direct taxpayers to file original or amended returns outside of the applicable statute of limitations to bill the taxpayer for the unpaid liability. If a taxpayer did not previously file a return for the reporting period, staff generally should not request or direct the taxpayer to file an original return more than eight years after the due date by which an original return should have been filed. If the taxpayer previously filed a return, staff generally should not request or direct a taxpayer to file an amended return more than three years after either: the due date if the original return was timely filed; or the date it was actually filed if filed after the due date. However, if original or amended returns are received and the statute of limitations to bill the taxpayer for the unpaid liability reported on the return has expired, the following action(s) should be taken:

- **Return(s) filed without remittance** – The return(s) must be stamped and marked “Unbilled – Statute of Limitations Expired” and sent to the taxpayer’s central file using the Documentum procedures on eBOE. A comment indicating the receipt of the return(s) should be entered into IRIS and ACMS (if applicable).
- **Return(s) filed with full or partial remittance** – Sales and Use Tax return(s) should be forwarded to the Return Analysis Unit (RAU) and Special Taxes and Fees return(s) should be forwarded to the Return Processing Branch (RPB) for further processing. If the return is received with payment in full, RAU/RPB will post the return and payment. If there is only a partial payment received, RAU/RPB will post the return(s) and create an adjustment in IRIS so that the total amount due equals the total amount of the payment received. This will ensure that a billing will not be issued to the taxpayer for any unpaid and uncollectible balance reported on the return. A comment should be entered in IRIS explaining the adjustment(s) made.

RETURNS

PAYMENTS RECEIVED IN DISTRICT OFFICES

540.020

Any payment received with a return will be verified against the amount due on the return. All remittances (i.e. cash, checks, money orders) received in the district offices either in person or by mail will be processed online by the cashier and deposited in the bank locally. Opened and unprocessed mail remittances held in the office overnight, or checks received in the field must be manually endorsed "For Deposit Only, Board of Equalization" within the top half-inch of the endorsement area.

DATING RETURNS RECEIVED IN DISTRICT OFFICES

540.030

Any return received over the counter or in the field must show the date of receipt in the space marked "RE" on the return. See Exhibit 2.

LOCATION OF RECEIPT NUMBER ON RETURN

540.040

When it is necessary to issue a receipt, the receipt number must be shown along the left edge of the return, in the "REC. NO." space in red. See Exhibit 2.

EFFECTIVE DATE OF PAYMENT ON RETURNS

540.050

The Board's return processing program can identify late sales and use tax return payments, calculate correct penalty and interest due, and compare the calculated amounts to any delinquency charges paid. The Return Analysis Section can then flag differences for review. This timesaving computer process is possible only if effective dates of payment are keyed into the system during the initial entry process. The following payments do not need effective dates:

- Returns with only timely payments, whether full or partial.
- Prepayments of sales tax on motor vehicle fuel forms.

All sales and use tax returns provided by the Board have a preprinted box reserved for the effective date. When late sales and use tax returns are received in headquarters or district offices, Cashier Unit staff or district office staff will determine the effective date of each late return payment and enter that date in the preprinted box on the form. Staff should also include the effective date when a return is received timely, but the taxpayer has included penalty and interest. The following procedures will be followed:

- On computer addressed sales and use tax returns, BOE-401-A, BOE-401-DB, BOE-401-GS, BOE-401-E, and BOE-401-EZ, use the empty box at the bottom of the "Board Use Only" routing section for the effective date. The routing section is located in the upper right corner of each form.
- On BOE-1150 and BOE-1150-B, Sales and Use Tax Prepayment Forms, use the empty box at the bottom of the "Board Use Only" routing section for the effective date. The box is located in the upper right corner of each form.

EFFECTIVE DATE OF PAYMENT ON RETURNS

(CONT.) 540.050

If a return or form does not have a box, the effective date should be written or stamped in red ink.

- Returns with both timely and late payments (i.e., a delinquent final return with timely security and a late payment collected from the taxpayer) should show the effective date of the late payment with the date of close-out noted at the bottom of the return.
- If security is applied and transmitted with a return that is delinquent on the date of closeout, the effective date of payment (date of closeout) should be entered.
- For handwritten effective dates, a number should be used for the month (9-11-01). For date-stamped effective dates, the month may be in alpha characters, for example, SEPT. 11, 2001.

ENVELOPE CONTAINING RETURN — DISPOSITION OF

540.060

If the return is delinquent, the envelope will not be attached to the return. Instead, the postmark date or the postal meter impression date will be handwritten on the return and the envelope discarded.

In those cases where a postmark date *and* a postal meter impression date are on the envelope, *both dates* will be handwritten on the return and the envelope discarded.

In the event the postmark date and/or the postal meter impression is difficult or impossible to read, staff will use the best available date, for example, the date of the check or the date on the return.

The dates must be written in the box on the bottom left side of the return that is marked “PM.” See Exhibit 2.

Delinquent returns are subject to interest and a late filing penalty. Procedures that a taxpayer can use to request cancellation of the interest and late penalty are covered in CPPM 510.150.

OVERPAID RETURNS

540.070

A return which has definitely been found to include an overpayment will be identified with the total amount of remittance, a check mark and the letters “OP” entered just below the space provided for “Total Amount Due and Payable.” See Exhibit 2.

Taxpayers generally should not claim a deduction on a current return to adjust for an overpayment reported on a prior return. The correct procedure is to file a claim for refund for the overpayment. For more information on allowable return adjustments for prior overpayments, see Audit Manual section 0401.05

Only in the very limited circumstances where a taxpayer makes an unintentional overpayment of prepayments on their tax return may the resulting credit be applied to a subsequent return. Only Return Analysis Unit (RAU) and the Appeals and Data Analysis Branch (ADAB) are authorized to approve this procedure.

NO REMITTANCE RETURN

540.080

Any “no remittance” return will be identified with the letters “NR” printed just below the space provided for “Total Amount Due and Payable.” See Exhibit 2.

PARTIAL REMITTANCE RETURN

540.090

A partially paid return will be identified with the amount of remittance, a check mark and the letters “PR” entered just below the space provided for “Total Amount Due and Payable.” See Exhibit 2.

UNAPPLIED REMITTANCES**540.095**

An “unapplied remittance” is an amount that cannot be matched to a taxpayer’s liability. Receipt of funds by the BOE due to accident or mistake creates an involuntary constructive trust, and the BOE, as constructive trustee, is obligated to restore the funds to the rightful owner.

Therefore, when the BOE is in possession of an unapplied remittance, two possibilities exist:

1. The taxpayer or feepayer intended the remittance to be a payment for a liability owed to the BOE.
2. The taxpayer or feepayer sent the remittance to the BOE by accident or mistake.

Staff can properly conclude that such a remittance, made payable to the BOE, represents funds that are rightfully due to the BOE and were not remitted to BOE by accident or mistake, if the taxpayer or feepayer is both:

1. Notified of a possible overpayment.
2. Given the opportunity to clarify its intent with respect to the remittance and fails to do so.

If the taxpayer or feepayer directs BOE to apply the remittance to a liability or does not respond to the inquiry letter and the remittance is applied, the taxpayer or feepayer will have six months from the date the remittance is applied in which to file a claim for refund. A notice of determination will not be created under either of these scenarios. However, the Return Analysis Section will notify the taxpayer or feepayer of the application of the remittance when it is made.

The remittance does not become a “payment” until the remittance is applied to a tax liability. The application converts the remittance to a tax payment. Therefore, credit interest cannot be allowed for the period prior to the application of the remittance because an overpayment of tax does not yet exist. Once the remittance is applied and the taxpayer or feepayer subsequently files a claim for refund that BOE grants, under RTC section 6907 (sales and use tax) and various special taxes program statutes, credit interest may be allowed for the period after the application of the remittance because an overpayment of tax has occurred.

FINAL RETURN**540.100**

Any final return processed through a district office will be clearly marked “FINAL,” preferably with a rubber stamp entered just below the space provided for “Total Amount Due and Payable.” See Exhibit 2.

FINAL RETURN — PAID IN FULL FROM SECURITY**540.110**

Whenever possible, a return paid in full from security will be sent to headquarters as a fully paid return. The return is the transmittal document of the security payment. When security is to be applied to the closing return or returns, they will be clearly marked, preferably with a rubber stamp “SECURITY TO BE APPLIED — DATE OF CLOSEOUT.” The closeout date should be included. This is entered just below the space provided for “Total Amount Due and Payable” to indicate that the security has been applied.

FINAL RETURN — PARTIALLY PAID FROM SECURITY**540.120**

Any return paid partially from security with the balance collected from the taxpayer will, if possible, be used to transmit both payments. If the security cannot be processed immediately, the return is to be clearly marked, preferably with a rubber stamp “SECURITY TO BE APPLIED — DATE OF CLOSEOUT.” The closeout date should be included. This is entered just below the space provided for “Total Amount Due and Payable” to indicate that the security has been applied. The return will be used to transmit only the partial payment from the taxpayer. When the security is ultimately applied, the security payment will be processed by the district cashier. The transmittal document will contain the same rubber stamp as used on the return.

If a return is partially paid from security and the balance is not collected, the return will be used as the transmittal document of the partial payment identified as “PAID FROM SECURITY.” This is entered just below the space provided for “Total Amount Due and Payable” to indicate that the security has been applied. A check mark and the letters “PR” will also be shown just below the space provided for “Total Amount Due and Payable” on any partial payment. See Exhibit 2.

FINAL RETURN — SECURITY AVAILABLE — CLOSE-OUT AUDIT PENDING**540.130**

If security is available, but cannot be applied to a final return because of a closeout audit and the final return is less than the amount of the security, the return will be sent as a “NR” return to Headquarters clearly marked as “SECURITY TO BE APPLIED — DATE OF CLOSEOUT.” The closeout date should be included.

When the security is ultimately applied, the payment will be transmitted on a copy of the appropriate transmittal document.

CORRESPONDENCE ACCEPTED AS RETURN**540.140**

When the return form portion of Form BOE-431-C2, Notice of Delinquency, or Form BOE-431-S2, Final Notice (the second page of each form) is received from the taxpayer and the “Return” portion is sufficiently complete, it will be accepted as a return.

Current instructions should be followed concerning the notations to be made on “PR” and “NR” returns.

When correspondence for other than Consumer Use Tax Section or prepayment accounts contains information that can be accepted as a return for an identified period, the correspondence will be processed by the district and forwarded to the headquarters Cashier Unit. See CPPM 505.090 for what constitutes a return. The applicable stamp impression will be placed in the lower right corner of the face of the correspondence.

Correspondence regarding prepayments or the Consumer Use Tax Section will be processed as a return by the headquarters Cashiers Unit. The applicable stamp impression will be placed in the lower right corner of the face of the correspondence. The correspondence will then be batched and processed the same as utility documents.

COLORED PENCIL ENTRIES ON RETURNS**540.150**

Colored pencils will not be used by the district to make entries on returns. Their use is reserved exclusively for headquarters’ units. Some examples of this use are headquarters Cashier — Red; Account Analysis Section — Green; Return Analysis Section — Purple.

Lead pencil and any color ballpoint or fiber tipped pen, may be used by the district.

Entries made by the district offices should be restricted to those required for processing.

SPACE RESERVATIONS ON RETURNS**540.160**

In the headquarters return processing function, various areas of the returns are reserved for posting perforations and stamps. The location of spaces reserved for Headquarters' use are in the shaded areas of the return forms. No entries should be made by the district in these areas unless otherwise instructed (see CPPM 540.050). The district may place its entries in any areas on the return not reserved for Headquarters' use.

COMPLIANCE ASSESSMENT PROCEDURE**540.170****General Policy**

All permit holders are required to file and pay timely tax returns. Staff should make every effort to obtain the tax return on a voluntary basis. If the tax return is not filed within a reasonable amount of time, the district should consider whether it is appropriate to issue a deficiency determination by use of the Compliance Assessment (CAS) procedure. The CAS procedure is also used to issue a determination on certain sales of fixtures and equipment when an account is closed out.

General Procedure

In IRIS, the CAS procedure satisfies a Financial Obligation (FO) by filling it with Revenue. The FO types used in this procedure are Periodic (PER), which is generally set up when a return is mailed to a registered taxpayer, or One-Time (OTM), which is set up for obligations falling outside a regular reporting period. When a CAS is prepared for a periodic FO, IRIS automatically clears the delinquency for that FO.

A CAS may be prepared for a single period or for multiple periods. The Derive Estimated Revenue screen is used when a return is not filed. The Derive Estimated Revenue — F&E Assessment screen is used when fixtures & equipment are not reported on a filed return and payment in full has been received.

Authority

The authority for preparing a CAS for a deficiency determination is RTC section 6481 — Deficiency Determination. The time in which to prepare a deficiency determination is generally covered in RTC section 6487 — Limitations; Deficiency Determinations. The authority for issuing a deficiency determination on an unfiled return is RTC section 6511.

Process for Unfiled Returns

The CAS process calculates estimated revenue for unfiled returns from one or more periods by averaging prior returns filed for the account. The average tax measure used to estimate revenue can be increased or decreased by a specified percentage. This process provides the ability to override the average tax measure amount calculated and input of a specific tax measure on which the estimated revenue will be based. In addition, staff can input the amount of any sales of fixtures & equipment to be included in the tax measure.

The CAS process is also used to derive schedules for a single period or for multiple periods for a Taxable Activity based on selected periods. The schedules that can be derived are schedules A, B, C, E and F. This process may be used for creating local tax allocations and for compliance assessments. Deriving schedules is for headquarters use only.

The CAS function is not available for Consumer Use Tax accounts or SG accounts.

Process for Use Tax Liabilities

Requests for investigations on out-of-state purchases with delivery in California are researched by staff to determine whether the taxpayer has voluntarily reported and paid the use tax. While investigating the requests, staff may encounter situations where the taxpayer states they have not reported or paid the use tax but intend to report and pay the tax on their income tax return with the Franchise Tax Board (FTB).

Persons purchasing tangible personal property from out-of-state vendors may report and pay use tax directly to the BOE using online registration. Certain taxpayers also have the option of reporting purchases subject to use tax on the income tax return filed with the FTB. However, if they are required to hold a California seller's permit or otherwise required to be registered with the BOE, the use tax must be reported and paid on the sales and use tax return in the applicable period. More information about how to file a return is provided on the California Use Tax Information page on the BOE's website.

If the taxpayer is not required to hold a California seller's permit or otherwise register with the Board and intends to pay the use tax on their income tax return, compliance staff will retain the request for investigation documents (e.g., bill of lading, invoice, place of delivery) and verify that the use tax was reported to either the BOE or to the FTB after the income tax return has been filed and processed by the FTB. The Use Tax Due Dates shown on the following table identify the due date for use tax in various circumstances. Please be aware that FTB provides an automatic six month filing extension for individuals and an automatic seven month filing extension for corporations and exempt organizations.

RETURNS

COMPLIANCE ASSESSMENT PROCEDURE

(CONT. 2) 540.170

	Tax Reported On	Total Amount of Purchases	Due Date	Notes
Persons NOT Required to Hold Seller's Permits, Certificate of Registration-Use Tax, or Register for Consumer Use Tax Accounts	FTB Tax Return	Any amount	Due on or before the same date as the person's FTB return (RTC § 6452.1).	Use tax must be reported on the FTB tax return corresponding to the year in which the use tax liability was incurred.
	Individual Use Tax Return (IUTR) (BOE-401-DS)	Any amount	Prior to January 1, 2009, an IUTR was accepted as timely for the period in which it was filed and paid. However, beginning with returns filed for 2009 and any IUTR for a prior period received on or after January 1, 2009, IUTRs are on a calendar year basis and due on January 31st of the year following the year in which a taxable purchase is made.	The IUTR was modified in March 2009 to require that taxpayers report taxable purchases on a calendar yearly basis and that returns are due January 31st of the year following the year in which taxable purchases are made.
Qualified Purchaser	File a Return with BOE Online	Any amount	The return is due on a calendar yearly basis and is due on April 15th of the year following the year in which a taxable purchase is made.	Purchases subject to use tax must be reported on the return for the reporting period in which the taxable purchase is made.
Persons Required to Hold Seller's Permits, Certificate of Registration-Use Tax, or Register for Consumer Use Tax Accounts	Sales and Use Tax or Consumer Use Tax Return	Any amount	Due on or before the due date of the return.	Purchases subject to use tax must be reported on the return for the reporting period in which the taxable purchase is made.

Verification of use tax reported and paid on FTB income tax returns may be obtained by submitting a request for FTB information using the External Access Tracking program. The information must be accessed only by authorized resource person(s) within the requestor's office/section/area of responsibility. IRIS must also be checked to determine if additional information regarding a person's use tax payment exists under an existing arbitrary account.

A CAS should be created for cases that remain unresolved due to the taxpayer not reporting the use tax to the BOE online or on their FTB income tax return.

The procedures for creating a CAS for use tax assessments are as follows:

1. Tax Liability of \$5,000 or less

A compliance assessment should be created when the use tax liability is \$5,000 or less.

2. Tax Liability of more than \$5,000

If the tax liability is more than \$5,000, refer the case to the audit staff with copies of all supporting documents for further investigation and the preparation of a field billing order (FBO). Comments regarding the transfer of the case to audit will be entered in the TAR subsystem in IRIS.

3. Approval

The supervisor approving the CAS is responsible for ensuring that the thresholds outlined above are followed, the proper documentation retained and the appropriate comments have been entered in the TAR subsystem.

4. Appeals

Compliance assessments that are petitioned will be referred to the District Principal Compliance Supervisor. Petitioned FBOs will be referred to the District Principal Auditor for coordination and handling within timeframes and guidelines from the Petitions Section.

5. Record Retention

Districts must send supporting documentation to the Taxpayer Records Unit using Documentum procedures on eBOE. Documents should be retained for three years.

Accounts in Legal Status

When an account is in legal status because of bankruptcy, assignments, receivership, or probate, the “Legal Status” field on the Difference screens must be filled in. This will alert headquarters that the account should be given special attention. If the account should be in legal status but it is not displayed, the legal information must be input using the Legal Claim Case screen.

If split returns are required, the Periodic FO must first be split and then filled with Revenue, that is, a return, CAS or audit. If a CAS is required for an FO that needs to be split, go to the Split Financial Obligation screen and split the FO before preparing the CAS. See CPPM sections 510.200 and 740.070 for information about splitting an FO.

Penalty and Interest

A failure to file penalty is automatically added to a CAS.

Billings for penalties under RTC section 6073 (swap meet operators), section 6074 (catering trucks), and section 6077 (florists) will be issued by the Audit Determination and Refund Section (ADRS). Districts will provide the information required to substantiate these penalties directly to ADRS. Interest is automatically calculated by IRIS based on the amount of tax and due dates.

Notice

The billing statement (Notice) will be generated only after the CAS is approved by ADRS. Districts will not be able to create a Notice.

Consolidated Accounts

The CAS process is also used for consolidated accounts. IRIS will generally compute the district tax based on the selected prior returns. Staff must verify the allocation of district tax on all assessments, since in certain situations the district tax may not have been properly allocated or created by IRIS. Situations that would prevent IRIS from creating correct district tax include:

- Single location accounts that report sales in more than one district.
- Multiple location accounts that operate in more than one district, but the assessment is not based on prior returns.
- Multiple location accounts that operate in more than one district, the assessment is based on prior returns, but the sub-locations have changed during the assessment period.

Allocations of district tax can be reviewed using the system’s Maintain/Inquire menu.

Security, Payments and Credits

When security, payments or credits are applied to a CAS, staff should enter a note in the justification field or in the Revenue comments field. Information that should be entered includes the payment amount, effective date and any other applicable comment. These payments/credits will not necessarily be automatically applied. However, IRIS will automatically adjust any penalties and recalculate interest when the payments/credits are applied.

Fixtures and Equipment

Normally, an assessment for sales of fixtures and equipment that have not been reported by a taxpayer on a regular return will be included in a CAS when staff creates a Revenue entry on the Derive Estimated Revenue screen. However, when payment has been received that will fully satisfy the liability for the asset sale, staff should use the Derive Estimated Revenue F&E Assessment screen to create the CAS. The Derive Estimated Revenue — Fixtures and Equipment screen is used to derive Revenue for a single period based upon a specified Fixture & Equipment (F&E) amount. This process will accept the F & E amount and derive the return by “backing into” the taxable measure using the F & E amount. A One-Time (OTM) Financial Obligation without Revenue must exist. Do not use a Periodic FO for this process. Note that this process is only used to create a Revenue entry for fixtures and equipment when no penalty is to be assessed and full payment has been received. Upon completion of a CAS for F&E, IRIS’s Assignment Control automatically routes the CAS to the district office’s CAS reviewer. The reviewer is responsible for reviewing and approving the CAS at the district level.

ADJUSTMENT AND CANCELLATION OF COMPLIANCE ASSESSMENTS 540.175

After a compliance assessment (CAS) is created, staff may determine that it needs to be adjusted or cancelled. However, a CAS for failure to file a return may not be adjusted based on a new estimate. The goal of any CAS adjustment is to reflect the correct amount of tax due. If a return is filed after the CAS is issued, staff must determine whether an adjustment is necessary depending on the facts and circumstances of the taxpayer’s operations and information available to the BOE. In the absence of an acceptable return filing, the CAS may only be adjusted based on an audit, Field Billing Order or comparable review of the taxpayer’s records.

There is no statute of limitations for accepting taxpayer returns or documentation to support a Compliance Assessment Adjustment (CAS ADJ). However, refunds of any overpayments must be requested within the applicable statute of limitations specified by Revenue and Taxation Code (RTC) section 6902 and similar Special Taxes and Fees statutes.

Since the issuance of a CAS will create a financial obligation for the period of liability and will clear the delinquency in IRIS, the taxpayer cannot file the return for that period online. The procedures in this section outline staff responsibilities when a paper return is filed to adjust the CAS.

Field Operations Collection Staff (Sales and Use Tax Accounts)

When a tax return is received for a period where a CAS has been billed, the collector is responsible for determining if the CAS should be adjusted to the amount reported on the return. The determination to adjust the CAS will be based on the type of business, supporting documentation, prior returns, or any other evidence available to the BOE. Supervisors must approve any adjustments and enter comments in IRIS on the REV RE screen for each Financial Obligation (FO). The return should be forwarded to the Cashier Section with “CAS ADJ” written on the top of the front page of the return. Subsequent returns filed for the same period to correct any discrepancies will also be marked as CAS ADJ returns and not amended returns. A copy of the return should **not** be forwarded to RAU or Petitions, and all issues concerning evident tax shortages or computation errors should be addressed before forwarding the returns to the Cashier Section for processing.

If the evidence available suggests that the CAS should not be adjusted to the amounts shown on the return, the return should still be forwarded to the Cashier Section for processing. Comments should be entered in IRIS explaining why the CAS should not be adjusted. The taxpayer should be contacted and given the opportunity to revise the return or provide substantiation for the figures submitted.

Once a CAS adjustment is initiated, an assignment is created for the approver in the IRIS Assignment Control (ASC) subsystem. The authority to approve CAS adjustments generally resides at the Business Taxes Administrator I level or higher. If a District Administrator or Principal Compliance Supervisor temporarily authorizes a Business Taxes Compliance Specialist or Business Taxes Specialist I to approve CAS adjustment assignments, an advanced written notification of the delegation and its expected duration must be submitted to the Petitions Section. The Petitions Section will ensure the CAS has been approved by a valid approver before processing the assignment.

Changing the start or close-out date of an account will not cause a billed CAS to automatically adjust. After the start or close-out date is updated in IRIS and staff determines an adjustment is warranted, an assignment should be created in the IRIS Assignment Control, approved by the supervisor, and routed to the Petitions Section for processing. Assignment task notes should be updated if there is a change to the start or close-out date. Notes regarding the basis for the change and the applicable period and method used to establish the measure of tax should be entered on the REV RE screen and in the assignment task notes.

CAS adjustments exceeding \$50,000 require Deputy Director approval, and must be available as a public record for at least 10 days prior to its effective date. A report should be sent to the Petitions Section listing the steps taken to confirm the accuracy of returns filed or other basis for adjustment. A claim for refund should accompany the report if an overpayment results from an adjustment. A timely claim for refund is required for all overpayments.

Return Analysis Unit (RAU) Staff

When RAU receives a tax return for a period that was included in a billed CAS for failure to file a return, the following procedures should be followed:

1. When the return is received with an effective file date (e.g., postmark) prior to the CAS
 - a. The return takes precedence. When the return is loaded into IRIS, the CAS will automatically be cancelled and the return will replace the CAS in the primary FO in IRIS. The edit on the return will be "CAS Canc" and RAU handles the return.
 - b. If the CAS does not cancel automatically, RAU handles the adjustment. The CAS may not auto cancel when there has been an accepted Declaration of Timely Mailing (BOE-135-A), the return posted incorrectly to the wrong period or account, or when the return was originally received with no account number or period and was posted as unidentified.
2. When the return received has an effective file date after the CAS
 - a. return sent directly to RAU in reply to the CAS determination which has not been processed in IRIS as a Pending Taxpayers Original (PTO) should be forwarded to the Cashier Section for processing. "CAS ADJ" should be written on the top of the return to ensure the Cashier Section processes the return as a PTO and not an amended return.

3. When the return received is for more tax than the CAS

- a. After the return is processed by the Cashier Section, it is worked by RAU. Approval from the office/section that initiated the CAS is not needed.
- b. The return will have either the CAS + ADJ or CAS + PTO edit on it. The CAS + ADJ edit is triggered when the return loads onto IRIS and the system automatically adjusts the CAS in the primary FO. The adjustment will appear on the REV SV screen. The CAS + PTO will appear on the REV FW screen.
- c. If the taxpayer filed a timely petition for redetermination of the CAS determination, RAU will create an assignment for the Petitions Section to adjust the CAS to the level of the return. The increase to the petitioned determination must be made in accordance with RTC section 6563.
- d. If the CAS determination is final, the resulting increase will be billed by RAU.
- e. If the return contains computational errors, RAU will send a letter to the taxpayer and issue a determination if appropriate.

Petitions Section Staff

Other than assignments received by RAU for processing of returns filed by the taxpayer, the Petitions Section will only accept CAS adjustment assignments that have been reassigned in the IRIS Assignment Control by an authorized approver for the following conditions:

- A tax return is not required to be filed due to the business closing out prior to the CAS period, and a cancellation of the CAS is needed,
- A change in the start date which requires the cancellation of a CAS,
- A change in the start or end date requires an adjustment to the CAS based on the updated number of days included in the CAS period, or
- The CAS is for fixtures and equipment (F&E) only and staff's investigation has revealed cancellation or an adjustment to the CAS is warranted.

Petitions Section staff review CAS adjustment assignments for the following:

- Creation of an assignment by RAU, any return edit notes, and comments entered when returns are filed,
- District recommendation,
- Ongoing audits,
- Statute of Limitation,
- Existing appeals or claims for refund,
- Adjustments requiring Deputy Director approval and Public Record posting,
- Penalty relief requests,
- The impact on and adjustments to successors and dual determinations, and
- Duplicate return filings for different amounts.

Audit Determination and Refund Section (ADRS) Staff

ADRS staff is responsible for processing adjustments to all paid-in-full, final determinations except for relief of penalty requests which are processed by the Petitions Section. CAS adjustment assignments are reviewed in the same manner as those processed by the Petitions Section.

Staff Responsible for Special Taxes and Fees (STF) Accounts

The procedures for STF accounts are the same as for Sales and Use Tax accounts except as noted below.

It is the function of STF compliance staff to determine whether the amounts reported on returns filed after a CAS are acceptable. Each situation should be evaluated on a case-by-case basis. Depending on the nature of the tax or fee program, the information should be based on other returns filed on the account, industry averages, information from other state agencies, and information available from related Sales and Use Tax accounts, if applicable. It is the responsibility of the Business Taxes Administrator I (or their designee) to approve CAS adjustments.

There is equivalent internal staff for STF accounts that perform the tasks that District Office Compliance, RAU, and Petitions staff perform for Sales and Use Tax accounts. The functions dedicated to the RAU and Petitions Section apply to the equivalent staff for STF accounts. As with Sales and Use Tax accounts, adjustments exceeding \$50,000 must be posted to the Public Record. The Principal Compliance Supervisor should forward a written report to their Audit Section's staff responsible for handling petitions. The report should list the steps taken to confirm the accuracy of the returns filed or the basis for the adjustment.

ADJUSTING BILLINGS ISSUED BY THE RETURN ANALYSIS SECTION 540.180

As a result of its review of sales and use tax returns filed by taxpayers, the Return Analysis Section (RAS) may issue a nonfinal, final, or determination billing to a taxpayer. Reasons for nonfinal and final billings include:

- Dishonored Checks (DC).
- No remittance (NR) or partial remittance (PR) returns.
- Underpaid prepayments.
- Late payments.
- EFT payments made by check or filed late.
- Late returns.

Reasons for determinations include:

- Tax shortages.
- Improper deductions.
- Excess tax reimbursement.
- Incomplete schedules A, B, or G.
- Vendor/wholesaler bad debts.

In response to a billing or determination issued by RAS, a taxpayer may provide a district office information documenting that the billing or determination is incorrect and in need of adjustment. District offices cannot adjust RAS billings or determinations. District offices must instead provide a request for adjustment to RAS using Form BOE-103, Adjustment Request Memorandum. Districts may not use another form for this purpose.

Form BOE-103 is a four-part carbonless paper set. District offices must fill out the form completely and provide a reason for the requested adjustment. Supporting information or documentation must be attached to the form. The originator keeps the goldenrod copy as a file copy and the pink copy to request a status report. The white and yellow copies are to be sent to RAS, with the yellow copy on top. RAS will place a copy of the request in the taxpayer's headquarters file.

UNDERPAYMENTS OR OVERPAYMENTS OF \$10.00 OR LESS 545.000**ACCOUNTS RECEIVABLE BALANCES 545.010**

Debit and credit balances of \$10.00 or less appearing as a Difference are periodically written off. These balances will be disregarded in the preparation of any subsequent billings that are processed after the balances are written off. A refund or credit for the amount written off may be re-established upon receipt of a claim from the taxpayer within the three-year limitation period.

DISTRICT COLLECTION 545.020

Routine billing and collection procedures will not apply to underpayments of \$10.00 or less. However, in any case where the taxpayer voluntarily pays such an item, payment will be accepted. Similarly, if the district office must contact the taxpayer for some other reason, it is advisable to collect small items of \$10.00 or less at the same time. Likewise, where an account is closed-out and cash deposit is available, amounts due of \$10.00 or less will be deducted before refund is made.

MINIMUM AMOUNT OF OVERPAYMENT REFUNDS MADE WITHOUT CLAIMS 545.030

Overpayments of \$10.00 or less with tax returns or accounts receivable items will not be refunded unless the taxpayer files a claim for refund within the three-year limitation period (six months with respect to determinations).

DELINQUENCY CONTROL**550.000****GENERAL****550.010**

Delinquency control is the automated process in IRIS that identifies accounts where the taxpayer has failed to file one or more returns, and controls the preparation of automated notices and various reports pertaining to these accounts.

IRIS automatically initiates the delinquency control cycle for accounts that have failed to file returns; however, accounts that are considered delinquent for other reasons, for example, failure to pay a balance due, are initiated by staff as “cause delinquencies.” Sales and Use Tax (SUT or SUTD) accounts that have failed to file returns and accounts with cause delinquencies are both subject to revocation. Under RTC section 6070, before a seller’s permit can be revoked, taxpayers must be provided 10 days’ notice in writing specifying the time and place of a hearing to show cause why their permit(s) should not be revoked. The BOE-431-S1, *Notice of Immediate Action Required – Your Seller’s Permit May Be Cancelled (Revoked)*, specifies the time and place of such hearing.

Some Special Taxes and Fees (STF) accounts are subject to revocation. Notification of delinquencies, hearings, and revocations for STF accounts will be issued by STF. Both the Calendar of Sales Tax Functions and the Special Tax Calendars are available on eBOE.

To prevent the erroneous mailing of a *Notice of Immediate Action Required*, *Notice to Appear*, or *Notice of Revocation*, staff in the office of control must promptly process closeouts, withholds, payments, returns and other documents that clear delinquencies. These documents, including “No Sales” tax returns, must be sent to headquarters no later than the day following their receipt in the district office.

DELINQUENCY CONTROL CYCLE**550.020**

The following schedule applies to SUT accounts. If a taxpayer fails to file their return by its due date, the automated delinquency control cycle initiated by IRIS will:

- Notify taxpayers of the delinquency by sending a *Courtesy Notice* by email or postal service approximately 14 days after the due date of the return,
- Mail a BOE-431-S1, *Notice of Immediate Action Required – Your Seller’s Permit May Be Cancelled (Revoked)*, also referred to as a citation or hearing notice, if a delinquency is not cleared within 40 days after the due date of the return (hearing dates are scheduled approximately 12-14 days from the date of the BOE-431-S1),
- Route the account to a collector’s work list in the Automated Compliance Management System (ACMS) approximately 50 days after the due date of the return,
- Revoke the permit approximately 48 days after the hearing date, and
- Mail a BOE-433-S, *Notice of Revocation*, approximately 20 days after the revocation date.

For STF accounts, refer to the Special Tax Calendars for the dates that the BOE-429, *Notice of Delinquency*, BOE-431, *Notice to Appear*, and BOE-433, *Notice of Revocation*, are sent.

The delinquency control cycle for cause delinquencies starts when staff establishes the cause delinquency record through IRIS. The point at which a cause delinquency is to be initiated is at the discretion of staff. The rest of the process follows the same cycle as a system initiated delinquency, except that a *Courtesy Notice* or *Notice of Delinquency* is not issued and the account will receive a *Notice of Immediate Action Required* or *Notice to Appear* during the next scheduled date. The issuance of the notice is in accordance with the Calendar of Sales Tax Functions.

Notice of Immediate Action Required (BOE-431-S1) or Notice to Appear (BOE-431 for STF Accounts)

These notices are not mailed to the following:

- Accounts that have a withhold placed for the delinquent period to be cited, or those that have a permanent withhold,
- Accounts that have an active account level withhold for a bankruptcy,
- Closed out accounts,
- Accounts that are currently in an active citation or revocation cycle,
- Use Tax accounts, or
- Part-time accounts that do not have a cause delinquency established.

Notice of Revocation (BOE-433-S or BOE-433 for STF accounts)

A *Notice of Revocation* is mailed to accounts that have not cleared the delinquency cited in the *Notice of Immediate Action Required* or *Notice to Appear* before the time the *Notice of Revocation* is generated. A *Notice of Revocation* is not mailed to the following accounts:

- Closed out accounts,
- Use Tax accounts, or
- Part-time accounts that do not have a cause delinquency established.

DELINQUENCY CONTROL RECORD**550.030**

Delinquent return information is accessible through IRIS's DEL menu. These records reflect active and closed accounts that have not filed returns, active accounts which have been mailed a *Notice of Immediate Action Required* or a *Notice to Appear* for any reason, and active accounts which have been mailed a *Notice of Revocation* for any reason. The record initiated by the system is termed a "periodic" delinquent record. As noted in CPPM section 550.020, a staff initiated record is a "cause" delinquent record.

Periodic Delinquent Record

In addition to automatically establishing a periodic delinquent record when an account fails to file a return, IRIS also establishes a delinquency when:

- An account is reinstated after being closed out in error with an effective date prior to the current reporting period.
- Changes to an account are made that may create periodic delinquent records. Some examples are retroactive change of reporting basis, change of starting or closeout date, transfer of returns between accounts, etc.
- An application for a new or converted account is processed with a starting date prior to the current reporting period.
- A partial period return is filed. A return is considered partial period when the return does not cover the entire period to be reported. An example would be when a taxpayer files a monthly return for a quarterly return period.

Cause Delinquency Records

Cause delinquency records are established in IRIS, which provides staff the ability to initiate the delinquency cycle when a taxpayer fails to comply with BOE policy. The cause delinquency can be established for the following reasons:

- Failure to pay balance due,
- Failure to comply with requirements under the Sales and Use Tax Law,
- Failure to post security,
- Failure to post additional security,
- Failure to post replacement security,
- Failure to comply with requirements for Motor Vehicle Fuel Distributors (SG accounts),
or
- Failure to comply with requirements under the Cigarette and Tobacco Products Licensing Act Law.

DELINQUENCY CONTROL RECORD CLEARANCE**550.040****Periodic Delinquency**

A periodic delinquency is cleared when any non-partial tax return for a delinquent period is processed.

Processing changes affecting reporting periods may also clear a periodic delinquency record. Some examples are retroactive change of reporting basis, change of starting or closeout date, and transfer of returns between accounts.

Cause Delinquency

Cause delinquencies described in CPPM 550.030 are cleared in IRIS by district or headquarters staff when the taxpayer clears the cause for which the delinquent record was established.

Revocations

Revocations are cleared by districts in the IRIS system. Whether an account was revoked for a delinquent return or for cause (e.g. failure to pay a balance due), revocations are cleared when the account is either reinstated or closed.

DELINQUENT INVENTORY OF AGED CLOSED-OUT ACCOUNTS**550.050**

Districts use the Delinquency Review Program (DEL REV) to generate delinquency reports. This program will produce customized reports based on parameters entered by the user.

RETURNS
TABLE OF EXHIBITS

Debit and Credit Interest Rate Information	Exhibit 1
Sample of Return Forms	Exhibit 2
Official State Holidays	Exhibit 3
Consumer Use Tax Procedures for Vehicle/Mobilehomes, Vessels, Aircraft, and Customs Program	Exhibit 4
Local Tax Allocation Guidelines	Exhibit 5

DEBIT AND CREDIT INTEREST RATE INFORMATION

EXHIBIT 1

Debit and Credit Interest Rate Information

PERIOD			RATE		COMPUTED ON		METHOD/FACTOR
			DEBIT	CREDIT			Per Year Computed
7/1/2003	-	12/31/2003	8%	1%	Tax Only	DR.	Monthly/ .00667/month
						CR.	Monthly/ .00083/month
7/1/2002	-	6/30/2003	9%	2%	Tax Only	DR.	Monthly/ .0075/month
						CR.	Monthly/ .00167/month
1/1/2002	-	6/30/2002	10%	4%	Tax Only	DR.	Monthly/ .00833/month
						CR.	Monthly/ .00333/month
1/1/2001	-	12/31/2001	12%	6%	Tax Only	DR.	Monthly/ .01000/month
						CR.	Monthly/ .00500/month
1/1/2000	-	12/31/2000	11%	5%	Tax Only	DR.	Monthly/ .00917/month
						CR.	Monthly/ .00417/month
7/1/1999	-	12/31/1999	10%	4%	Tax Only	DR.	Monthly/ .00833/month
						CR.	Monthly/ .00333/month
1/1/1999	-	6/30/1999	11%	5%	Tax Only	DR.	Monthly/ .00917/month
						CR.	Monthly/ .00417/month
7/1/1996	-	12/31/1998	12%	5%	Tax Only	DR.	Monthly/ .01000/month
						CR.	Monthly/ .00417/month
7/1/1995	-	6/30/1996	12%	6%	Tax Only	DR.	Monthly/ .01000/month
						CR.	Monthly/ .00500/month
1/1/1995	-	6/30/1995	11%	4%	Tax Only	DR.	Monthly/ .00917/month
						CR.	Monthly/ .00333/month
07/01/1993	-	12/31/1994	10%	3%	Tax Only	DR.	Monthly/ .00333/month
						CR.	Monthly/ .00250/month

For the most current interest rates, check the Board's website at:

www.boe.ca.gov/sutax/interates.htm

BOE-401-A (FRONT)
REV. 08-04-97

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

STATE, LOCAL and DISTRICT SALES and USE TAX

DUE ON OR BEFORE
[F O I D]

Shaded areas are reserved for Headquarters use only

BOARD USE ONLY		
RA-TT	LOC	REG
RA-BTR	AACS	REF
EFF		

READ SCHEDULE T - TAX ADJUSTMENT WORKSHEET and 01-2 RETURN INSTRUCTIONS BEFORE PREPARING THIS RETURN

1. TOTAL (GROSS) SALES	1.	\$.00	
2. PURCHASES SUBJECT TO USE TAX	2.		.00	
3. TOTAL (add lines 1 and 2)	3.		.00	
4. SALES TO OTHER RETAILERS FOR PURPOSES OF RESALE	4.	\$.00	
5. NONTAXABLE SALES	5.			
6. NONTAXABLE PURCHASES	6.			
7. SALES TO THE PUBLIC	7.			
8. SALES IN INTERSTATE COMMERCE	8.			
9. SALES TAX (IF APPLICABLE)	9.			
10. (a) BAD DEBT LOSS	10.			
(b) COST OF TAX				
(c) RETURNED TAX				
(d) CASH DISCOUNT				
(e) SECTIONS 6303(a) Amount and Manufacturer's Tax Credit		\$		
(f) OTHER (clearly identify)				
11. TOTAL NONTAXABLE SALES AND PURCHASES	11.			
12. TRANSACTIONS SUBJECT TO STATE TAX (a) Enter line 12, Column A amount, from Schedule T worksheet	12(a)	\$.00	
13. STATE TAX 5.75% (multiply line 12 by .0575 OR enter line 13(c) amount from Schedule T worksheet)	13.		.00	<
14. (a) TRANSACTIONS SUBJECT TO COUNTY TAX (add amount in box 61 (above) to line 12) Enter total here	14(a)		.00	
(b) COUNTY TAX 1/4% (multiply line 14(a) by .0025)	14(b)		.00	<
15. ADJUSTMENTS FOR LOCAL TAX (see line 15 instructions)	15.		.00	
16. TRANSACTIONS SUBJECT TO LOCAL TAX (add or subtract line 15 to or from line 14(a))	16.		.00	
17. LOCAL TAX 1% (multiply line 16 by .01)	17.		.00	<
18. DISTRICT TAX (from Schedule A, line A11) YOU MUST COMPLETE SCHEDULE A ON REVERSE IF YOU ARE ENGAGED IN BUSINESS IN A TRANSACTIONS TAX DISTRICT	18.		.00	<
19. TOTAL STATE, COUNTY, LOCAL AND DISTRICT TAX (add < lines 13, 14(b), 17 & 18)	19.		.00	
20. DEDUCT sales or use tax imposed by other states and paid on the purchase price of tangible personal property. Purchase price must be included in line 2	20.		.00	
21. NET TAX (subtract line 20 from line 19)	21.		.00	
22. Less PREPAYMENTS	22.	\$.00	
23. REMAINING TAX (subtract line 22 from line 21)	23.		.00	
24. PENALTY of 10% (.10) is due if your tax payment is made, or your return is filed, after the due date shown above (see line 24 instructions)	24.		.00	
25. INTEREST: One month's interest is due on tax for each month or fraction of a month that payment is delinquent after the due date. The adjusted monthly interest rate is 1% (.01000) (12% divided by 12)	25.		.00	
26. TOTAL AMOUNT DUE AND PAYABLE (add lines 23, 24 & 25)	26.	\$.00	

Notes to Exhibit 2:

- The date on which a return is hand-delivered to a Board office must be written in this space. See CPPM 540.030.
- The date of the postmark and/or postage meter must be written in this space. See CPPM 540.060.
- The number of a receipt issued to the taxpayer for a payment of a return must be entered in this space. See CPPM 540.040.
- Notations on payments or deficiencies must be entered in this space. See CPPM 540.070, 540.080, 540.090, 540.100, 540.110, 540.120 and 540.130.

I hereby certify that this return, including any accompanying schedules and statements, has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.

YOUR SIGNATURE AND TITLE	TELEPHONE NUMBER	DATE
PAID PREPARER'S USE ONLY	PAID PREPARER'S NAME	PAID PREPARER'S TELEPHONE NUMBER

Make a copy for your records.

OFFICIAL STATE HOLIDAYS**EXHIBIT 3**

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
Lincoln's Birthday	February 12
President's Day	Third Monday in February
Cesar Chavez Day	March 31
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Columbus Day	Second Monday in October
Veterans Day	November 11
Thanksgiving Day and Day After	Fourth Thursday and the following Friday in November
Christmas	December 25

In addition to the regularly scheduled holidays, official holidays include any other day appointed by the President of the United States or by the Governor of this State for a public fast, thanksgiving, or holiday.

If one of the foregoing legal holidays falls on a Sunday, the following Monday is a legal holiday.

If Veteran's Day falls on a Saturday, the preceding Friday is a legal holiday.

**CONSUMER USE TAX PROCEDURES FOR VEHICLE/MOBILEHOMES,
VESSELS, AIRCRAFT, AND CUSTOMS PROGRAM****EXHIBIT 4****Vehicles/Mobilehomes**

Use Tax on vehicles and mobilehomes is due and payable by the purchaser at the time storage, use or other consumption of the property first becomes taxable, unless specifically exempt. Registration of a vehicle with the Department of Motor Vehicles (DMV) or a mobilehome with Housing and Community Development (HCD) constitutes filing a return. The use tax will be collected, if applicable, by DMV or HCD at the time of registration.

Persons Required to File

Any person who purchases a vehicle (as defined in the Vehicle Code) or mobilehome for use in California from a person who is not licensed or certificated as a manufacturer, dealer, dismantler, or lessor-retailer, and, who has not made application for registration with the DMV or HCD shall file a Combined State and Local Consumer Use Tax Return for Vehicles/Mobilehomes and pay use tax to the Board.

Measure and Due Date

Vehicles — The measure is the total purchase price, including cash, the market value of any property given in trade, the payment or assumption of any loan or any other valuable consideration given to the seller, unless specifically exempt.

Mobilehomes — Effective January 1, 1986, the measure is the total contract price or the retail value as determined by the Kelley Blue Book Manufactured Housing and Mobilehome Guide or the NADA Mobilehome Manufactured Housing Appraisal Guide, whichever is lower, unless specifically exempt.

Tax is due on or before the last day of the month following the month of purchase.

Vessels — Documented

Documented Vessel — A vessel documented by the United States Coast Guard (USCG) and issued a valid marine certificate. Documentation with the USCG is a world wide registration system in lieu of all other registration requirements.

Persons Required to File

Any person who purchases a vessel for use, storage or other consumption in California documented by the USCG shall file a return, such as a Combined State and Local Consumer Use Tax Return for Vessels or the tear-out panel in Pamphlet 79, and pay the use tax to the Board.

Measure and Due Date

The measure is the total purchase price of the vessel, including cash, the market value of any property given in trade, the payment or assumption of any loan or any other valuable consideration given to the seller, unless specifically exempt. The use tax rate is based on where the vessel is *principally stored, used, or otherwise consumed, such as where the documented vessel is moored or berthed.*

Per Regulation 1610(c)(2)(A), the return must be filed and tax paid (if applicable) on or before the last day of the calendar month following the month in which the return form is mailed or presented to the taxpayer, or the last calendar day of the 12th month following the month in which the vessel was purchased, *whichever period expires first.*

Example: Purchase date of 01/15/96. Return mailed to taxpayer on 07/16/96 would have a tax due date of 08/31/96. However a return mailed to the taxpayer on 05/12/97 would have a tax due date of 01/31/97 and penalty and interest would be due.

Vessels — Undocumented

Undocumented Vessel — Any vessel which is not required to have, and does not have a valid marine certificate issued by the USCG, but must be registered in the state where principally used on the waters. DMV registers undocumented vessels for the State of California as an agent for the Department of Boating and Waterways. Registering a vessel with DMV constitutes filing a return. The use tax will be collected, if applicable, by DMV at the time of registration.

Persons Required to File

Any person who purchases an undocumented vessel for use in California from a person other than a vessel dealer holding a seller's permit, and, who has not made application to DMV, shall file a Combined State and Local Consumer Use Tax Return for Vessels and pay use tax to the Board.

Measure and Due Date

The measure is the total purchase price of the undocumented vessel, including cash, the market value of any property given in trade, the payment or assumption of any loan or any other valuable consideration given to the seller, unless specifically exempt. The use tax rate is based on the location where the vessel is *principally stored, used, or otherwise consumed, such as where the undocumented vessel is moored or berthed.*

Tax is due on or before the last day of the month following the month of purchase.

Aircraft**Persons Required to File**

Any person who purchases an aircraft for use, storage or other consumption in California from a person other than an aircraft dealer holding a seller's permit shall file a Combined State and Local Consumer Use Tax Return for Aircraft or the tear-out panel in Pamphlet 79A and pay the use tax to the Board. The only agency that licenses an aircraft dealer is the Board of Equalization.

Measure and Due Date

The use tax due is measured by the total purchase price of the aircraft, including component parts, unless specifically exempt. The use tax rate is based on where the aircraft is principally hangared or tied down.

The return must be filed and tax paid (if applicable)

- on or before the last day of the calendar month following the month in which the return form is mailed or presented to the taxpayer, or
- the last calendar day of the 12th month following the month in which the aircraft was purchased,

whichever period expires first.

Customs**Persons Required to File**

Any California resident who hand carries merchandise purchased from a retailer in a foreign country into this state for storage, use or consumption, unless specifically exempt, may be mailed a Combined State and Local Consumer Use Tax Return for Customs Declaration to pay the use tax to the Board.

RETURNS

**CONSUMER USE TAX PROCEDURES FOR VEHICLE/MOBILEHOMES,
VESSELS, AIRCRAFT, AND CUSTOMS PROGRAM**

(CONT. 2) EXHIBIT 4

Measure and Due Date

The measure is the total purchase price of property, less a \$400 exemption(s) in U.S. dollars available pursuant to section 6405 of the Sales and Use Tax Law (for each person traveling), not previously claimed within a 30-day period.

Tax is due on or before the last day of the calendar month following the month in which the return form is mailed.

Penalty and Interest

Interest and/or penalties APPLY to the use tax where:

- A purchaser is delinquent in transferring registration of the vehicle, undocumented vessel, or mobilehome through DMV or HCD. The purchaser is subject to penalty, and/or interest when application for registration with DMV or HCD is not made within 30 days of the change in ownership, even if the change in ownership was never registered with DMV or HCD, as in the case of some multiple transfers.
- A purchaser is late in filing a return with the Board.
- A purchaser underpaid or failed to pay the tax to DMV, HCD or the Board.
- A purchaser of a vehicle, vessel, or aircraft registers it outside the State of California for the purpose of evading the payment of taxes. A 50 percent penalty of any tax determined to be due on the sales price of the vehicle, vessel, or aircraft may be assessed (Section 6485.1).

The following table illustrates specific situations in which penalty and interest applies to use tax due on purchases of vehicles, undocumented vessels or mobilehomes:

Purchaser Has Applied for Registration with Department of Motor Vehicles or Department of Housing and Community Development

HOW TAX WAS PAID	HOW PENALTY AND INTEREST APPLIES
1 Use tax was timely paid to DMV/HCD.	No penalty or interest is due.
2 Use tax was timely paid to DMV/HCD, but tax was underreported at the time of registration.	The Board issues a determination for the additional tax. Interest is due on additional tax per Section 6482. No penalty for late payment applies because RTC section 6591 does not apply to determinations. Penalties for negligence, intentional disregard, or fraud may be assessed, if warranted, on the additional tax per Sections 6484 or 6485.
3 Use tax was not timely paid to DMV/HCD.	Section 6292 paragraph (b) provides the late payment penalty applies per Section 6591 and is collected by DMV/HCD, but no interest is due.
4 Use tax was not timely paid to DMV/HCD, and the tax was underreported at the time of registration.	Section 6292 (b) provides the late payment penalty applies per Section 6591, but no interest is due on the tax paid to DMV/HCD. However, when the Board issues a determination for the additional tax, interest is due on the additional tax assessed by the Board per Section 6482. Penalty may be due, if warranted, on the additional tax per Sections 6484 or 6485 for negligence, intentional disregard or fraud.

COMPLIANCE POLICY AND PROCEDURES MANUAL

**CONSUMER USE TAX PROCEDURES FOR VEHICLE/MOBILEHOMES,
VESSELS, AIRCRAFT, AND CUSTOMS PROGRAM**

(CONT. 3) EXHIBIT 4

**Purchaser *Has Not* Applied for Registration with Department of Motor Vehicles or
Department of Housing and Community Development**

HOW TAX WAS PAID TO THE BOARD	HOW PENALTY AND INTEREST APPLIES
1 No return was filed.	Determination is issued and penalty assessed by the Board on the unpaid tax (Section 6511-Failure to file a return). Interest is assessed per Section 6513. If warranted, fraud penalty may also be assessed (Section 6514).
2 A return was filed, but the use tax transaction was not reported.	Determination is issued for the estimated tax. If warranted, the penalty for either negligence or fraud may be assessed pursuant to Section 6484 or 6485. Interest is due per Section 6513.
3 A return was filed late with the correct amount of tax paid.	Penalty and interest are due per Section 6591.
4 A return was filed late with no remittance.	A demand is issued for tax. Late penalty and interest due per Section 6591.

LOCAL TAX ALLOCATION GUIDELINES

Tax Programs and Local Tax Allocation Schedules

Local sales and use tax for taxpayers operating at a single, registered place of business is allocated in full to the jurisdiction in which the registered place of business is physically located. No allocation schedules are needed since all of the local tax is distributed to the jurisdiction of registration. For taxpayers that remit local tax for multiple places of business, supplemental schedules are needed in order to identify each jurisdiction’s portion. Currently, five schedules are used: (1) Schedule B “Detailed Allocation by County,” (2) Schedule C “Detailed Allocation by Suboutlet,” (3) Form BT-530-B “Local Tax Allocation For Temporary Sales Locations,” (4) Schedule E “Detailed Allocation by County,” and (5) Schedule F “Detailed Allocation by City.” These schedules are systematically assigned to the taxpayer by tax program in the following manner:

Permit Code	Permit Type	Allocation Form Needed
SR	Sales Tax	None or Form BT-530-B
SR X	Sales Tax	None
SR Y	Sales Tax	Schedule C
SR S	Sales Tax	Schedule B, Schedule F
SC	Use Tax	Schedule B, Schedule F
SR Z	Sales Tax	Schedules B, C and F
SU	Use Tax	None
SU S	Use Tax	Schedule E

SR Permits

The “SR” tax program is assigned to taxpayers who generally negotiate all sales transactions from a single business location and therefore remit local tax to one jurisdiction. Included in this tax program are sellers who have one in-state sales location in California (sales tax transactions), out-of-state retailers that do not have an in-state sales location but maintain a stock of goods from where all shipments to California customers are made, and “traveling” sellers who do not have a permanent place of business but make their sales substantially in one county. In the two instances, the retailer has a permanent place of business or registered warehouse and the specific jurisdiction can be identified. All local sales tax remitted by the retailer is allocated directly to the specific jurisdiction. In the second instance, the traveling seller is making sales throughout his/her home county which may include sales in several jurisdictions. As agreed in the contract between the Board and the various cities and counties, all local tax remitted by the traveling seller is allocated to the jurisdictions indirectly by means of the countywide pool. The appropriate Tax Area Code (specific jurisdiction code in the first instance or the countywide pool designation in the second) appears on the face of the return, and the local tax is allocated to the corresponding jurisdiction or countywide pool. For information on the allocation of use tax, see the section below titled “Allocation of Use Tax Under a Sales Tax Permit.”

SR X Permits

“SR X” accounts are similar to SR accounts in that the local sales tax is remitted for a single jurisdiction. This tax program is assigned to retailers who have multiple business locations all within a single taxing jurisdiction. Sub permits are issued for each business location or “sublocation” as they are frequently called. However, no additional information is needed with regard to the local tax as all of the tax can be programmatically allocated to the jurisdiction identified on the face of the return. For information on the allocation of use tax, see the section below titled “Allocation of Use Tax Under a Sales Tax Permit.”

SR Y Permits

“SR Y” accounts remit local sales tax for multiple jurisdictions and complete Schedule C, “Detailed Allocation by Suboutlet.” This tax program is used by California retailers who have multiple sales locations *or* stocks of goods in multiple jurisdictions and all of whose sales occur in California (sales tax transactions). Sub permits are issued for each sales location within California or, if no sales locations exist, each stock of goods location (warehouse). Each address and jurisdiction code appears on Schedule C. As provided in Regulation 1802, the local tax should be allocated on Schedule C to the location where the sale was negotiated or in the case of out-of-state retailers with no permanent business locations other than a stock of goods, to the location from which the delivery was made. For information on the allocation of use tax, see the section below titled “Allocation of Use Tax Under a Sales Tax Permit.”

SR S Permits

The “SR S” tax program provides the taxpayer with a Schedule B, “Detailed Allocation by County.” While Schedule B’s title indicates that the local tax is allocated indirectly through the countywide pools, Schedule B is designed to allow for one direct jurisdiction allocation (see Line B2) in addition to the countywide allocations. The SR S tax program is assigned to sellers who may have one permanent place of business in California and also have transactions subject to indirect allocation through the countywide pools. Effective July 1, 1996, some SR S tax program taxpayers may complete Schedule F instead of, or in addition to, Schedule B. Schedule F is used to directly allocate local use tax on certain leases of motor vehicles and sales or purchases of \$500,000 or more. For information on the allocation of use tax, see the section below titled “Allocation of Use Tax Under a Sales Tax Permit.”

SC Certificate of Registration

The “SC” Certificate of Registration — Use Tax program is assigned to out-of-state retailers who do not maintain a stock of goods in California. SC retailers who are engaged in business in this State as defined by RTC section 6203, are required to identify the county of the purchaser on Schedule B for indirect distribution of local use tax through the countywide pool. SC retailers who are not engaged in business in this State but who have voluntarily registered to collect the use tax from their purchasers are requested to complete Schedule B. In those instances where the county is not identified, the local use tax is distributed by indirect allocation through the statewide pool. As with some SR S taxpayers, effective July 1, 1996, some SC taxpayers complete Schedule F instead of, or in addition to, Schedule B. Schedule F is used to directly allocate local use tax on certain leases of motor vehicles and sales or purchases of \$500,000 or more.

SR Z Permits

The “SR Z” tax program is assigned to retailers who have multiple business locations requiring a Schedule C and also have transactions for which the specific place of sale cannot be identified or who remit local use tax subject to indirect allocation through the countywide pools on Schedule B. Such retailers are provided with both schedules for the allocation of their local tax. As with some SR S and SC taxpayers, effective July 1, 1996, some SZ taxpayers may complete Schedule F instead of, or in addition to, Schedule B. Schedule F is used to directly allocate local use tax on certain leases of motor vehicles and sales or purchases of \$500,000 or more. For information on the allocation of use tax, see the section below titled “Allocation of Use Tax Under a Sales Tax Permit.”

SU Permits

The "SU" tax program is assigned to taxpayers who consume rather than sell tangible personal property at a single California location. Generally, if the consumer purchases the goods from a California retailer, the tax is paid to the retailer, and no further tax is due. However, if the goods are purchased from an out-of-state retailer who is not authorized to collect the tax, the purchaser must file a Consumer Use Tax return and self-report the use tax. As with SR accounts, the specific jurisdiction code corresponding to the place of use appears on the face of the SU return, and the local use tax is directly distributed to the jurisdiction. Currently, Schedule E is included with the mailing of preprinted tax returns to SU taxpayers. While this schedule is not required under this tax program, completed Schedule E forms that show consumption of tangible personal property in multiple counties should be reviewed and accepted if appropriate. The account should also be reviewed for a possible change to the SU S tax program (see next paragraph).

SU S Permits

The "SU S" tax program is assigned to consumers who consume tangible personal property at multiple locations in California. SU S accounts are similar to SR S accounts in that the schedule provided (Schedule E) allows for one direct jurisdiction allocation on Line E2 (to the jurisdiction of the address of record) in addition to the various countywide designations. Effective July 1, 1996, purchases of \$500,000 or more must be identified by the specific jurisdiction in which the first functional use of the property is made using Schedule F. Consumers who consume purchases at multiple established locations may obtain a separate Consumer Use Tax permit (SU classification) for each location as an alternative to filing Schedule E.

Allocation of Use Tax Under a Sales Tax Permit

Taxpayers classified as SR, SR X, SR Y, SR S or SR Z (sellers) may have a use tax liability on purchases self-consumed in addition to the tax due on their sales. Sellers self-report their use tax liability on the same return along with the tax on their sales. For distribution purposes, the use tax "follows" the sales tax. This means that if a business location requires a sub permit to provide for the specific identification of the place of sale, the specific place of use can be readily identified as the same jurisdiction for purchases consumed. Accordingly, sellers are instructed to include the use tax on purchases consumed at registered locations along with the tax on sales.

Allocation of Use Tax for Unregistered Consumers

Effective July 1, 1996, use tax incurred on purchases of \$500,000 or more at unregistered locations is directly allocated to the jurisdiction of first functional use on Schedule F. Local use tax on all purchases consumed at unregistered locations prior to July 1, 1996, or purchases of less than \$500,000 consumed after July 1, 1996, is distributed indirectly through the countywide pool (Schedule B).

ALLOCATION PROCEDURES**Small Operators**

Generally, small operators (defined as reporting local tax of \$600 a year or less) confine their activities to one county; therefore, they are assigned tax program SR with the countywide code for that county. This produces the same allocation result as requiring a Schedule B with a single countywide allocation. Small operator accounts are monitored and in the event the local tax goes above the \$600 threshold, Schedule B is assigned.

Construction Contractors

Regulation 1806 provides that the jobsite is the place of business of a construction contractor. Generally, construction contractors are required to report the local use tax on materials consumed and the local sales tax on fixtures furnished and installed opposite the county of the jobsite on Schedule B resulting in the indirect distribution of the tax through the countywide pools. Construction contractors who sell materials or fixtures on an uninstalled basis and/or make over-the-counter retail sales are required to segregate such sales from their construction contracts and provide a detailed allocation by place of sale for direct distribution to the local jurisdiction. Construction contractors may be classified as SR (all transactions are construction contracts performed in a single county), SR S (construction sites in multiple counties with some or no over-the-counter sales), SR Z (construction sites in multiple counties with over-the-counter sales at multiple locations), SU (liability for materials only furnished and installed in a single county), or SU S (liability for materials only furnished and installed in multiple counties). See the above section regarding Small Operators.

In December of 1994, the Board adopted a resolution which allows for the direct distribution of the local tax on materials and fixtures furnished and installed to the local jurisdiction of the construction site for qualifying contracts. The resolution became effective January 1, 1995, and applies to installing contractors with contracts carrying a new or remaining value of \$5,000,000 (labor, materials and / or fixtures — excludes equipment) or more. Under the resolution, a construction contractor may elect to register a jobsite of a qualifying contract resulting in direct allocation of tax to the jurisdiction in which the jobsite is located rather than an indirect allocation through the countywide pool. Conditions for obtaining the sub-permit are covered in CPPM 260.020.

Vending Machine Operators

Regulation 1802 provides that the place where the vending machine is located is the place of sale for operators of vending machines. Vending machine operators who conduct their business in substantially one county are assigned an SR tax program and the countywide code for indirect allocation of their local sales tax. Vending machine operators who operate in multiple counties are classified as SR S and are instructed to allocate the local sales tax on Schedule B opposite the county in which the vending machine is located.

Auctioneers

Regulation 1802 provides that the place of sale by an auctioneer is the place at which the auction is held. Auctioneers who conduct all of their auctions at a single place of business are classified SR for direct distribution of local tax to the corresponding local jurisdiction.

Auctioneers who also conduct auctions away from their permanent place of business are assigned the SR S or SR Z tax program. Prior to July 1, 1996, all local tax on auction sales held at a location other than the auctioneer's regular place of business was reported on Schedule B to the countywide pool in which the auction was held. Effective July 1, 1996, auctioneers conducting auction events totaling \$500,000 or more in taxable sales must use Form BT-530-B to report the local tax attributable to such events to the specific jurisdiction in which the auction occurred. For details see CPPM 265.030.

Temporary Sales Locations

Form BT-530-B, "Local Tax Allocation For Temporary Sales Locations," is used by taxpayers to properly report the local tax attributable to sales made at temporary locations, such as swap meets, flea markets, fairs and other special events. Because retailers are not required to obtain sub permits for temporary locations, this form allows taxpayers who frequently make sales at temporary locations to report such sales without interrupting the normal processing of their returns if such sales do not occur. Taxpayers are instructed to list the complete street address and taxable transactions for each temporary sales location. Recurring locations (sales occur at least once a year) are issued sub permits.

6015 Retailers

Regulation 1802 defines "place of sale" for local tax purposes with respect to retailers who use salespersons, representatives, peddlers, or canvassers as their agents for the sale of tangible personal property (section 6015 retailers). The "place of sale" for 6015 retailers is the business location of the retailer regardless of where the door-to-door solicitations occur. Depending on the nature of the section 6015 retailer's activities, the place of sale may be the California business location of the retailer, the California business location from which the merchandise is shipped, or the California business location that receives the order for the merchandise and/or directs the activities of the sales representative who made the sale. If the retailer has neither a business office nor a location from which merchandise is shipped in California, local tax is allocated through the countywide pool of the county in which the sales representative operates. See Regulation 1802 (b)(3).

Traveling Sales Personnel

Many businesses have sales personnel in the field in addition to or instead of permanent business locations. Regulation 1802 provides that the activities of field representatives are attributed to the sales location from which they work, and local sales tax should be allocated to the registered business location. The activities of field representatives who work out of their homes and report to a sales location out of state are attributable to the out-of-state location. Local tax should be allocated based on the shipping point. Sales of goods shipped from out of state (with title passing out of state) are subject to use tax which should be reported on Schedule B to the county of delivery. If goods are shipped from an instate location, the transaction is subject to sales tax, and local tax should be reported to the jurisdiction where the warehouse (shipping point) is located. The activities of field representatives who report to instate sales locations are attributable to the instate locations.

Local Sales and Use Tax Allocation for Transactions Over \$500,000

Effective July 1, 1996, the local use tax procedures were changed concerning individual sales or purchases of goods that are shipped from out-of-state inventories when the sale or purchase is \$500,000 or more. When this occurs, the local use tax must be allocated to the city or unincorporated county area where the first functional use occurs. Functional use means the use for which the property was designed or intended. Allocations for such sales or purchases must be made on Schedule F.

For individual sales or purchases of less than \$500,000, the allocation of the local use tax continues to be through the countywide pool into which the goods are delivered.

Indian (Native American) Sellers

See Regulation 1616 (d) regarding sales to and by American Indians. Indian sellers should be issued an SR seller's permit thereby enabling the use tax to be allocated directly to the place of sale.

Retailers Engaged in Interstate Sales

In general terms, an interstate sale is a sale in which the goods are delivered from out-of-state inventory directly to the California consumer by common carrier with title passing out of state or a sale that is negotiated in-state with shipment of goods to an out-of-state location with title passing out of state. In either case, the sale is not subject to sales tax since the sale occurs outside California. However, interstate sales made by out-of-state retailers to California consumers are subject to use tax. The local use tax on such interstate sales into California is reported on Schedule B to the countywide pool of the county to which the goods are shipped. Because of the complexities involved regarding passage of title, it is sometimes necessary to review the contract of sale to determine the details of the transaction. Generally, if the retailer ships by means of common carrier, title is presumed to pass upon delivery of the goods to the common carrier unless there is an explicit agreement that title is to pass at some other time. If the retailer uses his/her own facilities to deliver the property, title passes when the property is delivered to the purchaser unless there is an explicit agreement executed prior to delivery that title is to pass at some other time.

Out-of-state retailers who are engaged in business in this state and collect use tax on interstate sales of \$500,000 or more, must identify on Schedule F the specific jurisdiction in which the first functional use of the property occurs. This generally is deemed to be the jurisdiction to which the goods are shipped.

Retailers Engaged in Intrastate and Interstate Sales

Retailers who have sales that occur within California (intrastate sales subject to sales tax) as well as sales that occur outside California (interstate sales subject to use tax) are provided with Schedules B and/or C and instructed to segregate the local tax on intrastate sales from interstate sales. The local sales tax on intrastate sales should be allocated to the sales location where the sale is negotiated (Schedule C or Line B2 of Schedule B), or, if the out-of-state retailer maintains no permanent place of business in California other than a stock of goods, to the warehouse/distribution center from which delivery is made. It should be noted that warehouse/distribution center locations are the direct recipients of local tax only if the out-of-state retailer has no in-state sales office. The local use tax on interstate sales should be allocated as described in the above section, "Retailers Engaged in Interstate Sales."

Use Tax Direct Payment Permit

Effective January 1, 1998, section 7051.3 was added to the Revenue and Taxation Code. Section 7051.3 allows certain taxpayers to pay use tax directly to the Board that would otherwise be collected by the retailer making the sale. The intent of this legislation is to provide for the direct allocation of use tax to the jurisdiction of first use by the purchaser rather than allocation through the countywide pool as determined by the retailer. Section 7051.3 applies only to *use tax*.

Section 7051.3 provides that a Use Tax Direct Payment Permit shall be issued to any applicant who agrees to self-assess and pay use tax directly to the Board, and certifies to the Board either of the following:

- The applicant is the purchaser for its own use or is the lessee of tangible personal property (except motor vehicles) at a cost of \$500,000 or more in the aggregate, during the prior calendar year,

OR

- The applicant is a county, city, city and county, or redevelopment agency.

Leases Other than Leases of Certain Motor Vehicles

Regulation 1660 states that in the case of a lease, the applicable tax is generally a use tax upon the use in this state of the property by the lessee. Options and requirements applying to lessors affect this general application however, and in turn affect the place of use.

Tax-Paid Property — Place of Use

In cases where the lessor either elects or is required to report use tax measured by the purchase price of the leased property, the lessor is the consumer. In such cases, the use tax is either paid in full by the lessor to the retailer or is self-reported on the lessor's return. In either case, no tax is due on the lease receipts. If the lessor self-reports, the place of use of the leased property is the California location at which the property is first used by the lessor. If the place of use is a registered place of business, the local tax is distributed directly to the jurisdiction in which the use occurs (Schedule C or Line B2). If a permit is not required for the address of the place of use, the local tax is distributed indirectly through the countywide pool (Schedule B) except for periods after July 1, 1996 when the purchase price is \$500,000 or more. Lessors should report the use tax on these purchases on Schedule F.

Tax Paid on Lease Stream

In cases where the lessor is required to report and pay the use tax measured by rental receipts or where the lessor elects to pay the tax measured by the fair rental value, the place of use is determined by the type of property leased and the lease term.

Generally, leased property falls within one of two categories: "mobile transportation equipment" (MTE) and "non-mobile transportation equipment" (non-MTE). The term "mobile transportation equipment" applies to equipment for use in transporting persons or property for substantial distances. The term "non-mobile transportation equipment" applies to all other property and includes passenger vehicles as defined in section 465 of the California Vehicle Code and one-way rental trucks.

The lease term for local tax allocation purposes is defined as either short term (30 days or less) or long term (more than 30 days). An exception to these definitions occurs with respect to leases of motor vehicles. See the following sub-section for a detailed explanation.

Where the lease is a long term lease of non-MTE and the location of the leased property is readily identifiable in the lessor's records, the place of use is the county-wide area in which the property is located during the term of the lease. The local tax on such leases is distributed indirectly to the jurisdictions by means of the countywide pools. As with other use tax transactions of \$500,000 or more, the local use tax on long-term leases of non-MTE of \$500,000 or more is directly allocated to the jurisdiction of use on Schedule F.

Where the lease is either a short term lease, a lease of MTE, or where the actual place of use cannot be determined from the lessor's records, the lessor's California place of business at which the principal negotiations for the lease occurs is considered the place of use. The local tax remitted on such leases is distributed directly to the jurisdiction in which the lease is negotiated (Schedule C). If none of the lessor's California locations participates in the negotiations, the local tax is distributed through the countywide pools to the county corresponding to the lessee's address.

Leases of Motor Vehicles

Prior to January 1, 1996, use tax was reported by the lessor on Schedule B to the countywide pool of the assumed place of use of the vehicle by the lessee. Generally, if the lease was short term (30 days or less), the place of use was deemed to be the business location of the lessor. If the lease was long term (over 30 days), the place of use was deemed to be the jurisdiction where the lessee resides, and local tax was allocated indirectly through the countywide pool on Schedule B. Effective January 1, 1996, RTC section 7205.1 shifted the place of use for long-term leases (defined as longer than four months) from the location of the lessee to the location of the new motor vehicle dealer from whom the lessor acquires the vehicle.

Effective January 1, 1999, RTC section 7205.1 was amended to specify the proper allocation of local use tax collected by "leasing companies." For the purposes of the allocation of the 1% local tax, a "leasing company" is a motor vehicle dealer (as defined in Vehicle Code section 285) that meets all of the following criteria:

- They originate long-term lease contracts and elect to remit tax based on lease receipts.
- They do not sell or assign the long-term contracts that they originate.
- They have annual motor vehicle lease receipts of fifteen million dollars (\$15,000,000) or more per location. Where the lessor operates from multiple locations, the lessor qualifies as a leasing company on a location-by-location basis. Annual lease receipts, which do not include capitalized cost reduction payments or amounts paid by a lessee to exercise an option, are calculated based on the previous calendar year.

For purposes of administering the local tax, a "leasing company" must be a motor vehicle dealer. In addition, the term "dealer" does not include a person who is solely engaged in the business of leasing.

When a lessor is a California new motor vehicle dealer or a "leasing company" as previously defined, the place of use for reporting the local use tax is the city in which the lessor's place of business is located.

When the lessor is *not* a California new motor vehicle dealer or a "leasing company," there are two possible allocations of the 1% local use tax. When the lessor purchases the vehicle from a California new motor vehicle dealer or a "qualified leasing company," the place of use for reporting the local use tax is the city in which the dealer from whom the lessor purchased the vehicle is located and the tax should be reported on Schedule F. When the lessor purchases the vehicle from another source, the local use tax shall be reported and distributed through the countywide pool of the county in which the lessee resides. In this case, the local use tax should be reported on Schedule B.

The place of use for determining the allocation of the 1% local use tax for vehicle lease agreements entered into on or after January 1, 1999, is summarized by the following chart:

**Guidelines for Allocating the Local Use Tax Due on
Leases of Motor Vehicles Effective January 1, 1999**

Type of Lessor		Leases Exceeding 4 months	Leases for 4 months Or Less
		Allocate Local Tax To:	
California New Motor Vehicle Dealer	Lease of a new or used motor vehicle.*	Lessor's sales location	Lessor's sales location
"California Qualifying "Leasing Company" (as defined)**"	Lease of new or used motor vehicle.*	Lessor's sales location	Lessor's sales location
"California Lessor other than a New Motor Vehicle Dealer or Qualifying "Leasing Company" (as defined)**"	"Lease of a motor vehicle* purchased from a California new motor vehicle dealer or qualifying "leasing company." " "	"California new motor vehicle dealer or "leasing company's" sales location (Schedule F)"	Lessor's sales location
	"Lease of motor vehicle,* purchased from other than a California new motor vehicle dealer or qualifying "leasing company.""	Lessee's place of residence (Schedule B)	Lessor's sales location
	"Lease of MTE, other than a light duty pickup truck, purchased from a California new motor vehicle dealer or qualifying "leasing company.""	Lessor's sales location	Lessor's sales location
Out-of-State Lessor:	"Lease of motor vehicle* purchased from California new motor vehicle dealer, or qualifying "leasing company" **"	"California new motor vehicle dealer or "leasing company's" sales location (Schedule F)"	Lessee's place of residence (Schedule B)
	"Lease of motor vehicle* and MTE, purchased from other than a California new motor vehicle dealer or qualifying "leasing company.""	Lessee's place of residence (Schedule B)	Lessee's place of residence (Schedule B)

*Traditional passenger vehicle (designed to carry, including the driver, no more than 10 passengers), but not including any mobile transportation equipment except light duty pickup trucks rated less than one ton.

** "Qualified leasing company" is defined in Audit Manual 0618.05.

For leases allocated to a California dealer's sales/business location, the place of use for local use tax purposes remains the same for the duration of the contract, even though the lessor may sell the vehicle and assign the lease contract to a third party.

ACTUAL VS. ESTIMATED ALLOCATIONS

The Board takes an active role in ensuring that local tax allocations provided by taxpayers are actual and strictly conform to the above guidelines. Unfortunately, not all taxpayers have accounting systems sufficient to the task. While local tax allocations are required on an actual basis, the Board recognizes that in some cases, actual allocations are not available. Accordingly, staff will review requests for deviations from established procedures and may grant an exception if the circumstances warrant. Auditors may accept allocations for a single reporting period based on reasonable estimates.

Questions About Local Tax Allocation Procedures

Questions regarding local tax allocation guidelines are generally handled by District office staff, or the Local Revenue Allocation Section. Questions regarding the interpretation of statutory and regulatory provisions should be directed to the Board's Legal Division.