

State Board of Equalization

OPERATIONS MEMO

For Public Release

No: 1105
Date: January 7, 2003
Revised: January 13, 2003
Revised: April 14, 2006

SUBJECT: Identity Theft Program (IDT)

I. REASON FOR REVISION

This Operations Memo has been revised to provide additional guidelines on what may constitute acceptable evidence of identity theft and to address similar concerns when a person is defrauded because of a forged signature.

II. GENERAL

Identity theft occurs when a person uses another person's personal information without that person's knowledge to commit fraud or theft. Knowledge cannot be assumed merely because the perpetrator is a family member or an acquaintance. It is a felony in California to use the personal identifying information of another person without the authorization of that person for any unlawful purpose, (Penal Code section 530.5 et seq.) This memo is intended to provide guidelines on how to handle tax/fee liabilities established as a result of identity theft and the procedures necessary to absolve the innocent party.

The discovery of an identity theft case may result from an audit or collection activity or from a fee/taxpayer's own initiative. A similar situation may arise when a person fraudulently lists and signs another person's name as the owner, partner or corporate officer on an application to obtain a permit or license, thus making the other person a responsible party for any debts incurred. However, the signing of another person's name is not prima facie evidence the signing was fraudulent. To be fraudulent, there must be intent to commit fraud or theft. For example, if one partner signs an application for another partner and there is substantial evidence both partners are active in the operation of the business, one partner signing for the other partner on the application may not be fraudulent.

III. PROCEDURE

A. Discovery

In the event an individual who assumed another's identity accumulates a debt with the Board, or a signature is fraudulently forged on an application, responsibility for evaluating the evidence

and adjusting the account, when necessary, lies with the district office or headquarters section that discovers or is notified of the identity theft or forgery. If staff that is not responsible for collection activity becomes aware of an identity theft or forgery, staff should transfer the information to the district/section that is responsible for the collection of the liability.

Staff's duties are limited to clearing the innocent party of any BOE liability arising from the identity theft or fraudulent forgery. Staff is not responsible for prosecuting or identifying the perpetrator of the identity theft or fraudulent forgery. However, in all cases, staff should send a memo to the Investigations Division (ID) notifying them a possible identity theft or forgery has occurred, and attach copies of all pertinent documents that constitute evidence of identity theft or forgery so ID may begin an investigation. The ID is responsible for contacting law enforcement.

B. Evidence

The innocent party (victim of identity theft or fraudulent forgery) is responsible for providing staff with documentary evidence supporting the identity theft or forgery. Documentation may include the following:

1. Police and/or court reports.
2. Documentation that shows a fraud alert has been placed on credit reports.
3. A copy of the Identity Theft Affidavit filed with the Federal Trade Commission (FTC). (The FTC serves as the federal clearinghouse for complaints by victims of identity theft.)
4. Written responses of results of investigations by creditors, banks, or companies that provided the perpetrator with unauthorized goods or services.
5. Written responses of results of investigations by district attorney's office or other investigators indicating the innocent party was a victim of fraud or forgery.
6. Copies of other applications and business records relating to transactions and accounts that resulted in identity theft or forgery.
7. Affidavits from landlords, vendors, accountants, or bookkeepers supporting a claim of identity theft or forgery.
8. Deposition from a private handwriting expert certifying a forged signature.
9. A birth certificate indicating that the innocent party was a minor at the time the application was signed may indicate forgery, if applicable.

The above list of documentation is not intended to be all inclusive and not all of the items listed are required to substantiate identity theft or forgery.

The responsible district/section will examine the evidence. The headquarters section supervisor or district principal compliance supervisor should contact other potentially affected sections or departments (e.g., district office, Centralized Collections Section, Special Procedures Section, and Special Taxes) when a related account or fee program is identified that may have additional pertinent information. Once the collector or auditor is satisfied the documentation supports the identity theft or forgery, the section supervisor or district principal compliance supervisor should

review the case, and if in agreement, should approve a request for a legal adjustment to the account. The legal adjustment process is used by Special Procedures Section to reduce or eliminate the balance owed.

C. Final Approval

Using form BOE-200-A, (Special Procedures Action Request), the request for a legal adjustment to an account must then be sent to one of the following for approval:

Section/District	Final Approval
District Offices	District Administrator
Centralized Collection Section	Administrator
Consumer Use Tax Section Petitions Section Audit Determination and Refund	Chief, Headquarters Operations Manager
Special Taxes	Division Chiefs
Offer-In-Compromise Section Special Procedures Section (SPS)	Legal Department, Chief Counsel

D. Legal Adjustment

Once the request for a legal adjustment has been approved, the approving party should forward the BOE-200-A (Request) to the Special Procedures Section (SPS) for adjustment. SPS will process and approve the adjustment in IRIS using the adjustment type code "IDT" on the DIF LA screen. Once the adjustment is completed, SPS staff will generate a statement of account in IRIS and provide it to the innocent party. Staff will include bill note #999 (free form text) to provide an explanation of the adjustment performed. If liens have been placed against the innocent party's property, a request for a release of lien indicating that the lien was filed in error, or a single party release of lien should also be forwarded to SPS using form BOE-200-A. Special Procedures will send the lien release directly to the county recorder unless otherwise instructed by the innocent party or an escrow company acting on behalf of the innocent party.

After the legal adjustment is made, copies of all file documents should be forwarded to the Internal Security and Audit Division (MIC: 54).

IV. OBSOLESCENCE

This Operations Memo will become obsolete when the information contained herein is incorporated into the appropriate manuals.

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Distribution: 1-D