

**Amend Section 7093.8 of the Sales and Use Tax Law to reauthorize the Board to waive any penalties and interest on unpaid sales and use taxes owed by eligible taxpayers to the extent that the underlying tax liability is paid.**

**Source: Honorable Claude Parrish**

For the period beginning October 1, 2002 and ending June 30, 2003, the Board of Equalization (Board) had the authority to allow persons that were determined to be high risk who had eligible liability periods to be relieved of penalty and interest upon payment in full of the tax of an eligible period. Under the previous law, this authority is limited to an unpaid tax liability that has been determined by the Board to be a "high risk" collection account.

This proposal would reauthorize the Board to waive any penalties and interest on unpaid sales and use taxes owed by eligible taxpayers to the extent that the underlying tax liability is paid. The program would be available beginning July 1, 2004 and ending June 30, 2007, with modifications as detailed as follows.

This proposal would provide the following definitions:

- "Eligible taxpayer" means any person that receives notification from the Board that the taxpayer's unpaid tax liability may be satisfied by the payment of an eligible amount and who has not made a payment on that unpaid tax liability for a period of 24 months preceding that notification.
- "Eligible amount" means an amount equal to any unpaid tax liability, excluding penalties and interest, owed by the eligible taxpayer that is paid in one or more installments, as determined by the Board, on or before the due date established by the Board, but not more than 12 months after being notified of eligibility.
- "High-risk collection account" means any unpaid tax liability of a taxpayer where satisfaction of that liability under this proposal would be in the best interest of the state, and shall include any unpaid tax liability for which the Board has made either of the following determinations:
  1. Under the Board's collection modeling policies, practices, and procedures, efforts to collect the unpaid tax liability would not be economical.
  2. The unpaid tax liability would not be paid in full within a reasonable period of time.
- "Unpaid tax liability" means any final liability under Part 1 (commencing with Section 6001), including tax, penalties, and interest, that are owed by a person and, as of or after the date their seller's permit is closed out, are unpaid.

This proposal would further provide:

- No refund or credit shall be granted with respect to any penalty or interest paid or collected with respect to an unpaid tax liability collected outside the provisions of this section.
- The determinations made by the Board pursuant to this proposal shall be final and conclusive and shall not be subject to review by any other officer, employees, or agent of the state, or by any court.
- Nothing in Section 7056, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used in connection with any determinations made by the Board for purposes of this proposal, or the data used or to be used for determining those standards if the Board determines that the disclosure would seriously impair assessment, collection, or enforcement of sales and use taxes.
- Nothing in this proposal shall authorize the Board to compromise any final tax liability.
- Taxpayers must submit an application for consideration by June 30, 2007.
- Whenever a "high-risk collection account" is forgiven of any penalties and interest pursuant to this proposal, the public record shall include all of the following information:
  1. The name of the taxpayer
  2. The amount of related penalties and interest relieved
  3. A summary of the reason why the relief is in the best interest of the state.
- This section shall remain in effect only until December 31, 2008.

Section 7093.8 was added during the 2002 Legislative Session through enactment of a budget trailer bill implementing various provisions incorporated into the 2002-03 Budget (AB 2065, Ch. 488). Its purpose was to provide a mechanism for a temporary acceleration of state revenues by encouraging high risk accounts to come forward, pay the outstanding tax liability, and in return, receive a waiver of accumulated interest and penalties. This legislation has generated \$2.4 million in revenue to date, and if those taxpayers that have been accepted into the program remit their total tax liabilities through the installment payment plans, an additional \$9.4 million in revenue will be collected.

This proposal would extend the provisions of Section 7093.8 for an additional three-years, beginning July 1, 2004 and ending June 30, 2007. Its purpose is to provide an incentive for these entities that are determined to be high risk collection accounts from which collection of any outstanding liability is unlikely, to come forward and remit their outstanding tax liabilities. These accounts are generally more difficult from which to collect and would most likely be written off as uncollectable.

*Section 7093.8 of the Revenue and Taxation Code is amended to read:*

7093.8. (a) (1) ~~For the period beginning on October 1, 2002, and ending on June 30, 2003,~~ Beginning on July 1, 2004, an eligible taxpayer's liability, with respect to any unpaid taxes, may be satisfied by the payment of an eligible amount. The authority granted by this section is limited to an unpaid tax liability that has been determined by the State Board of Equalization to be a high-risk collection account.

(2) The liability of an eligible taxpayer for any unpaid penalties and interest included in the computation of the unpaid tax liability shall be extinguished only upon receipt by the State Board of Equalization of all payments equal to the eligible amount on or before the final due date for payment established by the State Board of Equalization.

(b) For purposes of this section, the following definitions apply:

(1) "Eligible taxpayer" means any person that receives notification from the State Board of Equalization that the taxpayer's unpaid tax liability may be satisfied by the payment of an eligible amount and that has not made a payment towards that unpaid tax liability for a period of at least 24 months prior to the date of that notification.

(2) "Eligible amount" means an amount equal to any unpaid tax liability, excluding penalties and interest, owed by the eligible taxpayer that is paid in one or more installments, as determined by the State Board of Equalization, on or before the due date established by the State Board of Equalization, ~~but in no event later than June 30, 2004~~ not more than 12 months after being determined eligible.

(3) "High-risk collection account" means any unpaid tax liability of a taxpayer where satisfaction of that liability under this section would be in the best interest of the state and shall include any unpaid tax liability for which the State Board of Equalization has made either of the following determinations:

(A) Under the State Board of Equalization's collection modeling policies, practices, and procedures, efforts to collect the unpaid tax liability would not be economical.

(B) The unpaid tax liability would not be paid in full within a reasonable period of time.

(4) "Unpaid tax liability" means any final liability under Part 1 (commencing with Section 6001), including tax, penalties, and interest that are owed by a person ~~and as of October 1, 2002~~ and, on or after the date that person's seller's permit is canceled or revoked, are unpaid.

(c) No refund or credit shall be granted with respect to any penalty or interest paid or collected with respect to an unpaid tax liability ~~prior to October 1, 2002~~ collected outside the provisions of this section.

(d) The determinations made by the State Board of Equalization pursuant to this section shall be final and conclusive and shall not be subject to review by any other officer, employee, or agent of the state, or by any court.

(e) Nothing in Section 7056, or in any other provision of law, shall be construed to require the disclosure of standards used or to be used in connection with any determinations made by the State Board of Equalization for purposes of this section, or the data used or to be used for determining those standards if the State Board of Equalization determines that the disclosure will seriously impair assessment, collection, or enforcement under this part.

(f) Nothing in this section shall authorize the State Board of Equalization to compromise any final tax liability.

~~(g) The Legislature finds that it is essential for fiscal purposes that the special collection efforts authorized by this section be expeditiously implemented. Accordingly, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued in implementing and administering the program required by this section. Taxpayers must submit an application for consideration by June 30, 2007.~~

(h) This section shall be operative with respect to any unpaid tax liabilities of high-risk collection accounts ~~that are the subject of notifications made to eligible taxpayers on or after October 1, 2002, and before July 1, 2003~~ until June 30, 2007.

(i) Whenever a "high-risk collection account" is forgiven of any penalties and interest pursuant to this section, the public record shall include all of the following information:

- (1) The name of the taxpayer.
- (2) The amount of related penalties and interest relieved.
- (3) A summary of the reason why the relief is in the best interest of the state.

(j) This section shall remain in effect only until December 31, ~~2004~~ 2008, and as of that date is repealed.