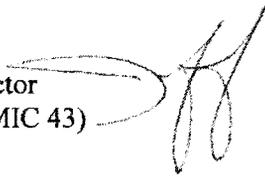


Memorandum

To : Ms. Cynthia Bridges
Executive Director (MIC 73)

Date: December 26, 2013

From : Jeffrey L. McGuire, Deputy Director
Sales and Use Tax Department (MIC 43)



Subject : **Board Meeting January 16-17, 2014**
Item N: Administrative Agenda
Proposed Revisions to Audit Manual, Chapter 1, *General Information*

In accordance with the established procedures for audit and compliance manual revisions, I am submitting proposed revisions to Audit Manual (AM) Chapter 1, *General Information*, section 0115.02, *Internal Revenue Service (IRS)*.

The proposed revisions, which incorporate current policies and procedures have been reviewed and approved by SUTD management, provided to Board Members, and posted at <http://www.boe.ca.gov/sutax/pmr.htm> to solicit comments from interested parties. No comments were received from interested parties or Board Members with regard to these revisions.

The revisions are attached for your reference. We request your approval to forward them to the Board Proceedings Division for placement on the Administrative Agenda as a consent item at the January 2014 meeting.

If you have any questions, please let me know or contact Ms. Susanne Buehler at 324-1825.

JLM:ljm
Attachment

Approved:


Ms. Cynthia Bridges
Executive Director

STATE BOARD OF EQUALIZATION



BOARD APPROVED

At the January 16, 2014 Board Meeting

Joann Richmond
Joann Richmond, Chief
Board Proceedings Division

Item N3
01/16/14

cc: (all with attachment)
Mr. Wayne Mashihara (MIC 46)
Ms. Susanne Buehler (MIC 92)
Mr. Kevin Hanks (MIC 49)

PROCEDURE FOR OBTAINING AND SAFEGUARDING INFORMATION FROM THE IRS AND FTB

0115.00

INTERNAL REVENUE SERVICE (IRS)

0115.02

~~Requests for hard copies of federal income tax returns or for online information extracted from the returns must be made on Form BOE 33-B, Request For Federal Tax Information, available in the Supply Section (MIC WS). The completed form (original and two copies) must be forwarded to the Chief, Tax Policy Division, for processing of the request.~~

Federal Tax Information (FTI) is any information provided by the IRS regarding a taxpayer, including, but not limited to, information provided on federal income tax returns, quarterly federal tax returns, and annual federal unemployment tax returns. All data contained in the returns such as ownership information, personal and business addresses, and revenue and expense information is considered FTI.

The following are considered FTI:

- Original records received from IRS in both paper and electronic form.
- Copies of information received from IRS in both paper and electronic form.
- Data transcribed from IRS documents into any data base, audit working papers, written and electronic forms or correspondence such as, but not limited to, levy letters.
- The printing of FTI from external agencies. The IRS has authorized the BOE to access and print FTI in the FTB's online databases. The FTB has flagged the FTI information that is contained on screens in the online databases as required by IRS Publication 1075. When a resource person accesses Franchise Tax Board (FTB) information on the FTB's online databases (TI, "Taxpayer Information System" and BETS, "Business Entity Tax System") and prints IRS information contained on screens of the databases, it is considered FTI.

There are two options for obtaining FTI from the IRS:

1. Transcript Delivery System (TDS)
2. Photocopies of IRS income tax returns

TDS provides transcripts to the Board of Equalization (BOE) electronically and is generally available within two weeks of the IRS receiving the request. Processing of requests for photocopies may take several months. Most FTI should be obtained by the TDS option.

The following transcripts are available through TDS:

1. Account Transcript includes the following information:
 - Subsequent activity posted to an account after the return is filed (e.g., payments, credits, adjustments).
 - Information on the account balance, interest and penalties.
 - Taxpayer's filing status (e.g., "married filing joint").
 - Line item information from the return such as "Adjusted Gross

Income,” “Taxable Income,” and “Tax Per Return.” The amounts shown may be “per return” or “IRS adjusted.” The transcript identifies the date on which IRS processed the return.

2. Return Transcript contains most lines from the original return, including attached forms and schedules. The transcript contains both the “per return” and “IRS adjusted” entries. It does not contain subsequent activity on the account. Return transcripts are available for returns filed during the current and three prior tax years.
3. Record of Account includes both the “Account Transcript” and “Return Transcript” information, and is available for returns filed during the current and three prior years.
4. Wage and Income Documents shows income reported by taxpayers on forms such as W-2 and 1099. Wage and income information are only available for individual tax returns. Wage and Income documents are only available for wages and income earned during the current and ten prior years.

Requesting FTI

Requests for FTI under either option noted above should only be made when the information is not available from FTB or any other sources. A request for FTI should be made using Form BOE-33-B, Request for Federal Tax Information.

The following information should be included on Form BOE-33-B:

- Taxpayer’s name and address.
- BOE account or reference number.
- Taxpayer’s social security number (if requesting individual income tax returns).
- Spouse’s name and social security number (if known) when requesting individual income tax returns. Include the spouse’s name if both the husband and wife are on the permit, if attempting to locate community property assets, or if there is evidence the spouse was involved with the business but is not listed on the permit.
- Federal Employer’s Identification Number (FEIN) must be included when requesting partnership or corporate information.
- Write in the specific IRS form number(s) filed by the taxpayer. A complete list of available forms is provided in Exhibit 3. However, the following forms most commonly requested are:
 - (a) 940-Employer’s Annual Federal Unemployment Tax Return
 - (b) 941-Employer’s Quarterly Federal Tax Return
 - (c) 1040-U.S. Individual Income Tax Return
 - (d) 1065-U.S. Partnership Return of Income
 - (e) 1120-U.S. Corporate Income Tax Return
- Requesting unit, name of requestor, date of request, name and title of the approver, date approved, and signature (see the third bullet below).

The procedures for electronic handling of Form BOE-33-B are as follows:

- The Requestor will complete Form BOE-33-B (except for the items to be completed by the approver as explained below).
- The Requestor will send the completed Form BOE-33-B for approval via email. The BOE Exchange of Information list contains the names of BOE staff within the district and headquarters unit or section, authorized to request, receive, and disclose tax information on behalf of BOE (approver). The approver is generally the District Administrator, District Principal Auditor, District Principal Compliance Supervisor or headquarters section supervisor.
- The approver will complete the section of the form titled “Approved By,” “Title,” and “Date Approved.” In lieu of a signature, the approver will type in their name followed by the word “emailed” in parentheses on the “Approved By” (signature) line.
- The approver will email the completed Form BOE-33-B to the *SUTD-FTI Custodian* mailbox. The approver must use the unique District / Section Identifier in the subject line of the email sent to the SUTD-FTI Custodian Mailbox. The unique identifier format will include the district or section letters and a number sequence. For example: Sacramento District Office would be KH 00001. The email from the approver documents the approver’s signature.
- The unique identifier must be included on the district’s FTI request log.

Processing FTI

The Compliance Program Analysis Section (CPAS) is responsible for maintaining the *SUTD-FTI Custodian mailbox* and IRS Tracking Database, as well as processing FTI requests. The procedures for processing FTI requests are as follows:

- Check the *SUTD-FTI Custodian mail box* for incoming Form BOE-33-B requests.
- Verify that the person who approved the request is included in the BOE Exchange of Information list.
- Process the request and send the Requestor FTI materials in a double sealed envelope marked “Confidential.”
- The IRS Tracking Database sends an email to the District Administrator, HQ-SUP or their designee notifying them the FTI has been mailed.
- The FTI materials consist of the following documents:
 - TDS transcripts, photocopies of IRS returns, or IRS letters (FTI documents).
 - Form BOE-33, *Records of Authorized Examination of Federal Income Tax Returns*.
 - Form BOE-85, *Inspection or Disclosure Limitations (Federal)*.
- If the request is for “Photocopy of Return,” enter the information on IRS Form 8796-A, *Request For Return/Information*. Send the form and a cover memo to:

Internal Revenue Service
Disclosure Scanning Operation Stop 93A
PO Box 621506
Atlanta, GA 30362-3006

- Maintain the IRS Tracking Database. The database documents all activities that occur in the process of issuing and destroying FTI materials. The required actions and the related database requirements are shown on the FTI Actions & Database Activity Table (Exhibit 4).

Receiving FTI

Upon receipt of the FTI materials in a double sealed envelope marked “Confidential” from CPAS, the Requestor must confirm receipt via email to the SUTD-FTI Custodian’s mailbox. The date of the email is entered into the database in the “District Acknowledgement” section.

Safeguarding FTI

~~The contents and information on the IRS returns and other federal tax information (FTI) acquired directly from the IRS~~The BOE has a statutory obligation to protect FTI from unauthorized access and disclosure under the Internal Revenue Code. (IRC § 6103(d)). must be safeguarded under the provisions of the Internal Revenue Service. In order to comply with the IRS information safeguarding requirements, Form BOE-85, *Inspection or Disclosure Limitations (Federal)*, must be attached to the AWP to flag any page that includes ~~information obtained directly from the IRS~~FTI. This includes data that is transcribed from an IRS obtained income tax return into the AWP. For example, a sales reconciliation that includes transcribed amounts from a Schedule C, or a schedule of purchases subject to use tax where the assets were found on the income tax return depreciation schedule. It is not necessary to attach Form BOE-85 to AWP that include information from income tax returns obtained from someone other than the IRS, such as the taxpayer or ~~the Franchise Tax Board (FTB)~~, if not identified as FTI.

~~When the pages containing IRS returns or other FTI as explained above are no longer needed, these pages shall be sent to the Tax Policy Division (MIC 92) who will forward them to the IRS for destruction.~~

The requestor is personally responsible for safeguarding the FTI documents. When staff is in possession of FTI, it is critical that the information is treated with the utmost security and confidentiality. Only staff with a business reason to view the information may access it. If the information is examined for any reason, the viewing must be documented as follows:

Hard-copy documents

Form BOE-33 must be attached to all hard-copy documents and reports containing FTI (including, but not limited to paper documents, audit working papers, etc.). Any person inspecting the document must complete the Date, Purpose of Examination, Signature of Board Representative, and Employee Number fields. The form must be signed by the District Administrator or headquarters unit or section supervisor.

Electronic documents

The viewing or examining of electronic documents containing FTI (including, but not limited to documents on electronic media, i.e., CD-Roms (CDs), flash drives, etc.) must be documented in the FTI Tracking Log. To begin the entry, select Add New Request and complete the required fields.

Storage of Hard-copy and Electronic documents

While the hard-copy documents, reports and documents on electronic media are in the possession of staff, they must be stored in a separate, locked cabinet during all times when not being examined by staff. CDs and flash drives must have a label indicating that FTI data is stored on them.

FTI in ACMS

When accessing the “IRS Address Detail” or “IRS Levy Detail” screens in ACMS, the user is presented with a warning banner that reads “CONFIDENTIAL IRS DATA.” ACMS has an IRS Summary feature in which the user must record any FTI. It is crucial for the user to update ACMS and properly record FTI data using the IRS Summary.

Levy Letters Containing FTI

Levy letters that contain information from IRS are considered FTI. The following information may be noted on levy letters:

- Tax Debtor’s SSN or FEIN
- Tax Debtor’s address
- Tax Debtor’s “aka” or “dba”
- Tax Debtor’s spouse (name, SSN, address)
- Sources of income (i.e. Banking institutions, Financial institutions, Sources of Independent Contractor income, Insurance policies, etc)

Levy letters that contain this type of information from IRS must be documented in the *FTI Tracking Log* as described above.

Audits Containing FTI

Digital audits stored on the J: drive, archived on CDs, or uploaded to the Audit Archive must be identified if they contain FTI. To do so, the file folder should utilize the following naming convention: District Code Case Number Taxpayer Name FTI. CDs must be encrypted and labeled as FTI. In addition, if viewing digital audits with FTI information, you must enter the viewing information on the *FTI Tracking Log* as described above.

Destroying FTI

When hard copy documents, including transcribed notes, levy letters and *Memorandum of Garnishee*, that are provided to BOE are no longer needed, they must be forwarded to the supervisor of the CPAS (MIC 02) in a double sealed envelope marked “Confidential” for destruction. In addition, an email must be sent to the *SUTD-FTI Custodian’s* mailbox confirming the FTI materials are being returned for destruction. The date of the email is entered into the database in the “District Return Notification” section. When CPAS receives the FTI materials and BOE forms, they date stamp the envelope and enter the date returned in the database “Received from District” section.

The FTI materials will be destroyed with the approved shredder located in CPAS.

Account Transcript		Return Transcript		Record of Account		Wage and Income	
Individual	Corporation	Individual	Corporation	Individual	Corporation	Individual	Corporation
1040	1141	1040	1065	1040	1065	1042-S	N/A
3250A	1141A	1040A	1120	1040A	1120	1098	
5329	1141QFT	1040EZ	1120A	1040EZ	1120A	1098-C	
706	1042	1040NR	1120H	1040NR	1120H	1098-E	
706GS(D)	1065	1040REZ	1120L	1040REZ	1120L	1098-T	
706NA	1065B	1040SS/PR	1120S	1040SS/PR	1120S	1099-A	
709	1066					1099-B	
709A	1120					1099-C	
8288	1120A					1099-CAP	
Civil Penalty	1120C					1099-DIV	
Sep. Assessment	1120F					1099-G	
	1120FSC					1099-H	
	1120H					1099-INT	
	1120L					1099-LTC	
	1120ND					1099-MISC	
	1120PC					1099-MSA	
	1120POL					1099-OID	
	1120					1099-PATR	
	REIT					1099-Q	
	1120RIC					1099-R	
	1120S					1099-S	
	1120SF					5498-ESA	
	11C					5498-IRA	
	2290					5498-MSA	
	4720					8805	
	5227					All Forms	
	706GS(D)					K-1 1041	
	706GS(T)					K-1 1065	
	720					K-1 1120S	
	730					SSA- 1099	
	8288					Summary	
	8752					W-2	
	8804					W-2G	
	940					W-4	
	940EZ						
	941						
	943						
	944						
	945						
	990						
	990C						
	990EZ						
	990PF						
	990T						
	CT-1						
	Civil Penalty						

FTI Actions and Database Activity Table**Exhibit 4**

<u>Action</u>	<u>Action</u>
<u>Process Form BOE-33-B.</u>	<u>Create entry on the IRS Tracking Database.</u>
<u>When FTI materials are received, send the FTI materials and forms BOE-33 and BOE-85 in a double-sealed envelope marked "Confidential" to the requesting office.</u>	<u>Click on "Email Menu," then "Notify District – Items Have Been Mailed" on the database. Verify that the FTI materials displayed in the database email match the hard copy by selecting "Preview" then "Send Email." The system sends out an email to the District Administrator, HO-SUP or their designee notifying them the FTI has been mailed.</u>
<u>The Requestor acknowledges receipt of the FTI via email.</u>	<u>Enter the date of the email in the database "District Acknowledgement" section.</u>
<u>If no email is received from the Requestor acknowledging receipt of materials within two weeks of mailing, a follow-up email should be sent.</u>	<u>In the database email menu select "Fourteen Day Follow-up (No Acknowledgment)." The system will send an email to the appropriate party requesting an update. In addition, in the database "Comments" section, enter the date, coordinator initials, and a note that a follow-up email has been sent requesting acknowledgement of receipt of FTI materials.</u>
<u>The Requestor notifies CPAS via email that the FTI materials and BOE forms are being returned for destruction.</u>	<u>Enter the date of the email in the "District Return Notification" section.</u>
<u>Receive the FTI materials and BOE forms.</u>	<u>Date stamp the envelope and enter the date returned on the database "Received from District" section.</u>
<u>Destruction of all hard copy FTI materials and BOE forms in compliance with IRS Publication 1075.</u>	<u>Enter the date of destruction in the database "Destruction Date" section.</u>