

M e m o r a n d u m

To: Honorable Jerome E. Horton, Chairman
 Honorable Michelle Steel, Vice Chair
 Honorable Betty T. Yee, First District
 Senator George Runner (Ret.), Second District
 Honorable John Chiang, State Controller

Date: December 12, 2013

From: Jeffrey L. McGuire, Deputy Director
 Sales and Use Tax Department (MIC 43)
Susanne Buehler for Jeffrey L. McGuire
for Susan Bastolo
 David J. Gau, Deputy Director
 Property and Special Taxes Department (MIC 63)

Subject: **Customer Service and Administrative
 Efficiency Committee Meeting, December 17, 2013
 Security Deposit Program Update**

This memo provides an update on the BOE's Security Deposit function. Staff reviewed statistics and conducted a benefit-to-cost analysis of the function in both the Sales and Use Tax Department (SUTD) and the Property and Special Taxes Department (PSTD). The analysis covers the function during fiscal years (FY) 2009-10, 2010-11, and 2011-12.

Analysis

Security is obtained primarily during our registration process and is automatically required for any corporation or LLC. In addition, staff may request security from a taxpayer with a history of late payments or delinquencies with the BOE. The BOE also obtains security for other purposes such as the sale of a business and this security is not included in this analysis and will not change based on this proposal. The reference to "security" in the remainder of this memo only refers to the automatic security requested upon registration.

A review of the security applied to outstanding liabilities and costs to maintain the function over the three years analyzed disclosed an average benefit-to-cost ratio of only 2.96 to 1. Furthermore, the benefit-to-cost ratio has also been declining each year and has fallen to 2.33 to 1 in FY 2011-12.

Security is not revenue and the actual revenue (security applied) is very low in comparison to the total security held by the BOE. On average, less than 1% of the total security held is actually applied to a liability. As of November 1, 2013, the BOE is holding a total of \$296,811,856 in security. Over \$67 million is currently held in the form of cash and liquid security deposits. None of these funds have been booked as State of California revenue, and are not subject to the budget process. If released, the funds would provide our taxpayers with additional capital for their business operations and the economy. Surety bonds and personal guaranties currently total \$227,936,642; these are not cash or liquid securities. None of these funds have been booked as State of California revenue, and are not subject to the budget process.

Recommendation

Our proposal is to eliminate the automatic security requirement upon registration. We will continue to request security from accounts with a history of non-payment or that pose a high compliance risk. The proposed change would require programming updates to our on-line registration program that could be completed by March 2014. Until that time, we would manually inform taxpayers that a security deposit is no longer necessary. We would start releasing existing security deposits in February 2014, starting with the oldest security first. This process is anticipated to take several months to complete. Taxpayers with a cash security who have an outstanding liability will have their security applied to their account to reduce their balance. Taxpayer's with a non-liquid security who have a liability will not have their security released until the liability is paid or the security can be applied.

Upon approval from the Board to adopt these changes, staff will initiate these changes to our automatic registration process.

JLM:bb

cc: (via email)

Mr. Mike Gipson – 4th District

Mr. Joel Angeles (MIC 77)

Mr. Alan LoFaso (MIC 71)

Ms. Maria Delgado (MIC 71)

Mr. Sean Wallentine (MIC 78)

Ms. Marcy Jo Mandel, State Controller's Office

Ms. Cynthia Bridges (MIC 73)

Mr. Randy Ferris (MIC 82)