

# Memorandum

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

**Date:** October 17, 2014

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



**Subject** : **Board Meeting November 18-20, 2014**  
**Item N: Administrative Agenda**  
**Proposed Revision to Compliance Policy and**  
**Procedures Manual (CPPM) Chapter 5, Returns**

I am requesting approval to forward the attached revision to CPPM Chapter 5, *Returns*, to the Board Proceedings Division to be placed as a consent item on the Administrative Agenda at the November 2014 meeting.

The proposed revision of sections 510.032 – 520.000 incorporates current policies and procedures related to the Electronic Funds Transfer program, and provides information regarding prepayments reported on quarterly returns. This revision, which has been reviewed and approved by SUTD management, has been provided to Board Members and posted on the Board’s website at <http://www.boe.ca.gov/sutax/pmr.htm> to solicit comments from interested parties. No comments were received from Board Members or other interested parties.

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

JLM:rs  
Attachment

Approved

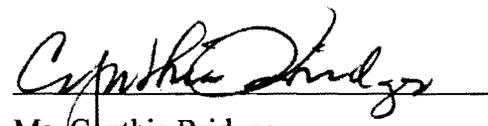
**STATE BOARD OF EQUALIZATION**



BOARD APPROVED

At the November 19, 2014 Board Meeting

Joann Richmond  
Joann Richmond, Chief  
Board Proceedings Division

  
Ms. Cynthia Bridges  
Executive Director

cc: (all with attachment)

Mr. David Gau (MIC 101)  
Mr. Wayne Mashihara (MIC 46)  
Ms. Susanne Buehler (MIC 92)  
Ms. Lynn Bartolo (MIC 57)  
Mr. Richard Parrott (MIC 88)  
Mr. Kevin Hanks (MIC 49)  
Mr. John Thiella (MIC 82)  
Mr. Marc Alviso (MIC 101)  
Mr. Chris Lee (MIC 101)  
Mr. Gary Lambert (MIC 43)

## **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 payments 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 ~~510.015 and~~ 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.

## MANDATORY ELECTRONIC FUNDS TRANSFER (EFT) PAYMENTS PROGRAM

510.040520.000

### **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, ~~or more~~ per month, as determined by ~~the Board~~ BOE, shall remit amounts due by EFT.

~~Effective January 1, 2001, this criterion applies to persons who file returns with the Special Taxes Division.~~

~~Any~~ However, persons who collect use tax on a voluntary basis is ~~are~~ not required to remit amounts due by EFT.

~~Any person whose estimated tax liability averages less than \$10,000 per month is not required to file by EFT, or any person who voluntarily collects use tax, may voluntarily elect to~~ 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.

~~with the approval of the Board. The election will be operative for a minimum of one year.~~

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

~~The EFT Group~~ For sales and use tax accounts, the EFT Team in RAU in the Return Analysis Section 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 this Group 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 ~~due dates~~ 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 ~~EFT Group~~ STPCD's Compliance Branch.

Taxpayers who ~~qualify as~~ are placed on EFT ~~payers~~ must make EFT payments on any returns due subsequent to ~~qualifying~~ 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 qualification

effective date.

For an electronic payment to be timely, the transferred funds must settle (be deposited) ~~(transfer)~~ into ~~the Board's~~ 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 ~~remitting payments~~ 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 ~~of the return~~ shall pay a penalty of 10 percent of the amount of the taxes due, exclusive of prepayments, ~~for the period for which the return is required.~~

Any person required to ~~remit taxes~~ pay their taxes by EFT whose ~~remits those taxes~~ payments are not made by ~~by any means other than appropriate~~ EFT shall pay a penalty of 10 percent of the taxes/fees incorrectly ~~remitted~~ paid.

~~Any person required to remit by EFT who fails to timely remit taxes due shall pay a 10 percent penalty of the amount of those taxes.~~

~~Effective January 1, 1997, if more than one of the above penalties apply to a reporting period, the combined penalties cannot exceed 10 percent of the taxes due and payable on any one return.~~

~~Effective January 1, 2000, a~~Any person who does not make a timely payment of prepayment amounts by EFT, and/or does not ~~pays~~ the prepayment amount by ~~check~~ EFT, is subject to a ~~maximum~~ penalty limited to a maximum of 6 percent ~~on~~ of the prepayment amount due. However, if the amount remains unpaid after the return due date, the penalty is adjusted to 10 percent.

~~Effective January 1, 1997, if more than one of the above penalties apply~~ penalty applies to a reporting period, the combined penalties cannot exceed 10 percent of the taxes due and payable on any one return.

~~Between January 1, 1997 and January 1, 2000, the penalty for remitting prepayments by other than EFT, was 10 percent and the maximum penalty could be 16 percent.~~

~~The following table summarizes the application of EFT penalties:~~

Description		Percent	Effective Dates	
			Start	End
	Late Payment	<del>10%</del>	January 1, 1992	December 31, 1996
	Late Filing of Return	<del>10%</del>		
	Payment by Other than	<del>10%</del>		
	Maximum Penalty	<del>30%</del>		
Returns:	Late Payment	<del>10%</del>	January 1, 1997	Present
	Late Filing of Return	<del>10%</del>		
	Payment by Other than	<del>10%</del>		
	Maximum Penalty	<del>10%</del>		
Prepayments:	Late Payment	<del>6%</del>	January 1, 1997	December 31, 1999
	Payment by Other than	<del>10%</del>		
	Maximum Penalty	<del>16%</del>		
Prepayments:	Late Payment	<del>6%</del>	January 1, 2000	Present
	Payment by Other than	<del>6%</del>		
	Maximum Penalty	<del>6%</del>		

For more detailed information on EFT payments and interest and penalty provisions, refer to ~~Publication 80, Electronic Funds Transfer Program, and Publication 75, Interest, and Penalty Payments~~ Penalties and Fees.

**Refund 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 with the Board. 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. ~~Group in the Return Analysis Section processes claims for remittances up to \$50,000 and for whole remittances exceeding \$50,000.~~ 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 processes refund claims for a part of a remittance that exceeds \$50,000.

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. ~~Refund payments may take the form of an ACH reversal or, if a reversal is not possible, a check will be issued.~~

On September 1, 1999 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, the Board delegated gives authority to the Executive Director to approve claims for refund in excess of ~~\$50,000~~ \$100,000 in cases involving a duplicate or erroneous remittance payment that is ~~created~~ made by a taxpayer through the EFT program. When the amount for which a claim is being made exceeds ~~\$50,000~~ \$100,000, the following procedures below must be followed.

**EFT Group — Return Analysis Section RAU (Sales and Use Tax and Lumber Fees) and RPS (Special Taxes and Fees)** — Claims for the refund of a **full remittance** ~~involving duplicate or erroneous overpayments~~ in excess of ~~\$50,000~~ \$100,000 that ~~were transmitted~~ was made via EFT are to be directed to the ~~Supervisor~~ Administrator of the EFT ~~Team Group in the Return Analysis Section~~ 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 ~~to verify the~~

~~occurrence of the duplicate or erroneous remittance.~~ Once verified, a memo addressed to the Executive Director requesting approval to expedite the refund will be prepared ~~for the signature of~~ by the Deputy Director, of the responsible department (or designee) Administration Department. This memo will include a brief description of the reason for the erroneous ~~remittance 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 ~~by paper check or through the use of the Automated Clearing House (ACH) reversal process.~~ The 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 ~~seven-five~~ day window allowed for the taxpayer to initiate a ~~reversal with return through~~ their financial institution. In cases where the ACH reversal process is not available, the Cashier Unit will be informed of the erroneous ~~remittance payment.~~ The Cashier Unit will then request the Accounting Section to issue a refund check ~~for the remittance to the taxpayer~~ from the appropriate account.

~~In order to~~ 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 e-mail 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 ~~the taxpayer receives the refund~~ 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.

**Refund Section — Sales and Use Tax DepartmentADRS (Sales and Use Tax and Lumber Fees) and ADAB (Special Taxes and Fees)** — Claims for refunds of a **portion of a remittance** ~~involving erroneous overpayments~~ in excess of ~~\$50,000~~ \$100,000 that ~~were transmitted was made~~ via EFT are to be directed to ~~the Refund Section of the Sales and Use Tax DepartmentADRS for sales and use tax and lumber fees, and ADAB for special taxes and fees.~~ The Refund SectionADRS 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 ~~for the signature of~~ by the Deputy Director, ~~Sales and Use Tax Department 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, ~~the Refund SectionADRS or ADAB~~ will ~~be responsible for initiating~~ 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 ~~Group~~ 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 ~~addressed~~ directed to the ~~Electronic Fund Transfer Group~~ EFT Team in RAU ~~of the Return Analysis Section~~, or to ADRS ~~the Refund Section~~. For special taxes and fees, questions should be directed to RPS or ADAB.