

Memorandum

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

Date: August 26, 2015

From : 
Lynn Bartolo, Acting Deputy Director
Sales and Use Tax Department (MIC 43)

Subject : **Board Meeting September 16-17, 2015**
Item N: Administrative Agenda
Proposed Revision to Compliance Policy and Procedures Manual (CPPM)
Chapters 3, 7, and 9

I am requesting approval to forward the attached revisions to the Board Proceeding Division to be placed as consent items on the Administrative Agenda at the September 2015 meeting. The following sections are being added to incorporate current policies and procedures:

- Chapter 3, Section 302.000 *Legal Name Changes*
- Chapter 7, Section 799.100 *Identity Theft Program*
- Chapter 9, Section 908.000 *Electronic Funds Transfer (EFT) Program for
Local and District Tax Jurisdictions*

These revisions have been reviewed and approved by SUTD management, 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. We received one comment from Board Member staff requesting minor grammatical changes to sections 302.030, 320.040, and 799.100, which were incorporated. No other 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 (916) 324-1825.

LB:rs

Attachment

STATE BOARD OF EQUALIZATION

BOARD APPROVED

At the September 16, 2015 Board Meeting

Joann Richmond
Joann Richmond, Chief
Board Proceedings Division

Approved



Ms. Cynthia Bridges
Executive Director

cc: (all with attachment)
Mr. David Gau (MIC 101)
Mr. Wayne Mashihara (MIC 47)
Ms. Susanne Buehler (MIC 92)
Mr. Richard Parrott (MIC 57)
Mr. Kevin Hanks (MIC 49)
Mr. John Thiella (MIC 73)
Mr. Marc Alviso (MIC 101)
Mr. Chris Lee (MIC 101)
Ms. Leila Hellmuth (MIC 43)

LEGAL NAME CHANGES

302.000

BACKGROUND

302.010

Every client and taxpayer entered into the BOE's database has a legal name. Certain events or circumstances may require a client or taxpayer to change their legal name. When this occurs, that client or taxpayer should notify the BOE of the change.

STANDARD OF PROOF AND PROCEDURES

302.020

When the BOE receives a request from an individual to change their name, staff must determine how the name is being changed and obtain proof. The documents needed to verify name changes due to marriage, divorce, court order, or naturalization are listed below:

- Copy of the marriage certificate or
- Copy of the court order granting the name change, and
- Proof of identification with the individual's former name and new name, one of which should be picture identification with the new name. Picture identification may be in the form of a driver license, student identification card, or some other form of official identification.

In all cases, staff should establish that the individual's new name and former name actually belong to the same person. Staff should generally not make copies of the certificates, court orders, or proof of identity presented. However, if the proof of identity appears questionable and the unit supervisor cannot resolve the issue of its acceptance, staff should:

- Make a copy of the documents,
- Inform the taxpayer their request for a name change may be delayed, and
- Forward the documents to the Compliance Policy Unit, MIC: 40, or to the appropriate division specialist in the Special Taxes Policy and Compliance Division.

The specialist will determine if the changes should be made and notify the district/unit whether or not the name change can be made. If the change cannot be made, the specialist will provide the reason(s) why and suggest possible alternative solutions in order to effect the change.

PROCESSING LEGAL NAME CHANGES

302.030

When staff determines an individual's legal name should be changed in IRIS, the change should be made by the authorized personnel.

The former name should be entered in IRIS in the pop-up box “client also known as,” or AKA. Putting an “m” on the moreable field next to the name will access this pop-up box. Comments should be entered in the CTS CS screen, but not in TAR AI since the moreable field in front of the name on both the TAR AI and CTS CS screens will be populated with the “>” symbol indicating AKAs exist.

CORRECTING ENTRIES IN THE AKA FIELD

302.040

Occasionally, mistakes may be made to the BOE’s database when entering AKAs for individuals. When staff discovers or mistakenly enters an AKA, staff will take the following steps to correct it:

- Create a comment in IRIS, noting the correct AKA (it is not necessary to note the wrong AKA).
- Enter the correct AKA in the field.
- If the wrong entry must be deleted, send an email to +Registration. The email subject is “Deleting AKA Entry,” and must contain:
 - Taxpayer Identification Number (TIN).
 - Wrong name.
 - Correct name.
 - The requestor’s district/branch and phone number.

Registration Team staff have the proper user security levels required to delete the AKA entries. All users of the AKA screen are reminded that the only valid entries on the lines are names. The fields are not to be used to enter any comments related to the AKAs. The fields on this screen are searched by a system called “Soundex.” When a name is entered on the CTS AL name search field, Soundex gives all the available entries as it is entered on the CTS AL name field, as well as those entries that “sound” the same. For example: “Johns,” may be entered on the search field and the system will return all available entries for that name, plus add “Jons, Jon’s, etc.” which are similar sounding entries. For this reason, staff should ensure that the AKA is entered as accurately as possible.

IDENTITY THEFT PROGRAM

799.100

Identity theft occurs when a person makes an unauthorized use of another person's personal identifying information for any unlawful purpose, such as to evade tax. Even though the perpetrator may be a family member or friend, it cannot be assumed that a person authorized such use of their personal information merely because of their relationship to the perpetrator.

The discovery of identity theft may arise from an audit or collection activity. It may also be discovered after a person unlawfully uses another person's name and personal information when applying for a permit or license without their consent, thus making the other person appear to be the person responsible for any debts incurred. However, merely adding a person's name and personal information, including a signature or electronic signature, when applying for a permit or license does not always establish an intent to evade tax. A person may have received authority and consent from the other person to act on their behalf in specified circumstances. For example, if a partner completes the permit application for him or herself as well as another partner, the act of registering for the other partner may not have been done with the intent to evade tax.

In the event a tax or fee liability is accrued on an account where a person alleges to have been fraudulently registered to that permit, the district office or headquarters section that discovers the alleged identity theft or forgery is responsible for evaluating the evidence and having the account adjusted if appropriate. If staff other than the responsible collector or auditor becomes aware of the possible identity theft, the information should be sent for review to the district or section responsible for the collection of the liability.

Staff is responsible for clearing an innocent party of any BOE liability resulting from identity theft or forgery. However, staff is **not** responsible for pursuing or identifying the perpetrator. In all cases, staff should send a memo to the Investigations Division with all pertinent information and any documentation obtained as evidence to support that identity theft has occurred, so they may begin an investigation and take appropriate action. The Investigations Division is responsible for contacting law enforcement.

Evidence

The innocent party is responsible for providing staff with documentary evidence supporting the claim of identity theft. Documentation may include the following:

- Police and/or court reports;
- Documentation that shows a fraud alert has been placed on credit reports;
- 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.);
- Written responses of results of investigations by creditors, banks, or companies that provided the perpetrator with unauthorized goods or services;
- Written responses of results of investigations by district attorney's office or other investigators supporting the claim of identity theft;
- Copies of other applications and business records relating to transactions and accounts that show that those transactions involved identity theft;

- Affidavits from landlords, vendors, accountants, or bookkeepers supporting a claim of identity theft;
- Deposition from a private handwriting expert certifying a forged signature; or
- A birth certificate indicating that the innocent party was a minor at the time the application was signed which may indicate identity theft occurred.

This list of documentation is not intended to be all inclusive and not all of the items listed are required to substantiate claims of identity theft.

Procedure

The responsible district or section will examine the evidence. The district principal compliance supervisor or headquarters section supervisor should contact other potentially affected sections or departments (e.g., Centralized Collections Section, Special Operations Branch, Special Taxes and Fees Department, and district offices) when a related account, or tax or fee program, is identified that may have additional pertinent information. Once the responsible district or section is satisfied the documentation supports the identity theft, the district principal compliance supervisor or headquarters section supervisor should review the case, and if in agreement, should approve a request for a legal adjustment to the account.

Staff will use a BOE-200-A, *Special Operations Action Request*, which is available in the Automated Compliance Management System (ACMS), to request a legal adjustment. The BOE-200-A is then sent to one of the following for final approval:

<u>Section/District</u>	<u>Final Approval</u>
<u>District Offices</u>	<u>District Administrator</u>
<u>Centralized Collections</u>	<u>Section Administrator</u>
<u>Headquarters Operations</u>	<u>Division Chief</u>
<u>Special Taxes and Fees</u>	<u>Division Chief</u>
<u>Legal Department</u>	<u>Chief Counsel</u>

Once the request for a legal adjustment has been approved, the approving party should forward the BOE-200-A to Special Operations Branch (SOB) for adjustment. Staff originating the request should put detailed comments in IRIS (CTS CM screen) under the TIN number for the individual.

SOB will process and approve the adjustment in IRIS using the adjustment type code “IDT” on the “Maintain Legal Adjustments for Account” screen (DIF LA). Once the adjustment is completed, SOB staff will generate a statement of account in IRIS, which will include bill note #999 (free form text) that explains the adjustment performed, and provide it to the innocent party.

If liens have been filed in the innocent party's name, a separate BOE-200-A should be completed and sent to SOB requesting a release of lien filed in error, or requesting a single party release of lien. SOB 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 adjustment is made, copies of all file documents should be forwarded to the Internal Audit Division (MIC 54).

ELECTRONIC FUNDS TRANSFER (EFT) PROGRAM FOR LOCAL AND DISTRICT TAX JURISDICTIONS

908.000

BACKGROUND

908.010

The EFT program for local tax jurisdictions was implemented as a result of a decision by the State Controller's Office (SCO) to discontinue the Same Day Banking program as of April 2001. Currently, jurisdictions (cities, counties, and special taxing jurisdictions) have the option of receiving their local sales, transactions, and use tax payments by paper warrant or by EFT. Those jurisdictions choosing to receive a paper warrant will receive their warrant through the U.S. Postal Service.

PROCEDURE

908.020

The Local Revenue Allocation Unit is responsible for administering the EFT program for local jurisdictions. If a city, county or special tax district contacts a BOE district office for information or instructions regarding this program, the local jurisdiction should be directed to contact the warrant desk in LRAU.

The warrant desk will provide guidance and the appropriate forms required to register new EFT accounts or make changes to existing accounts. The standard form BOE-555-LJ, *EFT Authorization Agreement for Local Jurisdictions*, must be submitted by jurisdictions that want to enroll in the EFT program or change their banking information. When the completed form has been received in LRAS and verification procedures have been performed, the pertinent banking information will be entered to register an account or make changes to an existing account. A letter of confirmation will then be mailed to the jurisdiction's designated contact person.

One to two pre-note tests are run for each monthly pay cycle to verify banking information for each participating jurisdiction. It is the timing of the pre-note tests that dictates the effective date of the change to EFT status. Generally, the registration and pre-note process requires up to 60 days to complete, whether for a new enrollment or a change to an existing account. Under these circumstances, the jurisdiction will generally receive a paper warrant through the U.S. Postal Service until the EFT process is implemented. Warrants are mailed by SCO on the same day that EFT deposits are posted. Information about the most recent warrant payment amounts distributed to local jurisdictions can be found on the BOE's website under Local Jurisdiction Statement of Tax Distribution.

Any questions should be emailed to SUTD-LRAS Warrant Desk.