

Memorandum

To : Mr. David J. Gau
Executive Director (MIC 73)

Date: May 3, 2016

From : Susanne Buehler, Deputy Director
Business Tax and Fee Department (MIC 43) *Susanne Buehler*

Subject : **Board Meeting May 24-26, 2016**
Item N: Administrative Agenda
Proposed Revisions to Compliance Policy and Procedures Manual (CPPM)
Chapter 2, Registration, and Chapter 7, Collections

I am requesting approval to forward the attached revisions to the Board Proceedings Division to be placed as consent items on the Administrative Agenda at the May 2016 meeting. The following sections are being added or revised to incorporate current policies and procedures:

- Chapter 2, Section 203.010, *User Registration*
- Chapter 2, Section 255.056, *Sales of Food Products Where Admission is Charged*
- Chapter 7, Section 720.040, *Financial Institution Record Match (FIRM)*
- Chapter 7, Section 767.060, *Notice of Public Sale of Liquor License*
- Chapter 7, Section 767.100, *Seizure and Public Drawing of Original Issue Liquor License*

These revisions have been reviewed and approved by Business Tax and Fee Department and Field Operations Department 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. No comments were received from Board Members or other interested parties.

If you have any questions, please let me know or contact Ms. Lynn Whitaker at (916) 324-8483.

SB:rs

Attachment

STATE BOARD OF EQUALIZATION

BOARD APPROVED



At the May 25, 2016 Board Meeting

Joann Richmond
Joann Richmond, Chief
Board Proceedings Division

Approved

David J. Gau

Mr. David J. Gau
Executive Director

cc: (all with attachment)
Mr. Wayne Mashihara (MIC 47)
Chief, Tax Policy Division (MIC 92)
Mr. Richard Parrott (MIC 57)
Mr. Kevin Hanks (MIC 49)
Mr. John Thiella (MIC 73)
Mr. Marc Alviso (MIC 73)
Mr. Chris Lee (MIC 73)
Ms. Leila Hellmuth (MIC 43)
Ms. Lynn Whitaker (MIC 50)

CLIENTUSER REGISTRATION

203.010

Tax and fee payers are required to ~~register as~~ become “clients registered users” prior to beginning an application. To ~~register as a client~~ become a registered user, the tax and fee payer must create a user ID and password, and must provide an email address. ~~Registering as a client allows~~ As a registered user, the tax and fee payer ~~may~~ apply for permits and licenses, file returns, make payments, order cigarette stamps, request relief, and add new business locations to an existing account. After ~~registration as client~~ becoming a registered user, a tax and fee payer can also manage multiple accounts.

Registered User Menus – Registered user menus are provided after the registered user logs in with their user ID and password. If a registered user manages more than one account they will be directed to the Registered User’s Service Menu which will display the account numbers and names of all the accounts grouped by tax program. Once a registered user selects an account, the Account Services Menu page will display the tax and fee payer’s information and the functions available for the registered user to perform. If a registered user has only one account, then the Account Services Menu will be displayed.

Permission Codes – Once a registered user is registered, permission codes determine which actions are available for the registered user to manage an account. For example, a registered user could be given permissions to file returns online and view history of filed returns online, but not have permission to perform account maintenance. BOE staff will utilize modified individual codes for a new registered user to perform electronic services for an account. A master (MST) permission group code authorizes a registered user to perform a group of individual actions, thereby allowing authorized owners to more efficiently manage their account. Owners can authorize additional permissions to their tax preparer by completing the BOE-91-B, “Tax/Fee Payer Authorization for Tax Preparers to Perform Electronic Services.” As new permission codes are developed for future projects, they may be included in the master permission group.

Link an Account - Owners and authorized users can manage multiple related accounts by using the “Link An Account” feature. However, owners can only link those accounts in which they are in the chain of ownership. During the matching process, if the name score has a validation of at least 80%, but the registered user’s TIN number is not in the chain of ownership, then an assignment is created in ASC IB for BOE staff to review and resolve. BOE staff should review the transaction and determine if the account should be linked to the registered user and if a TIN collapse should be requested, or if the link should be undone. Assignments will be routed to the office and workgroup identified by each department.

View Multiple Registered Users in Client Maintenance (IRIS) – BOE staff has the ability to select on CTS CM which registered user to view when two registered users are collapsed. A “CC” indicator will be displayed to the right of the TIN number on the CTS CM screen. If staff presses PF14 on the CTS CM screen, a pop-up will display the accounts and registered users that have been collapsed.

Registered User Permission Codes and Definitions

<u>Permission Code</u>	<u>Definitions</u>
<u>EFI</u>	<u>File returns/prepayments online.</u>
<u>ACM</u>	<u>Account Maintenance allows you to modify the business (account) email address and view history of transactions filed online.</u>
<u>MST</u>	<u>Master permissions include EFI and ACM. Registered user must be in the chain of ownership.</u>
<u>IPA</u>	<u>Request an installment payment agreement.</u>
<u>PAY</u>	<u>Initiate ACH Debit payments without filing online (Registered user is not in the chain of ownership).</u>
<u>ORR</u>	<u>Initiate online relief requests.</u>
<u>ALR</u>	<u>Cigarette/tobacco products and IFTA license renewal.</u>
<u>CSO</u>	<u>Cigarette Stamp Order.</u>

SALES OF FOOD PRODUCTS WHERE ADMISSION IS CHARGED

255.056

Generally, sellers of food products where admission is charged are required to hold a seller's permit. Tax applies to the sale of food products that are sold within a place where admission is charged and the food is for consumption at that place.

When a seller of food products inquires if they need a permit, staff should determine whether the food products are sold in a place where admission is charged and if the food products are sold in a form suitable for immediate consumption.

Examples of items not considered suitable for immediate consumption include:

- A cold party tray, a whole cold chicken, or an unbaked pizza
- Pieces of candy sold in bulk quantities of one pound or greater
- A whole pie, a quart of milk, or a quart of ice cream
- Canned jams, cake mixes, and spices

If the products sold in a place where admission is charged and are in a form suitable for immediate consumption, a seller's permit is required. Tax applies to all sales of hot prepared food products regardless if it is for immediate consumption unless otherwise exempt; refer to Regulation 1603 for additional information.

FINANCIAL INSTITUTION RECORD MATCH (FIRM)

720.040

The FIRM program matches tax debtors' social security numbers (SSNs) and federal employer identification numbers (FEINs) against accounts held at participating financial institutions (banks, credit unions, insurance, and brokerage companies). Financial information obtained through FIRM is available in our Automated Compliance Management System (ACMS).

Once FIRM matches our tax debtors' files, the financial information will be displayed in ACMS through the FIRM *Fast-Path* button, located on the left side of the screen, or by selecting FIRM in the *Account* pull-down menu. More detailed information about FIRM is available on eBOE under ACMS *Cheat Sheets* at <http://eboe/iris/oeiris/cheatsheets/FIRM.pdf>.

Not all accounts in ACMS will have FIRM information. However, BOE submits SSNs/FEINs to the participating institutions every quarter and receives matching information every month, based on the size of the participating financial institution.

Please be aware that some financial information received through FIRM may be inaccurate or contain information that does not match our tax debtor. Therefore, it is important that you verify the FIRM information against our tax debtor's records before taking actions. For example, there may be instances where FIRM information on corporations or limited liability companies includes corporate officers' or managing members' personal financial information. Additionally, you may find individuals' information not related to our tax debtors' accounts as a result of wrong SSNs, FEINs and/or names entered by the financial institutions. For this reason, you will see a red banner displayed on the FIRM window asking you to ensure the bank information matches that of our tax debtor. Current policies and procedures regarding the *Notice of Levy* remain in effect and should be followed.

NOTICE OF PUBLIC SALE OF LIQUOR LICENSE

767.060

~~Form~~ The BOE-21, *Liquor License — Notice of Sale*, giving the time and place of sale, must be fully completed and served on the licensee and given to interested bidders.

~~Form~~ The BOE-21 shall be sent in an envelope addressed to the person at his or her last known residence or place of business in this state by United States mail, first-class postage prepaid, at least 25 days (30 days for licensees residing out of state) before the date set for the sale. (RTC section 6797 and Code of Civil Procedure section 1013). The notice contains:

1. A description of the license.
2. A statement saying unless the renewal fees are paid on or before the date **fixed entered** in the BOE-21 ~~Liquor License — Notice of Sale~~, the license will be sold in accordance with law and the notice.
3. The amount due (including interest, penalties, and costs).
4. The name of the delinquent licensee.
5. The conditions of sale.
6. The minimum acceptable bid.

A ~~Form~~ BOE-264, *Declaration of Service By Mail*, shall be executed upon the completion of mailing by the person actually placing the notice in the mail. The declaration will be attached to each copy of the BOE-21 ~~Notice of Sale~~ and become a part of the sale file.

The BOE-21 ~~Liquor License — Notice of Sale~~ shall be published in a newspaper of general circulation published in the city in which the property is located, if in a city, or if not, in the judicial district, or if none, in the county. A copy of the notice must be in the hands of the newspaper in time to permit the newspaper to make the initial publication not less than twenty days before the date set for sale. The notice must be printed once a week for three weeks and with at least five days between each printing.

The newspaper billing will be sent to the ~~Financial Management Division~~ Accounting Services Section, in triplicate, together with two copies of the notice and one copy of the affidavit of publication prepared by the newspaper. The office holding the sale must ask the newspaper to prepare the affidavit although, as a general rule, this is done as a matter of course. Publication costs should be accumulated and reimbursed to the ~~Financial Management Division~~ Accounting Services Section from the proceeds of sale. The original affidavit of publication becomes a part of the sale file.

A notice to the general public of the time and place of sale shall also be made by posting the notice in two public places in the county at least twenty days before the date of sale. The outside or the public corridor of a building is considered a public place. The inside of a plate glass window or a private corridor of a public building is not a public place. To attract the maximum amount of prospective bidders and improve the probability of a successful sale ~~As a safety factor~~, the notice should be posted in four or five places, including the location of the ABC office that has jurisdiction over the license.

A declaration of the posting of notice will be executed by the person actually posting the notice. The places of posting will be part of the declaration. This declaration will become a part of the sale file.

Upon completion of the license transfer, a copy of all *Liquor License — Notices of Sale*, newspaper announcements and bids should be compiled and sent to the Taxpayer Records Section Unit for ~~storage~~retention in Documentum.

The BOE-21 will also be posted on the BOE's public website for all liquor licenses being seized and sold. The BOE-21 will be posted under the "Business Center" section, under the heading "Liquor Licenses for Sale by BOE." By posting this to the website, the BOE will potentially attract more buyers for the liquor license and increase the potential for the license selling at a greater amount, thus increasing the collected amount.

The following are procedures for posting the BOE-21 to the BOE's public website:

1. The BOE-21 will be completed in ACMS.
2. Staff will notify the Liquor License Internet Coordinator (LLIC) in the Special Operations Branch regarding the BOE-21 to be posted by sending an email to ABCSeizureDesk@boe.ca.gov. Include the account number, liquor license number, and date of the BOE-21 in the request for posting to the LLIC.
3. The LLIC will make the BOE-21 document accessible to persons who are visually impaired.
4. The LLIC will email the pdf files and webpage revisions to the Web Services Division at BOEInternet@boe.ca.gov for posting to BOE's public website.
5. Staff will email the LLIC for removal of the BOE-21 when the auction has been completed or cancelled.

SEIZURE AND PUBLIC DRAWING OF ORIGINAL ISSUE LIQUOR LICENSE

767.100

Newly issued general on-sale or off-sale licenses, or licenses that were previously transferred between counties, cannot be transferred to another owner for a period of two years from the date of the initial issuance or date of the inter-county transfer. Exceptions to this provision exist when the owner of the license is deceased, when the owner of the license is a corporation whose stock is publically traded on the New York Stock Exchange and is required by law to file periodic reports with the Securities and Exchange Commission, or when the ABC determines that the transfer is necessary to prevent undue hardship. Although we do not anticipate encountering any of these exceptional situations, should you do so, you may email the Compliance Policy Unit at SUTDCPU@boe.ca.gov with any questions. Additionally, a license that was transferred between counties within the last five years cannot be sold for more than \$13,800. After these time constraints have passed, there are no further price restrictions and the license may be sold at auction to the highest bidder.

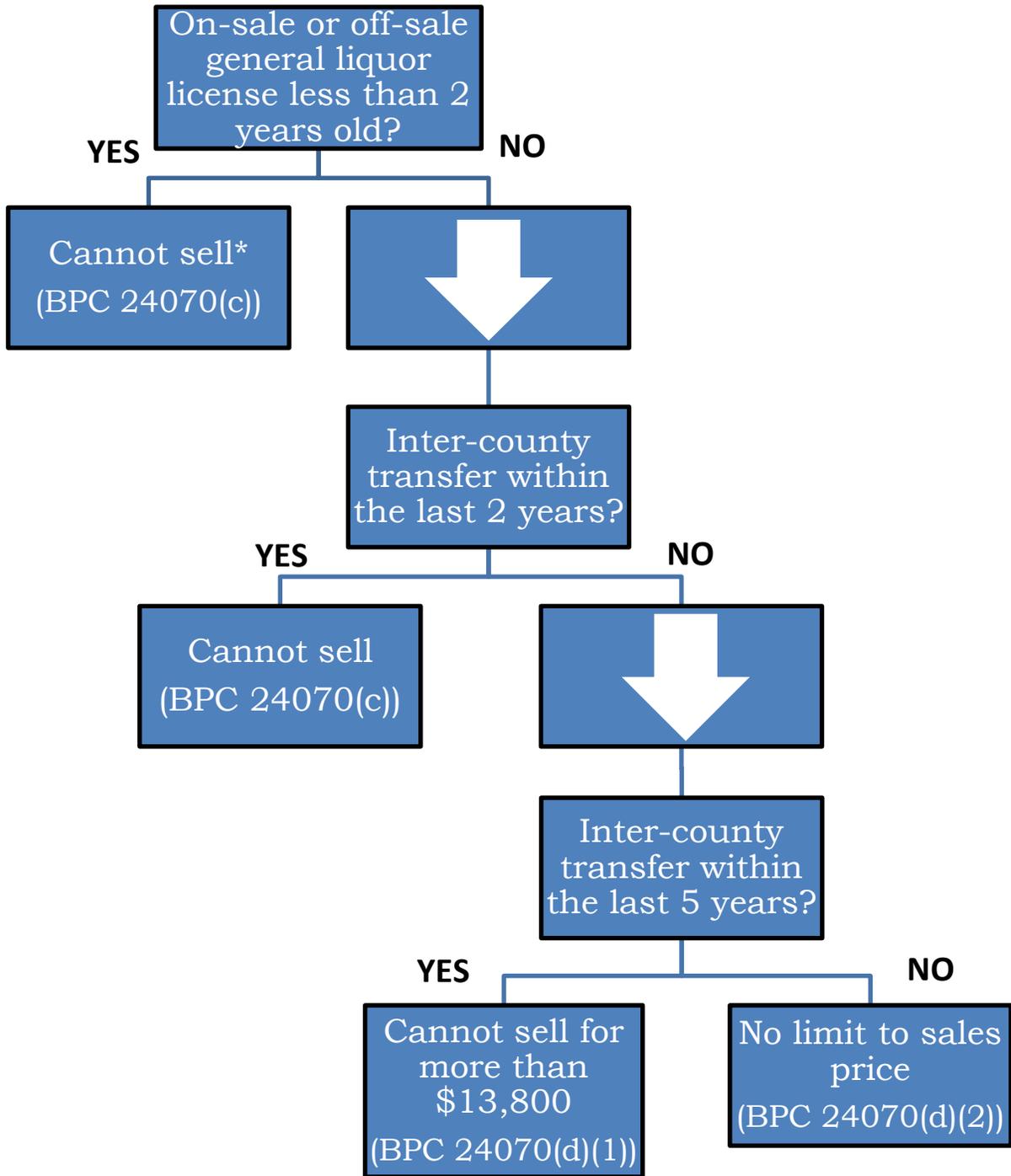
When determining whether a license should be seized, collection staff must be aware of when the license was initially issued as well as if the license has been transferred between counties. Staff must take into consideration any price restrictions that may apply in determining whether it is cost-effective to seize and sell a liquor license. For assistance in determining any applicable restrictions, please reference the chart in [Exhibit 1](#).~~The law specifies that a license may not be transferred for one year following its initial issuance. After one year, the license may be transferred and there is no restriction as to the sales price of the license. These provisions apply to licenses which have paid fees pursuant to Business and Professions Code section 23954.5.~~

~~Original issue on sale or off sale liquor licenses that have not paid fees pursuant to section 23954.5, cannot be transferred for two years following initial issuance. These types of licenses, when they are more than two years old but less than five years old, may not be sold for more than six thousand dollars (\$6,000) plus the costs associated with the sale (Business and Professions Code section 24070, et. seq.) When these types of licenses are seized,~~

‡The BOE cannot accept bids at public auction that exceed the maximum allowable amount. In these instances, the BOE may hold a public drawing in lieu of a public auction. The forms necessary to conduct a public drawing for this purpose are not available as standard forms. Sample letters follow this section. The *Notice of Sale by Public Drawing* shall be advertised by following the procedures in CPPM 767.060.

The *Notice of Sale and Entry Letter* may be mailed to known interested participants, liquor license brokers, and unsuccessful bidders of prior ABC drawings. Only one entry form should be accepted from each corporation or each family unit (husband-wife, parent-child). The lower portion of the *Notice of Sale and Entry Letter* should be severed, folded, and placed in a container large enough to allow room for mixing or shaking before the drawing. Two BOE employees should conduct the drawing. All entries should be drawn. The ranking or order of drawing (i.e., 1, 2, 3, etc.) should be placed on the entry form and letter as the control number.

The participant whose name is first drawn, if not present at the drawing, should be notified by telephone and sent a confirmation letter. If the first drawing participant fails to open escrow or complete the license transfer, the license should be offered to the next ranking participant(s) until the sale is completed.



* Exceptions may exist. Contact SUTDCPU@boe.ca.gov with questions.