



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION  
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May 10, 2012

VIA INTERNET

KRISTINE CAZADD  
Executive Director

Dear Interested Party:

The Compliance Policy and Procedures Manual (CPPM) is a guide for the Board of Equalization (BOE) staff in administering tax and fee programs. It is available to the public and can be accessed from the BOE web page at <http://www.boe.ca.gov/sutax/staxmanuals.htm>.

The Sales and Use Tax Department (SUTD) is proposing to revise CPPM Section 771.000 et seq. to clarify and update policies and procedures for interagency offsets of tax liabilities. The revision material is provided on the following pages for the convenience of interested parties who may wish to submit comments or suggestions. Please feel free to publish this information on your website or otherwise distribute it to your association/members.

If you have any comments or suggestions related to the proposed CPPM revisions, you may contact the BOE at [CPPM.RevisionSuggestions@boe.ca.gov](mailto:CPPM.RevisionSuggestions@boe.ca.gov). Your comments or suggestions must be received by BOE no later than July 11, 2012 in order to be considered by staff. Thank you for your consideration.

Sincerely,

Susanne Buehler, Chief  
Tax Policy Division  
Sales and Use Tax Department

## INTERAGENCY OFFSETS

771.000

### GENERAL

771.010

The Government Code authorizes any state agency to request payment from any other state agency that owes money to a person or entity when that person or entity owes a liability to a state agency. This procedure is called “offsetting.”

Government Code section 12419.4 provides that the state has a lien for any taxes due the State from any person or entity, upon any and all personal property belonging to such person or entity and held by the State or amount owed to such person or entity by the State. The lien shall apply to all such property held or such amount owed by an agency of the State while such person or entity owes any taxes to that agency or another agency of the State. This lien does not apply to salary or wages owing to officers or employees of the State.

In order to enforce the lien, the Board of Equalization (BOE) must send written notification to the agency holding money for refund ~~and include~~ the ~~taxpayer's name, person, identify~~ the amount due, and request that payment be sent to the BOE to be “offset” against the person’s liability.

~~Compliance staff should consider requesting offsets for all final amounts owed by a taxpayer that are greater than 90 days old, pursuant to the conditions outlined in CPPM 771.020. The “offset” procedure is used only as a “last resort” when all other collection avenues have been unsuccessful. When selecting accounts for referral to the Franchise Tax Board (FTB) for offset, extreme care and good judgment must be exercised to avoid the possibility of collection in the field and, in addition, having the liability offset from the taxpayer’s personal or corporate income tax refund.~~

### FRANCHISE TAX BOARD (FTB) OFFSET REQUESTS

771.015

If a tax or fee payer owes a liability to the BOE, staff may request ~~an FTB~~ offset ~~through FTB as part of the FTB Interagency Intercept Collections (IIC) Program. In conjunction with the State Controller’s Office (SCO), the IIC program intercepts state payments that are due to individuals, including FTB personal income tax refunds, Unclaimed Property Division claim payments, and California State Lottery winnings. on a personal or corporate income tax refund owed to a taxpayer against that liability.~~ FTB handles offset requests on a first-come, first-serve basis. Other agencies may be competing for the same funds; therefore, the window of opportunity to request an offset is very short.

### ~~Personal Income Tax System (PITS) Offset Against Individuals~~

The FTB offset request for individual or partnership accounts is made using the ACMS system. ~~The account must have a valid social security number and a final liability of at least \$50.00.~~ The responsible collector working the account initiates an offset request using the “FTB Offset Request” Fast Path button in ACMS. The Fast Path button allows responsible collectors to update offset request information at any time. The Special ~~Procedures Section~~ Operations Branch (SPSSOB) ~~electronically submits offset request~~ notifies FTB of any changes (add/delete/change) to ~~the offset request by submitting a diskette to FTB on a weekly basis~~ twice a month.

### ~~Business Entity Tax System (BETS) Offset Against Corporations/LLCs~~

The FTB offset request function for corporate and LLC accounts is not currently available in ACMS. ~~However, district and headquarters collectors do not need to initiate a~~Actions on these types of accounts ~~because they~~ are handled by SPSSOB.

FTB provides SPSSOB with a list of all cCorporate and LLC accounts scheduled to receive FTB refunds. Upon receiving this list, SPSSOB identifies each offset item by searching IRIS to locate all pertinent BOE account numbers and notifies the appropriate district or unit regarding the offset. These requests are a priority, and the responsible collector must respond promptly with a recommendation to either accept or deny the offset when SPSSOB directs an offset request to him or her. SPSSOB faxes the offset request memo back to FTB either the same day or, at the latest, the following business day after receiving it from FTB. **Compliance Policy and Procedures Manual July 2009**

## SELECTION OF ACCOUNTS FOR FTB OFFSET

771.020

Accounts selected for offset must meet the following conditions:

1. Taxpayer is a sole proprietor or individual partner and the social security number is available, or-
- ~~2.~~ Taxpayer is a corporation or LLC and the corporate/LLC number issued by the Secretary of State's office is available, or-  
Taxpayer is a corporate officer or LLC member against whom a dual liability has been established.
- ~~3.~~ There is a final liability which exceeds \$250.00. Billing is final and delinquent.
- ~~4.~~ All other avenues of collection have been unsuccessful.
- ~~5.~~ There is a documented record of at least three collection letters sent to the debtor. Balance exceeds \$50.00.
- ~~6.~~ Taxpayer is not on an installment payment arrangement or, if on a plan, is not performing as agreed, and the installment payment agreement termination letter has been sent.
- ~~7.~~ Taxpayer is not in bankruptcy or has received a discharge from bankruptcy.  
A petition in bankruptcy carries with it an automatic stay, so the offset of the liability is withheld until the debtor receives a discharge or the automatic stay is lifted. The refund to be offset must be for a tax period subsequent to the bankruptcy filing date.
- ~~8.~~ The refund is community property or sole property of the individual. (Staff should look for ~~the~~ dissolution of ~~a~~ marriage or that the couple is ~~not~~ living apart. If the couple is living apart, the income of each spouse is separate property.)
- ~~9.~~ The request for offset is made on the correct entity. (The person did not give another person's social security number; there was not an erroneous trace — father and son or person with same name; or the billing was made against the wrong person.) If an erroneous offset occurs, it is the BOE's responsibility to issue the refund. This is the reason why it is so important to withdraw an offset when the account is paid in full or it becomes apparent that it will be paid in full without the offset.
- ~~7.~~ If the taxpayer is on an installment payment agreement (IPA), an offset should still be requested for final liabilities greater than 90 days old. IPA forms (BOE 407 series) include language to notify the taxpayer of the BOE's ability to initiate an offset against their property held by another state agency.

If an offset occurs, the taxpayer will receive a letter of notification and staff must be prepared to handle calls from the affected taxpayer. Taxpayers should be told to telephone the FTB only if the taxpayer has a tax problem involving the FTB. If the liability is paid in full or it becomes apparent that it will be paid in full without the offset, or if conditions for offset are no longer met, the FTB offset should be promptly removed.

## EMPLOYMENT DEVELOPMENT DEPARTMENT (EDD) OFFSET REQUESTS 771.030

The Employment Development Department (EDD) offset request for all entities is not available in ACMS. Offset requests for these entities are processed manually through SPSSOB. EDD provides SPSSOB with a list of all entities scheduled to receive EDD refunds. SPSSOB identifies each item by searching IRIS to locate all pertinent BOE account numbers and notifies the appropriate district or unit regarding the offset. As in the case of FTB, EDD also handles the offset requests on a first-come, first-served

basis; ~~other agencies may be competing for the same funds; and~~ the window of opportunity to request an offset is very short. Once SPSSOB notifies the responsible collector in the district offices or Headquarters units, they must make the determination to accept or deny the offset. The responsible collector will respond to SPSSOB as a priority in order to process the offset request and forward it to EDD. The offset request must be done on the same day or, at the latest, the following business day in order for the BOE to receive the offset funds. **Collections July 2009**

## **ALCOHOLIC BEVERAGE CONTROL (ABC) OFFSET REQUESTS \_\_\_\_\_ 771.040**

Business and Professions Code section 23959 states, “if an application [for an alcoholic beverage license] is denied or withdrawn, one-fourth of the license fee paid, or not more than one hundred dollars (\$100), shall be deposited in the Alcohol Beverage Control Fund as provided in Section 25761. The balance of this amount shall be credited on any taxes due from the applicant under ...the Sales and Use Tax Law, and the remaining portion shall be returned to the applicant.”

~~Alcoholic Beverage Control (ABC)~~ periodically transmits a “Refund Schedule for Sales Tax” to the Board of Equalization that lists the applicant’s name, address, and amount of funds available for offset. These transmittals from ABC do not arrive on any particular schedule, but they do have a deadline of 14 days from the date of the notice to request offset of the funds. These refunds typically occur because an ABC license applicant, after paying the fee for a license, has withdrawn their application and ABC is refunding the fee paid. SPSSOB staff conducts the same search and notification process for ABC offset requests as for the other types of offset requests.

## **DEPARTMENT OF HEALTH CARE SERVICES (DHCS) OFFSET REQUESTS \_\_\_\_\_ 771.050**

The ~~Department of Health Services (DHCS)~~, which administers the Medi-Cal program, annually distributes over \$4 billion to California health providers. Among their clients are physicians, dentists, chiropractors, optometrists, pharmacies, hospitals, ambulance services, and retailers of hearing aids, prosthetic devices, wheel chairs, etc.

Confirmation of provider participation can be acquired from the DHCS Provider Enrollment Division, at (916) 323-1945. DHCS should be furnished with the Confirmation requires the provider’s taxpayer’s social security number or federal identification number, and most recent business address to confirm their participation in the program.

Requests for offset are made via a memo to SPSSOB who will request offset under the provisions of Government Code section 12419.5.

## **FUNDS DUE TAXPAYERS FROM OTHER STATE AGENCIES \_\_\_\_\_ 771.070**

Although SPSSOB initiates the majority of offset requests, the district offices may find funds owed to a delinquent taxpayer by agencies that are not monitored by SPSSOB, such as bonds subject to refund posted with Contractors State License Board or the Bureau of Automotive Repair. ~~As noted previously, u~~Upon receipt of a written request from the district office, SPSSOB staff may request an offset of funds from any state agency that owes a taxpayer a refund. *Compliance Policy and Procedures Manual July 2009*

**DISTRICT REQUESTS FOR OFFSET TO SPECIAL PROCEDURES  
SECTION OPERATIONS BRANCH**

**771.080**

~~Notification from the district offices and Headquarters units to SPS requesting the offset of funds from another state agency are not required to be in any specific format but must contain complete information regarding the matter. At a minimum, the request must contain the:~~  
District offices and Headquarters units requesting to offset funds from another agency are required to provide a memo to SOB with the following information:

1. Taxpayer's name, exactly as it appears in IRIS.
2. Taxpayer's mailing address.
3. Amount of the taxpayer's liability.
4. A summary of the account history.
5. Name and address of the agency that is holding funds available for offset.
6. Any documentation or information showing the taxpayer is to receive funds from the respective agency.

**SPECIAL PROCEDURES SECTION OPERATIONS BRANCH OFFSET NOTIFICATION  
TO DISTRICT OFFICE**

**771.090**

~~For offset requests that are initiated by SPS, such as FTB BETS accounts, the district office(s) may be instructed by SPS to verify the identity of the person subject to the offset. SPS may request this verification by either phone or e-mail. If verification is requested by e-mail, the district office will receive an e-mail similar to the following:~~  
SOB notifies the responsible collector in the district office or Headquarters unit via e-mail when an offset is available. SOB uses two standard sets of email notifications and ACMS comments; one set for ABC/EDD offsets and a separate set for FTB offsets.

Sample Email and ACMS Comments for ABC/EDD Offsets

**Subject:** ~~ABC Fee~~ ABC/EDD Offset/Account Number/Taxpayer's Name

There is an ABC/EDD ~~ABC fee~~ offset available in the amount of \$(offset amount) on the above account. Please review the account and determine if the offset should be taken. ~~An immediate response is necessary i~~n order for the BOE to receive the funds, please respond by the end of the day. ~~Failure to respond will result in the BOE forfeiting the offset funds.~~ If you have any questions, please contact me at (phone number)~~the phone number listed below~~ or by reply email.

Once the responsible collector responds with a decision, Normally, SPSSOB enters comments i~~will also include~~ ACMS eomments similar to the following:

"Special Operations Procedures received notice from ABC/EDD of regarding an ABC fee ~~offset~~ available in the amount of \$(offset amount). The account was reviewed and Sent notice via e-mail to (name of responsible collector) to determine if offset should be requested. (Collector's NameName) replied via e-mail to accept/decline the offset."

Sample Email and ACMS Comments for FTB Offsets

**Subject:** FTB Offset/Account Number/Taxpayer's Name

There is an FTB offset available in the amount of \$(offset amount) on the above account. **NOTE: Before we can offset this amount, the Pre-Intercept**

**Notice\* requirement must be met. Also, 30 days must have passed from the Demand date for each period in which an offset is requested.** Please review the account and determine if the offset should be taken. In order for the BOE to receive the funds, please respond by the end of the day. If you have any questions, please contact me at (phone number) or by reply email.

*\*Pre-Intercept Notice (see below) is generally the last blurb found on the Demand billing: The Franchise Tax Board (FTB) administers the Interagency Intercept Collection Program in conjunction with the State Controller's Office. FTB is authorized to redirect a refund owed to a tax or fee payer to the Board of Equalization (BOE) to offset the tax or fee payer's liability under California Government Code section 12419.5. If you have any questions or objections to the liability on this notice, contact the BOE office indicated above within 30 days from the date of this notice and a BOE representative will review and discuss your account with you. You have 30 days from the date of this notice to either remit payment in full, contact the BOE, or provide documentation to the BOE to show the liability is not due. Failure to respond within 30 days from the date of this notice will result in the BOE forwarding your account to FTB to proceed with intercept collections.*

Once the responsible collector responds with a decision, SOB enters comments in ACMS similar to the following:

Special Operations received notice from FTB of an offset available in the amount of \$(offset amount). E-mailed (Collector's Name) regarding the Pre-Intercept Notice requirement, the 30-day waiting period from the Demand date, and whether the offset should be accepted/declined. The account was reviewed and (Collector's Name) replied via e-mail to accept/decline the offset.

#### **STATE CONTROLLER'S OFFICE — UNCLAIMED PROPERTY 771.095**

~~The State Controller's Office publishes a list of unclaimed property on its website as a tool to the public to search for properties that may belong to them. This listing is the result of dormant properties being escheated by banking institutions to the State and held in trust.~~

~~BOE staff should not attempt to reach these properties in order to satisfy taxpayer's delinquencies. These escheated properties may only be claimed by the person(s) who had legal rights to the property prior to its escheat.~~

~~The procedures set forth in this section for offset of funds should be used for requesting funds from those state agencies where we have reciprocal agreements, but may not be used for unclaimed properties or other funds.~~