6. VOLUNTARY CASE RESOLUTION SECTION

6.1 BUSINESS ENTITIES

6.1.1 Debtor Contact

6.1.1.1 Automated Notices

Background

Franchise Tax Board (FTB) issues notices to business entities with tax issues. These notices provide business entities repeated opportunities to voluntarily meet their tax obligations.

Purpose

FTB notices educate business entities of their legal rights and responsibilities, and provides them with FTB contact information. Notices are used as a method to gain compliance, minimize enforcement costs, and ensure due process. See section 3.1.3.1 Due Process.

Responsibility

FTB must notify business entities in writing about outstanding tax issues, and allow reasonable time for the business entity to comply.

Action

FTB systems issue notices that ensure due process and encourage voluntary compliance. The most common notices are:

Business Entity Tax System (BETS):

- Request for Past Due Tax Return
- Official Demand for Past Due Tax Return
- Single Period Return Information Notice
- Consolidated Return Information Notice
- Notice of Balance Due

Business Entity Accounts Receivable Collection System (BE ARCS):

- Past Due Notice
- Formal Demand Notice
- Final Notice Before Levy
- Notice to File Tax Returns
- Final Notice Before Suspension or Forfeiture
- Final Notice Before Contract Voidability

Integrated Nonfiler Compliance System (INC):

- Demand for Tax Return
- Notice of Proposed Assessment

NOTE: The names of the notices may vary for different entity types.

Reference

((****))
((****))
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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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6.1.2 Billing Notices

6.1.2.1 Business Entities Tax Systems (BETS) Billing Notices

Background

Business Entities Tax System (BETS) is an accounting system that processes corporation, partnership, and limited liability company (LLC) returns, payments and transactions. ((****))

Purpose

BETS notices inform business entities of balances due, errors made on returns, missing returns (also known as Delinquency Control - DLC), and a variety of refund situations. In addition, BETS notices advise business entities of their legal rights and responsibilities, and provides them a way to contact us for additional information. These notices also help establish due process.

NOTE: See Due Process Section 3.1.3.1.

Responsibility

It is the responsibility of Franchise Tax Board (FTB) staff to verify that a BETS notice has been issued.

Action

BETS will automatically issue notices for balances due and for missing year tax returns (DLC). This includes short periods beginning on or after January 1992. In the event a notice has not been issued, FTB staff should request a notice be issued.

BETS generates initial notices for:

- Unpaid tax
- Unpaid penalty
- Unpaid interest

Once a notice is produced and is sent by BETS, the account information passes to the Business Entities Accounts Receivable Collection System (BE ARCS).

BETS billing notices:

- Request for Past Due Tax Return
- Official Demand for Past Due Tax Return
- Single Period Return Information Notice

- Consolidated Return Information Notice
- Notice of Balance Due

Reference

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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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6.1.2.2 Business Entities Accounts Receivable Collection System (BE ARCS) Notices

Background

Beginning February 2001, new tax year liabilities enter the Business Entities Accounts Receivable Collection System (BE ARCS) from the Business Entities Tax System (BETS) and are held there pending the business entity response. There are multiple functional areas and different billing cycles based upon case histories. Prior to February 2001, collection notices were sent from the Collection Account Processing System.

Purpose

The purpose of the BE ARCS billings is to advise business entities of their legal rights and responsibilities, and provide them a way to contact us for additional information.

Responsibility

Franchise Tax Board (FTB) staff must review an account's billing history and verify that a BE ARCS notice has been issued.

Action

After an initial holding period of 30 to 45 days, BE ARCS evaluates and assigns each account to a:

***Location* –** Based on entity type (e.g., corporation, partnership, exempt).

***Functional Area* –** Based on risk level (low, moderate, or high) and/or account type.

***State* –** Based on the next required collection action. All accounts within the same Functional Area that require the same next collection action (such as an outgoing telephone call) are grouped into the same State.

((****))

((****))

FTB staff have the ability to manually issue notices while the account is in the automated billing cycle.

Common ARCS notices:

- Past Due Notice
- Formal Demand Notice

- Final Notice Before Levy
- Notice to File Tax Returns
- Final Notice Before Suspension or Forfeiture
- Final Notice Before Contract Voidability

Reference

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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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6.1.2.3 Notice Of Proposed Assessment (NPA)

Background

When an adjustment to a tax return results in additional tax, a Notice of Proposed Assessment (NPA) is issued. These NPAs are issued to business entities on the basis of:

- Additional tax due based on an audit of an original or amended tax return.
- Internal Revenue Service information.
- Missing year tax returns.

Entities have 60 days to protest the validity of the NPA. After 60 days, the NPA becomes final; a Notice of Balance Due is mailed stating that the tax, penalties, and interest assessed are considered due and payable 15 days from that notice date.

Purpose

The purpose of the NPA is to inform the business entity of the adjustment and allows time to protest the assessment. The purpose of the Notice of Balance Due (NPA final bill) is to inform the entity that the assessment is due and payable 15 days from the notice date.

Responsibility

Franchise Tax Board (FTB) staff must ensure that business entities receive due process on all assessments.

Action

FTB staff are able to generate an NPA through the Business Entities Tax System (BETS). Usually within 30 days after the protest period, BETS issues a Notice of Balance Due (also known as the NPA final bill). Once the Notice of Balance Due is sent, the tax year liability enters into the Business Entities Accounts Receivable Collection System (BE ARCS) billing cycle, and the liability becomes collectible 15 days from the notice date. FTB staff must ensure that this process has occurred prior to taking collection actions.

Reference

((****))

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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6.1.3 Payment Proposals

6.1.3.1 Payment Deferral ((****))

Background

Currently, there is no provision in the Revenue and Taxation Code for extensions of time for payment of tax due for a business entity. However, business entities may be faced with a financial hardship and be unable to pay in full all at once.

Purpose

The purpose of a payment deferral is to allow business entities an opportunity to pay their debt in full ((****)).

Responsibility

After reviewing the account history, Franchise Tax Board (FTB) staff will determine on a case-by-case basis if a request for payment deferral will be granted.

Action

FTB staff may allow payments ((****)). The determination needs to be well documented. If a deferral is granted, involuntary collection actions should cease during this period, which may include a case hold. FTB staff must ensure the account is in the appropriate state in BE ARCS based on your unit's procedure.

FTB staff will verify the following:

- Account information (e.g., address, bank, telephone number, status)
- All tax returns have been filed
- If additional balances have been discharged
- Pending Notices of Proposed Assessment (NPA)
- Any recent involuntary collection actions

If payment of the full balance due will create a financial hardship, FTB staff may allow payments ((****)). The determination needs to be well documented. If a payment deferral is granted, involuntary collection actions should cease during this period.

Reference

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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6.1.3.2 Installment Agreements ((****))

Background

Revenue and Taxation Code (R&TC) Section 19008 provides Franchise Tax Board (FTB) discretionary authority to allow an Installment Agreement (I/A) in cases of financial hardship. Per R&TC Section 19591, beginning January 1, 2005, a service fee is required to recover the costs associated with the setting an I/A. A fee of $20 will be added to the taxpayers account.

Purpose

The purpose of an I/A is to allow business entities an opportunity to satisfy their debt over a period ((****)).

Responsibility

After reviewing the account history and financial records, FTB staff will work with the taxpayers, on a case-by-case basis, in order to determine the appropriate duration and payment amount of the I/A.

Action

FTB staff may allow payments ((****)). ((****)) The determination needs to be well documented. When an I/A is granted, involuntary collection actions should cease during this period.

FTB staff will verify the following:

- Business activity and type of business
- Account information (e.g., address, bank, telephone number, status)
- All tax returns have been filed
- If additional balances have been discharged
- Pending Notices of Proposed Assessment (NPA)
- Any recent involuntary collection actions
- Financial Statements (e.g., bank, profit/loss, accounts receivable, credit denial letter)
- Liens filed ((****)) (or document why a lien was not filed)
- Notify the business entity that a lien may be filed

Upon approval of an I/A, the collector must:

- Inform the taxpayer that a $20 fee will be added to their account and collected through the I/A.

- Issue the business entity an Installment Agreement Acceptance Letter. ((****))
- Inform the taxpayer that the Business Entities Installment Agreement Financial Statement is now on line in a “fillable” format. The taxpayer may download the form to their PC to complete it, but they must still print is out and mail or fax it in. Form FTB 9310-BE California Statement of Financial Condition & other Information.

FTB staff must issue an Installment Agreement Cancellation Notice on defaults of the promise-to-pay arrangements. This notice precedes involuntary collections.

Reference

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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6.1.4 Transfers

6.1.4.1 Field Transfer Requests

Background

To resolve some tax accounts, our desk collectors must transfer the accounts to our field collectors. This occurs because some business entities evade tax collection, while others ignore it. But our field collectors give FTB a physical presence in our communities. They visit business entities, encourage compliance, verify income activity, document asset information, and identify assets for possible seizure (this includes identifying when warrants are needed).

Purpose

If business entities do not voluntarily resolve their tax accounts, we must compel compliance. This can include transferring their accounts for field collection actions. However, we try to use the least intrusive actions possible to resolve their tax accounts. There are several types of business entity accounts that qualify for field transfers:

1) Active businesses with valid addresses.
2) Accounts with viable assets, including multiple real estate properties.
3) Verified COTW/EWOT non-compliance cases.[1]
4) Businesses that repeatedly pay filing enforcement assessments without filing tax returns.
5) Businesses that repeatedly refuse to file their tax returns or pay their tax balances.
6) Businesses that routinely abandon one business and start a new one to avoid tax liabilities.

Responsibility

Desk collectors should perform the following actions **before** requesting a field transfer:

- Exhaust collection actions (i.e. liens, COTWs, OTWs, etc.).[2]
  - **Exception:** when an account is at risk (such as a business entity liquidating assets to avoid collections), then a collector can request a field transfer before exhausting collection actions.
- Verify that the account has **((****))** a valid address.

[1] A **COTW** is a Continuous Order to Withhold, and it is sent to payors to levy payments for services rendered.
An **EWOT** is an Earnings Withholding Order for Taxes. It is sent to payors to levy income, and it can be sent as a result of a transferee assessment, etc.

[2] An **OTW** is an Order to Withhold, and it is sent to banks and other financial institutions to levy bank funds or to liquidate stocks and securities.

- o **Exception:** an account **((****))** may qualify for a field referral if the business entity has a significant non-compliant history. Consult a field supervisor in the appropriate office to determine if an account meets this exception.

- Confirm the basis of a field transfer: there must be a viable asset, such as a likelihood of income or a known physical asset. A field transfer request must demonstrate that field action has a realistic potential to resolve an account.

Action

Desk collectors should **document ARCS** with the information described below.

- **Note** the case history. This includes:
  - Due process status.
  - Delinquent tax issues.
  - Business entity status (i.e. active, suspended, etc.).
  - Any DBAs.
  - Liens filed.
  - Collection actions taken.

- **Document** the basis of the field transfer, and the criteria met.

- **List** the corporate officers' names, their social security numbers, and their verified phone numbers and physical addresses (business, home, etc.).

- **Include** business activity (e.g. business operation facts), bank information, and other asset information.

- **Identify** the field office that is requested to accept the field transfer.

Reference

((****))
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NOTE: (( )) = Indicates confidential and/or proprietary information.

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6.1.5 Discharge

6.1.5.1 Discharge From Accountability

Background

When an account is determined to be uncollectible, it is removed from the automated billing cycle and is considered discharged. Upon discharge, the liability still remains due (unless discharged in Bankruptcy to 9.1.1.1) but collection action ceases.

NOTE: Once a year, accounts in collections will receive an annual notice, to advise them of missing returns and unpaid liabilities.

Purpose

The purpose of discharging an account from the billing cycle is to stop active collection activities because the liability is not cost effective to pursue.

Responsibility

It is the responsibility of Franchise Tax Board (FTB) staff to ensure that all collection options have been exhausted before determining when an account should be manually discharged.

Action

Once an account has been determined uncollectable, a summary of actions taken should be documented and routed to the appropriate Business Entities Accounts Receivable Collection Systems (BE ARCS) state following unit procedures.

Reference

Government Code Sections 13940 - 13944
((****))

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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6.2 PERSONAL INCOME TAX
6.2.1 Taxpayer Contact
6.2.1.1 Letters And Forms

Background

Franchise Tax Board (FTB) generates millions of letters, forms, and documents each year, which are mailed to taxpayers, third parties, representatives, etc. These letters are to request information from taxpayers or third parties, request payments, inform of audit issues, etc. Although most letters issued already exist as form letters, there are instances where an FTB staff member may need to draft a free-form letter ((****)). When a free-form letter is needed, it is important to use language that is clear and concise. ((****))

Forms are also used when a taxpayer or representative wants to communicate information to FTB. For example, form FTB 3520 - Power of Attorney provides information to authorize an appointed individual to represent the taxpayer in regards to their tax matters.

Purpose

FTB's letters, forms, or special documents advise taxpayers of their legal rights and responsibilities, and provide them a way to contact us for additional information. Additionally, letters are used to provide taxpayers an opportunity to pay their balances, to ensure due process, and for tax administration purposes.

Responsibility

FTB must notify taxpayers in writing about outstanding tax liabilities, and allow reasonable time for taxpayers to comply. FTB staff are responsible for using the appropriate letters, forms, or documents when obtaining and conveying information to taxpayers.

Action

When issuing forms, letters, or documents, FTB staff should remember the following:

- Forms and letters are available for most situations requiring written communication with taxpayers or third parties. The text has been approved by FTB and should be used when appropriate.

- ((****))

- Forms and letters must neither be changed nor expanded to alter their meaning and content. When a form or letter does not precisely fit a given circumstance, a free-form letter may be used.

- Whenever a form or letter is used to request personal or confidential information from an individual other than the taxpayer, a privacy notification letter ((****)) must be enclosed, unless the form or letter itself contains such a notification. Revenue and Taxation Code Section 19504.7 states the taxpayer must be notified of the possibility of third party contacts annually. (See Section 3.2.3.3 Taxpayers' Bill of Rights, or refer to the Disclosure Manual - Requests from FTB to Other Third Parties Section 3100.)

- Taxpayer's Social Security Number (SSN) (or Taxpayer Identification Number TPID) must not be visible on any outgoing mail (on the envelope or through the envelope window), return mail envelopes provided, or registered/certified mail receipts. Government Code Section 11019.7 prohibits state agencies from displaying personal information including, but not limited to, SSN, telephone number, and drivers license number, unless such information is contained within the sealed envelope and cannot be viewed from the outside of the envelope.

Reference

Disclosure Manual - Requests from FTB to Other Third Parties Section 3100
Government Code Section 11019.7
Revenue and Taxation Code Section 19504.7
Form FTB 3520 - Power of Attorney
((****))
((****))

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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6.2.2 Billing Cycle

6.2.2.1 Personal Income Tax (PIT) Billing Cycle And Notices

Background

The Personal Income Tax (PIT) billing cycle is the automated computer sequence of notices that provides an important element of due process to taxpayers and documents account history. Billing information is available on the Taxpayer Information System (TI) and the Accounts Receivable Collection System (ARCS).

Purpose

The PIT billing cycle ensures that written notification regarding outstanding tax liabilities are provided to the taxpayer. The billing cycle also provides a method for the taxpayer to comply.

Responsibility

Franchise Tax Board (FTB) staff must ensure that billings have been or will be issued in the correct sequence, and the taxpayer's due process has not been violated.

Action

The following notices are issued during the voluntary billing cycle. Each notice provides a summary separately listing tax, penalties, penalty codes, interest, credits, collection costs, payments, and miscellaneous adjustments.

Return Information Notice (RIN) ((****)):
RINs are generated during return processing by TI, and are produced to inform taxpayers an error was identified and an adjustment was made to their return. Adjustments made on the return are for one of the following reasons:

- Application of credits to prior year liabilities
- Unclaimed credits on the account
- Discrepancies between the estimated tax payments claimed on the return and the payments posted to the account
- Discrepancies between the withholding credits claimed on the return and the withholding credits indicated and verified on supporting documents

There are different types of RIN notices that may be issued to the taxpayer:

- Early filer RIN – Issued when an adjustment to the return resulted in a balance due and the payment due date is on or before April 15. Penalty and interest language is not used on this RIN.

- Zero balance RIN – Issued when an adjustment to the return results in a zero balance due.
- Balance due RIN – Issued when an adjustment to the return results in a balance due. If the due date is past April 15, penalties and interest will be included on the notice.
- Refund RIN – Issued by the State Controller's Office when an adjustment has been made to a return, issuing or changing the amount of the refund.

When a RIN results in an additional balance due, the taxpayer is given the following time from the date on the RIN to pay without incurring penalties and interest.

- Tax year 1997 and prior - 10 calendar days.
- Tax year 1998 and after - 15 calendar days.

Notice of State Income Tax Due (STD) ((****)):
The STD is generated by TI and notifies the taxpayer of their liability resulting from a new balance due or an adjustment in their balance due. If a balance due RIN was issued, the STD would be mailed ((****)) following. The STD requests payment in full (PIF) within 30 days. If the taxpayer does not pay the balance within the 30 days from the date on the notice, the notice advises the taxpayer a state tax lien may be filed against their property per Government Code Section 7171.

This letter serves as providing the taxpayer due process. Upon this notice being generated, ARCS will create an account using the external bill date. The external bill date tells ARCS the notice date; this will determine when collection action can occur. ((****))

Income Tax Due Notice (ITD) ((****)):
The ITD is generated from ARCS on accounts ((****)) days ((****)) from the date the STD was mailed. This notice advises the taxpayers if the balance due is not PIF within 30 days from the date of the notice we may impose collection fees, contact third parties, file state tax liens, and take other collection actions.

Past Due Notice ((****)):
A Past Due Notice is issued by ARCS ((****)) following the ITD as a reminder of a taxpayer's balance due and a request for payment. ((****)) The Past Due Notice advises the taxpayer if they do not PIF within 30 days from the date of the notice, we can impose collection fees, contact third parties, file state tax liens, and take other collection actions.

Delinquent Notice ((****)):
This letter is issued only when ((****)) the billing cycle is between the Past Due and Final Notice. The Delinquent Notice advises the taxpayer they may be eligible for the Installment Agreement (I/A) Program if they are unable to PIF the balance. If the taxpayer does not PIF or set up an I/A the notices advise we may garnish wages, impose collection fees, contact third parties, and take other actions.

Final Notice ((****)):

A Final Notice is issued ((****)) following the Past Due Notice and is a demand for full payment on a taxpayer's liability. Like the Past Due Notice the Final Notice advises the taxpayer they may be eligible for the I/A program if they are unable to PIF the balance. The notice also advises the taxpayer that we may begin collection action without further notice. The taxpayer is advised we may garnish wages, impose collection fees, contact third parties, seize deposit accounts, and seize and sell real and personal property.

((****))

Reference

((****))
((****))
((****))
((****))
((****))

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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6.2.3 Installment Agreements

6.2.3.1 Installment Agreement Information

Background

Revenue and Taxation Code Section 19008 provides Franchise Tax Board (FTB) discretionary authority to allow an Installment Agreement (I/A) in cases of financial hardship. Per Revenue and Taxation Code Section 19591, beginning January 1, 2005, a service fee of $20 per agreement will be imposed on ((****)) individual taxpayers to administer their installment agreements ((****)).

Purpose

An I/A allows a taxpayer an opportunity to satisfy their liability in full through monthly installment payments.

Responsibility

FTB staff must ensure that the taxpayer meets the following I/A criteria:

- Have filed all required tax returns ((****)).
- Total tax due on the account is less than $10,000
- The ability to pay in full (PIF) within 36 months

FTB staff will determine on a case-by-case basis, after reviewing the account history, if paying the liability in full will result in a financial hardship. A financial statement (F/S) ((****)) may be requested in order to review a taxpayer's full financial situation. See Section 4.2.1.18 Financial Statements.

Action

FTB staff should review the taxpayer's account to verify they qualify ((****)) for an I/A. In situations where a taxpayer does not meet the payment requirements a F/S may be requested to determine the taxpayer's ability to pay. Eligibility for an I/A in situations where the taxpayer owes more than $10,000 in tax and/or requires longer than 36 months to pay in full, will be considered on a case-by-case basis.

((****))

FTB staff are required to identify any missing year (MY) tax returns prior to allowing a taxpayer to enter into an I/A. See Section 4.2.1.5 Filing Requirements. ((****)).

In general, a taxpayer will be granted an I/A if they:

- Have filed all required tax returns ((****)).
- Do not have a history of non-payment ((****)).
- Owes no more than $10,000 of tax, not including penalties and interest. See Revenue and Taxation Code Section 19008(b1).
- Pay their liability in full within 36 months without consideration of interest that will accrue.
- A taxpayer with an account residing in the Child Support Functional Area, may request an I/A at anytime. No financial statement is required and the minimum payment can be $25.00 ((****)).

NOTE: An I/A will be considered in default and will be considered for active collection actions if any of the following occurs.

- New liabilities accrue
- Payments are dishonored (Electronic Funds Transfer (EFT) or Non-EFT)
- Failure to make ((****)) payments while in an I/A

FTB will mail an Intent to Cancel notice ((****)) notifying the taxpayer their I/A will be canceled 30 days from the date of the notice. This notice also informs the taxpayer that collection action will continue and may include garnishment of wages, filing liens, imposing collection fees, contacting third parties, seizing deposit accounts, seizing and selling real and personal property. ((****))

Taxpayers are required to make their installment agreement payments through EFT from their bank ((****)).

Reference

Form FTB 3567 Installment Agreement Request
Revenue and Taxation Code Section 19008
((****))
((****))
((****))
((****))
((****))

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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6.2.4 Transfers

6.2.4.1 Case Transfers

Background

Certain situations require transfer of cases within Franchise Tax Board (FTB) for special handling. Other cases may be transferred to field offices because they cannot be resolved from a central office setting. Cases such as this include, but are not limited to:

- Field office transfers
- Transfers between central office units
- Special procedure unit transfers

Purpose

Cases are transferred for required resolution by specialized areas/units and for enhanced collection at field offices. Timely transfers of an account will expedite resolution by preventing duplication of collection efforts.

Responsibility

FTB staff should recognize when an account can be more effectively worked in another area or when specialized procedures are warranted. FTB staff will recommend a transfer of these cases to the appropriate area.

Action

Case transfers will be recommended based on, but not limited to, the following criteria:

Transfers Between Central Office Units -

Occasionally cases will be transferred between central office units to prevent duplication of collection efforts or to ensure the timely and proper actions for specialized actions, e.g., bankruptcy and probate cases. In each case, the collection file summary in the Accounts Receivable Collection System (ARCS) should state the reason for the transfer and where the case is being transferred.

- Bankruptcy Cases
    - Name(s) as shown on the bankruptcy petition should be added to the history text.
    - If the Bankruptcy Unit was not previously notified of the bankruptcy proceeding, fax a copy of the petition to (916) 845-6786.
    - Do not forward the paper file; place a 30-day case hold in ARCS.

- o The Bankruptcy Unit enters the bankruptcy information onto Enterprise Wide Bankruptcy System (EWBS). EWBS will update Taxpayer Information System (TI) and ARCS. Outstanding EWOTs, COTWs, and post petition OTWs will be released.

- Probate Cases

  - o Enter deceased code (DEC) on entity screen command line and include taxpayer's date of death. Cases will then be automatically routed to Decedent functional area. File a manual lien in the name of the estate (e.g., "Estate of").
  - o If manually routing account to Decedent functional area, indicate associated collector's name & reason for transfer.

NOTE: Cases with a surviving liable spouse do not generally qualify for routing to the Decedent Unit.

- Liable Spouse Cases

  - o If separate ARCS accounts are assigned to different staff for decedent taxpayer and surviving spouse, an agreement should be reached between them as to who will work both cases.
  - o Appropriate comments should be added to the history text.

Reference

((****))

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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6.2.4.2 Field Office Transfers (Referrals) and On-Sites (PIT)

Background

Field Office transfers are an integral part of the Franchise Tax Board (FTB) Collection Program. FTB staff may consider transferring accounts to the field office when it has been determined the account will be more successfully resolved in the field office.

Field Office Services:

- Field Office Transfers (Referrals)
- Field Office On-Site requests
- Field Office Assistance

Purpose

Field Office transfers increase the overall effectiveness of the collection program by enabling the pursuit of compliance to extend beyond the desks of FTB staff. In addition, the field collection program provides a presence in the field that is immeasurable.

Responsibility

FTB staff must take all reasonable desk-collection actions prior to submitting the account for a Field Office transfer.

Exception - Immediate Field Office action may be required if FTB is at risk of losing access to the taxpayer's assets.

It is the responsibility of FTB staff to ensure the following information has been documented in ARCS **prior** to submitting the account for a Field Office Transfer:

- Physical address
- Ownership of real property and other assets
- Taxpayer's phone number
- Liens filed
- Taxpayer's occupation
- AKA Names
- Missing year tax returns
- Appropriate Field Office location
- Proposed purpose of the field call
- Any additional pertinent information

Action

Consult with your lead or supervisor when recommending a field office transfer. The account summary will be entered on ARCS history text according to unit procedures. The summary should contain the following information:

- A brief summary of actions taken
- A list of identified assets
- Basis for transfer and recommended action
- Reasons for not taking actions that are normally appropriate (e.g., not filing a lien)
- If the case is being sent to a field office that is out of the taxpayer's address area, the reason should be noted

Field Office Referral/On-Site Guidelines:

FTF Referral.doc

Reference

((Field Office Locator))
((Integrated Nonfiler Compliance (INC)))

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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6.2.5 Discharges

6.2.5.1 Discharge From Accountability

Background

When an account is determined to be uncollectable or is not economical to pursue, it is routed to a holding state. This process is referred to as a Discharge. The authority to discharge debts is covered under the Government Code, Sections 13940-13944.

NOTE: A taxpayer is not relieved of the tax, penalties, fees, or interest when an active collection account is discharged.

Purpose

Discharging accounts allows Franchise Tax Board (FTB) to place uncollectable accounts in a separate holding area, until the taxpayer or asset(s) are located.

Responsibility

FTB staff will recommend a discharge of active collection accounts after all reasonable steps have been taken to resolve the account.

Action

((****))

- ((****))
- ((****))
- ((****))

((****))

- ((****))
- ((****))
- ((****))
- ((****))
    - ((****))
- ((****))
    - The case is associated to a staff member
    - The case is in an installment agreement state
    - The case is in a temporary hardship state

  - A hold exists on the primary and/or secondary debtor's case
  - An active Earnings Withholding Order for Taxes (EWOT) or Continuous Order To Withhold for Taxes (COTW) is on ARCS

- ((****))

  - ((****))
    - ((****))
    - ((****))
    - ((****))
    - ((****))

((****))

((****))

Discharge codes are assigned to discharged cases to identify the reason the case was placed in a discharge functional area. The following are Automated Discharge Reason Codes:

- ((****))
- **G** - Automated discharge without review, ((****))
- H - Automated discharge after review, ((****))

- ((****))

  - ((****))
    - ((****))
    - ((****))
    - ((****))

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  - ((****)) ((****))
    - ((****))
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    - ((****))

  - ((****))
    - ((****))
    - ((****))

- ((****)) ((****))

- **Manual Discharge Reasons ((****))**
  - All efforts to locate the taxpayer and attachable assets have been unsuccessful. Every reasonable lead has been checked out with negative results. Protective lien(s) are filed to protect California's interest.
  - All efforts to locate and/or contact the taxpayer have been unsuccessful. Skip tracing revealed that the taxpayer moved out-of-state and has no attachable assets in California. Protective lien(s) are filed to protect California's interest.
  - FTB staff has documented that the taxpayer is permanently disabled, retired, or has no ability to pay and no attachable assets. Protective lien(s) are filed to protect California's interest.
  - FTB staff has documented that the taxpayer has a permanent financial hardship, and has no ability to pay and no assets worth seizing. Protective lien(s) are filed to protect California's interest.
  - Taxpayer has been contacted and refused to comply. Skip tracing revealed the taxpayer has no attachable assets. Protective lien(s) are filed to protect California's interest.
  - Taxpayer is deceased. No estate or surviving liable spouse with ability to pay. Protective lien(s) are filed to protect California's interest.
  - Taxes discharged in Bankruptcy. Federal law prohibits any further collection action. Protective lien(s) recorded prior to the bankruptcy have not been released.
  - Taxes discharged in Bankruptcy. Federal law prohibits any further collection action. Protective lien(s) not filed because taxpayer filed bankruptcy.

- **Manual Discharge Reason Codes ((****))**
  - **A -** Taxpayer deceased; no estate or estate is insolvent.
  - **C -** Taxpayer has substantiated permanent financial hardship. Likelihood of regaining ability to pay or incurring subsequent tax liability is extremely remote.
  - **D -** Not equitable or practical to pursue collection action considering potential economic benefit to State.

- **L -** Treated like a Discharge Code D - not equitable or practical to pursue collection actions considering potential economic benefit to State. *Used due to child support obligations*. This code is available for all staff to use.
- **R -** In Lieu of an Offer in Compromise (OIC) - taxpayer has substantiated permanent financial hardship. Likelihood of regaining ability to pay or incurring substantial tax liability is extremely remote. Restricted to OIC staff.

- **Discharge Reversals**

  - Requests for discharge reversals are requested according to unit procedures.
  - Discharge reversals will be automatic if a credit is received. In some cases, manual reversal process may be necessary. ((****)) History of the account will show discharge and reversal of discharge.

NOTE: A credit does not reverse a tax year when it was discharged as a result of Bankruptcy.

Reference

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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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