



Introduction	1	Collection & Enforcement Actions	4-6
Pay the full amount due or tell us why you can't	1	Liens • Levies • Additional Security	
We will honor your rights	1	• Till-tap and Keeper Warrants •	
Items to note	2	Permit Revocations	
Payment options	2-3	Refunds	7
		For More Information	8

Tax Collection Procedures

How can I pay a tax or fee liability? What actions may be taken if I don't pay?

Introduction

If you have received a *Demand for Tax Payment*, it means you have a tax or fee liability that is due and payable by the date indicated.

If you have received such a notice, you need to know:

- How can I pay the amount due? What are my options?
- What tax collection and enforcement actions can be taken if I do not pay the bill or make arrangements to pay it?

This publication is designed to answer those questions.

We will be glad to work with you to resolve your tax or fee problem. Please contact us right away if you have any questions about your bill.

Although most of the information in this publication focuses on the Board of Equalization's Sales and Use Tax Program, similar provisions exist for most of the tax and fee programs we administer.

Pay the full amount due or tell us why you can't

You should pay the entire amount owing. If you cannot, we recommend that you pay as much as you can now. By doing so, you will minimize the amount of interest you will owe because interest accrues on the unpaid tax or fee balance.

If you cannot pay the full amount, you should contact the office that

sent you the billing as soon as possible to arrange for an alternative payment arrangement (see pages 2-3).

If you don't make an effort to pay your liabilities, we can ask you to find a way to pay them, such as selling or mortgaging any assets you have or getting a loan.

If the debt is not paid, we are required by law to take collection actions, which could include seizing your bank account, levying your wages, or taking other income or assets (see pages 4-6).

Let us know if you believe your billing is wrong

If you believe the billing is wrong, let us know as soon as possible. Call the number on your billing, write to the Board office that sent you the billing, call our Information Center at 1-800-400-7115, or visit your local Board office.

To help us evaluate the billing, gather a copy of the billing along with copies of any records, tax returns, and canceled checks (front and back), or any other documentation you have that will help us understand why you believe your billing is wrong or has previously been paid.

If you write to us, tell us why your billing is wrong. With your letter, include copies of all the documents you gathered to explain your case. Please do not send original docu-

ments. If we find you are correct, we will adjust your account.

We will honor your rights as a taxpayer

You have certain rights under the Taxpayers' Bill of Rights and due process laws. For example, you have the right to be treated professionally, fairly, promptly, and courteously by Board employees. You also have the right to

- Meet with a Board supervisor if you cannot resolve a dispute with the Board employee who handles your case.
- Request copies of documentation from your Board account file.
- Receive information and assistance in simple language to help you comply with the various tax and fee laws we administer.

For more information, please request a copy of publication 70, *The California Taxpayers' Bill of Rights*.

See page 8 for the telephone number and address of the Taxpayers' Rights Advocate Office.

Close communication is always important. If you cannot make a payment on time, please let us know immediately and keep in touch until the issue is resolved.

Items to Note

We may share your tax information with other government agencies

While most of the information you provide to the Board is confidential, some is subject to public disclosure, such as the information on your seller's permit. Under certain conditions, your account information, including underreporting and outstanding liabilities, may be shared with other government agencies.

We may contact a third party for information about your business affairs

The Board is authorized by law to obtain information from any party who may have information regarding your business affairs. This may include notifying your suppliers or vendors if your account is revoked.

We need to know if you are involved in bankruptcy proceedings

Contact your local Board office if you have filed a petition for bankruptcy. While the proceeding may not eliminate your tax debt, the Board may suspend any collection actions — such as liens and levies — until the bankruptcy is resolved.

If you are no longer a business partner, your liability may be limited

Partners are separately and jointly responsible for liabilities incurred (until the Board is notified of changes in ownership). However, if you can prove that you left the partnership after January 1, 1994, there is a provision that holds you responsible only for the quarter in which you left the business and three subsequent quarters.

You may not be required to pay if you qualify as an *innocent spouse*

Under the Sales and Use Tax Law, a spouse who qualifies as an *innocent spouse* is not liable for tax, interest and penalty charges. To qualify, the following conditions must be met:

- The liability must be attributable to the nonclaiming spouse; and
- The spouse claiming relief must establish that he or she did not know of, and that a reasonably prudent person in the claiming spouse's circumstances would not have had reason to know of, the liability; and
- It must be established that it would be inequitable to hold the claiming spouse liable for the liability, taking into account whether the claiming spouse significantly benefited directly or indirectly from the nonpayment and taking into account all other facts and circumstances.

Contact your local Board office for more information.

Refunds

After you have paid the tax portion of your liability, you can apply for a refund if you believe you were overcharged or did not owe the liability. For more information, see page 7.

Payment Options

We will work with you to make other payment arrangements if you cannot pay in full at this time. If you do not pay in full or contact us to make other arrangements, we are required to take collection actions, as described on pages 4-6.

If an alternative payment plan is approved, collectors will follow up to ensure that you are in compliance with the plan. If you cannot meet an established due date, you should contact the collector to avoid collection actions.

You can ask to pay in installments

You may be eligible for an Installment Payment Agreement, which allows you to pay the full payment of your debt in smaller, more manageable amounts. Installment payment agreements generally require equal monthly payments.

The amount of your installment payment is based on the amount you owe and your ability to pay that amount. You will be required to submit a form BOE-403-E, *Individual Financial Statement*, to help us determine the amount you can pay. We may also require supporting documentation. Approval of an installment payment agreement is at the Board's discretion.

As explained later, it may be more expensive to pay in installments.

Note: If you owe between \$500 and \$5,000, you may qualify for a Streamlined Installment Payment Agreement. See next page.

What else should I know about an installment agreement?

An installment agreement may be more costly

An installment agreement is more costly to you than paying all the

liabilities you owe now and may be more costly than borrowing funds to pay the amount you owe.

Why? Because the Board charges interest and penalties on the tax you owe. So, while you are making payments on your tax debt through an installment payment agreement, the Board continues to charge interest on the unpaid portion of the tax or fee liability. The interest rate on a bank loan or cash advance on your credit card may be lower than the combination of penalties and interest that the Board charges on unpaid billings.

If you received an audit billing, we may waive the 10 percent "finality" penalty.

If you were charged a ten percent finality penalty on an audit because you did not pay your liability by the due date on the billing notice, you may be forgiven the penalty if your installment payment agreement is initiated and accepted within 45 days of the due date of the notice and your payment agreement is successfully completed.

We may still file a lien on your property

We may still file a state lien — even if your payment proposal is accepted (liens are discussed on page 4.) However, we may withhold the lien, based on the financial documentation you have submitted and your initial payment.

Termination of agreement

We may end the agreement if you pay late, miss a payment, don't file and/or pay all required tax returns, or if you do not comply with other terms of the agreement. We will send you a letter giving you 15 days to pay in full or provide a satisfactory explanation.

After 15 days, we may take further collection action without notification. (See pages 4-6 for more information.)

How do I apply?

You should contact us as soon as possible if you would like to request installment payments for a sales or use tax liability. Contact the nearest Board office. See page 8.

For other tax or fee programs, call our Information Center, 1-800-400-7115.

What should I do if my financial situation changes after my installment plan is approved?

Your agreement is based on your financial situation. Consequently, you should contact your local Board office immediately if there is a change in your financial situation and you need to change your agreement. If you have an installment payment agreement, you must pay on time.

You can propose an Offer-in-Compromise

The Offer-in-Compromise Program is available only to taxpayers who no longer have an active seller's permit.

If you agree with your tax billing, but do not have the means to pay the full amount, you can offer to pay a lesser amount under the Offer-in-Compromise Program. To make an offer, you must submit form BOE-490, *Offer in Compromise Application*, which can be obtained from your local district office or downloaded from our website: www.boe.ca.gov (click on "Forms & Publications").

For your application to be considered, the Board must determine that you do not have, and will not have in the foreseeable future, the income, means, or assets to pay your full tax liability.

Streamlined Installment Payment Agreement (Sales and Use Tax Liabilities)

If you owe between \$500 and \$5,000, you may qualify for a Streamlined Installment Payment Agreement (SIPA). Unlike a regular installment agreement, you are not required to file a financial statement to help us determine the amount you can pay. If you are interested in a SIPA, please let us know.

You must be willing to make equal monthly payments to pay the liability in full, including accrued interest, in three years or less.

A SIPA may not be approved if you are in bankruptcy, have a collection action pending, have previously broken promises to pay, or have filed a late return or payment.

Collection and Enforcement Actions

As explained on the previous page, collection and enforcement actions will be taken if you do not pay your tax liability on time or do not make other arrangements to pay the debt—such as applying for an installment plan or an offer in compromise.

Note—Jeopardy Determinations

If you have received a “Jeopardy Determination” (a tax billing that is immediately due and payable), you are subject to the same collection and enforcement actions described in this publication, but the filing and notification deadlines are different. For more information, see publication 17, *Appeals Procedures*.

We may place a lien on your property

A lien is a legal claim to your property as security or payment for your tax debt.

We must mail you a preliminary notice at least 30 days before filing a lien with the county recorder. The notice must

- Specify the statutory authority for filing the lien,
- Show the earliest date on which the lien may be recorded, and
- Explain the remedies available to you to prevent the filing of the lien.

What the lien does

When a *Notice of State Tax Lien* is recorded, your creditors are publicly notified that we have a claim against all your real property, including property you acquire after the lien has been recorded.

The lien attaches to all your real property, such as your house or rental property.

It is not our policy to seize and sell your primary residence; however liens on your residence will be enforced if you sell or refinance your home.

Once a lien is recorded, your credit rating will be negatively affected. Your ability to get a loan to buy a house or a car, get a new credit card, or sign a lease may be compromised.

After we have recorded a lien, we can release or withdraw it, as explained below.

Note: Even though a lien can be released, it remains on your credit history for seven years (unless the lien was filed in error).

Releasing a lien or subordinating a lien

The lien placed on your property will be released if

- You pay your full tax or fee liability, including interest and other charges, or
- The billing (tax or fee determination) is adjusted to zero after the lien has been filed.

We will issue a *Release of the Notice of State Tax Lien* within 60 days after you have paid the debt or we have adjusted your billing. If you plan to pay your full liability and need a release immediately, you must pay in certified funds in the local district office and let them know that you need the release.

In some instances, we will release the lien placed on part of your real property if your liability is secured by the remaining property on which we have placed a lien. We will also release a lien if we discover that we filed it in error.

We may also subordinate our lien to other liens or encumbrances (give the claims of other creditors priority over ours) if it is determined the

amount due is sufficiently secured by a lien on other property and collection of your liability will not be jeopardized by the subordination.

We will give greater consideration to lien release or subordination requests when the Board will receive a larger payment as a result.

The Board can renew liens in 10-year intervals (up to three times).

Requests for copies of the lien release

At your request, we will send out copies of the lien release. For example, you may want to have copies mailed to escrow agents, title companies, or to you.

When requests are received in the headquarters office, every effort is made to mail the release as soon as possible. If a district office receives your request, it will be forwarded to our headquarters office.

Withdrawing a lien

In general, we will withdraw a notice of tax lien if

- The lien notice was filed too soon or not according to Board procedures,
- A withdrawal would enable us to collect the tax more quickly, or
- A withdrawal would be in your best interest and that of the state.

Withholding a lien

In general, we will withhold filing a lien if all of the following occur:

- You enter into an acceptable installment payment agreement,
- You successfully maintain the agreement, and
- You have not had collections problems before with the Board.

We may levy your property

If you do not pay your liabilities or make arrangements to settle your debt, the Board may levy (seize) any type of real or personal property that you own or have an interest in.

Levies are different from liens. A lien is a *claim used as security* for the tax debt, whereas a levy actually *takes the property* to satisfy the tax debt.

We will usually levy property only after we have sent you a *Demand for Payment* and you have neglected or refused to pay the tax.

Examples

- We could levy property that is yours but held by someone else — for example, your wages, dividends, bank accounts, licenses, rental income, accounts receivables, the cash value of your life insurance, or commissions; or
- If you hold an alcoholic beverage license, we could seize and sell that license; or
- We could seize and sell property that you hold — for example, your car, boat, or house.

If your property is levied or seized and you have questions, you should contact the Board employee who took the action. You may also ask a Board supervisor to review your case. You may also want to discuss the matter with the Taxpayers' Rights Advocate's Office.

Levying your bank account

If we levy your bank account, the levy generally only captures the funds on deposit at the time the bank receives the levy (up to the amount of the levy).

The bank must hold the captured funds you have on deposit for 10 days. This period allows you time to file for a hardship hearing, to show

that the funds are exempt from levy under federal or state law, or to make other satisfactory arrangements to pay.

After 10 days, the bank must send the money, plus additional interest if it applies, to the Board. It is more difficult to get a refund on levied funds. To discuss your case, call the Board employee whose name is shown on the *Notice of Levy*.

We must release your levy if any of the following occur:

- You pay the tax, penalty, and interest you owe in certified funds (cash, cashier's check or money order).
- We discover that the time for collection ended (the statute of limitations) before the levy was served.
- We determine that the levy is creating a significant economic hardship for you.

Levying your salary or wages

We may issue a levy on your wages, or an *Earnings Withholding Order*, which typically seizes 25 percent of your after-tax income from each paycheck.

If you request a hardship hearing, one will be provided to you by a Board supervisor. You will be asked to complete form BOE-403-E, *Statement of Financial Condition*, and provide supporting documentation that shows your ability to pay. If you have a documented hardship, the withholding order may be reduced or released.

If we levy your salary or wages, the levy will end when

- The levy is released,
- You pay your tax debt, or
- The time expires for legally collecting the tax.

To discuss your case, call the Board employee whose name is shown on the *Earnings Withholding Order*.

If we have mistakenly levied your account

If you paid bank charges because of a mistake we made when we levied your account, you may be entitled to a reimbursement. You must file a reimbursement claim with us within 90 days after your bank charged you the fee.

Releasing your property

If the Board seizes property you hold, such as your home or vehicle, we may release the property prior to its sale date if

- You pay the amount of the government's interest in the property,
- You enter into an escrow arrangement,
- You furnish an acceptable bond,
- You make an acceptable agreement for paying the tax, or
- The expense of selling your property would be more than the tax debt.

Returning levied property

We can consider returning levied property if

- It is determined that we did not follow our own procedures.
- You had entered into an Installment Payment Agreement that was not properly completed (see page 2).
- Returning the property will help you pay your liabilities.
- Returning the property is in the state's and your best interest.

We may require a higher security deposit

If you have an active business and have failed to pay a return timely, or have had a dishonored check, the Board may require you to post security to protect the State's interests. If you have already posted security, the Board may increase the amount of required security. Generally, you may be required to post an amount equal to six months of the average tax owed by the business. The minimum security requirement for a seller's permit is \$500, and the maximum is \$50,000. Security may be returned after an account has had no payment problems for three years. For security requirements for programs other than Sales and Use Tax, you may call our Information Center at 1-800-400-7115 for assistance.

We may issue a "till-tap" or "keeper" warrant

If you have an active business and have not paid sales tax that is due and final, we may serve a civil warrant to the California Highway Patrol or the local sheriff to enter your business and collect the gross receipts or contents of the cash registers.

A till-tap warrant typically gives instructions to the officer to collect the contents of the till (cash registers) upon arrival at the place of business.

A keeper warrant typically instructs the officer to leave a representative at the place of business for a full day and to collect the proceeds of the business. A keeper warrant, however, may be requested for a period of 10 days.

We will generally use either warrant only after verbal and written re-

quests and other avenues of collection have been unsuccessful.

By law, the Board can collect the warrant fees that are assessed by the law enforcement agency from the business owner.

We may revoke your seller's permit

We may revoke your seller's permit if you do not file a return on time or pay a sales or use tax liability on time. Or we may revoke your permit if you do not post security as required by the Board.

Typically, we will not revoke a permit unless we have exhausted all other remedies.

Hearing notification

The Taxpayers' Bill of Rights requires that you be given 60 days notice prior to revocation of your license. A revocation hearing will be scheduled later, and you will be notified in writing of the hearing 10 days in advance. In that 10 days, you must show cause why the permit should not be revoked. If you do not respond, your permit will be revoked. If you do respond, your arguments will be considered at the hearing.

If your permit is revoked and you engage in business afterward, you are guilty of a misdemeanor and may be prosecuted for each sale. Each offense is punishable by imprisonment not exceeding one year and/or a fine of up to \$5,000, at the discretion of the court.

To reinstate your permit, you must file and pay all delinquent returns and past due taxes, and pay a reinstatement fee of \$50 per business location.

If your permit is revoked and you do not pay the tax liability that is owed,

we may consider criminal prosecution as a last resort.

Your alcoholic beverage license may be suspended

The Business and Professions Code provides that an alcoholic beverage license may be suspended if a taxpayer is three or more months delinquent in the payment of taxes or penalties due under the Revenue and Taxation Code.

Consequently, you should contact your local Board office immediately if you hold any alcoholic beverage license and are delinquent in filing your returns or delinquent in paying liabilities due to the Board.

We may cancel your DMV dealer license

As provided in the Vehicle Code, if you hold a dealer license issued by the Department of Motor Vehicles, we may cancel that license if your seller's permit is revoked for more than 30 days.

This publication summarizes the law and applicable regulations when the document was written, as noted on the cover. However, changes in the law or regulations may have occurred after that date. If there is a conflict between the text in this publication and the law, the latter is controlling.

Refunds

After you have paid the tax portion of your liability, you may file a claim for refund if you believe that you were overcharged or did not owe the liability.

Filing Deadlines

Claims for refund must be filed as described below:

- *Audit billings.* You must file within six months of the due date for a *Notice of Determination* or a *Notice of Redetermination*, whichever due date is later.
- *Return overpayments.* You must file within three years of the due date of the return on which the overpayment was made or within six months of the date of the overpayment, whichever is later.
- *Involuntary overpayments.* You must file within three years of the overpayment if the payment was made involuntarily (for example, as the result of a levy or wage garnishment).

If you make more than one payment to pay off your tax or fee liability, you must file a claim for refund with each individual payment.

For More Information

Please order publication 17, *Appeals*, for more information on claims for refund.

Publication 17 also explains the Board's settlement program, which may apply to refund claims. Under this program, the Board may settle the disputed claim by refunding a portion of the liability paid by the taxpayer, subject to review of the facts of the case and subject to approval by the Members of the Board.

For More Information

Information Center

1-800-400-7115

TDD assistance
(telephone device for the deaf)
1-800-735-2929 (TDD phone)
1-800-735-2922 (voice phone)

❖ **To speak to a representative**

Call between 8:00 a.m. and 5:00 p.m., Monday-Friday, excluding holidays.

❖ **To order a publication**

For a complete list of Board publications, request publication 51, *Guide to Board of Equalization Services*.

To receive by mail:

Call 1-800-400-7115 at any time to leave a recorded request for a specific form, publication, or regulation; or call during working hours to talk to a representative.

To receive by fax:

Call 1-800-400-7115 and select automated services to receive a publication or form by fax.

From the Internet: You can download some publications from our website: www.boe.ca.gov.

Taxpayers' Rights Advocate

If you've made repeated attempts to work out your tax problems but have been unsuccessful, please contact the Taxpayers' Rights Advocate for help.

Taxpayers' Rights Advocate,
MIC: 70
State Board of Equalization
P.O. Box 942879
Sacramento, CA 94279-0070

1-888-324-2798 toll-free phone
916-324-2798 phone
916-323-3319 fax

Internet

www.boe.ca.gov

You can read or download many publications and forms, read about your Board Members, get information on tax rates, learn about the Board's settlement program, or obtain other valuable information.

Billing Questions

Before calling any of the numbers listed below, please call the telephone number listed on your bill.

Field Offices

City	Area Code	Number
Bakersfield	661	395-2880
City of Industry	562	908-5280
Culver City	310	342-1000
El Centro	760	352-3431
Eureka	707	445-6500
Fresno	559	248-4219
Laguna Hills	949	461-5711
Norwalk	562	466-1694
Oakland	510	622-4100
Rancho Mirage	760	346-8096
Redding	530	224-4729
Riverside	909	680-6400
Sacramento	916	227-6700
Salinas	831	443-3003
San Diego	619	525-4526
San Francisco	415	703-5400
San Jose	408	277-1231
San Marcos	760	510-5850
Santa Ana	714	558-4059
Santa Rosa	707	576-2100
Stockton	209	948-7720
Suisun City	707	428-2041
Torrance	310	516-4300
Van Nuys	818	904-2300
Ventura	805	677-2700

Out-of-State Accounts

Please call 916-445-3670.

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