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**STREAMLINING COLLECTIONS BY STATE TAX AGENCIES:
A PROPOSAL FOR MULTI-AGENCY
FINANCIAL STATEMENT FORMS**

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¹ **The comments contained in this paper are the individual views of the author(s) who prepared them, and do not represent the position of the California Lawyers Association or of the Taxation Section.**

² Although the authors and/or presenters of this paper might have clients affected by the rules applicable to the subject matter of this paper and have advised such clients on applicable law, no such participant has been engaged by a client to participate on this paper. No author has a direct personal or financial interest in the issue addressed in this paper.

EXECUTIVE SUMMARY

Currently, California tax agencies require taxpayers to submit a different set of financial statements to each agency for tax collection purposes, even though each agency's forms request mostly identical information. This burdens taxpayers with multiple submissions if they have outstanding liabilities with more than one agency. It is especially cumbersome for those who already face financial and compliance difficulties.

This paper proposes standardized multi-agency forms for financial statements to streamline collections and alleviate taxpayer burden. The proposal would involve an administrative or potentially regulatory or statutory change in which the Franchise Tax Board, California Department of Tax and Fee Administration, and Employment Development Department would accept multi-agency forms for personal and business financial statements. In addition or alternatively, the agencies should accept the Internal Revenue Service counterpart — Forms 433-A, 433-B, or 433-F — if dated within the last 12 months. At present, the FTB and EDD have policies that could be interpreted to allow for it, but, in practice, many representatives reject it. A clearer, express policy could resolve the issue.

Our proposal for standardization would lead to time and resource savings for taxpayers, tax professionals, and agencies. It eliminates redundant paperwork and simplifies compliance obligations for taxpayers. Furthermore, it could reduce the state's administrative costs related to form management and enhance collaboration and data sharing between agencies.

The paper further explores current practices and operational feasibility. Experience with multi-agency tax forms in other contexts lends credence to the feasibility of our proposal. Streamlined tax collection processes that alleviate taxpayer burdens can expedite the resolution of liabilities, thereby benefiting both the state and taxpayers.

DISCUSSION

I. PROPOSAL AND BACKGROUND

This paper proposes an administrative, regulatory, or statutory change where the three California tax agencies, the Franchise Tax Board (“FTB”), California Department of Tax and Fee Administration (“CDTFA”), and Employment Development Department (“EDD”), would create and use multi-agency forms for personal and business financial statements. Additionally, this paper proposes that the tax agencies accept an Internal Revenue Service (“IRS”) Form 433-A, Form 433-B, or Form 433-F, submitted to the IRS within the past 12 months, in lieu of a state agency form. The agencies should also consider honoring and accepting hardship determinations made by sister agencies.

In some instances, a taxpayer may have outstanding tax liabilities with multiple state agencies as well as the IRS. Current practices require the taxpayer to submit separate financial statements on different forms to each agency. The different forms used by the agencies ask for similar information using varied formatting and terminology, which can lead to ambiguity and confusion for taxpayers.

This proposal alleviates the burden on taxpayers to submit substantively identical, but technically different, financial statements to multiple taxing agencies. Taxpayers who need to submit financial statements tend to already face compliance and financial challenges, and the need to prepare and submit multiple financial statements to reach the same goal with each respective taxing agency is a redundant and costly task, particularly when a tax professional is retained to prepare them.

II. CURRENT LAW AND PRACTICE

At present, the practice of the FTB, CDTFA, and EDD is to require a taxpayer to fill out each agency’s respective financial statement form to ascertain an individual or entity’s financial circumstances for purposes of

collections. The FTB uses FTB Forms 3651 and 9310 (“FTB Financial Statement”); the CDTFA, Forms 403-E and 403-C; the EDD, Forms DE 926B and DE 926C (“EDD Financial Statement”). For reference, these forms are attached as Exhibits 1 to 6. The IRS uses Forms 433-A, 433-B, and 433-F (“IRS Financial Statement”). They are attached as Exhibits 7 to 9. Each of these financial statements serve the same purpose of assisting the respective taxing agency with determining a taxpayer’s ability to satisfy their outstanding tax obligations.

The FTB has a policy of accepting a valid IRS Financial Statement in lieu of the FTB form for purposes of determining how a taxpayer can satisfy their outstanding personal income tax liability. The policy is stated in the printed instructions for the FTB Form 3651. However, in the authors’ experience, FTB representatives commonly are unaware of this and reject the IRS Financial Statement. The Collection Procedure Manual (“CPM”) section 4.2.1.17 (www.ftb.ca.gov/tax-pros/procedures/collection-procedure-manual/cpm_pcps.pdf) says the FTB will accept “any financial statement furnished by the taxpayer or their representative that adequately reflects the taxpayers’ true and complete financial condition.” Section 4.2.1.17 further details that the FTB uses the IRS Collection Financial Standards when evaluating a taxpayer’s ability to pay the FTB to “determine whether expenses are necessary to provide for the taxpayer’s (and his or her family’s) health and welfare.” The FTB also accepts the IRS national and local standards for certain living expenses when evaluating whether a taxpayer qualifies for a financial hardship, pursuant to Regulation [California Code of Regulations, title 18, section] 19195-2(g)(1).

The CDTFA does not appear to have an internal agency policy or regulation authorizing the acceptance of an IRS Financial Statement. But the CDTFA uses IRS national standards as a guide for determining the average expense levels applicable to a taxpayer who is applying for a payment plan, according to Compliance Policy and Procedures Manual (“CPPM”) section 770.015. (www.cdtfa.ca.gov/taxes-and-fees/manuals/cpm-07.pdf.) Similarly, CPPM section 770.014 provides guidelines, based on the IRS’s Financial Analysis Handbook, to help analyze “a taxpayer’s financial condition.”

The EDD, when considering a long-term installment agreement, has a policy of accepting any recent financial statement that has the same data as

the EDD forms for an individual (DE 926B) or business (DE 926C), per Chapter 15 of its Tax Compliance Guidelines (DE 83). (www.edd.ca.gov/site/assets/files/pdf_pub_ctr/de83.pdf.) Therefore, the EDD, in theory, allows for the acceptance of the IRS Financial Statement. However, in practice, EDD employees are frequently unaware of the policy and insist on the EDD Financial Statement.

The Board of Equalization (“BOE”) is omitted here because it is not directly engaged in the collection of property taxes, which is the responsibility of county tax collectors. The State Controller and the Committee on County Tax Collecting Procedures provide guidance on such matters, pursuant to Government Code sections 30300 and 30301.

III. MERITS AND FEASIBILITY

Multi-agency forms for financial statements (one each for personal and business) would alleviate the burden on already financially struggling taxpayers by allowing them to prepare and submit one financial statement to all state agencies in the event they have outstanding liabilities with multiple agencies. An administrative or regulatory requirement that the state agencies accept the IRS Financial Statement will allow a taxpayer to submit one financial statement to both the federal and state tax agencies. This change would save taxpayers time, effort, and resources.

Moreover, the multi-agency form can enhance collaboration and data sharing between agencies. It would also reduce the state’s costs associated with developing, updating, and processing multiple forms for each agency.

The agencies might worry that a standardized form could fail to meet the various needs of different agencies. However, each agency’s current standardized forms fail to accommodate every situation, even though prepared specifically by the agency. Consequently, it is common for collections agents to ask follow-up questions and request more information after a financial statement is submitted. To further address this concern, a standardized form could include a dedicated section for additional information that each agency may require.

Moreover, an administrative or regulatory change would not be burdensome on the state taxing agencies. Each agency already collects similar information through their respective financial statements for business and individual taxpayers. This proposal would streamline the process by having all agencies accept a uniform multi-agency financial statement and the IRS Financial Statement. Specifically, for the FTB, this could be achieved by amending Regulation 19195-2. Currently, Regulation 19195-2(f)(2)(B)(4) lists the contents of a financial statement required by the FTB as a condition for an installment payment arrangement, but it does not prescribe a specific acceptable form. The CDTFA could revise the Compliance Policy and Procedures Manual sections 770.013 and 770.014. The EDD could update Chapter 15 of the Tax Compliance Guidelines to expressly allow the IRS Financial Statement.

In further support of this proposal's feasibility, it is notable that the agencies have agreed on a standardized form in a different collection context. Previously, separate applications were needed for each agency in order to apply for an offer in compromise. To relieve some of the paperwork burden for taxpayers, the three taxing agencies have developed a single OIC application form: DE 999CA (attached as Exhibit 10), which primarily consists of a financial statement.

Given the similarities of the dataset reviewed by the agencies to evaluate financial hardship (FTB CPM, §§ 4.1.1.12, 4.2.1.17; CDTFA CPPM, § 753.259; DE 83 Chapter 15), the agencies could further streamline procedures by accepting hardship determinations made by sister agencies. This would eliminate the need for conducting redundant evaluations of a taxpayer's financial condition. Using a standard form mitigates the risk of forum shopping because agencies are likely to reach similar conclusions about a taxpayer's financial ability to pay taxes when they evaluate similar information. Additionally, agencies should honor a hardship determination made by the IRS and property tax postponement provided to senior, blind, or disabled citizens by the State Controller's Office, as both involve arguably more rigorous evaluations. (See Internal Revenue Manual, § 5.16.1.2.9 (11-14-2023); State Controller's Office, Property Tax Postponement Application and Instructions, Fiscal Year 2024-25, www.sco.ca.gov/Files-EO/2024-25_ptp_application_package_ada.pdf.) If a taxpayer's hardship status is recognized uniformly across agencies, it reduces frustration and confusion.

Consistency benefits taxpayers who interact with multiple tax entities and provides a more predictable and fair system. It also enhances trust in the tax system, potentially increasing overall compliance rates.

IV. CONCLUSION

By adopting multi-agency financial statement forms and recognizing IRS submissions, California tax agencies can ease the compliance burden on taxpayers, making the process more efficient and less daunting for all involved parties. By unifying the approach to financial disclosures across state agencies, we can enhance operational efficiency and promote greater consistency in the treatment of taxpayer information. Ultimately, it would contribute to a fairer, more navigable, and less burdensome tax system.

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