October 2, 2020

VIA INTERNET

Dear Interested Party:

The Compliance Policy and Procedures Manual (CPPM) is a guide for the California Department of Tax and Fee Administration (CDTFA) in administering tax and fee programs. It is available to the public and can be accessed from the CDTFA web page at http://www.cdtfa.ca.gov/taxes-and-fees/staxmanuals.htm.

The Business Tax and Fee Division is proposing to revise CPPM section 703.030 to update policy and procedures regarding CDTFA-assessed 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 CDTFA at CPPMRev@cdtfa.ca.gov. Your comments or suggestions must be received by the CDTFA no later than November 2, 2020, in order to be considered. Thank you for your consideration.

Sincerely,

/s/ Kirsten Stark for

Tax Policy Bureau Chief
Business Tax and Fee Division
WHEN TO PROCEED ON CDTFA-ASSESSED LIABILITIES

Tax/feepayers are formally notified of a CDTFA-assessed liability with a Notice of Determination (NOD). The NOD, formally notifies taxpayers of a CDTFA-assessed liability. RTC section 6486 for sales and use tax, and similar statutes for the special taxes and fees programs, state that the notice shall be placed in a sealed envelope, with postage paid, addressed to the taxpayer at his or her address as it appears in the records of the CDTFA. Service of the notice is complete at the time the notice is deposited in the United States Post Office, or a mailbox, or other facility regularly maintained or provided by the United States Postal Service. If a notice is served in person, service is complete at the time of delivery.

The NOD has a “letter date” and a “notice service date.” The notice service date is the date the NOD is mailed, which is the letter date plus one business day, and is the date used to determine whether a notice was issued within the statutory timeframes, interest calculations, and the deadline for the taxpayer to file a petition for redetermination. When the NOD is manually issued by a collector, the NOD can be issued with the same letter date and notice service date if it is mailed the same day it is created.

All CDTFA-administered tax and fee program determinations, except for jeopardy determinations, NODs and those made for the payment of cigarette tax stamps, and those made for guaranteed funding of the Prepaid MTS 911 Account, become final 30 days after service of the Notice of Determination (NOD) upon the taxpayer. Jeopardy determinations have the same requirements. Under the Emergency Telephone Users Surcharge Law (RTC section 41033), a determination for guaranteed funding becomes final 60 days after service of an NOD, unless a timely petition for redetermination is filed. These 10, 30, and 60 day dates are collectively known as the “finality date.”

As in the case of self-assessed liabilities, a demand notice does not need to be issued prior to taking collection action. Passive collection efforts (e.g., contacting the taxpayer by phone, skip tracing, locating assets) may commence before the finality date has passed. Active collection action may be initiated immediately after the finality date on an NOD has passed, and passive efforts have not resolved the matter. Collection action may be initiated immediately. A “finality” penalty, which is an additional penalty of 10 percent of the unpaid tax, is added to the liability if payment is made after the “finality” date stated on the NOD,
unless the tax/feepayer files a timely petition for redetermination. Regular NODs become due and payable as of the finality date, and active collection action may be initiated immediately thereafter. Jeopardy NODs are immediately due and payable, meaning that active collection efforts may begin on the notice service date of the jeopardy NOD (see subsection Jeopardy Determinations below). However, if the taxpayer files a timely petition for redetermination with the requisite deposit, the NOD does not become final, and active collection activities are stayed, pending resolution of the petition for redetermination. A “finality penalty” is added if the tax assessed by the NOD is not fully paid by the finality date, equal to 10 percent of the unpaid tax.

Retention of NOD Report

Printing Services will deliver one copy of the original NOD to the mailroom along with a daily NOD report, DIF 100 Determinations. The mailroom will verify by checking off each NOD listed in the report. Two verification staff and one supervisor from the mailroom will sign the report certifying the mailing of all NODs listed in the report. The signed reports will be scanned by date and saved in the Notice Certification folder on the Y drive where all staff has read-only access. Once the Print and Distribution Services staff has verified that the scanned copy of the report is readable, the paper version will be destroyed. Electronically stored versions of the report will be kept for 10 years.

The Bulk Mail Unit receives the original NOD Certification List daily via email and verifies each NOD listed in the report. Two verification team members and one supervisor sign the report certifying the mailing of all NODs listed. The signed reports are scanned by date and saved in the Notice Certification folder on the Y drive where all team members have read-only access. Once the scanned copy of the report is verified and readable, the paper version will be stored in a secure location with the Bulk Mail Unit supervisor. Electronically stored versions of the report are kept for 10 years.

Address Changes and Returned Mail

If an NOD is returned to CDTFA after mailing, and the NOD was issued to the address of record, the only basis for regarding service as invalid is if, prior to issuing the notice, the tax/feepayer had notified the CDTFA, either in writing, or in another manner documented in CDTFA records that the tax/feepayer's address was changed or would be changing and staff failed to update the address of record. Therefore, in cases where the tax/feepayer has, in fact, notified the CDTFA of a change of address, but staff failed to update the record and the NOD is received as returned mail, the determination should be cancelled and a new NOD issued to the correct address. If the NOD issued to the address of record is returned to the CDTFA after mailing, the only basis to deem the service of the NOD as “invalid” is if there was an error on the part of the CDTFA. If the NOD is received as returned mail and the taxpayer had notified the CDTFA prior to the NOD being issued of a change of address, either in writing or in another manner documented in CDTFA’s records, but the CDTFA failed to update its records accordingly, the NOD should be cancelled and, if the statute of limitations period has not expired, a new NOD issued to the correct address.
IMPORTANT: Team members responsible for issuing the new NOD to the correct address must first invalidate the original NOD and cancel all transactions related to it, such as reversing estimated returns, reducing the original audit to $0, unlinking bill items in a dual collection case, etc. The new NOD must relate to a new bill item to properly tie to the correct billing timeline (i.e., new finality date). Team members may need to request assistance with reversing bill items from the Return Analysis Unit, Return Processing Branch, Collection Support Bureau or Petitions Section, depending on the type of billing. Team members must ensure that the NOD is tied to the appropriate bill item.

It is essential that staff team members must verify and timely update CDTFA records to reflect the address change information received from a tax/feepayer as soon as they become aware of the new address. When an NOD contains one or more periods for which the statute of limitations is close to expiring and the NOD was mailed to an invalid address, the statute for some periods could expire prior to the NOD being mailed to the tax/feepayer before a new NOD can be issued and mailed to the correct address. This could result in the CDTFA being unable to include some periods on the NOD. For example, when an NOD is cancelled and rebilled, periods falling outside the statute of limitations (and not subject to a waiver signed by the tax/feepayer) must be eliminated.

Whenever staff becomes aware of a tax/feepayer’s new address, they must notify the Field Operations Division (FOD) or Business Tax and Fee Division (BTFD) office responsible for the account so that the address can be updated in the registration records (TAR/SPR) the Client Taxpayer System (CTS) in IRIS. Additionally, a comment note should be entered regarding the source from which the information was obtained.

Although not required by statute, every effort should be made, using any resources available to CDTFA for locating people, to verify the address of the tax/feepayer prior to issuing the NOD. If staff has reason to believe the tax/feepayer is at an address that has not been confirmed, the NOD should be issued to both the address of record and to the address where the CDTFA believes that the tax/feepayer receives mail. Additional addresses may be entered into IRIS to generate multiple billings to the same tax/feepayer on the “DIF NN” screen.

Team members in the office responsible for the account should ensure that all reports, including reaudits and adjusted Field Billing Orders, include verified, up-to-date addresses for all partners and corporate officers. Registration records should always be updated in IRIS prior to the transmission of such reports.

Generally, NODs received as returned mail by the Customer Service Center are sent to the office of account for handling. NODs for estimated returns received as returned mail are sent to the office that issued the NOD.

Team members in the responsible office will check the system for a new address. If the investigation reveals an address change that the CDTFA received prior to mailing the NOD and the address was not updated in the system, the NOD will be cancelled. If the statute of limitations has not passed,
the NOD will be reissued with the new address and mailed to the taxpayer at the correct address. Note that in cases where the statute of limitations for a period is near expiration, the expiring period must be eliminated from the NOD if the replacement NOD will not be issued prior to that expiration date.

If the investigation discloses an address change that was received after the NOD issue date, a copy of the original NOD will be re-mailed to the taxpayer at the new address and the new address should be entered into the system along with appropriate notes.

When an NOD for compliance assessments—(CAS) is received as returned mail, the Audit Determination and Refund Section (ADRS) will check TAR and CTS records and comments entered in IRIS for any new addresses. The NOD will be forwarded to the new addresses if any are found. For returned mail that has a forwarding address, the NOD will be re-mailed to the new address. In most cases, this type of NOD will not have periods in danger of expiring due to their statute of limitations because, generally, the tax/feepayer has not filed a return for the period(s) covered by the CAS and the statute of limitations is eight years after the date the return was due (see RTC section 6487 and similar statutes for special taxes and fees accounts). It can usually be rebilled without adjustment if it is later found that the CDTFA had prior notification of an address change. However, in cases where the statute of limitations for a period is near expiration, the expiring period may need to be eliminated and the NOD cancelled and rebilled.

For returned mail of an NOD for a CAS on an active account that does not have a forwarding address, ADRS will contact the compliance supervisor who approved the CAS in IRIS. They will ask the responsible FOD or BTFD office to research whether there is an updated address, and if necessary, attempt to contact the tax/feepayer to obtain the correct mailing address. If staff is unable to contact the tax/feepayer and obtain the correct address, ADRS will send the NOD to file after entering a comment in IRIS.

For determinations less than $1,000 on sales and use tax accounts, Return Analysis Unit (RAU) staff will review TAR and CTS records and comments entered in IRIS, and if a new address is found, the NOD will be mailed to the new address. If a new address is not found, the NOD will be sent to the responsible office with a cover memo. The responsible office will research whether there is a new address, and, if necessary, attempt to contact the taxpayer to obtain the correct mailing address. If a new address is found, the responsible office will forward the NOD to the taxpayer and change the address in IRIS. If a new address is not found, the NOD will be returned to RAU for filing into the taxpayer’s file. Efforts to contact the taxpayer should be documented by entering comments in IRIS.

For determinations greater than $1,000, RAU staff will check both the taxpayer’s file and IRIS TAR and CTS screens for a new address. If a new address is not found, the responsible office will be requested to investigate for a change of address. If the investigation by either RAU or the responsible office reveals an address change that the CDTFA received prior to mailing the NOD and the address was not updated in IRIS, the determination will be cancelled, rebilled with the new address, and mailed to the taxpayer at the new address. If the investigation discloses an address change that was received after the NOD issue date, the original billing will be re-mailed to the taxpayer at the new address and the new address should be entered into IRIS.
along with appropriate comments.

For special taxes and fees accounts, the Registration Section staff or Motor Carrier staff is responsible for the functions noted in the previous paragraphs as ADRS or RAU functions.

**Petition for Redetermination**

For sales and use tax determinations and most special taxes and fees determinations, the person against whom a determination is made, or any person directly interested, may file a petition for redetermination within 30 days from the date of service of an NOD of the notice service date or, if a jeopardy NOD, within 10 days of the notice service date (see Publication 17, Appeals Procedures). The filing of a petition must be in writing and state the specific reasons why the taxpayer believes the amount determined to be due is incorrect. Additionally, a petition of a jeopardy NOD will not be accepted unless the petitioner posts the required security within 10 days of the notice service date.

If the CDTFA receives a timely petition for redetermination, the liability enters the appeals process and does not become final, due, and payable. An Active Appeal Case indicator may be added to the period of liability subject to the petition for redetermination.

When a tax/feepayer files a timely petition for redetermination, the original NOD is superseded by a Notice of Redetermination at the conclusion of the appeal process. Only passive collection efforts may be taken until the Notice of Redetermination becomes final. Active collection actions may not be taken on non-final determinations. However, many of these determinations are paid before any action becomes necessary. petitioned NODs.

**Administrative Protest**

A petition for redetermination (petition) must be a petition is timely only if filed within 30 days following the date the NOD is mailed of the notice service date. A petition is invalid if it is filed prior to the issuance of the NOD or more than 30 days following the date the NOD was mailed. The division that issued the NOD Petitions Section or Appeals and Data Analysis Branch (ADAB) may accept invalid petition into the appeals process as an administrative protest pursuant to the Rules of Tax Appeals section 5220 Appeals Regulation 35019. Exceptions to the 30 days to file a timely petition are: jeopardy determinations, which become final in 10 days, determinations for payment of cigarette tax stamps, which become final in 10 days, and determinations for guaranteed funding of the Prepaid MTS 911 become final in 60 days.

An invalid petition may be treated accepted as an administrative protest when the Business Tax and Fee Division Deputy Director of the division that issued the NOD, or his or her or designee, determines that there is a reasonable basis to believe that there may be an error with the tax/feepayer’s NOD. (See below for discussion regarding late appeals of jeopardy NODs.)
appeal is responsible for notifying the taxpayer when an appeal is accepted as a timely petition, is accepted as an administrative protest, or is not accepted into the appeals process because it was not filed timely (i.e., either before (premature) or after the time period as explained above).

The Department generally accepts an invalid petition as an administrative protest when the taxpayer:

- Has a known representative (power of attorney) on file and a copy of the NOD was not mailed to the representative;
- Has another pending case with similar areas of contention that is already in the appeals process;
- Received multiple NODs for different periods on the same account and a timely petition was previously filed for the first period billed;
- Is a corporate officer who received a dual determination NOD and a timely petition was previously filed for the corporation; or,
- Can document that he/she was unavailable to reply during the petition period (e.g., out of town, hospitalized, incarcerated) and files an appeal as soon as he/she is able to do so (within 30 days of becoming available) with documentation supporting the reason for the delay.

The Petitions Section or ADAB must notify the taxpayer who files a premature appeal that his/her correspondence such appeal cannot be accepted as a timely petition since it was received before the date the NOD was mailed and that he or she should resubmit the petition within the required timeline(s) once the NOD is mailed. The Petitions Section or ADAB staff will also attempt to phone the taxpayer to advise them to refile their petition within the timeframe required to be accepted as a timely appeal. The Petitions Section or ADAB will also send a copy of the letter to the office that originated the determination so that if they are in contact with the taxpayer, they can also remind them to file a timely appeal. A comment should be entered into IRIS under the TAR/SPR screen noting the receipt of the premature appeal.

The Petitions Section or ADAB will also upload a copy of the CDTFA’s letter and a copy of the premature petition into the system. If the office that originated the NOD is in contact with the taxpayer, they shall remind the taxpayer to file a timely appeal and enter notes into the system about the receipt of, and response to, the premature appeal.

If the taxpayer that filed a premature appeal then files a late petition, but files within a reasonable period of time, the Department should accept the late appeal as an administrative protest. While reasonable time is meant to be flexible to accommodate the taxpayer’s circumstances, it typically does not exceed 30 days.

When the taxpayer submits new documentation or information that
supports the amounts listed on the NOD are overstated, the office that issued the NOD being appealed should carefully consider the new information and, if warranted, make the appropriate adjustments to the final liability. Adjustments can be made without an active appeal, without requiring the taxpayer go through the formal appeals process.

The Department, CDTFA generally will not accept an invalid petition as an administrative protest when the taxpayer:

- Cannot document that they were unavailable to reply during the petition period (e.g., out of town, hospitalized, incarcerated) or can document that but nevertheless there was a significant delay in filing an appeal once the taxpayer was able to do so. A significant delay is typically more than 30 days after becoming available;
- Claims they did not receive the NOD, however, the NOD was mailed to the address of record and the CDTFA has not received any returned mail; or
- Claims they were not aware of their tax or fee obligation.

The taxpayer may request the section assigned to review the petition to reconsider an invalid petition previously not accepted as an administrative protest. If upon reconsideration, the section continues to believe the appeal should not be accepted as an administrative protest, the taxpayer's reconsideration request will be submitted to the BTFD Deputy Director, Business Tax and Fee Division, for final review and decision. When an invalid petition is not accepted as an administrative protest, the taxpayer may file a claim for refund after paying the liability. The taxpayer may still appeal by paying the tax due and then filing a claim for refund. One claim for refund may be filed to cover all installment payments made towards the NOD that are still within the applicable statute, and that claim will also cover future payments towards the NOD. The taxpayer does not need to file separate claims for refund for each individual payment.

The treatment of an invalid petition for redetermination as an administrative protest does not stop the accrual of interest, and generally will not stop collection action with regard to a final liability unless the Petitions Section or ADAB determines the liability should not be subject to active collection action. If a late petition as an administrative protest, the liability period(s) has been placed into sundry withhold status. If the Petitions Section or ADAB acknowledges a late petition as an administrative protest, an appeals case is created and is identified as an Administrative Protest. An Active Administrative Protest indicator is added to alert users that the case exists.

If the liability is not placed into sundry withhold status, staff may pursue Regardless of whether the liability is subject to a pending administrative protest, if there is no Active Administrative Protest indicator on the account, collection activities may be pursued to obtain payment of the liability. However, the collector should use judgment on a case-by-case basis in determining whether it
is appropriate to pursue collection activities. Therefore, it is important that staff do the following:

- Research the status of the liability and the administrative protest to determine whether active collection action should be suspended while in the appeals process. A sundry withhold will be set. This may require obtaining information from the Petitions Section, ADAB, or the Legal Division regarding the current status of the administrative protest and documentation requested or received from the tax/feepayer.
- Discuss the collection approach with a supervisor.
- Contact the tax/feepayer to discuss payment options and remind the tax/feepayer that interest continues to accrue.
- Encourage the tax/feepayer to make voluntary payment(s) against any agreed upon amount.
- Consider the use of the auto-payment feature is acceptable since if no collection stay exists, but that it may require special handling to ensure payments do not exceed the agreed upon amount.
- Send CDTFA-450, Administrative Protest - Claim for Refund Letter, to advise the tax/feepayer to submit a Claim for Refund for a voluntary payment made on an administrative protest. Effective January 1, 2017, a single claim will cover all subsequent payments of tax/fee, interest, or penalty on the same determination. For involuntary payments, staff should contact the tax/feepayer and advise them of their right to claim a refund within 3 years of the involuntary payment. Note that this is particularly important because an administrative protest is moot as to any amount paid since, regardless of the decision on the administrative protest, the CDTFA cannot refund any payment in the absence of a valid and timely claim for refund. As such, if the amounts disputed by the administrative protest are paid in full, the administrative protest will be dismissed.
- For involuntary payments, contact the taxpayer to advise of the taxpayer’s right to file a claim for refund within 3 years of the involuntary payment.
- Complete the petition/administrative protest summary in ACMS.

An administrative protest will generally be reviewed in the same manner as a timely petition for redetermination; however, tax/feepayers do not have an unconditional right to an appeals conference, and/or hearing although the Rules for Tax Appeals Regulations provide that an appeals conference and/or hearing should be liberally granted. Therefore, tax/feepayers should be advised the appeals process does take time and that, in the interim, it is in their best interest to continue with voluntary compliance payments.

When compliance staff is assigned a liability as a collection case, and the tax/feepayer indicates he/she has filed an administrative protest, the collector should verify whether the tax/feepayer's petition was accepted as an administrative protest in the system. When a collector assigned to a collection case contacts the taxpayer and the taxpayer indicates that an administrative protest has been filed, the collector should verify whether the taxpayer's appeal was actually accepted as an administrative protest in the system. APL MH screen in IRIS. The collector must also send the tax/feepayer a CDTFA-450 to inform the
taxpayer to file a claim for refund for payments made on an administrative protest. Staff The collector must emphasize that, although their petition appeal was accepted as an administrative protest, it does not constitute the filing of a valid claim for refund. If CDTFA publication 17, Appeals Procedures: Sales and Use Taxes and Special Taxes, had not been previously provided, it should be included with the CDTFA-450 sent by the collector.

Stop Demand Collection Policy on Claim for Refund When Tax/Fee is Paid

In cases where all of the tax or fee is paid and a claim for refund has been filed, accounts with billed, final amounts are placed in an appeal status and the IRIS DIF DI Stop Demand field is populated by the Audit Determination and Refund Section (ADRS) or the Appeals and Data Analysis Branch (ADAB). This prevents demand billings from being issued and removes the account from ACMS. No action to collect the remaining interest and penalty is to be taken until the stop demand flag is removed. Final amounts remaining for the period are placed in an appeal status and a Refund Claim Indicator is added to the period. This prevents demand billings from being issued and removes the period from active collections until the Claim for Refund case is closed.

When a tax/feepayer files a claim for refund after remitting payment of the tax/fee, ADRS or ADAB will determine if the claim is valid and enter the refund information in the Maintain/Inquire Case Header (MH) subsystem within the Appeals subsystem (APL) in IRIS. While this screen is used to maintain the refund case, it will not automatically flag a protested difference in IRIS. Therefore, ADRS or ADAB must place the stop demand flag on the protested difference in the DIF DI screen in IRIS. When a taxpayer files a claim for refund online, a case is automatically created in the system. If a paper claim for refund is received in a field office, the instructions available on the CDTFA’s intranet site for processing refunds should be followed.

Compliance staff should work closely with ADRS or ADAB to ensure tax/feepayers that may have a valid claim for refund for a protested difference had a stop demand flag placed on the difference period in IRIS. If a levy is served against a tax/feepayer and the tax/feepayer subsequently informs the collector that they filed a claim for refund for that liability, compliance staff should review the APL MH screen in IRIS to confirm the claim for refund was received. If the refund claim has been received by ADRS or ADAB but there is no stop demand flag linked to the disputed difference, staff should contact ADRS or ADAB to resolve the status of the case and determine if a stop demand flag should be entered. If a stop demand flag is entered subsequent to issuing a levy, the levy should be released. If a levy was served against a taxpayer and they subsequently inform the collector that they filed a claim for refund for that liability, the collector should review the system to confirm the claim for refund was received. If the refund claim has been received but there is no Refund Claim indicator linked to the disputed amount, staff should contact the team member assigned to the case to determine if a Refund Claim indicator should be entered. If the Refund Claim indicator is entered subsequent to issuing a levy, the levy should be released.

The account will remain in appeal status for at least 180 days after notification to the tax/feepayer that the claim for refund has been denied. ADRS or ADAB will make certain the appeal process for the case has concluded and promptly remove the flag if no lawsuit for refund is filed by the tax/feepayer. The claim for refund case will
remain open for 90 days from the date the Notice of Denial is sent or until the litigation is concluded if the taxpayer files a suit for refund. Once the 180-90 days has lapsed and the claim for refund case has closed, the stop demand flag is removed and the new period representing the denied claim for refund enters ACMS, the system. The collector must first contact the taxpayer and ask for voluntary payment of the penalty and interest. If the taxpayer fails to comply, or if the collector’s attempts to contact the taxpayer are unsuccessful, summary collection action to collect the penalty and interest should resume, unless the collector has information which indicates the taxpayer has requested relief of penalty and/or interest.

If the taxpayer or their attorney of record indicates that a suit for refund has been filed and provides proof of the filing, or if the CDTFA receives notice of a suit for refund, the collector must suspend collection of the affected liability. Any legal documents received pertaining to the suit must be forwarded to Special Operations Branch (SOB) for review in accordance with CPPM section 722.080. The Collections Support Bureau (CSB).

SOB will enter a comment on the account in IRIS and in ACMS (if the account is active in ACMS) regarding the filing of the suit and verify if a stop demand in IRIS is in place on the remaining penalty and interest. If a stop demand is not in place, SOB will promptly place a stop demand on the affected liability. No action to collect the penalty and interest will be taken during the duration of the legal proceedings. Upon resolution of the court case, the Litigation Bureau will notify SOB regarding the outcome of the case. If the CDTFA prevails in the lawsuit and the taxpayer’s legal remedies are exhausted, SOB will remove the stop demand flag from the unpaid liability and enter a comment in IRIS and in ACMS (if the account is active in ACMS) regarding the outcome of the court case. Collection of the liability will resume if the taxpayer’s suit is unsuccessful and the liability remains unpaid. The CSB will enter notes on the account regarding the filing of the suit and verify if a Stop Collections indicator is in place on the remaining penalty and interest and if not, the CSB will promptly place a Stop Collections indicator on the affected liability. No action to collect the penalty and interest will be taken during the duration of the legal proceedings. Upon resolution of the court case, the Litigation Bureau will notify the CSB regarding the outcome of the case. If the CDTFA prevails in the lawsuit and the taxpayer’s legal remedies are exhausted, the CSB will remove the Stop Collections indicator from the unpaid liability and enter a note in the system regarding the outcome of the court case. Collection of the liability will resume if the taxpayer’s suit is unsuccessful, and the liability remains unpaid.

Jeopardy Determinations

In the majority of cases, collection efforts before a determination becomes final are restricted to passive activities. However, when a jeopardy determination is issued, the statutes governing the CDTFA’s collection program allow active collection action to be taken on the determined liability before the finality date. Therefore, use of active collection action prior to the finality date of a determination is limited to cases where immediate action is necessary to protect the interest of the state, i.e., where a determination has been converted to a jeopardy determination or a jeopardy determination has been issued. Note: For jeopardy determinations, if the tax/fee is not
paid within ten days of the billing date, the finality penalty and interest attach to the tax/fee amount that remain unpaid after the finality date (ten days).

A person against whom a jeopardy determination is made has a right to file a petition for redetermination within 10 days if they post adequate security as required by the CDTFA. (See CPPM 445.000). The person against whom a jeopardy determination is made may request an administrative hearing within 30 days to: The purpose of a jeopardy determination is to provide a means of protecting the state’s interest when there is substantial evidence that any further delay in collection activity would seriously impair or jeopardize the CDTFA's ability to collect the taxes or fees due. Therefore, a jeopardy NOD is due and payable upon issuance, even though not final. Use of active collection action on a jeopardy NOD prior to the finality date of the NOD or prior to the filing of a timely petition with security, is limited to cases where immediate action is necessary to protect the interest of the state. This also applies to an NOD that is converted to a jeopardy NOD.

In addition to having the right to file a petition for redetermination, along with security, within 10 days of the notice service date of a jeopardy NOD, the person against whom the jeopardy NOD is issued may also file an application for an administrative hearing to:

1. Establish that the determination NOD is excessive,
2. Establish that the sale of property that may be seized after issuance of the jeopardy determination NOD or any part thereof should be delayed pending the outcome of the administrative hearing because the sale would result in irreparable injury to the person,
3. Request release of all or a part of property to the person, or
4. Request a stay of collection activities, or
5. Request administrative review of any other issue raised by the jeopardy NOD.

An application for an administrative hearing must be filed within 30 days after the notice service date of the jeopardy NOD. However, an application filed after the 30-day period may be accepted for good cause. A late petition filed for a jeopardy NOD, or a timely petition filed for a jeopardy NOD without the required security, may be accepted as an application for an administrative hearing at the discretion of the CDTFA.