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 the following sections of Chapter 7 of the CPPM:

- Sections 753.015-753.070 to incorporate current policies and procedures regarding warrants.
- Sections 720.035-720.036 and 771.000-771.090 to incorporate current policies and procedures for interagency intercepts.

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 August 1, 2022, to be considered. Thank you for your consideration.

Sincerely,

Aimee Olhiser, Chief
Tax Policy Bureau
Business Tax and Fee Division
WARRANTS AND LEVIES 753.000

WARRANTS 753.015

Via the Automated Case Management System (ACMS), staff may request the issuance of a warrant by preparing CDTFA–200–W, Special Procedures Warrant Request. Team members may request the issuance of a Warrant – Keeper, Warrant – Seizure, or Warrant - Till-Tap by creating a case in the system. By virtue of a warrant:

1. A law enforcement representative (keeper) may be placed on the premises of a delinquent taxpayer for the purpose of taking possession of personal property. This procedure is most frequently used for, but is not restricted to, situations where the taxpayer is still operating a business. The officer may be instructed to levy upon the furniture, fixtures, and equipment owned by the taxpayer, the stock in trade, and cash in the register or on business premises. A keeper will remain on the business premises during the hours specified on the warrant. Requesting a “keeper” warrant requires the CDTFA to pay advance fees to the law enforcement agency to which the warrant request is directed. (See section 753.050)

2. An officer of the CHP can be instructed to enter a business for the purpose of taking possession of the cash in the cash register(s) on the business premises. This procedure is commonly referred to as a “till-tap.” No payment of advance fees is necessary when requesting a till-tap.

3. A warrant may be issued to levy upon motor vehicles. There is no requirement that the legal owner’s interest in the automobiles be recorded. The ownership of motor vehicles must be registered with the Department of Motor Vehicles (DMV) and any changes in the registered or legal ownership must be promptly reported to DMV. When consideration is given to levying upon a motor vehicle, DMV’s records must be checked, in all instances, to determine the correct ownership. If DMV records show a legal owner other than the taxpayer, a warrant will not be issued. On rare occasions, however, as in the case of a “nearly clear” motor vehicle, arrangements can be made to provide the levying officer with sufficient advance fees to allow him to pay off the small interest of a legal owner. If such a course is anticipated, the CSB must be advised of the exact amount needed to determine whether this course of action is advisable.

4. A levy pursuant to a warrant may be placed upon real property when the liability is $5,000 or more. Before any levy is made on real property, the extent of the interest of the taxpayer must first be established. To do this, the real property records should be searched to determine:
   a. The manner in which title is shown.
   b. Trust deeds or mortgages against the property.
   c. If there are any other encumbrances such as liens, judgments, and attachments against the property.

5. These encumbrances must be recorded prior to the date on which the CDTFA’s lien certificate was recorded in order to have priority over the lien. This search should also disclose whether the property is subject to a declaration of homestead. As a matter of policy, the CDTFA will not levy and sell a
In considering a warrant to levy on real property, the following steps must be taken:

a. The fair market value of the property must be determined by a personal appraisal or by a qualified realtor familiar with the subject property.

b. All title encumbrances, including the homestead exemption, must be deducted from the fair market value and the taxpayer’s interest in the remainder must be established pursuant to the manner in which title to the real property is vested, i.e., sole owner, joint tenancy, etc.

c. The anticipated amount received from the forced sale of the real property is calculated to ensure that taking such action is practical. A comprehensive report and recommendation should be submitted to the CSB for a decision.

Additional information regarding the seizure and sale of real property can be found in CPPM section 757.150.

KEEPER WARRANTS 753.018

If directed to do so in the warrant instructions, levying officers may place a “keeper” on the premises of an operating business for the purpose of collecting incoming receipts while allowing the business to operate. When deciding whether to request a keeper warrant, the responsible collector should keep in mind that it may become necessary to eventually sell the taxpayer’s property. The keeper’s function is to preserve the property and prevent its disposal pending clearance of the liability or public sale of the property. The anticipated daily receipts from the operation of the business should be weighed against the business or potential realized gain from the sale of taxpayer’s property should exceed the daily costs paid for the keeper.

INTEREST ACCRUALS ON COLLECTIONS BY WARRANT 753.020

Since the officer serving the warrant and making collection is acting in the capacity of an agent of the CDTFA, the date payment is received by the officer is considered to be the effective date of payment. Interest accruals, therefore, will depend upon the date the officer receives the funds and not on the date they are remitted to the CDTFA by the levying officer.

WARRANT REQUEST AUTHORITY — TILL-TAPS AND KEEPERS 753.025

A supervisor must approve all requests to issue till-tap or keeper warrants and will ensure that both of the following items have been addressed:

1. The business is actively operating and is of a type (generally cash-based) that will support the keeper or till-tap. Note: a keeper warrant may be ordered on a closed out permit as long as it is to be installed at the same owner’s active business location, which may have a different account number.

2. The average daily sales are enough to realistically expect payment above and beyond the fees associated with service of the warrant.

Warrant requests are initiated through ACMS using CDTFA–200–W, Special Operations Warrant Request. When the responsible collector determines that a keeper or till-tap warrant is appropriate, the case must be manually routed in ACMS to the collector’s supervisor for approval. Upon supervisory approval, a CDTFA–200–W is generated in ACMS and sent to the CSB for processing.
the system and staged to the collector’s supervisor for approval. If approved the supervisor will stage the case to CSB Review for further processing.

**Till-Taps - Use of the California Highway Patrol**

Requesting the California Highway Patrol (CHP) to serve a till-tap warrant can be costly. Therefore, staff is encouraged to utilize the Sheriff instead of the CHP whenever possible. However, using the Sheriff instead of the CHP is dependent upon the area for service and whether the CHP can more quickly or efficiently serve the till-tap warrant in comparison to the Sheriff.

There are eight CHP divisions that process and serve CDTFA till-tap warrants. The division area and contact information can be found on the CHP website on the Find an Office tab. When requesting a till-tap to be served by the CHP, the correct CHP division address must be entered on the warrant to ensure that it is mailed to the proper CHP division for service. If the taxpayer is located in a city not shown in a division, CSB staff will contact the CHP to determine which CHP division will serve the warrant.

The request for a warrant must include:

1. The address for service of the till-tap.
2. The type of business.
3. The normal business hours and preferred hours of service.
4. The specific number of days the CHP must go to the business location.

Since a till-tap may not be successful in obtaining payment in full, limiting the number of days the CHP must go to the business location will allow compliance staff members to:

1. Assess the effectiveness of the till-tap warrant and determine if more days should be requested, or
2. Consider other collection remedies.

Prior to preparing the warrant, CSB staff will contact the appropriate CHP division and request an estimated amount to process the till-tap. This amount will then be entered as the Cost of Collection (COC) difference in the online system. In some cases where CHP cannot provide an amount, CSB staff will enter $999 for the COC. Once the actual cost of collection has been determined, the COC difference will be adjusted accordingly. For that reason, compliance staff should take notice that the COC difference in the online system may not be exact and the amount will be adjusted upon receipt of the billing from the CHP. Compliance staff should contact the CSB to determine if the COC amount is correct and resolve any issues concerning an outstanding COC.
ISSUANCE OF WARRANTS AND INSTRUCTIONS  753.030

All warrants, except those on wages, are issued by the CSB upon request from staff. Requests will be reviewed by the CSB to determine whether the use of a warrant is appropriate. Factors that will be considered are legality of action, anticipated results, and costs compared to amount expected to be collected. The CSB will prepare the warrant, and the instructions to the levying officer will be prepared at the same time. If, after the warrant and instructions are issued, additional assets are located, or the instructions are inadequate, administrators or persons who have been delegated authority are authorized to amend or supplement the instructions as necessary. In no case, however, will the period or amounts shown on the warrant be altered; in these instances, new warrants will be requested from the CSB.

ADVANCE PAYMENT OF FEES AND EXPENSES  753.050

The CDTFA is authorized to make advance payments of fees and expenses, other than fees and expenses incurred under the Cigarette and Tobacco Products Tax Law. That law provides for payment of fees and expenses upon completion of the services of the levying officer.

When an advance payment is necessary and a warrant request is transmitted to the CSB, the entity to which it should be paid must be indicated. The collector will determine the amount of the advance fees required and, in most cases, the CSB will send the warrant and warrant instructions to the requesting office along with a check covering the advance fees. At times however, the warrant and instructions are sent directly to the law enforcement agency, with copies provided to the collector that made the request. When the CDTFA issues a warrant for collection to law enforcement entities, the Accounting Section prepares a check for advance fees, made payable to the law enforcement entity. The advance fees are drawn on CDTFA’s Revolving Fund. Upon receipt of payment, compliance staff will first apply the money to the cost of collection (COC) bill items in the system. Any amount remaining after these costs have been paid in full will be applied to the liability indicated on the warrant.

Warrant Logs

Field offices are required to maintain a log for all outstanding warrants and costs of collection requested from the CSB. The CDTFA-418, Warrant Log, may be used unless a Cost of Collection tracking log tailored for the field office is used. Team members must ensure that all unused advance fees, and any funds collected as a result of the warrant, are returned to the CDTFA along with the original warrant. The compliance supervisor responsible for approving requests for fees and warrants should review the Warrant Log on a monthly basis. This ensures that staff is following up for the return of the advance fees and the original warrant, and reconciling the COC differences in the online system. Unused Cost of Collection Fees

There may be instances where the warrant is canceled and not served. In this situation, the Sheriff returns the unused advance fees. Staff will return the warrant and the unused fees back to the CSB. The CSB will forward the check for the unused advance fees back to the Accounting Section for further handling. The advance fees that are being returned unused should not be applied to the taxpayer’s liability. The unused fees for the COC are not the taxpayer’s money and staff should not apply the funds to the
taxpayer's liability. There may be instances where the warrant is canceled. In this situation, the sheriff returns the unused advance fees. Team members will return the warrant and the unused fees back to CSB. CSB will forward the unused advance fees check back to the Accounting Section for further handling. The unused COC fees are not the taxpayer's money and team members should not apply the funds to the taxpayer's liability.

STATEMENT OF COSTS REQUIRED 753.052
Whenever the CDTFA is required to pay the costs of a levy for which no reimbursement was received as a result of the levy, a statement of charges is required. The statement must be submitted by the levying officer in triplicate and should be forwarded through the originating office to the CSB for approval and referral to the Accounting Office for payment, if not already paid in advance. No payment will be made until the statement, in triplicate and detailing the items, detailing the items in triplicate has been received. A statement is not necessary if an advance payment was made, and full reimbursement is received as a result of the levy.

COSTS AS AN OBLIGATION OF THE TAXPAYER 753.054
The advance payment required, and any costs incurred in the use of a warrant become the obligation of the taxpayer and should be collected by the officer making the levy. Whenever costs are incurred through a levy from which no satisfaction is obtained, whether an advance was made or costs were later billed to CDTFA, the amount of the costs should be added to the tax liability and collected along with the tax when collection becomes possible.

LEYING OFFICER'S RETURN OF WARRANT 753.056
Within 60 days after making a levy pursuant to a warrant, the levying officer must make a report of any action taken and/or the results of the warrant. The warrant should be returned to the CDTFA with a report on the response from the person upon whom the levy was made, along with a statement on the amount collected, less costs and fees, and the net amount paid. If the warrant resulted in no collection, the officer must so report and, if costs were incurred by the CDTFA, a statement in triplicate must be submitted to the CSB for transmittal to the Cashier in Headquarters. (The Cashier Manual contains the procedures for reimbursement of advanced warrant fees by levying officers.)

CANCELLATION OF WARRANT SERVICE BY LEVYING OFFICER 753.058
In rare instances, the CDTFA may cancel or withdraw the warrant for collection before the sheriff, marshal, constable or CHP law enforcement agency has served the document on to the taxpayer. Withdrawals or cancellation of warrants must be made only when careful examination of the circumstances dictates that the cancellation is proper such as when the taxpayer files bankruptcy before service is made, a payment to clear the liability is made prior to service, death of a taxpayer, etc. In these situations, a telephone cancellation followed immediately by written confirmation to the sheriff, marshal, constable or CHP, with a copy to the CSB, is proper. Cancellation of a warrant may be made only by law enforcement agency, with a copy to CSB, is proper. Cancellation of a warrant may only be made by authorized persons.
CIGARETTE AND TOBACCO PRODUCTS TAX LAW WARRANTS — NO ADVANCE FEES 753.060

Since the Cigarette and Tobacco Products Tax Law does not provide for advance payment of fees and expenses, the officer who will make and serve the levy should be contacted to learn whether the levy can be made without an advance payment. If arrangements cannot be made, the CSB should be notified. The CSB will then determine whether the matter should be referred to the Attorney General for action against the taxpayer.

MOTOR VEHICLE WARRANT PROCEDURE — PROTECTIVE BIDS 753.070

The Department of General Services (DGS) has authorized the Attorney General (AG) to bid upon and purchase motor vehicles at a public sale conducted pursuant to a CDTFA warrant. In order to avoid the possibility of a motor vehicle being sold for an unreasonably small amount, the low price, CDTFA may enter a “protective” bid. The AG will designate a CDTFA employee as the AG’s special representative to actually make the bid and the CSB will coordinate this procedure. The maximum protective bid shall not exceed two-thirds of the low “as is” Kelly Blue Book value of the vehicle, or the amount of the tax, including all costs of levy, whichever is the lesser.

The responsible office will furnish the CSB with all pertinent information regarding an anticipated public sale. The information should include, but is not limited to:

1. Estimated value of the vehicle and amount of proposed bid.
2. All facts regarding third party claims.
3. Name of CDTFA employee who will represent the AG in making the bid.
4. Date of expected sale.

Upon reasonable prior notice, vehicles may be delivered to state garages maintained in Sacramento, San Francisco, Fresno, Los Angeles, and San Diego. As a successful bidder, the special representative will take possession of and deliver the vehicle to the nearest installation of the DGS. The CSB will notify the DGS of all facts concerning the purchase and proposed resale of the vehicle and the DGS will handle the storage and resale of the vehicle.

The responsible office must furnish the Accounting Section, with an itemized statement of expenditures in triplicate (letter form), including the amount bid for the motor vehicle.

Upon proper notice, the Accounting Section will:

1. Issue a check for the law enforcement agency’s, sheriff’s, marshal’s, constable’s or California Highway Patrol’s fees.
2. Obtain an advance from the State Controller in the amount needed for the revolving fund to credit the taxpayer’s account with the amount of the bid, less expenses.
3. Prepare a revolving fund check for the credit of the taxpayer’s account and transmit the check to the Cashier Unit at Headquarters through the CSB.

When a motor vehicle purchased by the CDTFA through bid-in procedures is subsequently resold by the DGS, the proceeds from the sale that are transmitted to the CDTFA will be distributed as follows:

1. The revolving fund will be reimbursed for all funds advanced.
2. The remaining funds will be transferred to the general fund.
LOCATING MISSING TAX DEBTORS AND/OR ASSETS 720.000

OTHER AGENCY SECURITY DEPOSIT INFORMATION 720.035

TAXPAYER FUNDS HELD BY OTHER STATE AGENCIES (INCOMING INTERCEPTS)

Other state agencies, including but not limited to, Franchise Tax Board (FTB), Employment Development Department (EDD), and Alcoholic Beverage Control (ABC) may have funds due to the taxpayer that may be intercepted by CDTFA. While intercepts for FTB, EDD and ABC are automated or initiated by the Collection Support Bureau (CSB), intercepts for other agencies are requested by the collector. See CPPM section 771.000 for information on requesting intercepts.

Other agencies, including agencies, boards, etc., regulated by the Department of Consumer Affairs require a licensee to post a security deposit. The security may be, and usually is, posted in the form of a surety bond. Other acceptable forms of security are cash, savings and loan passbooks, or Bank Time Certificates of Deposit. Some agencies, boards, etc., regulated by the Department of Consumer Affairs require a licensee to post a security deposit. The security is usually posted in the form of a surety bond, but may be in the form of cash, savings and loan passbooks, or certificates of deposit (CDs).

The exact requirements as to the amount of the required security deposit vary between agencies, boards, etc., and may be determined by referencing the appropriate section(s) of the Business and Professions Code. Usually, a security deposit is retained for a period of time after the termination of a business, pending demands of the agency or the public that was served. For example, the Contractors State Licensing Board and the Department of Motor Vehicles do not release their bonds for three years.

The agencies listed below require an applicant to post a security deposit:

1. Department of Motor Vehicles
2. Athletic Commission
3. Cemetery Board
4. Collection and Investigation Services
5. Contractors State License Board
6. Structural Pest Control

If a security deposit is a surety bond, the agency or board can furnish the name of the company that issued the bond and the bond number. Sometimes taxpayers have deposits held by surety companies that can be levied upon. Be aware that in most cases the CDTFA cannot make demand on surety for a bond in another agency’s name (for information about making a demand on surety, see CPPM section 735.030). However, companies that issue surety bonds usually require an applicant to provide a detailed financial statement along with his or her signature on the bond. If the CDTFA files a lien against a taxpayer, the information of the debt is a matter of public record that can be revealed to the company. In turn, the company can be asked to provide the CDTFA with the information from the financial statement.

For security deposits other than a surety bond, a request to intercept the funds may be made. Government Code sections 12419.4 and 12419.5 provide that the state has a lien on any funds owed by a state agency to a person who owes an amount to another state agency. In order to enforce the lien, it is only necessary that the
agency to whom the money is owed notify the other agency in writing of the amount due and request that the payment to the debtor be “offset” “intercepted.”

Requests for an offset or intercept for a security deposit held by another agency, when asserting a lien under the above sections of the Government Code, are sent to CSB (see CPPM section 771.080), the Collections Support Bureau using a CDTFA-200-A. At a minimum, the CDTFA–200–A should contain the following information:

1. The name, address and account number of the person owing the liability,
2. The type of security deposit for which the offset is being requested (other than a surety bond),
3. The amount of offset requested to satisfy the liability, and
4. The name and address of the agency holding the security deposit.

DEPARTMENT OF HEALTH SERVICES OFFSET REQUESTS 720.036

The Department of Health Care Services (DHCS), which administers the Medi-Cal program, annually distributes over $4 billion in payments to California healthcare providers. The Medi-Cal program includes physicians, dentists, chiropractors, optometrists, pharmacies, hospitals, ambulance services and retailers of hearing aids, prosthetic devices, wheel chairs, etc.

Healthcare provider participation in the Medi-Cal program can be confirmed through the Open Data Portal – Profile of Enrolled Medi-Cal Fee-for-Service (FFS) Providers link on the DHCS website.

Use the CDTFA–200–A to send requests to offset funds being disbursed by DHS to CSB, which will request an offset under the provisions of Government Code section 12419.5.

INTERAGENCY OFFSETS INTERCEPTS 771.000

GENERAL 771.010

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

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

In order to enforce the lien, the California Department of Tax and Fee Administration (CDTFA) must send written notification to the agency holding money for refund and include the taxpayer’s name, the amount due, and request that payment be sent to the CDTFA to be “offset” against the person’s liability. To enforce the lien, CDTFA must send written notification to the agency holding money for refund and include the taxpayer’s name, the amount due, and request that the payment be intercepted and sent to CDTFA and applied towards the person’s liability. Some intercepts are automatically created in the system, some are initiated by the Collection Support Bureau (CSB), while others are initiated by collectors.
Compliance staff should consider requesting offsets for all final amounts owed by a taxpayer that are greater than 90 days old, pursuant to the conditions outlined in CPPM 771.020.

**FRANCHISE TAX BOARD (FTB) OFFSET REQUESTS INTERCEPTS 771.015**

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

**Offset Intercepts Against Individuals**

The FTB offset request for individual or partnership accounts is made using the ACMS system. The responsible collector working the account initiates an offset request using the “FTB Offset Request” Fast Path button in ACMS. The Fast Path button allows responsible collectors to update offset request information at any time. The Collections Support Bureau (CSB) electronically submits offset request changes (add/delete/change) to FTB on a weekly basis.

CDTFA electronically sends FTB an annual list of all individual taxpayers (sole proprietor, partnership, co-owner accounts) with qualified final balances every January. The system automatically sends FTB information on new taxpayers that qualify for intercept, as well as offset balance updates (adjustments, accrued interest, new balances, etc.) every month, except for the month of December.

**Offset Against Corporations/LLCs**

Intercepts Against Business Entities

The FTB offset request function for corporate and LLC accounts is not currently available in ACMS. Actions on these types of accounts are handled by CSB. FTB provides CSB with a list of all corporate and LLC accounts scheduled to receive FTB refunds. Upon receiving this list, CSB identifies each offset item by searching IRIS to locate all pertinent CDTFA account numbers and notifies the appropriate office or unit regarding the offset. These requests are a priority, and the responsible collector must respond promptly with a recommendation to either accept or deny the offset when CSB directs an offset request to him or her. CSB faxes the offset request memo back to FTB either the same day or, at the latest, the following business day after receiving it from FTB.

Intercepts for business entities (corporation, LLC, LLP, and limited partnership accounts) are processed by CSB. FTB sends an electronic listing of potential refunds eligible for intercept to CSB daily, excluding holidays. CSB manually searches system files to identify matching business entity customers who meet the criteria for FTB intercepts (see CPPM section 771.020).

CSB sends an email regarding the potential intercept to the team member assigned to the case with a copy to their supervisor inquiring whether they wish to request or decline the intercept. The team member replies by email with their decision based on their review. If the team member approves of the intercept request, the CSB Offset Desk team member prepares a memo to FTB and uploads it to the
secured FTB File server. Notes must be entered on the Customer springboard whether the intercept requested is approved or declined.

**SELECTION OF ACCOUNTS FOR FTB OFFSET**

**CRITERIA FOR FTB INTERCEPTS 771.020**

Accounts selected for offset intercept must meet the following conditions:

1. Taxpayer is a sole proprietor or individual partner and the social security number is available, or Taxpayer is a corporation or LLC and the corporate/LLC number issued by the Secretary of State’s office is available, or Taxpayer is a corporate officer or LLC member against whom a dual liability has been established. Individuals with a valid Social Security Number, or business entities with a valid Federal Employer Identification Number in the system.

2. There is a final liability which exceeds $250.00.

3. There is a documented record of at least three billing or collection notices sent to the debtor. A demand notice was previously sent to the debtor with the standard FTB pre-intercept blurb.

4. Taxpayer is not in bankruptcy or has received a discharge from bankruptcy. A petition in bankruptcy carries with it an automatic stay, so the offset intercept of the liability is withheld until the debtor receives a discharge or the automatic stay is lifted. The refund to be offset must be for a tax period subsequent to the bankruptcy filing date.

5. The request for offset is made on the correct entity. (The person did not give another person’s social security number; there was not an erroneous trace—father and son or person with same name; or the billing was made against the wrong person.) If an erroneous offset occurs, it is the CDTFA’s responsibility to issue the refund. The balance is at least 30 days old.

If the taxpayer is on a payment plan, an offset should still be requested for final liabilities greater than 90 days old. Payment plan forms (CDTFA 407 series) include language to notify the taxpayer of the CDTFA’s ability to initiate an offset against their property held by another state agency. Intercept may still be requested for final liabilities. Payment plan forms (CDTFA 407 series) include language to notify the taxpayer of CDTFA’s ability to initiate an intercept against their property held by another state agency. However, the collector should consider not requesting the intercept if the payment plan will be completed and paid in full within the next 90 days, considering whether the taxpayer is likely to default within that time.

The refund is community property or sole property of the taxpayer. If the FTB refund is determined to be community property, it is subject to an offset intercept for debt incurred by either spouse before or during the marriage. Debt incurred after the dissolution of the marriage, or while the couple lived apart, is not the responsibility of the non-liable spouse and not subject to offset intercept (see CPPM section 753.240). Staff Team members should look for dissolution of marriage or that evidence the couple is living apart. If the couple is living apart, the income of each spouse is separate property.

When requesting an FTB offset, staff has the responsibility of establishing proof of current marriage and that community property rights exist before placing an offset on a non-liable spouse income tax refund. Offsets will only be placed on non-liable
spouses that file income tax returns separately, and when it is established that the refund is community property. Evidence to be considered in determining marital status and community property includes, but is not limited to, the following:

- Marriage Certificate
- Previous income tax returns filed as married
- Court records
- Loan application or credit report showing married status
- Dissolution of the marriage/divorce decree
- Legal separation agreement
- Pre-nuptial/post-nuptial agreements establishing sole and separate property
- Evidence of living apart (lease agreements, etc.)
- Insurance policy (auto, property, and life insurance)
- Death of either of the spouses

While not all of these sources may be available, it is the responsibility of the assigned collector to determine that sufficient evidence was obtained. Staff should document in ACMS the evidence supporting the FTB offset on the non-liable spouse and must obtain supervisory approval before requesting an offset on a non-liable spouse. An offset request remains in place until the action is taken to remove it, therefore the collector will need to confirm marriage and community property for a non-liable spouse each year.

If an offset occurs, the taxpayer will receive a letter of notification and staff must be prepared to handle calls from the affected taxpayer. Taxpayers should be told to telephone the FTB only if the taxpayer has a tax problem involving the FTB. If the liability is paid in full or it becomes apparent that it will be paid in full without the offset, or if conditions for offset are no longer met, the FTB offset should be promptly removed. If an intercept occurs, the taxpayer will receive a letter of notification and team members must be prepared to respond to calls from the affected taxpayer. Taxpayers should be directed to contact FTB only if the taxpayer has a tax problem involving FTB. If the liability is paid in full or it becomes apparent that it will be paid in full without the intercept, or if conditions for the intercept are no longer met, a Stop EDD/FTB Debt Files indicator should be added by the team member.

**EMPLOYMENT DEVELOPMENT DEPARTMENT (EDD) OFFSET/INTERCEPT REQUESTS 771.030**

The Employment Development Department (EDD) offset request for all entities is not available in ACMS. Offset requests for these entities are processed manually through CSB. EDD provides CSB with a list of all entities scheduled to receive EDD refunds. CSB identifies each item by searching IRIS to locate all pertinent CDTFA account numbers and notifies the appropriate office or unit regarding the offset. As in the case of FTB, EDD also handles the offset requests on a first-come, first-served basis; the window of opportunity to request an offset is very short. Once CSB notifies the responsible collector, they must make the determination to accept or deny the offset. The responsible collector will respond to CSB as a priority in order to process the offset request and forward it to EDD. The offset request must be done on the same day or, at the latest, the following business day in order for the CDTFA to receive the offset funds.
EDD sends files containing intercept information and the system automatically creates the refund intercept if the account meets the following criteria:

- Valid Social Security Number (SSN) for the individual in the system,
- The final liability exceeds $50, and
- The taxpayer is not in bankruptcy and has not received a discharge in bankruptcy for the period of liability.

CDTFA sends EDD offset balance updates (credits, adjustments, increases, accrued interest) electronically on a weekly basis.

ALCOHOLIC BEVERAGE CONTROL (ABC) OFFSET INTERCEPT REQUESTS

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

ABC periodically transmits a “Refund Schedule for Sales Tax” to the CDTFA that lists the applicant’s name, address, and amount of funds available for offset. These transmittals from ABC do not arrive on any particular schedule, but they do have a deadline of 14 days from the date of the notice to request offset of the funds. These refunds typically occur because an ABC license applicant, after paying the fee for a license, has withdrawn their application and ABC is refunding the fee paid. CSB staff conducts the same search and notification process for ABC offset requests as for the other types of offset requests CDTFA that lists the applicant’s name, address, and amount of funds available for intercept. These transmittals from ABC do not arrive on any specific schedule, but they do have a deadline of 14 days from the date of the notice to request intercept of the funds. These refunds typically occur because an ABC license applicant, after paying the fee for a license, has withdrawn an application and ABC is refunding the fee paid. Generally, the entity that responds first is the one to receive the funds, so a timely response is critical. ABC intercepts are handled in the same manner as FTB intercepts with business entities (see CPPM section 771.015).

DEPARTMENT OF HEALTH CARE SERVICES (DHCS) OFFSET INTERCEPT REQUESTS

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

Confirmation of provider participation can be acquired from the DHCS Provider Enrollment Division, at (916) 323–1945. DHCS should be furnished with the taxpayer’s social security number or federal identification number, and most recent business address to confirm their participation in the program. Healthcare provider participation in the Medi-Cal program can be confirmed through the Open Data Portal – Profile of Enrolled Medi-Cal Fee-for-Service (FFS) Providers link on the DHCS website.
Requests for offset are made via a memo. To request an intercept, a work item must be created in the system and assigned to CSB who will request an offset the intercept under the provisions of Government Code section 12419.5.

**Funds Due to Taxpayers from Other State Agencies** 771.070

Although CSB initiates the majority of offset requests, most intercepts are automated or initiated by CSB, the responsible office may find funds owed to a delinquent taxpayer by agencies that are not monitored by CSB, such as bonds subject to refund posted with Contractors State License Board or the Bureau of Automotive Repair. Upon receipt of a written request from the responsible office, CSB staff may request an offset (see CPPM section 720.035). The responsible office creates a work item in the system and assigns it to CSB. CSB, in turn, may request an intercept of funds from any state agency that owes a taxpayer a refund.

**Requests for Offset Intercepts to Collections Support Bureau** 771.080

The responsible office requesting to offset funds from another agency is required to provide a memo. An intercept of funds from agencies other than EDD, FTB, and ABC, will create a work item from the Customer springboard and assign it to CSB with the following information:

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

**Collections Support Bureau Offset Intercept Notification to Responsible Collector Unit or Field Office** 771.090

CSB notifies the responsible collector via email when an offset is available. CSB uses two standard sets of email notifications and ACMS comments; one set for ABC/EDD offsets and a separate set for FTB offsets. CSB sends an email to the team member assigned to the case with a copy to their supervisor that an intercept is available from EDD, FTB, or ABC. CSB uses two standard sets of email notifications and system notes entered on the Customer springboard are as follows:

Sample Email and ACMS Comments for ABC/EDD Offsets System Notes for ABC/EDD Intercepts

**Subject:** ABC/EDD Offset Intercept/Account Number/Taxpayer’s Name

There is an ABC/EDD offset available in the amount of $(offset amount) on the above account. Please review the account and determine if the offset should be taken. In order for the CDTFA to receive the funds, please respond by the end of the day. If you have any questions, please contact me at (phone number) or by reply email.

There is an ABC/EDD intercept available in the amount of $(intercept amount) on the above account. Please review the account and determine if the intercept should be taken. So that CDTFA may receive the funds, please respond to this email by close of business today. If you have
any questions, please contact me at (phone number) or by replying to this email.

Once the responsible collector responds with a decision, CSB enters comments in ACMS similar to team member responds with a decision, CSB enters notes in the Customer springboard like the following:

Special Operations received notice from ABC/EDD of an offset available in the amount of $(offset amount). The account was reviewed and (Collector’s Name) replied via e-mail to accept/decline the offset. CSB received notice from ABC/EDD of an intercept available in the amount of $(intercept amount). The account was reviewed and (Team Member’s Name) replied via email to accept/decline the intercept.

Sample Email and ACMS Comments for FTB Offsets

Subject: FTB Offset

There is an FTB offset available in the amount of $(offset amount) on the above account. NOTE: Before we can offset this amount, the Pre-Intercept Notice* requirement must be met. Also, 30 days must have passed from the Demand date for each period in which an offset is requested. Please review the account and determine if the offset should be taken. In order for the CDTFA to receive the funds, please respond by the end of the day. If you have any questions, please contact me at (phone number) or by reply email.

*Pre-Intercept Notice (see below) is generally the last blurb found on the Demand billing:

The Franchise Tax Board (FTB) administers the Interagency Intercept Collection Program in conjunction with the State Controller’s Office. FTB is authorized to redirect a refund owed to a tax or fee payer to the California Department of Tax and Fee Administration (CDTFA) to offset the tax or fee payer’s liability under California Government Code section 12419.5. If you have any questions or objections to the liability on this notice, contact the CDTFA office indicated above within 30 days from the date of this notice and a CDTFA representative will review and discuss your account with you. You have 30 days from the date of this notice to either remit payment in full, contact the CDTFA, or provide documentation to the CDTFA to show the liability is not due. Failure to respond within 30 days from the date of this notice will result in the CDTFA forwarding your account to FTB to proceed with intercept collections.

Once the responsible collector responds with a decision, CSB enters comments in ACMS similar to team member responds with a decision, CSB enters notes on the Customer springboard like the following:
Special Operations received notice from FTB of an offset available in the amount of $(offset amount). Emailed (Collector's Name) regarding the Pre-Intercept Notice requirement, the 30-day waiting period from the Demand date, and whether the offset should be accepted/declined. The account was reviewed and (Collector's Name) replied via e-mail to accept/decline the offset.

CSB received notice from FTB of an intercept available in the amount of $(intercept amount). Emailed (Team Member Name) regarding the Pre-Intercept Notice requirement, the 30-day waiting period from the Demand date, and whether the intercept should be accepted/declined. The account was reviewed and (Team Member Name) replied via email to (accept or decline) the intercept.