December 9, 2022

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 sections 650.024, 765.030-765.060, and 765.130 to incorporate current policies and procedures when receiving a request to release a hold on an Alcoholic Beverage Control license.

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 January 9, 2023, in order to be considered. Thank you for your consideration.

Sincerely,

Aimee Olhiser, Chief
Tax Policy Bureau
Business Tax and Fee Division
TAX CLEARANCE FORMS

During the escrow tax clearance process, the forms listed below should be distributed to the indicated parties and notes should be entered in the system regarding their distribution.

- CDTFA-48, *Notice to Purchaser on Request for a Certificate of Payment*, is mailed to the buyer and seller (in the event that no escrow company is being used) to notify them of the requirements to issue the tax clearance.
- CDTFA-65, *Notice of Closeout*, is used by the escrow company or seller to notify the CDTFA that a business has closed due to a sale of the business.
- CDTFA-162, *Personal Liability for Corporate and Limited Liability Company Sales and Use Taxes*, is mailed to buyers who are corporate officers and LLC members to inform them that they may potentially be held liable for the liability of their corporation or LLC.
- CDTFA-164, *Successor’s Liability Notice*, is mailed to the buyer to inform them of the statutes related to successor liability.
- CDTFA-360, *Final Return Due – Closed Out Account*, is mailed to the seller when they still need to file their final return.
- CDTFA-370, *Request for Certificate of Payment – Existing Balance*, is mailed to the buyer (in the event that no escrow company or other agent is being used) to notify the buyer of amounts due in order to receive a CDTFA-471 after the payment is received by the CDTFA.
- CDTFA-372, *Request for Certificate of Payment – Sale of a Business*, is mailed to the escrow company or buyer if the CDTFA is not able to issue a CDTFA-471 because the business is not being transferred and it is not known if the business will be transferred.
- CDTFA-406, *Close-Out Worksheet*, is used as a control document when reviewing closeout information related to the tax clearance request.
- CDTFA-467 and CDTFA-467-C, *Notice of Requirements in the Sale of a Business and Cover Letter*, informs all parties involved of the legal requirements involved with the sale of a business.
- CDTFA-471, *Certificate of Payment*, is used after it has been determined that no tax, interest or penalty is due from the seller for the period of operation.
- CDTFA-550, *Escrow Follow Up for Information*, is mailed to the escrow company when no response is received to a prior letter requesting additional information.
- CDTFA-550-CQ, *Courtesy Tax Clearance Questionnaire*, is mailed to the escrow company when additional information is needed to process the request for a tax clearance.
- CDTFA-574, *Escrow Confirmation Cancellation*, is mailed to the escrow company or the purchaser when the CDTFA receives verbal notification that the tax clearance request is being cancelled.
- CDTFA-759, *Seller’s Permit Inquiry*, is mailed to the buyer when a seller’s permit cannot be found and to provide notification of the requirement to register for a seller’s permit.
• CDTFA-872-DEM, Demand for Release of Hold on Liquor License Transfer, is used to inform the escrow company of the payment required requirement that need to be met prior to the transfer of the liquor license. If a liquor license is involved, notify the supervisor or collector assigned to the account.

• CDTFA-875, Escrow Business not Transferred Letter, is sent to the escrow company when the seller did not transfer the business.

• CDTFA-879, Escrow Intradistrict Responsibility Letter, is sent to the escrow company to notify them the tax clearance is being transferred to another office for processing.

• CDTFA-1046-A, Request for Sales and Use Tax Clearance, is mailed to the requestor (escrow company, buyer, buyer’s representative) if additional information is required to process the request.

• CDTFA-1274, Notice of Amounts Due and Conditional Release, is sent to the escrow company with copies to the buyer and seller when it has been determined that there is or will be tax, penalty, or interest due from the seller. This is used when the seller has a collection balance, delinquent return(s), or a pending audit. A copy of the CDTFA-1274 is retained in the office of control for three years or until the statute of limitations for successor billing has expired.

• Publication 74, Closing Out Your Account, is mailed to the seller.
The CDTFA–871, *Request for Transfer of Liquor License To Be Withheld*, is sent to ABC by the CSB to request a withhold on the transfer of a liquor license.

The CDTFA–872, *Release of Hold Against ABC License*, is used by the CDTFA to notify ABC to release a withhold placed against the transfer of a liquor license.

The CDTFA–872–ADEM, *Demand for Release of Withhold Hold on Liquor License Transfer*, is used to inform the escrow agent of requirements that need to be met prior to the transfer of the liquor license. If a demand has been made to the escrow agent because of a liability against an account, generally both the CDTFA–872–DEM and CDTFA–872–A, are sent to the escrow holder, the buyer, and the seller of the liquor license. After all liabilities against an account have been paid in full, compliance team members will forward the CDTFA–872 to ABC to allow for the transfer of the liquor license. After all liabilities against an account have been cleared, the escrow agent will forward the CDTFA–872 to ABC so the liquor license may be transferred. If ABC does not approve the transfer, the release will be returned with a brief explanation: escrow cannot close and CDTFA should not release its withhold.

If CDTFA staff sends the CDTFA–872 to ABC to release the withhold, the form should be scanned and emailed as a PDF file attachment to ABC headquarters in Sacramento using the email address LicensingUnit@abc.ca.gov. No copies should be mailed or faxed to ABC’s headquarters or to local offices. ABC will process requests received by email within two business days. For expedited requests, staff members must contact the Business Taxes Compliance Specialist (BTCS) in CSB after emailing the release request to ABC. The CSB can be reached by phone at 916-445-1122 or by emailing the CSB representative responsible for that account as determined by the last two digits of the taxpayer’s account number. (Note: the CSB roster is available through Outlook by scrolling down the Navigation Pane on the left of the screen and by selecting the following folders: Public Folders, All Public Folders, CBOE, Legal, Collections Support Bureau Roster.) The CSB BTCS in CSB will then contact ABC to expedite the release.

**TRANSFER WITHHOLD REQUESTS**

BPC section 24049 provides the CDTFA the authority to refuse the transfer of an ABC license if the applicant is delinquent in the payment of any sales and use taxes due. BPC section 24040 states that each ABC license shall be issued to a specific person for a specific business location.

Collection staff and CSB staff share responsibility with respect to placing holds against the transfer of certain types of liquor licenses. The notification of a pending license transfer may come from the taxpayer or escrow company to a field office, or from daily ABC licensing reports obtained by the CSB.
On a daily basis, the CSB retrieves a licensing report of new ABC applications and identifies the office responsible for the applicant’s business location. These reports are disseminated to Compliance Principals. The reports can assist staff members in identifying permit issues, transfers involving an account with a delinquency or liability, or possible sale of a business.

A liquor license withhold may only be requested if the licensee matches the permit holder, with the exception of spouses and registered domestic partners (see CPPM section 765.005). A withhold may be requested if:

1. There is a reporting delinquency, or
2. A final or non-final liability exists.

When the CSB determines that a withhold should be placed on a liquor license, the CSB team member will immediately send a CDTFA–871, Request for Transfer of Liquor License To Be Withheld, will immediately be sent to ABC headquarters in Sacramento as a PDF file attachment using the email address LicensingUnit@abc.ca.gov, to ABC headquarters, Sacramento, with a copy to the taxpayer.

The system should automatically create an “ABC Withhold” work item 90 days from the date the collection case was created (unless the account is closed, in that case it is seven days).

When staff has determined that a withhold on the transfer of the liquor license should be placed, staff will notify the CSB either by telephone (if an escrow is pending) or by sending a CDTFA–200–A, Special Operations Action Request. Team members will notify CSB by creating an “ABC Withhold” work item in the system, if a work item has not already been created, changing the owner to “unassigned”. If notification is made by telephone, staff should also send a CDTFA–200–A team members should also create a work item to ensure the request is documented in ACMS the system. The ABC license number should be added as an ID type at the account level in the system before the work item is requested. The request should reference the liquor license number(s) being withheld. The request must contain the taxpayer’s name, account number, liquor license number, and reason for requesting a withhold.

When there is a pending liquor license transfer and the CDTFA has a withhold on the license, the responsible office will send a letter to all interested parties informing them a tax liability exists that must be cleared prior to the withhold being removed and the license being transferred.

DEMAND AND RELEASE PROCEDURE FOR ALCOHOLIC BEVERAGE LICENSE WITHHOLDS 765.050

Upon receipt of the CDTFA–871, Request for Transfer of Liquor License To Be Withheld, ABC will send the CSB two copies of the application to CSB a copy of a notice to transfer the license and the CSB will forward this information to the responsible office. Because a liquor license can transfer no earlier than 30 days
from date of application to the date of transfer, **staff** team members must make every effort to:

1. Clear all delinquent periods.
2. Search for related accounts that may be involved. Note that a withhold may only be placed for liabilities associated with use of the ABC license for a specific business. If there are taxes/fees owed under another account held by the same taxpayer, a Notice of Levy may be sent for any additional funds that may be held in the escrow account.
3. Review the DIF CF screen in IRIS bill item stages tab in the system to identify pending Collection Cost Recovery Fees that may be assessed prior to payment being received so that those amounts can be included in the CDTFA-872-ADEM, Demand for Release of Withhold Hold on Liquor License Transfer.
4. Once a final or non-final liability is determined, send the CDTFA-872, Release of Hold Against ABC License, and the CDTFA-872-DEMA, Release of Withhold on Liquor License Transfer, to the escrow holder. The buyer and sellers should also be sent a copy of the CDTFA-872-DEM. In cases where the escrow is not being handled by an escrow company (e.g., bank, etc.), or when there are multiple tax agency withholds on the license, only the CDTFA-872-A should be sent to the escrow holder. The CDTFA-872 should be held pending payment of the demand or the CDTFA’s prorated share of the selling price with the other tax agencies.

If a demand is not sent to the escrow holder within 30 days, ABC may allow the license to transfer without payment.

When the escrow holder is in a position able to disburse funds, payment will be made to the CDTFA pursuant to the CDTFA-872-DEMA instructions. and the escrow holder, except as noted previously, will simultaneously forward the CDTFA-872, Release of Hold Against ABC License, to ABC headquarters, Sacramento. ABC will then remove the withhold on the transfer of the liquor license. Once payment is received, team members can send the CDTFA-872 to ABC.

If staff sends the CDTFA-872 to ABC to release the withhold, the form should be scanned and emailed to ABC headquarters in Sacramento as a PDF file attachment to ABC headquarters using the email address LicensingUnit@abc.ca.gov. No copies should be mailed or faxed to ABC’s headquarters or to local offices. ABC will process requests received by email within two business days.

For expedited requests, **staff** team members must contact the CSB after emailing the release request to ABC. CSB can be reached by phone at 916-445-1122309-5650 and a BTCS can provide assistance, or by emailing the CSB representative responsible for that account as determined by the last two digits of the taxpayer’s account number. (Note: the CSB roster is available through Outlook by scrolling down the Navigation Pane on the left of the screen and by selecting the following folders: Public Folders, All Public Folders, CBOE, Legal, Collections Support Bureau Roster.) The CSB The BTCS in CSB will then call ABC to expedite the
release. ABC headquarters will only accept a withhold or release request by telephone when a license transfer is pending.

**FOLLOW UP REQUIRED ON WITHHOLDS**

Each office is responsible for follow-up on its liquor license withholds. If an audit is recommended, compliance staff members will notify the audit staff immediately so they can initiate the audit promptly or make the determination that no audit is necessary.

Under RTC section 6813, the CDTFA may require the posting of a security deposit in order to issue a Certificate of Tax Clearance that will allow the escrow to proceed with the transfer of the business and the liquor license. When a license withhold cannot be placed because no delinquencies exist with respect to reporting, or the account does not have a final or non-final liability at the time the application for transfer is made, the provisions of RTC section 6813 should be considered in order to ensure payment of any anticipated audit or estimated liability. If additional liabilities are found within the allotted time, or before all the escrow funds are disbursed, an amended demand should be made on the escrow agent. The CDTFA-872-DEM should be issued to secure the full purchase price of the license or the amount of the anticipated liability, whichever is less.

Once the reason for placing the ABC withhold on the liquor license has been resolved, staff should make sure to have the withhold removed. Staff can make use of the “uncleared items flag” in ACMS to remind themselves that the withhold needs to be removed once the liability is resolved. The uncleared items flag will prevent the case from exiting ACMS until the flag has been cleared. This is important because the CDTFA-872, *Release of Hold Against ABC License*, is generated in ACMS and an account will route out of ACMS once payment in full is applied to the account.

**ESCROWS**

Under the withhold procedure, a claim is made directly upon funds held in escrow pending transfer of the liquor license. Demand and release instructions (CDTFA–872-DEM, *Demand for Release of Hold on Liquor License Transfer*), *Release of Hold Against ABC License*, and CDTFA–872-A, *Release of Withhold on Liquor License Transfer* are sent directly to the escrow agent. Upon payment of the demand, compliance team members will send the CDTFA–872, *Release of Hold Against ABC License*, to ABC Headquarters in Sacramento as a PDF file attachment using the email address LicensingUnit@abc.ca.gov.

If escrow funds are inadequate to pay (in full) the claims of all agencies that have withholds against the license transfer, the CSD will be contacted. Compliance team members must contact CSB to arrange a pro-rata ration of available funds. The information required includes the total selling price of the license, amount of escrow fee, the name of any other agencies having claims in the escrow, and the name and address of the escrow company.
INTERNAL REVENUE SERVICE SEIZURE AND SALE — LIQUOR LICENSE
765.130

The Internal Revenue Service (IRS) can seize and sell the liquor license of any person who is delinquent in the payment of federal taxes. To transfer the license once the license has been sold, the IRS and the buyer must open an escrow account with a bona fide escrow holder. The transfer of the license must be processed through ABC. The buyer and the details of the transfer must meet the same requirements as in any other liquor license transfer. Field offices will be notified via the CDTFA–871, Request for Transfer of Liquor License to be Withheld, of these pending transfers in the same manner as in the transfer of other licenses.

When staff becomes team members become aware that the IRS has seized the license, a withhold on the transfer of the license will be requested when application for transfer is made, providing a reporting delinquency or delinquent liability exists. After the responsible office receives notification of the pending transfer, the CDTFA–872 and CDTFA–872–ADEM, Demand for Release of Hold on Liquor License Transfer, is sent to the escrow holder. The demand and or release forms are never deposited with the IRS even though they may be requested.