



CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

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EDMUND G. BROWN JR.
Governor

MARYBEL BATJER
Secretary, Government Operations Agency

NICOLAS MADUROS
Director

February 22, 2018

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) staff 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 Chapter 7, *Collections*. 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 **March 26, 2018**, in order to be considered by staff. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Trista Gonzalez". The signature is written in a cursive style.

Trista Gonzalez, Chief
Tax Policy Bureau
Business Tax and Fee Division

SUCCESSFUL COMPLETION - RELIEF FROM FINALITY PENALTY

770.035

Pursuant to RTC section 6832(e) ~~for sales and use tax~~ in the Sales and Use Tax Law, 55209(e) in the Fee Collection Procedures Law, and similar ~~provisions for~~ statutes under certain special taxes and fees, ~~the BOE~~ programs, except in the case of fraud, the California Department of Tax and Fee Administration (CDTFA) will generally relieve finality penalties for tax/~~fee~~ payers who satisfactorily complete payment plans under certain conditions.¹ To be eligible for relief, the liability must be ~~BOE~~ CDTFA-assessed and the payment plan must be entered into within 45 days ~~of the finality date of the Notice of Determination or Redetermination.~~ from the due date of the determination or redetermination (billing).

If the finality penalty is relieved, all finality penalty amounts actually remitted by the tax/feepayer (if any) must be refunded to the tax/feepayer. The tax/feepayers are not required to submit a request for relief of finality penalty or file a claim for refund to receive this relief. Furthermore, the six-month statute of limitations for refunds is not applicable.

Relief of finality penalties will not be granted when:

1. The determination includes a fraud penalty. Fraud requires clear and convincing evidence of a deliberate intent to deprive the state of taxes or fees legally due, or an intent to evade the payment of taxes or fees. ~~Fraud is a step beyond a 10% penalty for negligence or intentional disregard of the law.~~
2. The tax/~~fee~~ payer fails to complete the proposal as agreed. This does not include payments which are late due to circumstances beyond the tax/~~fee~~ payer's control including, but not limited to, late U.S. Postal Service delivery of timely mailed payments and checks dishonored due to bank error.

This section only applies to relief of ~~the a~~ finality penalty when the basis for relief is successful completion of an installment payment agreement. ~~assessed on a determination pursuant to RTC section 6565.~~ All other requests for relief from penalty ~~such as those under RTC section 6592, 6833, and similar provisions for special taxes and fees,~~ must be requested through the process outlined in CPPM section 535.055.

For payment plans made online that are automatically approved, the finality penalty is included in the payment plan, so relief is not automatically granted or processed. Therefore, on a monthly basis, each office must obtain the ACMS ~~Promise Payment Plan~~ Reports and identify the auto-approved accounts that qualify for relief of the finality penalty. These reports can be found on the ~~SUTD~~ SharePoint page on ~~eBOE~~ CDTFA's intranet, with access limited to supervisors. After the auto-approved accounts are identified, the collector will select a review date on the ACMS Modify Promise to Pay screen for a future date. The future date should be a date just prior to when the payment plan will be completed to prevent the finality penalty amount from automatically being debited.

After the payment plan is completed, the collector will make a written recommendation for relief of the finality penalty to the supervisor, and if appropriate, the supervisor will forward the request to the administrator. If appropriate, the administrator will ~~notify~~ send to the Petitions Section for sales and use tax, or the Appeals and Data Analysis Branch for special taxes and fees, a memo stating that the finality penalty is to be

¹ A finality penalty is a penalty assessed pursuant to RTC sections 6565 or 55086 and similar provisions for special tax and fee programs.

CPPM Chapter 7, Collections

adjusted out of the tax/feepayer's liability. If, in the opinion of the administrator, relief should not be granted, the administrator should provide the reason to the collector's supervisor.

While verbal payment agreements do not qualify for relief under RTC sections 6832, 55209, and similar special tax and fee statutes, if the agreement is made within 45 days from the due date of the determination or redetermination, the tax/feepayer may still qualify for relief under RTC section 6592(c) or 55044(c) and similar special taxes and fees statutes. If the terms of the verbal agreement are completed, the administrator of the office of account may request the finality penalty be waived by sending a recommendation that the penalty be waived to the Petitions Section or the Appeals and Data Analysis Branch. Relief of the penalties in these instances shall constitute an efficient resolution pursuant to RTC section 6592(c).