

Compliance Policy and Procedures Manual

Chapter 9

Miscellaneous

Business Tax and Fee Division

*California Department of
Tax and Fee Administration*

This is an advisory publication providing direction to staff administering the Sales and Use Tax Law and Regulations. Although this material is revised periodically, the most current material may be contained in other resources including Operations Memoranda and Policy Memoranda. Please contact any California Department of Tax and Fee Administration office if there are concerns regarding any section of this publication.

COMPLIANCE POLICY AND PROCEDURES MANUAL

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MISCELLANEOUS

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MISCELLANEOUS**900.000****LOCAL/DISTRICT TAXING JURISDICTION
REVIEW OF CDTFA RECORDS****901.000****BACKGROUND****901.010**

Revenue and Taxation Code (RTC) section 7056(b) allows authorized officers, employees, and designated persons of jurisdictions imposing taxes under the Uniform Local Sales and Use Tax Law (RTC section 7200, et seq.), commonly known as “local taxes,” and jurisdictions imposing taxes under the Transactions and Use Tax Law (RTC section 7251, et seq.), commonly known as “district taxes,” to view the confidential records of the California Department of Tax and Fee Administration (CDTFA) pertaining to the ascertainment of those local or district taxes to be collected for the jurisdictions they represent. For an authorized officer, employee, or designated person to gain such access to CDTFA’s confidential records, the legislative body of the jurisdiction must adopt a resolution designating the representative as a person authorized to view such confidential records on the jurisdiction’s behalf. Unless the designated person is an authorized officer or employee of the jurisdiction, the resolution must certify that the person has an existing contract with the jurisdiction to examine CDTFA records pertaining to the ascertainment of the local and district taxes to be collected by CDTFA on the jurisdiction’s behalf. The resolution must also certify that the contract between the jurisdiction and the person designated by the resolution has met all the following conditions:

1. Has an existing contract with the jurisdiction to examine those local or district taxes,
2. Is required by the contract to disclose information contained or derived from those confidential records only to an officer or employee of the jurisdiction who is also authorized by resolution to examine the records,
3. Is prohibited by the contract from performing consulting services for a retailer during the term of that contract, and
4. Is prohibited by the contract from retaining the information contained in or derived from the confidential records after that contract has expired.

RTC section 7056(b)(2) further provides that information obtained by examination of CDTFA’s records may be used only for purposes related to the collection of the local or district taxes pursuant to the contract, or for purposes related to other governmental functions of the jurisdiction as set forth in the jurisdiction’s resolution.

**RECORDS SUBJECT TO DISCLOSURE BY THE LOCAL REVENUE
BRANCH (LRB)****901.020**

The Local Revenue Branch (LRB) is responsible for determining whether the legislative body of the jurisdiction has adopted a valid resolution authorizing an officer, employee, or designated person to view confidential records pursuant to RTC section 7056(b). LRB has sample resolutions that may be provided to jurisdictions to assist them in drafting compliant resolutions.

A duly authorized officer, employee or designated person of the jurisdiction may only examine all of the local or district tax records of the CDTFA pertaining to the ascertainment of those local or district taxes to be collected for the jurisdiction that person represents. This means the duly authorized officer, employee or designated person of a county, city and county, or city will be given access to permit information and allocation data for:

1. Taxpayers with retail sales locations within the boundaries of the jurisdiction,
2. Taxpayers whose local tax was allocated to the jurisdiction by CDTFA,
3. Taxpayers reporting tax to that jurisdiction's countywide pool, and
4. Taxpayers reporting tax to the statewide pool. However, to comply with Civil Code section 1798.69(a), jurisdictions must not be provided access to permit information for individuals (sole proprietors, married co-owners and domestic partners) reporting to the statewide pool.

A county, city and county, or city is entitled to permit information and allocation data from the countywide and statewide pools because the jurisdiction shares in those taxes. For example, a duly authorized officer, employee, or designated person of the City of Sacramento shall be given access to allocation data for taxpayers with retail sales locations in, or local tax allocated to the City of Sacramento and may review the file of a taxpayer reporting local tax to the County of Sacramento's countywide pool and the statewide pool. A county, city and county, or city will also be given access to the district tax allocation data for any district that is at least partially located within that county, city and county or city provided that the jurisdiction's resolution provides authority for the examination of district taxes.

This further means that a duly authorized officer, employee, or designated person of a district shall be given access to permit information and allocation data for a taxpayer reporting district tax to that district. A district with boundaries coterminous with county boundaries may obtain the countywide pool data for the county in which the district is located. Authorized officers, employees, or designated persons of a district encompassing more than one county (such as the Bay Area Rapid Transit District) may obtain the countywide pool data for each county with boundaries coterminous with that district. A district's duly authorized officer, employee, or designated person is not authorized to view statewide pool data.

**REQUESTS TO REVIEW LOCAL OR DISTRICT TAX RECORDS MAINTAINED
BY ALLOCATION GROUP (AG) AND FIELD OFFICES 901.025**

Before allowing a person access to confidential records, the LRB's Allocation Group (AG) and field offices, must verify with LRB that a person seeking access to confidential records on behalf of a jurisdiction imposing local or district taxes is authorized by a valid resolution of that jurisdiction. If the person is a designated person of the jurisdiction, AG and field offices must also verify that the designated person has an existing contract with that jurisdiction. This verification may be done by checking the current LRB Resolution Log or by calling or emailing LRB.

If LRB does not have a copy of the required authorizing document(s) on file, the person must provide a certified copy of such document(s), which should be faxed or scanned and emailed by AG or field office to LRB. LRB will verify that the document(s) meets all the administrative criteria required to authorize the person to view confidential records. If the documents do not meet the criteria, the person must be advised that, pending receipt of the applicable document(s), access to confidential records will be denied.

Questions regarding the validity of resolutions, contracts, or other RTC section 7056 authorization issues should be directed to LRB.

**REQUEST TO REVIEW SALES OR TRANSACTIONS
AND USE TAX RECORDS MAINTAINED BY HEADQUARTERS 901.030**

Requests by jurisdiction representatives to view confidential records, other than allocation data that is sent automatically each quarter, should be forwarded to AG for processing. AG will verify a valid resolution and contract are on file and, if the records are not available in the system, will order the requested files from the Taxpayer Records Unit for review. AG will then review each file to locate and remove any records not subject to disclosure prior to presenting the file to the requester for review.

The requester will be required to complete a CDTFA-755-A, *Request to Examine Department Records Under 7056(b)*, for each file reviewed. The completed CDTFA-755-A should detail the specific documents reviewed, including the time period of returns and/or dates of other documents. Each completed CDTFA-755-A must be sent to the Disclosure Office.

AG will provide space for the requester's examination of files in an observable area. Upon request, AG will also make copies of file records at no charge.

MISCELLANEOUS

**REQUEST TO REVIEW LOCAL AND DISTRICT TAX RECORDS MAINTAINED
AT A FIELD OFFICE**

901.040

Requests for records maintained at the field office should be forwarded to either the Principal Auditor or the Principal Compliance Supervisor, who will confirm with LRB that a valid resolution and contract are on file. Audit or compliance team members, when contacted directly by a person seeking access to confidential records on a jurisdiction's behalf, will inform and consult with the Principal Auditor or Principal Compliance Supervisor before acting on the request.

If the request concerns the examination of a field office file and such file exists, a review of that file will be made to locate and remove any records not subject to disclosure prior to presenting the file to the requester for review. The requester will be given access only to the field office files that pertain to the ascertainment of those local or district taxes to be collected for the jurisdiction it is determined to represent. Care will be taken to ensure that the requester is given access only to confidential records that pertain to the authorizing jurisdiction.

The requester will complete a CDTFA-755-A for each file reviewed. The completed form should detail the specific documents reviewed, including the time period of returns and/or dates of other documents. The original CDTFA-755-A, completed at the field office, will be sent to the Disclosure Office and a copy will be uploaded to the taxpayer's account in the system.

The field office will provide space for the requester's examination of files in an observable area. Upon request, the field office will also make copies of file records at no charge.

RECORDS NOT SUBJECT TO DISCLOSURE

901.050

Records not subject to disclosure include:

1. Memoranda, emails, or other communications to or from the Legal Division marked "Confidential: Attorney — Client Privilege." (See explanation below regarding documents incorrectly marked, or not marked, as confidential.)
2. Memoranda directly related to litigation in which CDTFA is a party, including refund and collection actions.
3. Memoranda to or from the Attorney General's office when the Attorney General is acting as CDTFA's attorney.
4. Documents which relate to an ongoing criminal investigation.
5. Federal or state income tax returns or any item marked as Federal Tax Information (FTI).
6. Any documents in the taxpayer's file that do not pertain to that taxpayer.
7. Safe at Home information.
8. Restricted Account information unless it is necessary for the jurisdiction to verify the allocation.

Internal memoranda, other than those specified above, are normally not to be regarded as confidential unless so marked. However, some documents may not be appropriately marked as confidential. If you question whether a document has been appropriately marked as confidential, or believe that a document should be so marked, contact the author of the document, CDTFA's Disclosure Officer, or the Legal Division's Tax and Fee Programs Bureau for guidance.

REQUEST FOR TAXPAYER RECORDS IN CDTFA-MAINTAINED SYSTEMS 901.060

There are no circumstances under which a jurisdiction's representative may be given unrestricted or unsupervised access to the CDTFA's computer or network systems. To request records concerning specific taxpayer payments, the requester must complete a CDTFA-755-A for each account and specify the documents or confidential records being requested. When completed properly, CDTFA-755-A meets the accounting requirements of the Information Practices Act, Civil Code section 1798.25.

Each CDTFA-755-A must be verified to ensure that the requester is authorized to receive information pursuant to the CDTFA Manual of Administrative Policy section 7203. The requestor must sign and date the CDTFA-755-A.

If a request is made, a CDTFA team member will access the requested information, e.g., 2QXX local tax breakdown, and print out, or provide electronic copies of, the information for the representative as specified on the CDTFA-755-A.

PROCESS FOR REVIEWING PETITIONS FOR REDISTRIBUTION OF LOCAL OR DISTRICT TAX

905.000

The applicable provisions for petitions for redistribution of local or district tax are in Appeals Regulation 35056, *Petition for Redistribution of Local or District Tax*.

DEFINITIONS

905.010

Petition

A “petition” is a written request from a jurisdiction for investigation of suspected incorrect distribution of local or district tax submitted to the Allocation Group (AG). The petition must contain sufficient factual data to support the probability that local or district tax has been incorrectly distributed. Sufficient factual data should include the following for each business location being questioned:

1. Taxpayer name, including owner name and fictitious business name or dba (doing business as) designation.
2. Taxpayer’s seller’s permit number or a notation stating, “No seller’s permit number.”
3. Complete business address of the taxpayer.
4. Complete description of taxpayer’s business activity or activities.
5. Specific reasons and evidence why the taxpayer’s allocation is questioned. If the petition alleges that an incorrect distribution occurred because the location of the sale is an unregistered location, evidence that the questioned unregistered location is a selling location or is a place of business, as defined by Regulation 1802, Place of Sale and Use for Purposes of Bradley-Burns Uniform Local Sales and Use Taxes. If the petition alleges that the an incorrect distribution occurred because the tax for a sale shipped from an out-of-state location was actually sales tax and not use tax, evidence that there was participation in the sale by an in-state office of the retailer and that title to the goods passed to the purchaser inside California.
6. Name, title, and phone number of the contact person.
7. The tax reporting periods involved.

“Petition” also includes a jurisdiction’s written objection to a notification from LRB that local or district taxes previously distributed to it were incorrectly allocated and will be redistributed. If LRB has a valid resolution and contract on file authorizing a representative of the jurisdiction to view confidential records under RTC section 7056, LRB will also send this notification to that representative.

A jurisdiction receiving such an LRB notification may object to that notification by submitting a written petition to the AG supervisor within 30 days of the date of mailing of the notification or within a period of extension described below. The petition must include a copy of the notification and specify the reason the jurisdiction disputes it. If a jurisdiction does not submit such a petition within 30 days of the date of mailing of the notification, or within a period of extension, the notification by LRB is considered final as to the jurisdiction so notified.

DEFINITIONS

(CONT. 1) 905.010

The jurisdiction may request a 30-day extension to submit a written objection to a notification of incorrect allocation and distribution from LRB. Such a request must provide a reasonable explanation for the requesting jurisdiction's inability to submit its objection within 30 days and must be received by LRB within 30 days of the date of mailing of its notification. Within five days of receipt of the request, LRB will mail notification to the jurisdiction whether the request is granted or denied. If a timely request for an extension is submitted and denied, the time for the jurisdiction to file a written objection is extended to 10 days after the mailing of the notice that the request is denied. If the request is granted, the time for the jurisdiction to submit a written objection to the notification of LRB is further extended to the 60th day after the date of mailing of the notification of incorrect allocation and distribution.

Substantially Affected Jurisdiction

A "substantially affected jurisdiction" is a jurisdiction for which the decision on a petition would result in a decrease to its total allocation of 5 percent or more of its average quarterly distribution (generally determined with reference to the prior four calendar quarters), or of \$50,000 or more, and for local tax, includes circumstances where the decrease is solely the result of a redistribution from the statewide or applicable countywide pools. How jurisdictions are identified as substantially affected based on disputed pool allocations is discussed below.

Notified Jurisdiction

A "notified jurisdiction" is a jurisdiction that has been notified as being substantially affected by a decision on a petition. Once a jurisdiction is properly notified as a substantially affected jurisdiction, it maintains its status as a notified jurisdiction throughout the appeals process.

Note that the redistribution period may extend to the current day if the subject taxpayer remains engaged in the same activities covered by the petition, in which case, for purposes of this calculation, the redistribution period is regarded as extending through the end of the last quarter for which a return is filed prior to the finality date of the appeal. In such circumstances, the longer the appeals process takes to resolve, the more local tax will be at issue. Thus, a jurisdiction that is not substantially affected at one point in the appeals process can later become a substantially affected jurisdiction as the petition is appealed and time passes. Further, a jurisdiction not previously notified as substantially affected, shall be notified if it becomes substantially affected upon discovery of an error in the original notice.

For a redistribution that would be made of amounts originally allocated through a countywide pool, the calculation of whether a jurisdiction must be notified as a substantially affected jurisdiction is not based on the actual amount that was originally allocated to that jurisdiction through its countywide pool, or on the amount that may be redistributed if the ultimate decision is to redistribute funds, but rather is based on the "Notification Threshold List" maintained and updated quarterly by LRB. This list is posted to CDTFA's website each quarter as soon as it is available.

MISCELLANEOUS

DEFINITIONS

(CONT. 2) 905.010

This document lists, for each jurisdiction, the amount of countywide pool funds whose redistribution would result in the loss of sufficient revenue by that jurisdiction for it to constitute a substantially affected jurisdiction. The calculation is based on the average percentage of the countywide pool the jurisdiction received for the most recent four quarters' disbursement (for example, the October 1, 2022 list is based on the four quarters ending with the second quarter of 2022; the January 1, 2023 list is based on the four quarters ending with the third quarter of 2022). That percentage is then used to determine the specific amount of countywide pool funds whose redistribution would result in a decrease in revenue to the jurisdiction of \$50,000, and the specific amount of countywide pool funds whose redistribution would result in a decrease in revenue to the jurisdiction of five percent or more of its average quarterly allocation (also based on the most recent four quarters' disbursement). The lower of these two figures is the dollar amount of pool funds whose redistribution would result in that jurisdiction's being substantially affected, and is the amount used for that jurisdiction in establishing the Notification Threshold List.

The first step to determine which jurisdictions must be notified because they are substantially affected by a decision is to determine the amount of funds from the applicable countywide pool that the decision recommends be redistributed. If the amount to be redistributed is equal to or greater than the threshold amount, that jurisdiction will be substantially affected by the decision and must be notified. For example, AG issues a decision finding that a petition should be granted redistributing \$1,070,000 of County A's pool funds. AG will review the Notification Threshold List for the jurisdictions sharing in County A's pool funds. If \$1,070,000 is equal to or greater than the threshold amount reflected on the list for a jurisdiction, AG would notify that jurisdiction. Thus, a jurisdiction with a pool threshold amount of \$1,000,000 would be notified, but a jurisdiction with a pool threshold amount of \$2,000,000 would not be notified. (The same analysis is done to decide who must be notified of an appeals conference, except the comparison is to the amount of pool funds that would be redistributed if the petition is granted or denied.)

Thereafter, if a decision to redistribute funds originally allocated through a countywide pool becomes final, the actual amount redistributed will be based on the percentage of the pool that each pool participant receives for the quarter in which the redistribution is made. Upon request, the petitioner or any substantially affected jurisdiction will be furnished copies of the calculations made to determine the parties to be notified.

SUBMITTING PETITIONS

905.020

To expedite processing, petitions should be submitted by the jurisdiction or representative on a CDTFA-549-L, Claimed Incorrect Distribution of Local Tax - Long Form, or CDTFA-549-S, Claimed Incorrect Distribution of Local Tax - Short Form. The CDTFAI am j 549-L is used for complex local tax redistribution issues such as sales tax vs. use tax, place of sale, or other complex issues where more information is needed. The CDTFA 549-S is used for simple tax redistribution questions having to do with taxpayers' business addresses or other less complex matters. These forms are available on CDTFA's website. All petitions are to be sent directly to Headquarters, rather than to a field office. Petitions should be mailed to:

California Department of Tax and Fee Administration
Allocation Group
450 N Street, MIC 27
PO Box 942879
Sacramento, CA 94279-0027

(For inquiries under Revenue and Taxation Code section 6066.3, see CPPM 905.090)

ACKNOWLEDGMENT AND REVIEW OF SUBMISSIONS**905.030**

AG will log in and acknowledge submissions intended as petitions via email within 30 calendar days of receipt by the CDTFA. Emails may contain confidential information and must therefore be encrypted (see CPPM section 120.025). Petitions shall be logged in by date, permit number (if any), jurisdiction, and representative (if any). AG will review submissions for completeness and absent extraordinary circumstances, within 30 calendar days of the acknowledgement of receipt, AG should send the submitting jurisdiction an acknowledgement that the submission was accepted as a valid petition, or return the submission, as discussed below. If the submission does not contain the elements identified in Appeals Regulation 35056(b)(10), the submission will be returned to the submitting jurisdiction. If the submissions are returned via email, they must be encrypted as they may contain confidential information. The jurisdiction will have 30 days from the date of the correspondence from AG requesting the missing information to make a supplemental submission. If the supplemental submission contains the necessary elements in Regulation 35056(b)(10), then the date of receipt of the original submission will be regarded as the date CDTFA received a valid petition. If a submission is not perfected within this 30-day period, the submission will not qualify as a valid petition.

DATE OF KNOWLEDGE**905.040**

Unless an earlier date is operationally documented by CDTFA, the date AG receives a valid petition is the “date of knowledge,” which is a date that is critical for determining the beginning of the distribution period under RTC sections 7209 and 7269 (statute of limitations for these petitions). Where a suspected incorrect distribution that is reasonably covered by the petition is confirmed based on additional facts or evidence supplied by the petitioner or otherwise learned as a direct result of investigating the petition, the date of knowledge remains the date AG received the valid petition.

A potential incorrect distribution is “operationally documented” when a CDTFA team member questions the distribution based on information contained in CDTFA files and provides sufficient factual data to support the probability that local or district tax has been erroneously allocated and distributed. Sufficient factual data means information consistent with the definition of a petition in Regulation 35056.¹ In other words, a date of knowledge is operationally documented when two conditions are satisfied: (1) a CDTFA team member discovers factual information sufficient to support the probability that an erroneous allocation of local or district tax may have occurred, and (2) a CDTFA team member questions and documents that suspected erroneous allocation. The operationally documented date of knowledge will be the date the team member documents the date on which the distribution was questioned, such as the date the team member documents the data that supports the suspected incorrect distribution. LRB creates an assignment in the system for LRB auditors to record suspected incorrect tax distributions, fund transfer approvals, and redistribution notifications.

If a petition regarding suspected improper distribution of local tax under the procedures set forth above and a submission under RTC section 6066.3 are both filed for the same alleged improper distribution, only the earliest submission will be processed as a valid appeal, with its date of receipt establishing the date of knowledge for the alleged improper distribution (unless there is an even earlier operationally documented date of knowledge).

¹ While team members may contact the taxpayer as part of the investigation, that contact is not always necessary and is not required to operationally document a date of knowledge.

Investigation

Petitions will be coded for type of suspected incorrect distribution and assigned to an auditor in AG or LRB in accordance with Regulation 35056(c)(2). The following will be entered into case notes in the system:

- Appointments made – record date, time, and purpose of the appointment.
- Appointments cancelled or rescheduled – record who requested the change and the reason for the request.
- Correspondence – record all letters and other materials given to and received from jurisdictions and taxpayers.
- Emails – record email contacts including a summary of the discussion or agreement; mails should not be copied directly into the system.
- Record requests – record all requests for records from taxpayers including the deadline given (usually 45 days).
- Referral to field office – record date referred and appropriate follow-up date (30 days for in-state field offices and 60 days for out-of-state field offices).

The assigned auditor will attempt to resolve all petitions through communication with the taxpayers including contacting the “contact person” identified in the petition or other such taxpayer personnel. If for some reason a satisfactory response cannot be obtained, the petition may be referred to the appropriate field office for action. Referrals to the field office shall provide specific instructions to the field office for the information sought. A copy of any correspondence will be sent to the petitioner.

The AG supervisor will review the status of petitions as the petitions age. The AG supervisor will follow-up monthly with the assigned AG auditor and with the LRB supervisor for petitions assigned to LRB auditors.

Assigned Section Decision

Based on its review of the petition and all available evidence, including evidence provided by petitioner and evidence provided by CDTF team members, the assigned section (AG or LRB) will issue a written decision to grant the petition, deny the petition, or grant the petition in part and deny it in part. The written decision will clearly explain the basis for that decision and state the date of knowledge. If the date of knowledge is other than the date the petition was received, the decision will also include the basis for that date. The assigned section will grant the petition only if, and only to the extent, that it finds a preponderance of the evidence shows that there was an incorrect distribution of local or district tax. If the assigned section finds that the preponderance of evidence does not show an incorrect distribution of local or district tax, the assigned section must deny the petition. The assigned section will send its decision to the petitioner and, if applicable, any substantially affected jurisdiction.

If a petition is denied, in whole or in part, the petitioner may submit to the assigned section a written objection to the decision, and if the petition is granted, in whole or in part, a notified jurisdiction may likewise submit to the assigned section a written objection to the decision. Any such objection must be submitted within 30 days of the date of mailing of the assigned section’s decision, or within a period of extension as explained below.

An objection must state the basis for the objection and include all additional information in the objecting jurisdiction’s possession that supports its position. If no timely objection is submitted, the assigned section’s decision is final as to all jurisdictions.

Delayed Investigation — Petitioner's and Notified Jurisdiction's Recourse

If the assigned section does not issue a decision within six months of the date it receives a valid petition, the petitioner may request that the assigned section issue its decision without regard to the status of its investigation. The assigned section shall issue its decision based on the information in its possession within 90 days of receiving such a request.

Assigned Section Supplemental Decision

If the petitioner or a notified jurisdiction submits a timely written objection to the decision, the assigned section will consider the objection and issue a written supplemental decision to grant the petition, deny the petition, or grant the petition in part and deny it in part, along with the basis for that decision. A copy of the supplemental decision will be mailed to the petitioner, to any notified jurisdiction, and to any other jurisdiction that is substantially affected by the supplemental decision.

The petitioner or any notified jurisdiction may appeal the supplemental decision by submitting to the assigned section a written request for review by the Appeals Bureau within 30 days of the date of mailing of the supplemental decision (or within a period of extension as explained below). Such request must state the basis for the requesting jurisdiction's disagreement with the supplemental decision and include all additional information in its possession that supports its position. If the petitioner or any notified jurisdiction timely request review of the supplemental decision, the assigned section will prepare the file and forward it to the Appeals Bureau within 30 days of receipt of the request.

If no timely request for review is submitted, the assigned section's supplemental decision is final as to all jurisdictions.

Delayed Investigation of Supplemental Decision – Petitioner's and Notified Jurisdiction's Recourse

If the assigned section does not issue a supplemental decision within three months of the date it receives a timely objection to the decision, the petitioner or any notified jurisdiction may request that assigned section issue its supplemental decision without regard to the status of its investigation. Within 60 days of receiving such a request, assigned section will issue its supplemental decision based on the information in its possession.

Extensions of Time

The petitioner or any notified jurisdiction may request a 30-day extension to submit a written objection to a decision or a written request for review by the Appeals Bureau of the supplemental decision issued by the assigned section. The request must:

1. Provide a reasonable explanation for the requesting jurisdiction's inability to submit its objection within 30 days,
2. Be copied to all other jurisdictions to whom the assigned section mailed a copy of its decision or supplemental decision (to the extent known by the requesting jurisdiction), and
3. Be received by the assigned section within 30 days of the date of the decision or supplemental decision.

Within five business days of receipt of the request, the assigned section will mail notification to the petitioner and all notified jurisdictions whether the request is granted or denied. If the request is granted, the time for the petitioner and all notified jurisdictions to submit a written objection or request for review is extended to the 60th day after the date of the mailing of the assigned section's decision or supplemental decision. If the request for extension is denied, the time for the petitioner and all notified jurisdictions to submit a written objection or request for review is extended to 10 days after the date of the mailing of the notice denying the extension.

REVIEW BY APPEALS BUREAU**905.060**

If a timely request for review of the supplemental decision has been submitted, the assigned section will, within 30 days of receipt of the request, prepare the file and forward it to the Appeals Bureau. The Appeals Bureau will contact the parties and any other jurisdiction that would be substantially affected if the petition were granted to determine an acceptable date and time to hold the appeals conference. At least 45 days prior to the acceptable date, the Appeals Bureau will mail a notice of appeals conference to each party.

Return of Petition to the Assigned Section

The petitioner or any notified jurisdiction may continue to discuss the dispute with the assigned section after a timely request for review by the Appeals Bureau is submitted and referred to the Appeals Bureau. If the assigned section decides its supplemental decision was incorrect or that further investigation is warranted, it will so notify the Appeals Bureau, the petitioner, and all notified jurisdictions.

If the assigned section sends such notice to the Appeals Bureau no later than 30 days prior to the appeals conference, the Appeals Bureau will suspend its review and will return the appeal to the assigned section. Thereafter, the assigned section will issue a second supplemental decision, or will return the appeal to the Appeals Bureau along with a report of its further investigation, if appropriate, for the review and decision of the Appeals Bureau.

If the assigned section sends such notice to the Appeals Bureau less than 30 days prior to the appeals conference, the Appeals Bureau will decide whether the appeal should be returned to the assigned section or should remain with the Appeals Bureau and will notify the parties accordingly. If the appeal is returned to the assigned section, the assigned section will thereafter issue a second supplemental decision, or will return the appeal to the Appeals Bureau along with a report of its further investigation, if appropriate, for the review and decision of the Appeals Bureau.

Where the assigned section issues a second supplemental decision, it will send a copy of the decision to the petitioner, any notified jurisdiction, and any other jurisdiction that is substantially affected by the second supplemental decision, any of whom may appeal the second supplemental decision by submitting a written request for review by the Appeals Bureau within 30 days of the date of mailing of that supplemental decision, or within a period of authorized extension. If no such timely request for review is submitted, the second supplemental decision is final as to all jurisdictions.

Appeals Conference

The appeals conference is an informal discussion where the petitioner, any notified jurisdictions who wish to participate, and the assigned section can explain their respective positions regarding the relevant facts and law to the Appeals Bureau conference holder. At least 15 days prior to the scheduled date of the appeals conference, each party should make a written submission to the Appeals Bureau including the arguments and evidence in support of that party's position and provide a copy of that submission to each other party.

Appeals Bureau Decisions

The appeals conference holder shall notify the conference participants when the final submission of information is received following the appeals conference. Generally, within 90 days after the final submission, the Appeals Bureau will issue a written decision setting forth the applicable facts and law, and the conclusions of the Appeals Bureau. CDTFA's Chief Counsel, or designee, may allow additional time to prepare the decision upon request of the Appeals Bureau. Both the request and the Chief Counsel's response granting or denying the request for additional time must be in writing and copies provided to each party to the appeal. A copy of the decision shall be mailed to each party to the appeal and any other jurisdiction that will be substantially affected by the decision

Except where the decision remands the appeal for reaudit, the decision shall include a letter that explains the available options for appealing the decision. Where the Appeals Bureau decision remands the appeal for reaudit, the Appeals Bureau, upon receipt of a completed reaudit that complies with the Appeals Bureau decision, shall mail a letter to the parties explaining the results of the reaudit and the available options for appealing the decision.

Request for Review by the Office of Tax Appeals (OTA)

The petitioner and any notified jurisdiction may request review of the decision or supplemental decision by OTA, in accordance with that office's regulations, within 60 days after the date of mailing of the letter explaining to the parties their option(s).

Request for Reconsideration by the Appeals Bureau

The petitioner, any notified jurisdiction, and the assigned section may request reconsideration of the decision or supplemental decision by the Appeals Bureau within the same 60-day period during which a timely request for review by the OTA may be submitted. If a request for reconsideration is submitted within this period, the Appeals Bureau will issue a supplemental decision to consider the request, after obtaining whatever additional information or arguments from the parties that it deems appropriate.

Appeals Bureau Supplemental Decision

Where the Appeals Bureau issues a supplemental decision, a copy of the supplemental decision shall be mailed to the petitioner, all notified jurisdictions, any other jurisdiction that will be substantially affected by the supplemental decision, and the assigned section. The procedures for appealing the supplemental decision (e.g., requesting reconsideration, requesting review by OTA) are the same as those for appealing a decision.

Finality of Decision or Supplemental Decision

If no valid request for reconsideration is submitted to the Appeals Bureau and no valid request for review is submitted to the OTA within 60 days of the date of the mailing of the letter explaining the options of the parties as to the decision or any supplemental decision, the decision or supplemental decision (as applicable) is final as to all jurisdictions.

LIMITATION PERIOD FOR REDISTRIBUTIONS**905.080**

Redistributions cannot be made of amounts originally distributed earlier than two quarterly periods prior to the quarter of the date of knowledge. (RTC sections 7209 and 7269, Reg. 35056(e).) It should be noted that this does not generally mean that the redistribution is limited to taxes incurred two quarters prior to the date of knowledge because this period is based on the date of distribution, not the date the tax was incurred, or the date the tax was remitted to CDTFA. Generally, distributions are made the quarter following the period for which the tax is reported and paid. Taxes generally must be reported and paid by the last day of the month following the quarter incurred. Thus, the two-quarter limitation period for redistribution of local tax, which is based on the distribution date, allows redistributions of local tax incurred during the three quarters immediately preceding the calendar quarter of the date of knowledge.

For example, on March 15, 2020, CDTFA receives a petition for redistribution from City A of local tax, asserting that in November 2018, a specific taxpayer who opened a business making over-the-counter retail sales in City A has not allocated any local tax to City A. AG issues a decision granting the petition based on its findings that petitioner is correct and that the taxpayer timely reported and paid local tax, but improperly allocated the tax to City B. The date the petition is received, March 15, 2020, is the date of knowledge. Since that is in the first quarter 2020, the limitation period extends back two more quarters prior (third quarter 2019). Since the local taxes for the second quarter 2019 were distributed during the third quarter 2019, pursuant to the decision of AG, local tax will be redistributed to City A beginning with the local taxes incurred during the second quarter 2019, beginning April 1, 2019. The local tax incurred by the taxpayer's location in City A for the periods prior to April 1, 2019 (i.e., November 2018 through March 2019) were reported and paid with the return due January 31, 2019, and April 30, 2019, and those taxes were distributed during the first and second quarters 2019, respectively, more than two quarters prior to the quarter of the date of knowledge. Therefore, redistribution of such taxes is barred.

The discussion above is based on the taxpayer's actual payment of tax when due. However, CDTFA cannot distribute local tax until such tax is remitted by the taxpayer. Thus, where a taxpayer files a timely "non-remittance" return (without payment of the reported tax due) with all required local tax allocation schedules, there is no local tax revenue to distribute. When these funds are remitted, they will be distributed in accordance with the taxpayer's return, and it will be that date of actual distribution that is relevant for purposes of the date of knowledge analysis, not the date the tax was incurred. For example, using the same facts as in the prior paragraph except that the taxpayer filed a non-remittance return for the fourth quarter 2018 (November and December 2018), not paying that amount until June 15, 2019. The taxpayer timely paid the tax reported on all subsequent returns. Thus, since the taxes incurred for the fourth quarter 2018 were not paid until June 2019, they were not distributed until the third quarter 2019. Thus, redistribution of such taxes is permitted for the date of knowledge in the first quarter 2020. However, since the taxes incurred for the next quarter (first quarter 2019) were distributed more than two quarters prior to the quarter of the date of knowledge (i.e., distributed during the second quarter 2019), redistribution of such local tax is barred.

LIMITATION PERIOD FOR REDISTRIBUTIONS

(CONT.) 905.080

Distribution of local and district taxes to the jurisdictions occurs monthly. The following timeframe is typical for the four quarters in the calendar year. The term “Sales Month” refers to the period when sales transactions occur. The term “Reporting Month” refers to the period when taxpayers file returns and CDTFA receives remittance of tax from taxpayers. The term “Distribution Month” refers to the period when CDTFA distributes the tax revenue to the jurisdictions.

Calendar Quarter	Sales Month	Reporting Month	Distribution Month
1st Quarter	January to March	February to April	March to May
2nd Quarter	April to June	May to July	June to August
3rd Quarter	July to September	August to October	September to November
4th Quarter	October to December	November to January	December to February

APPLICATION TO RTC SECTION 6066.3 SUBMISSIONS

905.090

The procedures set forth above are in addition to, but separate from, procedures established under the authority of RTC section 6066.3. That section authorizes each jurisdiction to collect and transmit to CDTFA information from persons desiring to engage in business in that jurisdiction for the purpose of selling tangible personal property. The information submitted serves as (1) a preliminary application for seller’s permit, (2) notification to CDTFA by the local jurisdiction of a person desiring to engage in business in that jurisdiction for the purpose of selling tangible personal property, and (3) notice to CDTFA for purposes of redistribution.

Where a petition regarding suspected improper distribution of local tax is filed under the procedures established under Regulation 35056 and a submission is also made under RTC section 6066.3 for the same alleged improper distribution, only the earliest submission will be processed, with the date of knowledge established under the procedures applicable to the earliest submission. If multiple petitions are received for the same business, jurisdiction, and period, the petitions will not be considered duplicates if the petitions contain different reasons for error and therefore shall be worked as separate petitions. The procedures set forth in subdivisions (c) and (d) of Regulation 35056, which are discussed above, also apply to appeals from redistribution determinations made under RTC section 6066.3.

MISCELLANEOUS

**KNOWLEDGE OF INCORRECT LOCAL/DISTRICT TAX ALLOCATIONS
OTHER THAN FROM PETITIONS BY JURISDICTIONS AND
REPRESENTATIVES** **906.000**

FIELD OFFICE RESPONSIBILITY **906.010**

As explained in CPPM 905.040, a CDTFA team member who discovers an error in the distribution of local or district tax must record the date that knowledge of the error was obtained.

If an error in the reported allocation of local tax is discovered by the field office, the auditor should limit the report of the necessary redistribution to amounts originally distributed within the limitation period, as explained above, which generally consists of tax reported for the three quarters immediately preceding the quarter in which the error was discovered unless the field office file contains evidence of late returns and payments on billings, in which case, the extent of the limitation period should be determined based on the schedule in CPPM 905.080. If there is any question regarding the extent of the limitation period, the auditor should contact AG for assistance. Every effort should be made to determine all amounts to be redistributed during the original field investigation. For additional instructions regarding the CDTFA-414-L, *Auditor's Worksheet – Local Sales and Use Tax Allocation*, see Audit Manual 0212.00.

HEADQUARTERS RESPONSIBILITY **906.015**

Redistributions in Headquarters will be subject to the same review as redistributions that are received from field offices.

Allocation Group (AG)

In general, AG will make all redistributions of local and district taxes as a result of petitions submitted from jurisdictions or their authorized representatives. AG also has the responsibility to examine all reports of errors in distribution that are received from field offices (e.g., audits, reaudits, field billing orders, and petitions from jurisdictions, and submissions under RTC section 6066.3) and verify by an examination of the master file, or any other records in Headquarters, that the report includes all amounts within the limitation period. If this examination discloses that the limitation period extends beyond the point covered by the report and information regarding the amount to be redistributed cannot be determined from the records in Headquarters, the necessary additional information will be requested from the field office.

Local Revenue Branch (LRB)

LRB will make all redistributions of local and district taxes discovered during reviews of returns, as well as redistributions resulting from corrections to the Tax Area Codes, excluding redistributions resulting from CDTFA audits, reaudits, field billing orders, petitions from jurisdictions (see CPPM 905.000), and submissions under RTC section 6066.3 (see CPPM 905.090). LRB processes all field audit redistributions of district taxes submitted by field offices.

**INFORMING JURISDICTIONS PRIOR TO PROCESSING A LARGE
DEALLOCATION OF LOCAL/DISTRICT TAX RESULTING FROM A
REFUND OR CREDIT IN AN AUDIT** **907.000**

Sales and use tax refunds and credits in audits occasionally result in large deallocations of local tax to individual jurisdictions. When a pending refund or credit in an audit results in a deallocation of \$50,000 or more in local tax to a jurisdiction, the Audit Determination and Refund Section (ADRS) will send a courtesy email to that jurisdiction and its authorized representative. Any email containing confidential information must be encrypted (see CPPM section 120.025). The email will be sent at least ten days prior to the approval of the pending refund. The email will be for information purposes only. Such a deallocation will not be subject to appeal by a jurisdiction or its authorized representative.

MISCELLANEOUS

**ELECTRONIC FUNDS TRANSFER (EFT) PROGRAM
FOR LOCAL AND DISTRICT TAX JURISDICTIONS**

908.000

BACKGROUND

908.010

Jurisdictions (cities, counties, and special taxing jurisdictions) have the option of receiving their local and district tax payments by paper warrant or by EFT. Those jurisdictions choosing to receive a paper warrant will receive their warrant through the U.S. Postal Service.

PROCEDURE

908.020

LRB is responsible for administering the EFT program for jurisdictions. If a jurisdiction contacts a CDTFA office for information or instructions regarding this program, such jurisdiction should be directed to contact the warrant desk in LRB.

The warrant desk will provide guidance and the appropriate forms required to register new EFT accounts or make changes to existing accounts. The standard form CDTFA-555-LJ, *EFT Authorization Agreement for Local Jurisdictions*, must be submitted by jurisdictions that want to enroll in the EFT program or change their banking information. When the completed form has been received in LRB and verification procedures have been performed, the pertinent banking information will be entered to register an account or make changes to an existing account. A letter of confirmation will then be mailed to the jurisdiction's designated contact person.

One to two pre-note tests are run for each monthly pay cycle to verify banking information for each participating jurisdiction. It is the timing of the pre-note tests that dictates the effective date of the change to EFT status. Generally, the registration and pre-note process requires up to 60 days to complete, whether for a new enrollment or a change to an existing account. Under these circumstances, the jurisdiction will generally receive a paper warrant through the U.S. Postal Service until the EFT process is implemented. Warrants are mailed by SCO on the same day that EFT deposits are posted. Information about the most recent warrant payment amounts distributed to jurisdictions can be found on the Local and District Taxes page of CDTFA's website under the Local Jurisdiction tab as the "Local Tax Statement of Distributions."

Any questions should be emailed to LRB-Warrants.

INFORMATION SHARING BETWEEN CALIFORNIA JURISDICTIONS AND CDTFA (AB 990)

909.000

GENERAL

909.010

The procedures to implement the provisions of RTC sections 6066.3 and 6066.4 (added by Stats. 1999, Ch. 908 (AB 990)) are referred to as the AB 990 process. AB 990 provides jurisdictions with the statutory authority to obtain seller's permit information from sellers desiring to engage in business in their jurisdictions. This enabled the jurisdictions and CDTFA to form a partnership for the purpose of identifying and reporting unregistered sellers and to correct any improper distributions of local tax. Participating jurisdictions will compare their licensing data with CDTFA's seller's permit information.

Jurisdictions have access to the AB 990 file for their jurisdiction as well as the Public AB-990 (non-confidential) files. Jurisdictions request and receive taxpayer information via secure data transmission using CDTFA-BOX. On the last business day of each month, files are created and uploaded to the jurisdictions' account on CDTFA-BOX. If a jurisdiction does not have access to CDTFA-BOX, they can email LRB-Jurisdiction Services to request access.

Jurisdictions provide CDTFA with information on non-registered businesses, questionable Tax Area Codes (TACs), and/or business address discrepancies on a template provided by CDTFA. The CDTFA is required to provide the jurisdictions with an acknowledgment of each submittal and issue a finding for each record in the jurisdictions' submittals. If a finding can be made based on the information submitted by the jurisdiction, the finding shall be issued within 30 days of receipt of the information. If additional information is required before a finding can be made, an interim report shall be sent to the jurisdiction within 30 days of receipt of the information and a finding must be sent within 120 days of receipt of the information.

FIELD OFFICE PROCEDURES

909.020

Field offices will designate an AB 990 Coordinator to act as a liaison between the jurisdictions and CDTFA regarding the AB 990 requests from the jurisdictions. Jurisdictions generally become aware of the AB 990 program when they contact CDTFA to verify the registration of a business to ensure they are receiving the proper tax distribution. Jurisdictions choosing to participate in the AB 990 program will contact the Principal Compliance Supervisor or a designee at the CDTFA office in the jurisdiction's area and provide information regarding their AB 990 contact person. The information should include the contact person's email address and phone number, and the jurisdiction's mailing address. The contact person's information and the jurisdiction's mailing address, including any updates for all participating jurisdictions, will be emailed to the Allocation Group (AG) and the Statewide Compliance and Outreach Program (SCOP) at BTFD-AB990 HQ and FOD-SCOP AB990, respectively.

The Principal Compliance Supervisor or designee will ensure that the AB 990 Coordinator establishes contact with the jurisdiction's AB 990 contact person and provides the contact person with their name, email address, phone number, and instructions how to participate.

SCOP AND AG PROCEDURES**909.030****AB 990 Submittals from Jurisdictions**

AB 990 submittals regarding no-permit operations or unregistered sites will be sent to SCOP at FOD-SCOP AB990 email address. Submittals regarding TAC changes and redistribution of local tax should be submitted following the petitions for redistribution process (see CPPM section 909.020) using the CDTFA-549-L, *Claimed Incorrect Distribution of Local Tax – Long Form*, or CDTFA-549-S, *Claimed Incorrect Distribution of Local Tax – Short Form*.

If problems are noted with the incoming AB 990 emails and attachments, SCOP will seek the assistance of their respective LAN Coordinator. If the problem cannot be resolved by the LAN Coordinator, a Service Now ticket will be opened with Technology Services Division (TSD).

Processing AB 990 Submittals

SCOP will acknowledge receipt of incoming AB 990 emails. If extenuating circumstances prevent an acknowledgment being sent the same day, it must be sent as soon as possible on the next business day. Emails to jurisdictions must be sent encrypted as they contain confidential information (see CPPM section 120.025).

SCOP should check their AB 990 mailbox for incoming emails from the jurisdictions. The attachment files will be initially saved in a folder and uploaded to the system or transferred to the AB 990 Tracking Sheet. The assignment process involves taking the following four steps for every record in the files:

1. Assigning the records to users in SCOP.
2. Choosing and assigning the office of control. The office of control will be based on the business address provided for the record in the submittal.
3. Entering the date of knowledge. This date will be the date the submittal was received from the jurisdiction.
4. Adding the records in the attachment files to the system or the AB 990 tracking sheet.

Working the assignments will include investigative activity, issuance of findings, and possibly registration or modification to registration information in CDTFA's system.

Date of Knowledge and AB 990 Timelines

The receipt of an AB 990 submittal from a participating jurisdiction constitutes the date of knowledge and starts a 30-day timeline during which a finding will be made on the jurisdiction's submittal and conveyed to the jurisdiction. This usually involves determining whether a permit is required or whether the TAC of an existing account is correct. The 30-day period can be extended to 120 days for requests that require more information to make a finding. In such cases, the requesting jurisdiction should still be notified within 30 days that more information is required to make the finding. For the purposes of local tax redistribution, the date of knowledge also determines the specific periods (tax quarters) subject to redistribution under RTC section 7209. The date of knowledge is valid if the information provided is sufficient to indicate the probability of improper distribution (see subheading "AB 990 Submittals – Required and Optional Information" below). If the submittal is rejected for insufficient information and is later resubmitted by the jurisdiction with sufficient information, the latter date (i.e., re-submittal date) will constitute the date of knowledge.

SCOP AND AG PROCEDURES**(CONT.1) 909.030****AB 990 Submittals – Required and Optional Information**

AB 990 submittals from the jurisdictions requesting new registrations (no-permit operations) and for changes to existing seller’s permits should contain the following:

Mandatory Information

- Legal Owner Name
- DBA or “None” if not known
- Starting date of business
- Business phone number
- Owner’s phone number or “same” if applicable
- Business and mailing address
- Description of business activity and product sold
- Action requested (entered on the pull-down menu of the AB 990 Tracking Sheet)
- Submitted by (city or county name, contact person, email address)

Optional information

- Ownership type (sole proprietor, partnership, corporation, LLC)
- NAICS or SIC code applied
- FEIN

Accounts or records with information missing from any mandatory field should be rejected.

Working Assignments and Issuing Findings

The AB 990 assignments will be accessed by users through the AB 990 Tracking Sheet. A finding will be issued for each assignment based on the jurisdiction’s action request noted and the result of SCOP or AG investigation. The assigned user will verify the validity of the jurisdiction’s requests through a search of CDTFA’s registration records and/or contact with the business entity to make the appropriate finding from the list below. This list is available in a pull-down menu of the Tracking Sheet.

1. **Permit is required** - CDTFA has determined that the business activity requires a permit, and a permit will be issued. This finding requires follow-up action.
2. **Permit is not required** - CDTFA has determined that either the business did not operate, or the business activity does not require a seller’s permit.
3. **Permit located** - CDTFA has located a permit for the entity at the address indicated by the jurisdiction. The permit number should be entered in the Comments column.
4. **Site added** - In response to the jurisdiction’s notification of an unregistered site, or a no-permit operation, CDTFA has verified that an active permit exists and has issued a permit for the site.
5. **TAC changed** - CDTFA has determined that the TAC on the permit was coded to the wrong jurisdiction, or was otherwise incorrect, and has been changed to reflect the correct registration. This finding may require follow-up action.
6. **TAC is correct** – Permit verified - CDTFA has verified the permit for the entity and has determined that the TAC is correct.
7. **Permit name or address is correct** - CDTFA has verified the name and address on the permit and has determined that they are correct.

MISCELLANEOUS

SCOP AND AG PROCEDURES

(CONT.2) 909.030

8. **Permit name/address corrected** - CDTFA has verified that the name and/or address on the permit were incorrect, and the correction has been made.
9. **Duplicate request** - CDTFA has determined that the submittal is a duplicate of one either being processed with a prior date of knowledge, or with the same date of knowledge.
10. **Rejected** – insufficient information - CDTFA has determined that there is not sufficient information provided by the jurisdiction to make an informed finding. This “Rejected” finding will be used when information in any mandatory field of the jurisdiction’s submittal is missing or incomplete.

The assignment records will be marked complete after the findings have been issued and any necessary comments entered. Certain assignments require additional work after the findings are issued. The assignments requiring additional work after the findings are issued are the ones that require issuance of permits (“Permit is required”) and assignments involving redistribution of local tax (“TAC changed”).

AB 990 Reports

The findings made by CDTFA are communicated to the jurisdictions by means of a “Completed Records Report.” The “Work in Process Report” is an interim report that captures the records on which findings are pending because additional time and/or information are required. The completed report is compiled from the AB 990 Tracking Sheet. Before sending these reports to the jurisdictions, copies will be saved on the G:\ drive in a folder titled “Outgoing Reports.” The reports will be saved as Microsoft Excel files and each file name will include the respective jurisdiction name and the date the report was created. The reports are communicated to the jurisdictions by means of an email attachment. To meet the requirements of RTC section 6066.3, these reports must be emailed to the jurisdictions no later than 30 days from the date of receipt of the submittal. Findings should be made on the records in the Work in Process Report as soon as possible and communicated no later than 120 days from the date of receipt of the submittal. All reports to the jurisdictions containing confidential information will be encrypted.

SCOP uses a follow up report to work assignments that require follow up action after findings have been issued. This report generates the list of assignments for which the finding “Permit is required” was issued.

Action Requests for Businesses without Seller’s Permits

In response to the jurisdictions’ action requests regarding no-permit operations, SCOP should take the following actions. CDTFA registration records should be checked to ascertain if the business has a valid permit issued by CDTFA. If an active permit for the entity at the specified address is found, the finding “Permit located” will be issued and the permit number should be entered in the “CDTFA Permit” field of the actions worksheet in the AB 990 Tracking Sheet.

If no record is found, phone contact should be made with the business, or a letter should be sent, inquiring about potential business operations to confirm that a permit is required. If phone calls and letters do not resolve the investigation, a field call will be made to determine if a permit is required. If the investigation confirms that the business is operating and requires a permit, the finding “Permit is required” will be issued. Appropriate notes will be added to the assignment record and the record will be marked complete. If a permit is required, SCOP will assist the business in registering for a seller’s permit and will follow-up to add the account attribute “AB990 Account” to the registration records to track the account for statistical purposes. After the permit is issued, an email notification will be sent to the jurisdiction referencing the date of knowledge of the assignment and the permit number. Emails sent to the jurisdictions contain confidential information and must therefore be encrypted (see CPPM section 120.025).

SCOP AND AG PROCEDURES**(Cont.3) 909.030**

If the investigation reveals that the business is engaged in an activity not requiring a seller's permit, the finding "Permit is not required" will be issued. This finding will also be issued when a closed-out permit is found for the entity at the indicated location and the investigation reveals that the business did not operate or is no longer operating.

The process of issuing the permit and notification to the jurisdiction should be completed no later than 120 days from the date CDTFA was informed of the no-permit operation. If, in spite of SCOP's repeated attempts to obtain compliance, a no-permit operator fails to register for a seller's permit, and therefore, a permit cannot be issued within 120 days of receiving the information from the jurisdiction, a criminal complaint (as allowed under RTC section 6071) should be pursued. The jurisdiction should be informed via email that additional time is needed. As soon as the permit is issued, an email notification including the permit number and the date of knowledge will be sent to the jurisdiction. If a "Permit is required" finding is issued, and later investigation reveals that a permit is not required, the jurisdiction should be notified.

Action Requests for Businesses with Unregistered Sites

Action requests from jurisdictions regarding unregistered sites should be validated by SCOP through a search of CDTFA's registration records. If the indicated site is registered and is active, the finding "Permit located" will be issued. The permit number will be entered in the assignment record and conveyed to the jurisdiction.

If the site is not registered with CDTFA, phone contact should be made with the business, or a letter should be sent inquiring about potential business operations at the reported site. If necessary, a field call should be made to determine if a permit is required. If the purported site is not operating, the finding "Permit not required" will be issued.

If the site has been verified as an active selling location, SCOP will add the site in the system and mail a permit for the site to the taxpayer's mailing address. Comments will be added to the registration record. The finding "Site added" will be issued, and the permit number will be entered in the "CDTFA Permit" field of the actions worksheet in the End User Program. Notes will be added to the assignment record in the AB 990 database before marking it complete.

Action Requests for Permits with Incorrect TACs

AG will address the action requests from jurisdictions regarding permits with incorrect TACs. These should be validated by verifying the business address and the TAC in the system. If the taxpayer's business address in the system is different from the business address indicated by the jurisdiction, the taxpayer should be contacted to verify the correct address. If the business address and the TAC for that address are found to be correct, the finding "TAC is correct – permit verified" will be issued. The same finding will be issued if the business address is incorrect, but the tax is correctly allocated. In such instances, the business address will be corrected in the system and a comment will be added in the assignment record to state that the business address has been changed.

If the business address is correct, but the TAC is incorrect, or if both the TAC and the business address are incorrect, the appropriate change will be made to the account to reflect the correct TAC and/or the business address. In cases where a TAC cannot be readily determined, (e.g. location is on a boundary line between two or more jurisdictions) the LRB should be contacted by email using the Area Codes email address. The subject line should identify the email as an AB 990 request and the email should include the complete address for the location. After making TAC changes, comments will be entered in the system and will include the date of knowledge and the name of the jurisdiction that sent the action request. The finding "TAC changed" will be issued in the assignment record.

SCOP AND AG PROCEDURES

(CONT.4) 909.030

Redistribution of local tax, if required, shall be completed in accordance with the statutory provisions of RTC section 7209. Whenever a TAC change results in redistribution of local tax, the amount of local tax subject to redistribution and calendar quarters impacted by the redistribution will be communicated to the jurisdictions by encrypted email within the statutory AB 990 timelines. The account number and the date of knowledge for each account subject to redistribution should be referenced in the encrypted email.

The AB 990 procedures for submitting information for local tax redistribution are in addition to, and separate from, any procedures established under Regulation 35056. If petitions regarding improper distribution of local tax or redistribution requests are received through both the AB 990 process and Regulation 35056, the date of knowledge and the processing of the petition will be based on the earliest submission. Duplicate submissions will not be processed. Jurisdictions retain the right to appeal redistribution findings made by CDTFA under AB 990 through the process set forth in Regulation 35056.

If a district tax may be affected, AG team members will, depending on the circumstance:

- Create a revenue evaluation work item and assign to the billing team if the change results from unincorporated to city within the same county (date of knowledge does not apply – 3-year billing statute applies).
- Send an inquiry email to LRB to create a CDTFA-75, questioning district tax reallocation when TAC results in district tax reallocation (date of knowledge applies).

AB 990 Assignments Follow Up and Purging of Records

The SCOP Coordinators and AG Supervisor will have access to the AB 990 Tracking Sheet and will periodically monitor the AB 990 process to ensure the assignments are completed, changes to registration records are made, permits are issued when required, and the reports and notifications to jurisdictions are sent in accordance with the mandated timelines and established procedures. They will also ensure that records of jurisdictions' submittals and copies of outgoing reports are maintained as specified in the preceding paragraphs. All submittals and copies of outgoing reports older than two years will be purged from their respective folders.

SALES & USE TAX EXEMPTION FOR FOREIGN MISSIONS AND CONSULS

930.000

GENERAL

930.010

In general, neither sales tax nor use tax applies to the sale or use of tangible personal property sold to foreign missions or representative offices, foreign consular officers, employees, and members of their families if those persons have been granted immunity from tax according to treaties or other diplomatic agreements with the United States. (Regulation 1619, *Foreign Missions and Consuls*)

TAX EXEMPTION CARDS

930.020

Mission and Official Tax Exemption Cards – Diplomatic tax exemption cards labeled “Official Purchases Only” are issued by the U.S. Department of State, Office of Foreign Missions (OFM) to foreign missions and by the American Institute in Taiwan (AIT) to representative offices (such as the Taipei Economic and Cultural Representative Office in the United States and the Taipei Economic and Cultural Offices) for use when making official purchases. The person whose name and photo appear on the card is the mission’s or representative office’s point of contact and is responsible for ensuring the accuracy of the exemption. This individual does not need to be present when purchases are made in the name of the mission or representative office. Official purchases must be paid in a form of payment bearing the name of the foreign mission or representative office. Such forms of payment include official checks, official credit cards, or electronic funds transfers (automated clearinghouse debits, automated clearinghouse credits, or wire transfers). Cash, credit cards or personal checks in the name of the bearer of the mission tax exemption card cannot be used as payment.

Personal Tax Exemption Cards – Diplomatic tax exemption cards labeled “Personal Tax Exemption” are used by eligible foreign mission and representative office members and their dependents to obtain exemption from sales or use tax on personal purchases. The card is not transferable and must be used solely for the benefit of the individual identified and pictured on the card. Acceptable forms of payment include cash, credit cards or personal checks in the name of the bearer of the personal tax exemption card.

Each tax exemption card includes the name of the person to whom it is issued, personal identification information, a photograph, an expiration date, and an identification number (e.g., PID#). The tax exemption cards also contain text on the front and back that indicate the level of exemption authorized for the cardholder. Some cards authorize an unrestricted exemption from sales taxes, and other cards authorize an exemption with some degree of restriction, such as a minimum purchase requirement, excluded categories, or both. For example, if the tax exemption card is granted for a minimum level of exemption of \$100, as indicated on the card, the purchaser must purchase merchandise aggregating over \$100 in a single transaction to qualify for the exemption. The total purchase may be composed of all taxable merchandise or a combination of taxable and non-taxable merchandise, i.e., a sale of cigarettes for \$36 is exempt if sold together with \$64 non-taxable food products. Separate purchases in the same store will not qualify if the amount of each transaction does not exceed the amount indicated on the card, even though the combination of all individual purchases in that store may exceed that amount. Examples of tax exemption cards issued by OFM and AIT are provided in AM Chapter 4, Exhibit 19.

SUPPORTING DOCUMENTATION**930.030**

To support the exemption (for sales other than vehicles), the retailer must prepare and retain an invoice or other written evidence of the sale and should enter the name of the purchaser, the number of the exemption card, the name of the foreign mission or representative office, the expiration date of the card, and the minimum level of exemption specified on the card, if any. For official purchases, the retailer shall retain evidence that the form of payment was in the name of the foreign mission or representative office. Such payments may include official checks, official credit cards, or electronic funds transfers (automated clearinghouse debits, automated clearinghouse credits, or wire transfers).

The sale or lease of vehicles to foreign missions or representative offices, foreign consular officers, employees, or members of their families will be exempt from the sales and use tax if at the time of the transaction, the purchaser or lessee provides a valid Tax Exemption Card (Personal, Mission, or Official) or protocol identification card to the retailer and the U.S. Department of State, Office of Foreign Missions (OFM) or the American Institute in Taiwan furnishes directly to the retailer or lessor a letter stating that the vehicle sale or lease to the purchaser is eligible for exemption from tax (eligibility letter). The retailer or lessor must retain a copy of the front and back of the Tax Exemption Card or protocol identification card and the eligibility letter to support the tax exemption.

Retailers who have any questions regarding the identification of the bearer may ask to see additional forms of identification, such as Diplomatic ID, Driver's License, etc. Questions regarding tax exemption cards issued by OFM may be made by telephone to the OFM at (202) 895-3500 x2. Questions regarding tax exemption cards issued by the AIT may be made by telephone to the AIT at (703) 525-8474.