



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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Executive Director

July 10, 2008

VIA INTERNET

Dear Interested Party:

The Sales and Use Tax Department is proposing to revise Compliance Policy and Procedures Manual (CPPM) Chapter 4, *Security*. The text of the revisions to Chapter 4, provided in the following pages, includes the proposed changes summarized below. Contact information is provided on page 2 of this letter.

| <u>CPPM</u> | <u>Summary of Revisions</u> |
|----------------|-----------------------------|
| <u>Section</u> | |

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|-----------------|---|
| CPPM 405.035 | Revised to include the new release criteria for security deposits as approved by the Board at its meeting of April 8, 2008. |
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If you have any comments or suggestions related to the proposed changes described above, you may contact the Department at CPPM.RevisionSuggestions@boe.ca.gov, or you may submit your comments or suggestions to:

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Release and Refund of Security — Active Accounts

405.035

RTC section 6701, effective January 1, 1997, states in part:

“Security held by the Board of Equalization shall be released after a three-year period in which the person has filed all returns and paid all tax to the State or any amount of tax required to be collected and paid to the State within the time required.”

Similar language to RTC section 6701 can be found in RTC sections 7486 (Motor Vehicle Fuel Tax Law, 60401 (Diesel Fuel Tax Law), 40036 (Energy Resource Surcharge) and 4101 (Emergency Telephone Surcharge).

The above includes all types of ownership. ~~Security held by the Board for three years shall be released in a timely manner if the taxpayer meets the provisions of section 6701. As a matter of policy, unless otherwise statutorily prohibited, the~~ Board of Equalization will release security deposits that meet the following criteria:

1. The security deposit has been held for at least three years.
2. Account has no current account receivables (includes both final and non-final liabilities.)
3. Account has no current delinquent returns(s).
4. Account has no more than two instances within the last twelve months of non-compliance with items two and three above (for this criteria, use the Demand date or the Notice of Determination date for account receivables. If a liability has both a Notice of Determination date and a Demand date, use the Demand date. For delinquencies, the delinquency established date will be used.)

A list of accounts with security held for three years that appear to meet the criteria for refunding is produced from the Security System each month. The list is e-mailed to the district offices and applicable divisions within the Property and Special Taxes Department (PSTD) at the beginning of each month. The accounts must be reviewed and eligible deposits must be released before the end of each month.

As part of the security review process for accounts with a three-year good record, the release (termination) of guaranties and surety bonds may ~~now~~ be initiated by the ~~Board of Equalization~~ Board with an immediate effective date. In cases where the ~~Board of Equalization~~ Board initiates a release of security, the release of security is not contingent upon receipt of a written request received by the taxpayer.

~~However, this change does not affect the law and current policy and procedure for guarantors and bonding companies that wish to terminate a guaranty or surety bond. Guarantors and sureties must notify the Board, in writing, of the intention to terminate the guaranty or surety bond. The cancellation is effective 30 days from receipt of the request.~~

~~Lists of accounts with security posted for three years, which appear to meet the criteria for refunding, are produced from the Security System each year in April and October. The refunding and releasing of security should be handled timely.~~

Release and Refund of Security — Active Accounts (CONT.) 405.035

Personal ~~guaranty~~ guaranties and surety bonds ~~cancellations that are Board initiated should be marked (i.e. highlighter, red line, circle, or checkmark) on a copy of the three-year list that are eligible for release must have the security requirement ended in the Security System. For each of the marked accounts, the requirement listed on the Security System must be ended.~~ This is done by ~~ending the security on-line~~ by entering an “E” in the action field on the SEC RQ screen. The taxpayer should then be notified of the cancellation by sending a Form BOE-168-B, Notification of Surety Bond Non-Renewal, or BOE-168-C, Release of Personal Guaranty. ~~The marked list and a~~ memorandum or an e-mail must be sent ~~signed by the District Administrator or the District Principal Compliance Supervisor or District Administrator must be sent to the Registration and Security Control Team Unit in the Local Revenue Return Analysis and Allocation Section (LRAS) requesting to end the security record. to cancel the security record.~~

When the list is received by the Registration and Security Control ~~Team Unit~~ in LRAS, staff will update the cancellation information on the Security System. For divisions within the PSTD, the division Administrator or Principal Compliance Supervisor will send an e-mail or memorandum to staff handling security deposits requesting to end the security record. When the list is received, the cancellation information will be updated. Only accounts marked will be canceled. The effective date of cancellation will be the date of the memorandum or e-mail.

The surety bond should not be exonerated unless the Board of Equalization receives a request from the bonding company (See CPPM 410.025.)

These changes do not affect the law or current policy and procedures for guarantors and bonding companies that wish to terminate a guaranty or surety bond. Guarantors and sureties must notify the Board of Equalization, in writing, of the intention to terminate the guaranty or surety bond. The cancellation is effective 30 days from receipt of the request.