



STATE BOARD OF EQUALIZATION

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March 21, 2017

VIA INTERNET

Dear Interested Party:

The Compliance Policy and Procedures Manual (CPPM) is a guide for the Board of Equalization (BOE) staff in administering tax and fee programs. It is available to the public and can be accessed from the BOE web page at <http://www.boe.ca.gov/sutax/staxmanuals.htm>.

The Business Tax and Fee Department is proposing to revise the following CPPM chapters to incorporate current policies and procedures:

- Chapter 5, *Returns*
- Chapter 7, *Collections*
- Chapter 8, *Consumer Use Tax*

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 BOE at CPPM.RevisionSuggestions@boe.ca.gov. Your comments or suggestions must be received by BOE no later than **May 22, 2017**, in order to be considered by staff. Thank you for your consideration.

Sincerely,

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

COLLECTION COST RECOVERY FEE (CRF) 525.000

COLLECTION COST RECOVERY FEE – GENERAL 525.010

A Collection Cost Recovery Fee (CRF) is imposed on each final billing greater than \$250 that remains unpaid more than 90 days after the demand notice is issued (SB 858, Chapter 721, Statutes 2010). The statutes enacted by SB 858 for each tax program are identified in the following table.

<u>Sales and Use Tax Law (6833)</u>	<u>Hazardous Substances Tax Law (43449)</u>
<u>Use Fuel Tax Law (9035)</u>	<u>Integrated Waste Management Fee Law (45610)</u>
<u>Private Railroad Car Tax Law (11534)</u>	<u>Oil Spill Response, Prevention, and Administration Fees Law (46466)</u>
<u>Cigarette and Tobacco Products Tax Law (30354.7)</u>	<u>Underground Storage Tank Maintenance Fee Law (50138.8)</u>
<u>Alcoholic Beverage Tax Law (32390)</u>	<u>Fee Collections Procedures Law¹ (55211)</u>
<u>Timber Yield Tax Law (38577)</u>	<u>Diesel Fuel Tax Law (60495)</u>
<u>Emergency Telephone Users Surcharge Law (41127.8)</u>	<u>Energy Resources Surcharge Law (40168)</u>

These statutes require that the CRFs assessed be equal to the actual collection costs incurred by the BOE. The statutes also authorize the BOE to collect the CRF in the same manner as it collects a tax or fee liability (e.g., levies, wage garnishments, liens). The CRF should also be included when escrow or tax clearance requests are received. The statutes also authorize the BOE to waive the CRF upon a tax/feepayer’s written request in cases where a tax/feepayer fails to pay a liability due to reasonable cause and circumstances beyond their control.

CRF NOTIFICATION 525.020

The CRF statutes require the BOE to inform tax/feepayers by demand notice that a failure to pay a liability may result in collection action, including the assessment of a CRF. To meet this requirement, a bill note (#958 or #963) is printed on all demand notices.

CRF ASSESSMENT 525.030

The CRF applies to each final liability (difference) greater than \$250 that remains unpaid for more than 90 days following the issuance of a demand notice.² The liability

¹ The taxes and fees collected pursuant to the Fee Collection Procedures Law include the following programs: California Tire Fee, Covered Electronic Waste Recycling Fee, Marine Invasive Species Fee, Natural Gas Surcharge, Water Rights Fee, Lumber Products Assessment, Fire Prevention Fee, and Lead-Acid Battery Fee.

² The CRF does not apply to Cigarette/Tobacco internet (UI) accounts. This is because the taxpayer is issued two accounts (CI and UI) and receives a bill on each account for the same internet purchase. A CI account is issued for billing the Cigarette/Tobacco Products Tax and the UI account is set up for billing the Use Tax.

does not need to include tax, fees or assessments for the CRF to be assessed; the CRF will apply even if only interest and/or penalty amounts remain due. The CRF does not accrue interest or incur penalties. Generally, only one CRF is assessed per liability. Separate liabilities for Sales and Use Tax (PER) and lumber products assessment (LUM) that are not linked together will each be assessed a separate CRF if the liability meets the CRF assessment criteria. Furthermore, a CRF is not a deficiency determination and cannot be petitioned.

When a CRF is assessed, a separate liability (difference) is created in IRIS and a Notice of Collection Fee (CRF Notice) is automatically produced and mailed to the tax/feepayer. Liabilities encompassing multiple reporting periods (e.g., audits, multiple period compliance assessments) will only be subject to one CRF. Conversely, if multiple liabilities (differences) exist for a specific reporting period, a separate CRF will be assessed for each. It is important to remember that, when clearing more than one delinquent tax/fee return on an account using a compliance assessment (CAS), all periods must be included in a single CAS.

CRF differences are identified in IRIS with the FO Type “CLB,” Difference Type “COC” and Difference Reason “CRF.” A CRF difference has the same period dates as the associated, fee-originating difference and will generally appear below the fee-originating liability on the DIF DA screen in IRIS.

Once a CRF is assessed, IRIS will automatically keep the CRF differences in sync with the fee-originating difference. Transactions impacting a fee-originating difference (e.g., payments, revenue adjustments) may result in the amount of a CRF difference increasing or decreasing. For example, a payment is moved to a fee-originating liability after a CRF is assessed. If the payment has an effective date prior to the CRF assessment date and results in the fee-originating liability being less than \$250, the CRF difference will automatically adjust to zero.

There is a slight delay from the time a transaction occurs on a fee-originating difference until the CRF is adjusted. This delay occurs because the syncing process only occurs when specific “jobs” are run in IRIS. These jobs run frequently throughout the day.

The IRIS screen DIF CF provides basic information regarding both the fee-originating and CRF differences, including the current balance of each difference. This screen can be viewed by typing “c” on the “Action” line of either the fee originating or the CRF difference from the DIF DA screen. Additionally, the DIF CF contains the following three fields:

Expected Qualifying Notice Date or Qualifying Notice Date – The date on which a demand notice was issued and contained the fee-originating liability. In certain circumstances, a fee-originating difference may have more than one qualifying demand date. For example, when a bankruptcy case is closed, a new demand notice will automatically be generated. The date of the post-bankruptcy demand notice will become the qualifying demand date for those differences that are not assessed the CRF prior to the taxpayer entering bankruptcy. Once the CRF has been assessed, the field label will change to “Qualifying Notice Date.”

Expected Assessment Date or Assessment Date – The date on which the CRF is expected to be assessed. The expected date may not be the actual assessment date since the assessment of a CRF can be delayed for various reasons such as the

existence of a payment plan or an active bankruptcy case. Once the CRF has been assessed, the field label will change to “Assessment Date” and the date displayed in this field will not change.

First Billed Date – The date on which the CRF was first billed.

CRF EXCLUSION

525.035

Cost of collection amounts (e.g., warrant costs, liquor license renewal fees paid by the BOE), reinstatement fees, liabilities on federal government accounts (Ownership Type code “F”), and liabilities on UI accounts are not subject to the CRF.

Tax/feepayers may avoid the CRF by either paying their liability in full or by entering into a payment plan prior to the CRF being assessed. IRIS will compare the date information in the payment plan “Effective Date” field in the Automated Compliance Management System (ACMS) to the CRF assessment date(s) that exist on an account. In instances where the Effective Date entered is prior to the CRF assessment date, the CRF is automatically backed out by IRIS.

In instances where a payment plan is terminated or cancelled, IRIS will automatically apply the CRF to each liability for which more than \$250 remains due and which is more than 90 days past due.

A CRF will not be assessed on liabilities where a sundry withhold, stop demand, or active legal bankruptcy status exists in IRIS. The sundry withhold and stop demand statuses will only prevent a CRF from being assessed but will not result in cancellation of a CRF previously assessed. With regard to accounts with active legal bankruptcy status, CRFs assessed on or after the bankruptcy effective date (petition date) will automatically be adjusted to zero. IRIS will automatically generate a new demand notice when a sundry withhold or stop demand status is removed or when a legal bankruptcy case is closed. A CRF will only be assessed if, 91 days following the “new” demand notice date, the unpaid liability is greater than \$250 and is not included in a payment plan.

Lastly, the CRF will not be assessed on liabilities that were discharged from bankruptcy, in pending write-off status, or written-off prior to CRF being assessed. A written-off liability will only be subject to the CRF if it is removed from write-off status, a demand notice was issued, and the liability meets all CRF assessment criteria (i.e., greater than \$250, more than 90 days past due, not in a payment plan).

CRF RATES

525.040

The CRF amount varies based on the amount of the unpaid liability on the date the CRF is assessed. Additionally, a CRF will be assessed on each unpaid liability that exists on an account. CRF rates are posted on the BOE website at www.boe.ca.gov/sutax/collection_cost_recovery_fee.htm.

The CRF rates will be recalculated and adjusted biennially to ensure the total CRFs assessed are equal to the total collection costs incurred by the BOE. Revised CRF rates will only apply to liabilities not previously assessed a CRF. Staff in the Tax Policy Division (TPD) is responsible for calculating the CRF rates. The proposed CRF rates will be submitted to the Board Members for approval. TPD staff is responsible for ensuring approved CRF rates are updated in IRIS. Any proposed revisions to the

CRF rates approved by the Board Members will become effective on January 1 of the following calendar year.

CRF ADJUSTMENTS – MANUAL

525.045

The CRF is automatically assessed in IRIS when a fee-originating liability has met all CRF assessment criteria. As a result, instances may arise where the CRF is assessed inappropriately. The following procedures should be followed when manual adjustment of a CRF is required.

The responsible collector must review the account and confirm the CRF was assessed in error. If the CRF was assessed inappropriately, the responsible collector will create an email with the subject line containing “CRF” and the taxpayer’s account number. The email must include the Difference ID and Period Dates for each CRF difference that requires adjustment, and the reason(s) why an adjustment of the CRF is needed. This same information must also be entered into a comment on the account in IRIS and ACMS.

The responsible collector will send the email to a supervisor for approval. If approved, the supervisor must add comments in IRIS and ACMS stating the CRF adjustment request is approved. For Sales and Use Tax accounts, the supervisor will forward the email to the Return Analysis Unit (RAU) email group “BTFD-RAU Electronic Maintenance Requests.” For Special Taxes and Fees accounts, the Collection Section supervisor will email the appropriate Return Processing Branch supervisor, and the Motor Carrier Collection supervisor will email the appropriate supervisor.

Staff receiving the approved request will process it by performing a legal adjustment (LAJ) in IRIS on the identified CRF differences. Incomplete requests will not be processed and will be returned to the requester for completion.

There may be an occasion where a cancelled CRF must be reassessed. For example, if a payment plan is terminated or cancelled (PRM status removed in IRIS), reversal of the CRF adjustment will be necessary if the fee-originating liability still meets all CRF assessment criteria. In this situation, staff must identify the dollar amount of each CRF that must be reestablished, based on the dollar amount remaining due of the fee-originating liability as of the date the payment plan was terminated or cancelled. The CRF rates in effect on the date the payment plan is terminated or cancelled must be used when determining the amount of the CRF to be reestablished. For example, if a payment plan is terminated or cancelled in 2016, the 2016 CRF rates should be used.

The procedure to reestablish the CRF is the same as the procedure to request the adjustment of the CRF as explained above.

REQUESTS FOR RELIEF FROM CRF

535.095

Online requests for relief from CRF(s) are placed in a pending status and routed to the proper office, workgroup, and role using set criteria. The tax/feepayer's request will only be considered if the tax/fee, interest, and penalty of the fee-originating liability is paid in full. Relief request assignments from CRF are based upon the fee-originating liability.

Sales and Use Tax

When a request involves CRFs assessed on multiple liability types, both the self-assessed and the BOE-assessed assignments will be created for both the RAU and the Petitions Section.

While the Petitions Section processes the majority of the BOE-assessed relief requests, they do not process requests to remove the penalty for negligence in reporting prepayments (Penalty Type NIP), or relief of the associated CRF liability. These requests are handled by RAU.

Special Taxes and Fees

Relief request assignments will be processed by the Return Processing Branch, the Appeals and Data Analysis Branch (ADAB), or the Motor Carrier Office (MCO) based upon the fee-originating liability on which the CRF was assessed.

State-Assessed Properties Division

Relief request assignments involving Timber Tax accounts will be signed off by the Timber Tax Principal Property Appraiser (PPA); the Senior Forest Property Appraiser is the designee in the PPA's absence.

Reconsideration Requests

As with denied requests for relief of statutory penalties, denied requests for relief of the CRF can be reconsidered. Requests must be submitted in writing within 15 days following the date the denial letter was sent to the tax/feepayer, and should include documentary evidence to support their request. The 15-day period is intended to be a reasonable guideline and is not absolute as staff may still consider information received after the 15 days.

Staff who worked the original request for relief will work the reconsideration request. Reconsideration requests that are recommended for denial must be forwarded to the Business Tax and Fee Department Deputy Director. If the Deputy Director or designee agrees with staff's recommendation to deny the request, the Deputy Director or designee will send a letter to the tax/feepayer with his or her decision.

THE COLLECTION INTERVIEW

722.020

All assignments will be performed in a professional manner. It is the BOE's policy to administer its laws and policies fairly and efficiently, with the expectation that employees will conduct themselves with dignity, integrity and courtesy. (See publication 336, *Ethics: Guidelines for Professional Conduct*.) In addition, discretion must be exercised to avoid disclosing confidential information to unauthorized parties. (See publication 353, *Information Security Requirements for Employees with Access to Confidential Information*.)

To a considerable degree, collection productivity will depend on the manner in which the collection interview is conducted and by the impression the collector makes on the tax/fee-payer. Whether the interview is conducted over the phone, in a BOE office, or elsewhere, the interview will be conducted with courtesy and professionalism; but at the same time, the collector should be firm and direct.

The collector should stress the advantages of making immediate payment in full. This includes advising the tax/feepayer of the applicable penalties, interest, and Collection Cost Recovery Fee (CRF) that may be added to the liability if payment in full is not made (see CPPM section 525.000 – 535.095 for further information on penalties, interest, and CRF). The DIF CF screen in IRIS shows the date on which the CRF is expected to be assessed. Providing this information to tax/feepayers may encourage them to remit payment in full sooner to avoid the CRF. In instances where this is not possible, the tax/feepayer may request to enter into a payment plan to avoid the CRF.

*****This section continues but is not being modified at this time*****

INABILITY TO PAY IN FULL

722.050

If a tax/feepayer indicates an inability to pay the amount due in full, the collector should stress the advantages of making immediate full payment. The following points are often helpful in convincing a taxpayer to make payment in full immediately:

1. Not having to pay a 10 percent failure to file timely penalty if the tax/fee amount is paid in full on or before the due date of the return_;
2. Saving an additional 10 percent by not having to pay a finality penalty on a BOE-assessed liability, if the tax/fee amount is paid in full on or before the thirtieth day after the date on the notice of determination_;
3. Saving accruing interest every month on the unpaid tax/fee balance_;
4. Saving an additional Collection Cost Recovery Fee (CRF) if the payment is made prior to the assessment of the CRF (see CPPM section 525.000 for information on CRF);
- 4.5. _____ The negative effect on the tax/feepayer’s credit standing if a Notice of State Tax Lien or Abstract of Judgment is filed (see CPPM Section 757.000)_; or
- 5.6. _____ The loss of personal property as a result of liens, levy, and seizure and sale procedures.

The collector may point out that, in addition to ~~making~~applying for a loan-~~application~~ with legitimate lending institutions such as banks and credit unions, tax/feepayers often have other sources of money available that may clear the liability. Some avenues include, but are not limited to, borrowing from friends and family members, borrowing against the equity in real estate owned by the tax/feepayer, refinancing vehicles, vessels or aircraft owned by the taxpayer, or paying with a credit card.

AMOUNTS NOT DUE OR DELINQUENT AT TIME OF SALE

732.060

A successor’s liability only extends to the amount the successor was required to withhold from the purchase price at the time the successor purchased the predecessor’s business or stock of goods. The amount a successor is required to withhold includes all of the seller’s ~~sales and use tax/fee~~ liabilities, ~~(taxes,~~ interest, ~~and penalties),~~ and Collection Cost Recovery Fees (CRFs) incurred with regard to the business or stock of goods up to the date of the purchase regardless of whether the liabilities have been reported, billed, or become final, to the extent of the purchase price (with the exception that only CRF amounts assessed on or before the date the business was purchased can be included in a successor billing). The amount does not need to be a matter of record when the sale of the business takes place. For example, the successor’s liability may be disclosed during a close-out audit of the predecessor’s account or generated if, subsequent to the sale, the predecessor files a final return without payment (or with a partial payment).

CONDITIONS OF REINSTATEMENT

751.090

To reinstate a revoked account, the tax/feepayer must clear the cause for revocation by:

1. Filing all delinquent returns and paying the taxes/fees, penalty, ~~and~~ interest, and Collection Cost Recovery Fees (CRF) due.

*****This section continues but is not being modified at this time*****

**DEMAND AND RELEASE PROCEDURE
FOR ALCOHOLIC BEVERAGE LICENSE WITHHOLDS**

765.050

Upon receipt of the BOE-871, ABC will send SOB two copies of the application to transfer the license and SOB will forward this information to the responsible district office. Because a liquor license can transfer no earlier than 30 days from date of application to the date of transfer, the district office staff 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 tax/[feepayer](#), a Notice of Levy may be sent for any additional funds that may be held in the escrow account.
- ~~2.3.~~ [Review the DIF CF screen in IRIS 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 BOE-872-A, Release of Withhold on Liquor License Transfer.](#)
- ~~3.4.~~ Once a final or non-final liability is determined, send the BOE-872, *Release of Hold Against ABC License*, and the BOE-872-A, *Release of Withhold on Liquor License Transfer*, to the escrow holder. 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 BOE-872-A, should be sent to the escrow holder. The BOE-872 should be held pending payment of the demand or [the](#) BOE's prorated share of the selling price with the other tax agencies.

*****This section continues but is not being modified at this time*****

Note: This revision does not cover all of section 770.022, but only the applicable portion

Collection Cost Recovery Fee

Generally, a Collection Cost Recovery Fee (CRF) is imposed on past due liabilities over \$250 that remain unpaid for more than 90 days from the date of the demand notice, unless the liability is included in an active payment plan. Therefore, when the payment plan information is entered into ACMS, the “Effective Date” field should be used to indicate the date the BOE-407 was sent to the tax/feepayer, or the date the tax/feepayer verbally agreed to the terms of the payment plan, whichever date is earlier. As part of the review for approval, supervisors should confirm this date is accurate. For payment plans submitted online, the effective date is the date of the tax/feepayer’s request and is not modifiable in ACMS.

IRIS is only aware that a liability is included in a payment plan if the “PRM” (promise) status exists on the difference. The PRM status is only applied to liabilities included in a promise and will only appear when a promise has been input in ACMS and is in “active” status. The Effective Date field is limited to long-term promises (weekly, bi-weekly, twice monthly, and monthly).

IRIS will compare the Effective Date field in ACMS to the CRF assessment date(s) that exist on an account. Any CRFs assessed on or after the Effective Date will automatically be deleted by IRIS.

The automatic assessment of the CRF, triggered by the removal of the PRM status in IRIS, may require specific actions be taken when assessment of the CRF is not appropriate. For example, when a tax/feepayer enters into a payment plan which includes both billed and unbilled (e.g., returns filed but not yet billed) liabilities, staff will often input a promise in ACMS prior to all liabilities being billed. Once all liabilities have been billed, staff will cancel and re-input the promise in ACMS to include all liabilities in the promise. When this situation occurs, the “new” promise must be input and approved on the same date the prior promise is cancelled to prevent the PRM status from being removed in IRIS and the CRF from being assessed inappropriately.

In some instances, staff may exclude penalty amounts from the payment plan when entering the promise in ACMS. This is done when the tax/feepayer has requested or will request relief of the penalty. When all amounts included in the payment plan have been paid, the promise will automatically “complete” in ACMS, resulting in the PRM difference status being removed in IRIS. Staff should be aware that this may result in the CRF being assessed on the outstanding penalty amount for which the tax/feepayer has requested relief. Staff should inform tax/feepayers that this may occur when the payment plan is initially established. Assuming relief of the penalty is granted, the CRF amount will be automatically adjusted to zero. In instances where relief of penalty is denied, relief of the CRF may be granted assuming the tax/feepayer pays the penalty amount in full.

Staff should also be mindful when a tax/feepayer qualifies for relief of the finality penalty. If the finality penalty is excluded from the payment plan and the tax/feepayer qualifies for relief, a CRF could be assessed at a later date on the outstanding finality penalty due to the removal of the PRM status. Staff should be

CPPM Chapter 7, Collections

aware that a CRF relief request is not required and they should incorporate the removal of the CRF in their recommendation to relieve the finality penalty.

Court-ordered restitution (COR) can only be considered a payment plan with respect to the CRF exclusion when the COR expressly established a defined payment plan and the COR was issued prior to the CRF being assessed. When this occurs, staff must follow procedures to initiate adjustment of the CRF amounts (see CPPM section 525.045).

PRESUMPTION OF PURCHASE FOR USE IN CALIFORNIA

820.005

A vehicle, vessel, or aircraft purchased outside of California which is subsequently brought into California is regarded as having been purchased for use in this state if the first functional use of the vehicle, vessel, or aircraft is in California. “Functional use” means use for the purposes for which the property was designed. Vehicles, vessels, and aircraft designed for personal use are “functionally used” when merely driven, sailed, or flown. Vehicles, vessels, and aircraft designed for a commercial or other special purpose are not “functionally used” until used for the purposes for which they were designed.

For vehicles, vessels and aircraft purchased outside of California, first functionally used outside of California, and then brought into California, ~~Regulation 1620, Regulation 1620, Interstate and Foreign Commerce, Interstate and Foreign Commerce,~~ contains the presumptions for application of the use tax. When a California retailer delivers and transfers title to a purchaser out of state and does not charge tax, the use tax may still be due from the purchaser.

Due to changes in the law, there are two different tests established for determining whether a vehicle, vessel, or aircraft purchased and first functionally used outside California is considered to have been purchased for use in this state.

A vehicle, vessel, or aircraft purchased and first functionally used outside of California will be subject to either the “90-Day and Six-Month Principal Use Test,” or the “12-Month Test” depending upon the purchase date. The following table illustrates the application of each of the two test periods based on the purchase date:

Purchase Date	Test Period
October 2, 2004 – June 30, 2007	12-Month Test
July 1, 2007 – September 30, 2008	90-Day Test <u>and Six-Month Principal Use Test</u>
On or after October 1, 2008	12-Month Test

Note: If a binding purchase agreement was completed prior to October 2, 2004, or between July 1, 2007, and September 30, 2008, the purchase will be subject to the “90-day test.” The test period will commence on the date of purchase, generally the date of out-of-state delivery.

APPLICATION OF TEST PERIODS

90-Day Presumption and Six-Month Principal Use Test

When a vehicle, vessel, or aircraft is purchased and first functionally used outside of California, the vehicle, vessel, or aircraft will be presumed to have been purchased for use in California if it is brought into California within 90 days after its purchase, exclusive of any time of shipment to California or time of storage for shipment to California, unless the vehicle, vessel, or aircraft is used and/or stored outside of California one-half or more of the time during the six-month period immediately following its entry into California.

12-Month Test

Revenue and Taxation Code section 6248 and Regulation 1620 subdivision (b)(5)(A) provide, in part, the following: When a vehicle, vessel, or aircraft is purchased and first functionally used outside of California and is brought into California within 12 months

CPPM Chapter 8, Consumer Use Tax

from the date of its purchase, it is *rebuttably* presumed that it was acquired for storage, use, or other consumption in California, and subject to use tax if any of the following occur:

- The vehicle, vessel, or aircraft was purchased by a California resident as defined in section 516 of the California Vehicle Code (~~effective January 1, 2010, a California resident is defined to include a closely held corporation if 50 percent or more of the shares are held by shareholders who are California residents, and effective January 1, 2011, to include, but is not limited to, a closely held a~~ closely held corporation or limited liability company shall also be considered a California resident if 50 percent or more of the shares or membership interests are held by shareholders or members who are California residents as defined in Section 516 of the Vehicle Code), or
- In the case of a vehicle, the vehicle was subject to registration in California under Chapter 1 (commencing with section 4000) of Division 3 of the Vehicle Code during the first 12 months of ownership, or
- In the case of a vessel or aircraft, the vessel or aircraft ~~is~~ was subject to property tax in this state during the first 12 months of ownership, or
- If purchased by a nonresident of California, the vehicle, vessel, or aircraft is used or stored in this state more than one-half of the time during the first 12 months of ownership.

If any of these factors are present the presumption will apply regardless of whether the vehicle, vessel, or aircraft was brought into California one week after purchase or 51 weeks after purchase.

The first paragraph of Regulation 1620 subdivision (b)(5)(B) provides the general guidelines for rebutting the presumption created by Regulation 1620 subdivision (b)(5)(A). Although the paragraph does not provide a bright line test with set parameters, it requires that all relevant evidence and facts be considered when determining whether a purchaser has provided satisfactory documentary evidence to rebut the presumption that the vehicle, vessel, or aircraft was purchased for use outside of California during the first 12 months of ownership. Evidence and facts that may be evaluated and considered include, but are not limited to:~~This presumption may be rebutted if the purchaser can provide satisfactory documentary evidence that the vehicle, vessel, or aircraft was purchased for use outside California during the first 12 months of ownership. This evidence may include, but is not limited to, proof of registration of the vehicle, vessel, or aircraft with the proper out-of-state authority. In determining whether the presumption has been rebutted, all relevant evidence should be considered in its entirety. Other possible evidence that may indicate that the property was not purchased for use in California may include, but is not limited to:~~

- Whether the vehicle, vessel, or aircraft was previously registered with the proper authorities outside of this state,
- Whether the purchaser had a residence outside of this state,
- How the vehicle, vessel, or aircraft was used during the first 12 months of ownership,
- The location that the vehicle, vessel, or aircraft was insured for,

- Whether the purchaser's move to California (if applicable) was voluntary or involuntary
- For documented vessels and aircraft, payment of property tax in another state;
- ~~Proof of payment of property tax to another state;~~
- ~~Apartment lease, rental agreement, or other evidence showing residence in another state;~~
- ~~Proof of change in employment status, or~~
- ~~Anything else that will reasonably establish that at the time of purchase, the purchaser did not intend to use the vehicle, vessel, or aircraft in California.~~

If the evidence and facts demonstrate that, at the time of the purchase, it was more likely than not that the purchaser had no intention that the vehicle, vessel, or aircraft would be used in California, then this alone is sufficient to establish that it was purchased for use outside of California.

The facts and circumstances of each case should be evaluated and considered in their entirety when determining if a vehicle, vessel or aircraft was purchased for use outside of California during the first 12 months of ownership pursuant to the first paragraph of Regulation 1620, subdivision (b)(5)(B). For example, the fact that a purchaser voluntarily moves to California within 12 months of the purchase date does not automatically prevent the purchaser from overcoming the presumption. Instead, a voluntary move is a factor to consider, along with all of the other facts and circumstances, when determining whether a vehicle, vessel or aircraft was purchased for use outside of California. On the other hand, an involuntary move based on circumstances that arose after the purchase date is strong evidence that the vehicle, vessel or aircraft was purchased for use outside of the state.

~~In some instances, the purchaser may claim that at the time of purchase, the intent was not to use the vehicle, vessel, or aircraft in California, but subsequent circumstances changed the purchaser's original intent (e.g. change in job assignment). To overcome the presumption that the vehicle, vessel, or aircraft was purchased for storage, use or other consumption in this state, the following two factors must be present: (1) at the time of purchase, the purchaser did not contemplate bringing the property to California for use in the state, and (2) the subsequent change of intent was beyond the control of the purchaser.~~

In addition, according to Regulation 1620 subdivision (b)(5)(D), the purchase and use of a vessel or aircraft ~~the purchase of~~ which is subject to the 12-month test that is brought into California for the exclusive purpose of repair, retrofit, or modification, shall not be deemed to have been acquired for storage, use, or other consumption in this state provided either of the following apply:

- in the case of a vessel, the work is performed by a repair facility that holds an appropriate permit issued by the board and is licensed to do business by the city, county, or city and county in which it is located if the city, county, or city and county so requires, or
- in the case of an aircraft, the work is performed by a repair station certified by the Federal Aviation Administration or a manufacturer's maintenance facility.

CPPM Chapter 8, Consumer Use Tax

Further, according to the second paragraph of Regulation 1620 subdivision (b)(5)(B),
The presumption for vehicles may be controverted by documentary evidence that the vehicle was brought into this state for the exclusive purpose of warranty or repair service and was used or stored in this state for that purpose for 30 days or less. The 30-day period begins when the vehicle enters this state, includes any time of travel to and from the warranty or repair facility and ends when the vehicle is returned to a point outside the state. The documentary evidence shall include a work order stating the dates that the vehicle is in the possession of the warranty or repair facility and a statement by the owner of the vehicle specifying the dates of travel to and from the warranty or repair facility.

Generally, when a taxpayer claims that a vehicle or undocumented vessel was not purchased for use in California and the applicable test period has not yet expired, it is ~~Board of Equalization (BOE)~~ policy to permit registration with the Department of Motor Vehicles (DMV) without the payment of California use tax. In this situation, the BOE issues a BOE-111, *Certificate of Vehicle, Mobilehome or Commercial Coach Use Tax Clearance*, or BOE-111-B, *Certificate of Vessel Use Tax Clearance*. Clearance certificates are issued subject to certain documentary requirements, with the understanding that the taxpayer is required to provide additional documentation to the BOE to support his or her claim at the end of the test period. See CPPM section 825.000.

For questions regarding the qualifying period for “Not Purchased for Use in California” claims, contact CUTS.