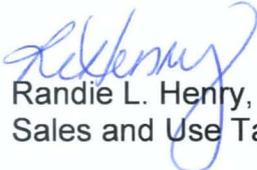


Memorandum

To: Mr. Ramon J. Hirsig
Executive Director (MIC: 73)

Date: April 2, 2010

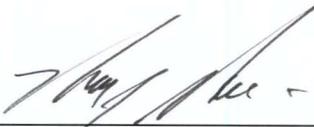
From: 
Randie L. Henry, Deputy Director
Sales and Use Tax Department

Subject: **Board Meeting – April 13-14, 2010**
Item P3 Sales and Use Tax Deputy Director's Report
Update on Aged Unapplied Remittance Project

Your approval is requested to place the above-referenced Administrative Agenda item before the Board at the April 13-14, 2010, Board Meeting.

RLH:sfg
Attachments

Approved



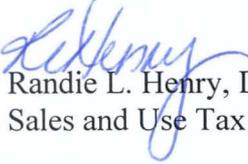
Ramon J. Hirsig
Executive Director

Item P3
04/13/10

Memorandum

To : Honorable Betty T. Yee, Chairwoman
Honorable Jerome E. Horton, Vice Chair
Ms. Barbara Alby, Acting Board Member
Honorable Michelle Steel
Honorable John Chiang

Date: April 2, 2010

From :  Randie L. Henry, Deputy Director
Sales and Use Tax Department

Subject : Update on Aged Unapplied Remittance Project

As requested at the March 2010 Board Meeting, this memorandum contains our procedures for addressing certain unapplied remittances. The procedures will be used to resolve the remaining unapplied remittances from the aged unapplied remittance project.¹ These remittances relate to accounts where no reply or returned mail was received in response to our first notice.

Background:

Unapplied remittances are funds received by the Board of Equalization (BOE) that cannot be easily matched to a liability. Aged unapplied remittances were defined as unapplied remittances that were over three years old. Beginning in August 2008, notices were mailed to accounts with aged unapplied remittances. The notices were sent via first class mail and asked the taxpayers to either request the remittance be returned or to identify the intended liability. If the taxpayer requested the remittance be returned, staff initiated the return of the remittance if no current liabilities existed or were identified at the time of review. If the taxpayer identified the intended liability, the remittance was applied as directed.

If the notice was returned undeliverable, staff searched for a better address and mailed a new notice. If staff was unable to locate a better address, the remittance was transferred to the State Controller's Office as unclaimed property after a thorough review of the account.

The remaining issue is the resolution of the accounts where no reply to the notice or returned mail was received. The original notice advised if no response was received, we would conclude the remittance represents tax due to the state. However, a second notice will be sent allowing the taxpayer another opportunity to clarify the purpose of the remittance. A process flow chart has been provided for your reference.

¹ This unapplied remittance project was covered in the July 14, 2008, memorandum entitled *New and Enhanced Procedures for Handling Unapplied Remittances* and the attached corresponding legal opinion on this issue.

Second Notice:

The second notice will again be sent via first class mail to the most recently identified address of record. To encourage taxpayers to open and review the contents of our mailing, the notice will be enclosed in an outer envelope displaying the printed message: "We may owe you money. (See details inside.)." A postage-paid return envelope will also be provided to encourage a response.

A draft of the second notice is attached. The notice asks the taxpayer to designate whether the remittance should be returned or applied. If they mark "return," the remittance will be returned without any further documentation required. If they mark "apply," the remittance will be applied as tax due to the most appropriate period based on review of available account specific information and in correlation with the effective date of the remittance.

The notice requests a response within 60 days and states we **may** conclude the remittance represents tax due if no response is received. The notice advises if the remittance is applied as payment of tax due, the taxpayer will receive notification; and unless a claim for refund is filed within six months from the date of application, the BOE will be unable to approve the refund of the payment due to the statute of limitations.

Return Mail Processing:

If the second notice is returned undeliverable, staff will perform a search for a better address using BOE records, Accurant, and the Internet. If a better address is located, the notice will be mailed to the new address allowing an additional 60 days from mailing for response.

If the notice is returned again or if the original search did not disclose a better address, staff will perform a more in-depth review of the account to determine if the remittance represents an excess/duplicate remittance or if the remittance was intended for a liability. Excess/duplicate remittances will be returned to the taxpayer. Any un-cashed warrants will be transferred to the State Controller's Office (SCO) as unclaimed property. If the in-depth review identifies a liability, the remittance will be applied.

No Reply Received to Second Notice:

If no timely reply is received from the second notice, staff will perform a more in-depth review of the remittance and account to determine if the remittance represents an excess/duplicate remittance or if the remittance was intended for a liability.

Again, excess/duplicate remittances will be returned to the taxpayer and any un-cashed warrants will be transferred to the State Controller's Office (SCO) as unclaimed property. If the in-depth review identifies a liability, the remittance will be applied.

In the absence of information indicating that the remittance should be returned, the remittance will be applied as tax due to the most appropriate period based on review of available account specific information and in correlation with the effective date of the remittance.

If the remittance is applied, a notice of application will be mailed to the taxpayer at the time of application advising that they have six months from the date of the notice to file a claim for refund. This notice will provide the taxpayer with the option to sign and return the notice as a claim for refund in the return envelope provided. A draft of this notice is also attached.

Current Processing:

Staff is now reviewing all unapplied remittances before they become aged to determine if the remittance can be returned or applied to a liability.

In addition, a new semi-annual notice will be sent to taxpayers that have an unapplied remittance. This notice will give the taxpayer the opportunity to identify the intended liability or request that the remittance be returned. We anticipate the first of these new notices will be mailed in May 2010.

Please contact Mr. Dario Romano at (916) 323-5492 if you have additional questions or require any additional information.

RLH: djr

Attachments: Aged Unapplied Remittance Resolution Process
 Draft Second Notice
 Draft Notice of Application

cc: Mr. Alan LoFaso
 Ms. Regina Evans
 Ms. Mai Harvill
 Mr. Louis Barnett
 Ms. Marcy Jo Mandel
 Mr. Ramon J. Hirsig, (MIC 73)
 Ms. Kristine Cazadd (MIC 83)
 Mr. David Gau (MIC 63)
 Ms. Anita Gore (MIC 79)
 Mr. Randy Ferris (MIC 82)
 Mr. Dario Romano (MIC 32)

DRAFT – "Second Notice"



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0032
916-445-7732 • FAX 916-323-0478
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco

MICHELLE STEEL
Third District, Rolling Hills Estates

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

BARBARA ALBY
Acting Member
Second District, Sacramento

RAMON J. HIRSIG
Executive Director

June XX, 2010

TAXPAYER NAME
MAIL STREET
MAIL CITY, MAIL STATE ZIP CODE-ZIP + 4

Account No.: SR XXX-XXXXXX

This is our second notice that we may owe you the amount shown below. If you want the remittance(s) returned, please check the "Return" box and we will return the amount to you (no further documentation required). If you previously intended to pay an amount due and want the remittance(s) applied to your account, please check the "Apply" box.

Please return your response in the enclosed postage-paid envelope within 60 days from the date of this letter. If we do not receive a response within 60 days, we may conclude the remittance was intended to pay tax due to the Board of Equalization (BOE).

If the remittance is applied as payment of tax due, we will notify you when the payment is applied. Thereafter, unless a claim for refund is filed within six months from the date of application, the BOE will be unable to approve the refund of the payment due to the expiration of the statute of limitations.

Unmatched Remittances

ORIGINAL REMITTANCE	REMAINING REMITTANCE	DATE RECEIVED	RETURN REMITTANCE?
\$ 26.00	\$ 26.00	01/31/2004	Return <input type="checkbox"/> Apply <input type="checkbox"/>

Thank you for your assistance in this matter. If you have any questions, please contact our Taxpayer Information Section at 800-400-7115. Staff is available Monday through Friday from 8:00 a.m. to 5:00 p.m. Pacific Time, excluding state holidays.

Sincerely,
Remittance Processing Group
Return Analysis Unit

E-file now, find out how . . . www.boe.ca.gov



DRAFT – "Notice of Application"



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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JOHN CHIANG
State Controller

BARBARA ALBY
Acting Member
Second District, Sacramento

RAMON J. HIRSIG
Executive Director

September XX, 2010

TAXPAYER NAME
MAIL STREET
MAIL CITY, MAIL STATE ZIP CODE-ZIP + 4

Account No.: SR XXX-XXXXXX

We did not receive a response to our letter dated June XX, 2010, which asked if the Board of Equalization (BOE) should return the amount(s) shown below. The letter advised if no response was received within 60 days, we may conclude the remittance was intended to pay tax due to the BOE.

After further review, the remittance(s) below have been applied as a payment of tax due. If this is what you intended, there is no further action required by you. However, if you believe this amount was paid in error, you must submit a claim for refund by March XX, 2011. Unless a claim for refund is filed by this date, the BOE will be unable to approve the refund due to the statute of limitations. You may sign and return this letter to the address below to submit a claim for refund (no additional documentation will be required).

Unmatched Remittances

ORIGINAL REMITTANCE	REMAINING REMITTANCE	DATE RECEIVED
\$ 26.00	\$ 26.00	01/31/2004

I claim a refund of the total remaining remittance(s) above.

Name

Date

Your claim may be returned to:

State Board of Equalization
Remittance Processing Group MIC: 32
PO Box 942879
Sacramento CA 94279-0032

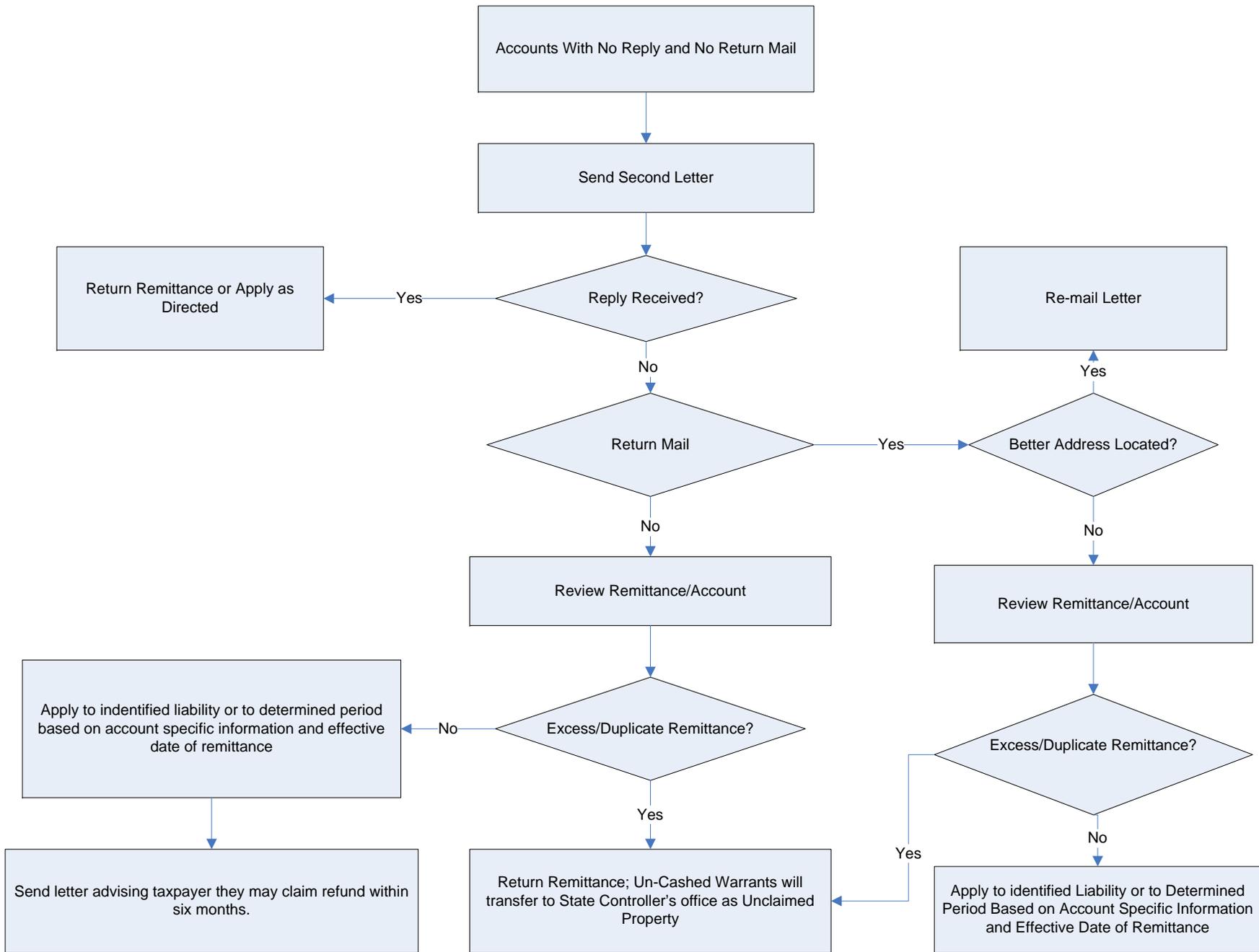
Thank you for your assistance in this matter. If you have any questions, please contact our Taxpayer Information Section at 800-400-7115. Staff is available Monday through Friday from 8:00 a.m. to 5:00 p.m. Pacific Time, excluding state holidays.

Sincerely,
Remittance Processing Group
Return Analysis Unit

E-file now, find out how . . . www.boe.ca.gov



Aged Unapplied Remittance Resolution Process



Note: When returning excess/duplicate remittances, all warrants will be mailed to the best available address.