

GUEST COMMENTARY: CALIFORNIA FRANCHISE TAX BOARD NOTICES CAN TAKE A TOLL

By Steve Sims

Responding to notices received from the California Franchise Tax Board can result in a substantial, and unexpected, workload for many taxpayers and their representatives.



In the fiscal year 2015-16, the FTB mailed out 2.2 million more notices than in the prior year. There are several types of notices, sent from various programs, related to different topics including tax return filings, collection, filing enforcement and audit. The time and cost for taxpayers to respond to these notices can be substantial; correspondence with the FTB could extend to well over a year. Unanswered or unsatisfactorily answered notices may set off a chain of events that can have very serious consequences to taxpayers for years to come.

If a notice makes it to the “involuntary collection” stage, aggressive collection action may be taken against a taxpayer’s assets, and his or her right to do business in this state could be impacted.

Many taxpayers and/or representatives underestimate the time and cost associated with responding – or not responding – to the notices. There also can be confusion about how to respond, compounded by customer service challenges that the FTB faces in working with taxpayers, due to the sheer volume of notices sent.

In addition, many taxpayers never receive mailed notices before assets are located to collect on a debt. The mailing of a notice to the last known address provided by the taxpayer or a third party is deemed adequate – whether or not the taxpayer actually receives the notice is of little to no consequence.

The impact to a taxpayer could be long-lasting once due process has been served and the notice is sent. A tax debt could remain on the FTB’s books, subject to collection action, for more than 20 years. Revenue and Taxation Code Section 19255 was enacted in 2006 and requires the FTB to permanently abate unpaid debts after 20 years. This section also established specific circumstances under which a debt will remain due and payable beyond the 20-year period.

Although a debt may be discharged, the FTB sends annual notices to taxpayers reminding them the debt is still due. Efforts to locate assets to collect on these debts continue, with the FTB using its debtor asset locator procedures on debts that are in accounts receivable, and also for those that may have been discharged.

The IRS statute of limitations on collections is 10 years. As the FTB’s accounts receivable continue to increase, and the FTB’s ability to collect delinquent tax debts improves, is a 20-year statute of limitations on collections really needed? Should a California taxpayer’s assets be subject to lien or seizure for 20 years or more?

Rather than finding out the answers to these questions the hard way, taxpayers should follow some simple advice: Respond to FTB notices!

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