

Unsecured Property Tax Collection Manual

Volume V: Special Collections



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Division of Accounting and
Reporting

California State Controller's Office

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Introduction

The *Unsecured Property Tax Collection Manual* is a multi-volume manual produced by the State Controller's Office, Division of Accounting and Reporting, Property Tax Standards Unit. This manual provides comprehensive instructions and recommendations on the collection techniques available to county tax collectors when dealing with unsecured property tax collections.

The procedures contained in this manual outline collection techniques for specific property types and situations, statutory guidelines and, where appropriate, recommendations to streamline the process.

All statutory references cited are from the Revenue and Taxation Code, unless otherwise noted.

NOTICE: This publication is provided by the State Controller's Office, Property Tax Standards Unit, as a general resource for California's county tax collectors. Processes and provided forms are recommended to assist the counties to perform their duties under the law. This publication is written primarily for use by county tax collectors and does not constitute legal advice.

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Section 1: Bulk Sale (Bulk Transfer)

Background

The California Commercial Code (Cal. Com. Code) section 6102(a)(3)(i)(ii) defines a bulk sale (bulk transfer) as either of the following:

(i) In the case of a sale by auction or a sale or a series of sales conducted by a liquidator on the seller's behalf, a sale or series of sales not in the course of the seller's business of more than half of the seller's inventory and equipment, as measured by a value on the date of the bulk-sale agreement.

(ii) In all other cases, a sale not in the ordinary course of the seller's business of more than half of the seller's inventory and equipment, as measured by a value on the date of the bulk sale agreement.

The phrase "ordinary course of the seller's business" is defined as a sale that comports with the usual or customary practices in the kind of business in which a seller is engaged or with the seller's own usual or customary practices (Cal. Com. Code, §6102(a)(13)).

The types of businesses that can be subject to a bulk sale are companies whose principal business consists of the sale of inventory from stock, including those businesses that manufacture what they sell (Cal. Com. Code, §6103).

For example:

- Bars;
- Pharmacies;
- Gas Stations/Auto Repair Shops;
- Laundry Facilities; and
- Restaurants/Fast Food Franchises.

General Process

When a business plans to engage in a bulk sale, a Bulk Sale Notice to Creditors (SCO 2-30, on page 7) must be sent by certified or registered mail to the tax collector at least 12 business days prior to the time the transfer is consummated (Cal. Com. Code, §6105 (b)). The party responsible for sending the Bulk Sale Notice to Creditors is predicated on how the transaction will be made, as follows:

- If the transfer (sale) will be made between private parties, then the notice must be sent by the transferee (buyer) of the goods (Cal. Com. Code, §§ 6104, 6105).
- If the transfer will be made by auction, then notice must be sent by the auctioneer (Cal. Com. Code, §6108).

Once the notice is received by the county tax collector, the taxes due are calculated and a bill is generated and sent to the transferee.

If a liquor license is associated with the business, the county tax collector may elect to initiate an *ABC Liquor License Hold* on the liquor transfer (See Section 2, on page 11).

Once the taxes are paid, the county tax collector may issue a confirmation of payment to the sale facilitator (and a release of hold if a hold on the liquor license was made) and authorize the sale to officially move forward.

Determine the Existence of a Bulk Sale (Bulk Transfer)

Prior to the consummation of a bulk sale, a notice informing the intention of the sale must be sent by certified or registered mail to the tax collector of the county in which the tangible property is located. (Cal. Com. Code, §6105.)

Note: If a business does not provide notice in the required format or medium, or fails to provide notice at all, proceed to Step 5.

Bulk Sales may become known to the tax collector in one or more of the following manners:

- Receipt of a Bulk Sale Notice to Creditor;
- Discovery of Bulk Sale Notice in local publications or other sources;
- Recorded document filed with the county recorder's office; and
- Phone call from any of the parties involved in the sale.

Step 1: Depending on the manner in which the bulk sale becomes known, determine one of the following courses of action:

- If the sale becomes known by receipt of a Bulk Sale Notice to Creditor, proceed to Step 2.
- If the sale becomes known by means other than a Bulk Sale Notice to Creditor, proceed to Assemble Absent Business Property Value Information, on page 4.

Step 2: Stamp the Bulk Sale Notice to Creditor with the date received.

Step 3: Confirm compliance of the Bulk Sale Notice to Creditor using the following criteria:

- 1) Pursuant to California Commercial Code section 6105, subdivision (a), the following information must be provided in a Bulk Sale Notice to Creditor:
 - A statement that a bulk sale is about to be made. This may include the escrow number and closing date.
 - The name and business address of the seller, together with any other business name and address used by the seller within three years before the date the list is sent or delivered to the buyer.
 - The name and business address of the buyer. An exception is when the sale is an auction sale. In that case, use the name and business address of the auction house (Cal. Com. Code, §6108 (3)).
 - The location and general description of the assets.
 - The place and the anticipated date of the bulk sale.
 - A statement whether or not the bulk sale assets are valued at two million dollars (\$2,000,000) or less and that the sale will be consummated substantially or entirely by cash or an obligation of the buyer to pay cash in the future to the seller or a combination thereof.

- 2) Pursuant to California Commercial Code section 6105, subdivision (b), the following actions must be taken at least 12 business days before the date of the bulk sale:
- The Bulk Sale Notice to Creditors must be recorded in the office of the county recorder in the county or counties in the state in which the tangible assets are located and, if different, in the county in which the seller is located (Cal. Com. Code, §6105 (b)(1)).
 - Notice of the sale must be published at least once in a newspaper of general circulation in the judicial district in the state in which the tangible assets are located and in the judicial district, if different, in which the seller is located (Cal. Com. Code, §6105 (b)(2)).
 - The Bulk Sale Notice to Creditors must be delivered or sent by registered or certified mail to the county tax collector in the county or counties in the state in which the tangible assets are located (Cal. Com. Code, §6105 (b)(3)).

Step 4: Verify the receipt date of the Bulk Sale Notice to Creditors.

- If the receipt date is after June 30, proceed to Determine Taxes Due, on page 5.
- If the receipt date is between January 1 and June 30, proceed to Determine Taxes Due, Step 3, on page 5.

Step 5: Verify that a current Business Property Statement (BPS) is included with the Notice to Creditor. A BPS must be provided to the county tax collector and the county assessor for any bulk sale date between January 1 and May 7 (Cal. Com. Code, §6105 (b)(3)).

- If a BPS is included, forward the BPS to the county assessor and proceed to, Determine Taxes Due, page 5.
- If no BPS is included, proceed to, Assembling Absent Business Property Value Information, below.

Assemble Absent Business Property Value Information

In most cases, for bulk sales scheduled prior to the BPS due date, the sale facilitator (escrow company, title company, or private party) will be in concurrent communication with the county tax collector's office and the county assessor's office and, in particular, will be receiving direction from the assessor concerning business-asset documentation (the BPS or similar).

However, there may be instances in which a county tax collector's office is more directly involved in acquiring business asset information, especially when the sale facilitator has not communicated with the county assessor. The steps below outline a general process to follow if this is the case.

Step 1: From the Bulk Sale Notice to Creditor or other related documentation, identify the sale facilitator involved in the sale.

Step 2: Request the sale facilitator to submit, either by certified or registered mail, the following:

- A copy of the Bulk Sale Notice to Creditor; and
- A copy of the BPS.

- **Note:** If the sale facilitator is not able to produce a BPS, advise the sale facilitator to contact the assessor's office and do the following:
 - Provide documentation of all asset information (Some assessor offices may have a formalized document such as an Assessor's Worksheet); and
 - Return the asset information to the tax collector and/or assessor immediately.

Note: For timeliness, it is recommended that the tax collector requests a fax/email scan of the asset information, rather than having it sent by mail.

Step 3: Confirm with the county assessor's office the receipt of the information requested in Step 2.

- *If received*, proceed to Step 3 of Determine Taxes Due, below; or
- *If not received* and/or the sale facilitator is unable to comply with the request, either:
 - Contact the assessor to obtain the previous year's BPS and tax rate formula and proceed to Step 3, Determine Taxes Due, below.
 - Access the tax collector's database and research BPS information from the previous year and proceed to Step 3, Determine Taxes Due, below.
 - Inform the sale facilitator that the purchase price for the proposed bulk sale will be used as the value to calculate the estimated tax, and proceed to Step 5, Determine Taxes Due, on page 6.
 - Immediately seize the property. See *Unsecured Property Tax Collection Manual, Volume III: Seizure and Sale*, for process and procedures.

Determine Taxes Due

Step 1: Determine which tax liability the business falls under.

- If the liability is for past and/or current year taxes, and a current BPS is included among the materials, proceed to Step 2; or
- If the liability is for past and/or *estimated* current taxes with no current BPS or asset information, proceed to Step 3.

Step 2: Confirm the taxes due and prepare a claim letter for that amount plus any unpaid past taxes and interest due, if applicable. Proceed to Step 6.

Step 3: Upon receipt of the asset values from the assessor, either:

- Send a copy to the county auditor's office for the extension of the tax rate. The asset values will provide the information needed to calculate the estimated taxes; or
- Contact the county auditor's office, request the tax rate for the previous year, and make the estimated tax calculation.

Step 4: Upon receipt from the county auditor (or the tax collector's own calculation) of the estimated tax obligation, it is recommended that an additional 20-25% be added to the final estimated total to ensure accounting for all known and unknown assets.

- Step 5:** Assemble all of the informational materials and compose an *Estimated Taxes Due Claim Letter* (SCO 2-24, on page 8). The *Estimated Taxes Due Claim Letter* should include the following:
- Sale Facilitator Name and Address;
 - Seller Name (from the worksheet);
 - Buyer Name (from the worksheet);
 - Sale Date (from the Notice to Creditors);
 - Business Name;
 - Business Address;
 - Escrow Number (from the Notice to Creditors);
 - Account Number/Assessment Number (from the worksheet);
 - Amount Due (from the tax rate calculation [taxes due + 20-25%]);
 - Payment Deadline; and
 - Fiscal Year (This should be the next fiscal year date).
- Step 6:** Send the claim letter to the sale facilitator with a return remittance envelope.
- Step 7:** If the sale facilitator requires a notice that the current year's taxes are paid, along with estimated taxes, provide documentation once the current year taxes are paid.
- Step 8:** Proceed to Receipt of Payments, on page 9.

BULK SALE NOTICE TO CREDITORS

(Notice Pursuant to Cal. Com. Code §6105)

ESCROW NO.: _____

RECORDING REQUESTED BY: _____

CLOSING DATE: _____

WHEN RECORDED MAIL TO: _____

SELLER'S BUSINESS NAME: _____

Doing business as: _____

All other business name(s) and addresses used in the past three years: _____

SELLER'S BUSINESS ADDRESS: _____

AT THIS ADDRESS THREE YEARS?

YES

NO

All other addresses used by the seller in the past three years: _____

Seller's California executive office of proof of service address is: _____

BUYER'S NAME: _____

BUYER'S ADDRESS: _____

ASSETS ARE LOCATED AT: _____

ASSETS DESCRIPTION: _____

PLACE OF SALE: _____

DATE OF SALE: _____

ASSETS VALUE 2 MILLION OR LESS

OTHER

METHOD OF PAYMENT CASH

MONEY ORDER

BULK SALE SUBJECT TO Cal. Com. Code Sec. 6106.2 (auction) YES NO

NAME OF PERSON TO WHOM THE CLAIMS MAY BE FILED: _____

ADDRESS OF PERSON TO WHOM THE CLAIMS MAY BE FILED: _____

LAST DAY OF FILING CLAIMS BY ANY CREDITOR SHALL BE: _____ (THE BUSINESS DAY BEFORE THE DATE OF THE ANTICIPATED SALE SPECIFIED ABOVE)

DATE: _____

BUYER: _____

Bulk Sale Notice to Creditors SCO 2-24 (10-15)

(Tax Collector's Letterhead)

ESTIMATED TAXES DUE CLAIM LETTER

Date:

Sale Facilitator (Title, Escrow, or Private Party Name)

Address

RE: NOTICE OF BULK TRANSFER

SELLER (TRANSFEROR): _____

BUYER (TRANSFeree): _____

SALE DATE: _____

BUSINESS NAME: _____

BUSINESS ADDRESS: _____

ESCROW NO.: _____

ACCOUNT/APN NO. : _____

AMOUNT DUE: \$ _____

PAYMENT DEADLINE: _____

The above amount represents the demand of the County of _____ Tax Collector for outstanding Unsecured Personal Property Taxes assessed on lien date January 1, _____ to _____.

We instruct this amount of money is withheld from the proceeds of the sale, and that it be transmitted to this office on or prior to the closing date of the escrow.

The 20__ - 20__ taxes were paid on _____ in the amount of \$ _____.

Sincerely,

Treasurer-Tax Collector

Estimated Taxes Due Claim Letter SCO 2-25 (10-15)

Receipt of Payments

Step 1: Determine the payment status.

- If the payment received is the full amount, proceed to Step 2; or
- If the payment is not in full, consider the following:
 - If the business has a liquor license, you may elect to initiate a hold on the liquor license. Proceed to Section 2: ABC Liquor License Hold, Prepare a Notice of Intent to Hold Liquor License, on page 11; or
 - If the business does not have a liquor license, you may elect to begin the process of seizing the property. Proceed to *Unsecured Property Tax Collection Manual, Volume III, Chapter 3, Section A, Pre-Seizure Review*.

Step 2: Determine from whom the payment was received.

- If the payment is from an *Estimated Taxes Claim Letter*, proceed to Step 3; or
- If payment is from a tax bill, prepare and send a letter to the escrow or title company confirming that the taxes have been paid in full. This collection procedure is complete.

Note: If a hold was placed on a liquor license, ensure that the release of that hold is completed. For release of liquor license hold procedures, proceed to Section 2: ABC Liquor License Hold, Prepare the Release of Hold on Liquor License, on page 15.

Step 3: Record the payment in an escrow-type suspense account file. Data fields can include the following:

- Assessee's Name;
- Category Number/Internal Number;
- Account Number;
- Tax Year Covering the Estimated Taxes;
- Amount Collected; and
- Date Received.

Step 4: Deposit the payment into an escrow-type suspense account according to your office procedures.

Step 5: Upon completion of the fiscal year tax bills, compare the amount of the final bill with the estimated amount collected, determine the following, and execute accordingly:

- If the amount collected from the estimated tax bill was **within** the county policy over or under the amount reflected in the final bill amount, then:
 1. Adjust the pay stub.
- If the amount collected from the estimated tax bill was **more than** the county's policy overage amount reflected in the final bill amount, then:

1. Process the account for a refund.
2. Return the balance to the payor.
- If the amount collected from the estimated tax bill was **less than** the county's policy underpayment from the final bill amount, then:
 1. Prepare a letter to the payor stating that there was an underpayment.
 2. Place a copy of the letter in the bulk sale file.
 3. Mail a tax bill for the remaining balance to the payor.

Step 6: Determine whether a hold was placed on a liquor license.

- If a hold was placed on a liquor license, ensure that the release of that hold is completed. For release of liquor license hold procedures, proceed to Section 2, Prepare the Release of Hold on Liquor License, on page 15; or
- If there is no liquor license hold to address, this collection procedure is complete.

Section 2: ABC Liquor License Hold

Background

A liquor license is a permit issued by the State of California to an individual, company, or corporation to sell alcoholic beverages.

Whenever the owner of a liquor license is contemplating a bulk sale (bulk transfer) Rule 68.2 of the Department of Alcoholic Beverage Control (ABC) authorizes a refusal of a liquor license transfer or any on-sale general seasonal license if delinquent unsecured taxes exist against the transferor *and* a notice concerning the delinquency has been filed with the department (Business and Professions Code, §§ 23815 et al., 24049).

Additionally, for certain liquor license types, a hold may be applied to a business that has delinquent unsecured taxes regardless of whether a bulk sale or transfer of ownership of bulk assets is pending.

General Process

Whenever it is determined that a business with a liquor license has delinquent unsecured taxes or the tax collector has reason to believe that pending taxes may not be paid, the tax collector may file a Liquor License Transfer Hold with the ABC to secure and motivate the payment of any unsecured taxes due or anticipated. Upon payment of the tax, the county tax collector issues a Release of Liquor License Transfer Hold.

Additionally, if it is discovered that the liquor license holder has filed for bankruptcy, not withholding any other transaction, a hold request should be filed with the ABC. A hold request is not a collection action and, hence, does not violate the automatic stay, but ensures that the license cannot be transferred.

Note: A temporary license may be issued under certain circumstances. For example, if the establishment utilizing the liquor license is sold, ABC may issue the new business owner a temporary liquor license to conduct business. However, the new owner will not receive a license transfer until the delinquent taxes have been paid.

Prepare a Notice of Intent to Hold Liquor License

Step 1: Obtain the business's license information from the ABC website at: <http://www.abc.ca.gov/>

Note: In addition to processing liquor license hold requests for businesses involved in a bulk sale, the ABC also accepts hold requests for businesses that have delinquent unsecured taxes. However, in delinquent tax cases, ABC will accept the following license type holds from a moratorium county: license type classes: 21, 47, 48, 49, 57, 75, or 20.

Step 2: Prepare a *Notice of Intent to Hold Liquor License*. (SCO 2-25, on page 12)

Pertinent Information:

2. Date;
3. Transferee (Assessee) Name and Address;
4. Demand Statement and Statutory Authority;
5. Filing Date of Transfer Application;
6. Payment Deadline (recommended date is 10 days or less from date of notice); and
7. Amount of Taxes Due.

Step 3: Send the form to the sale facilitator involved in the transfer.

(Tax Collector's Letterhead)

NOTICE OF INTENT TO HOLD LIQUOR LICENSE

Date

Assessee/Business Name

Address

Pursuant to Business and Professions Code sections 23815 et al. and section 24049, a notice of hold will be filed with the Department of Alcoholic Beverage Control for the non-payment of unsecured property taxes.

The hold will be filed on ___(date)___

In order to prevent the filing, the tax amount of \$ _____ must be remitted on or before _____.

Only cash, money order, or certified funds will be accepted and must be received at:

_____, **Treasurer-Tax Collector**
County Address

If you have any questions, please contact our office at:

Sincerely,

_____, Treasurer-Tax Collector

By: _____
_____, Tax Collector Investigator

Notice of Intent to Hold Liquor License SCO 2-26 (10-15)

Prepare the Liquor License Hold Request

Step 1: If the taxes remain unpaid after the deadline imposed in the *Notice of Intent to Hold Liquor License* (SCO 2-25, on page 12), prepare a *Liquor License Hold Request* (SCO 2-16, on page 14). Ensure that the request contains at least the following information:

- Date;
- Account Number;
- Transferee (Assessee) Name and Address;
- Escrow Agent Name;
- Demand Statement and Statutory Authority;
- ABC File Number;
- Liquor License Number;
- Filing date of Transfer Application; and
- Name of District Administrator for ABC Transferee Name.

Step 2: Mail the completed form to:

- The Department of Alcoholic Beverage Control, License Division. Go to <http://www.abc.ca.gov/districts.asp?City=SD> to obtain your local ABC office contact information; and
- The sale facilitator (escrow company, title company, or private party).

(Agency's Letterhead)

LIQUOR LICENSE HOLD REQUEST

Date:
Account No.:

Department of Alcoholic Beverage Control
ATTN: License Division
(check <http://www.abc.ca.gov/districts.asp?City=SD> for the address of your local ABC office)

Re: _____, Licensee

The above-named licensee is indebted to _____ County for the lien of delinquent unsecured personal property taxes due under Chapter 4 of Part 5 of the California Revenue and Taxation Code. You are requested to withhold transfer or renewal of any liquor license of the above-named licensee under the provisions of Business and Professions Code section 24049, pending release from this office.

Should you receive an application for the transfer or renewal of the license, please furnish the information for the items shown below so that we may notify the persons concerned.

We will release the withheld transfer/renewal as soon as this tax lien has been paid.

Transferee Name: _____

Transferee Address: _____

ABC File No.: _____ Liquor License No.: _____

Escrow Agent (if applicable): _____

Date Application for Transfer
Filed: _____

District Administrator,
ABC: _____

Liquor License Hold Request SCO 2-16 (10-15)

Prepare the Release of Hold on Liquor License

Step 1: Once the taxes are paid, initiate a *Liquor License Hold – Release Advice* (SCO 2-18, on page 16). Include the following:

- Date;
- Account Number;
- Transferee (Assessee) Name and Address;
- Transferer (Escrow or Sale Facilitator Agent) Name;
- ABC File Number;
- Liquor License Number;
- Tax Collector Signature Block; and
- Deputy Tax Collector Signature Block.

Step 2: Mail the completed form to:

- The Department of Alcoholic Beverage Control, License Division. Go to <http://www.abc.ca.gov/districts.asp?City=SD> to obtain your local ABC office contact information; and
- The sale facilitator (escrow company, title company, or private party).

Step 3: After mailing the Release of Hold Form, do one of the following:

- If the license hold **was not** part of a bulk sale, this procedure is complete.
- If the license hold **was** part of a bulk sale, proceed to Section 1, Receipt of Payments, Step 2 of this volume, on page 9.

(Tax Collector's Letterhead)

LIQUOR LICENSE HOLD – RELEASE ADVICE

Date:
Account No.:

Department of Alcoholic Beverage Control
ATTN: License Division
(check <http://www.abc.ca.gov/districts.asp?City=SD> for the address of your local ABC office)
Administrators:

Please release our hold against the liquor license transfer/renewal involving the licensee named herein.

_____, Licensee

_____, Transferer

_____, Transferee

ABC File No. _____

Liquor License No. _____

Thank you,

_____, County Tax Collector

By: _____, Deputy

Liquor License Hold – Release Advice SCO 2-18 (10-15)

Section 3: Interagency Intercept Collections Program

Background

The County Tax Collector may request the State Controller's Office (SCO) to offset, from a potential state tax refund or California Lottery winnings, any amount the person owes a county for unsecured delinquent taxes (Government Code §12419.8) (Gov. Code).

General Process

To participate in the Interagency Intercept Collections Program (IIC), a county must file a request with the SCO. Once the request is processed, the county provides a list of names, with pertinent information, and submits the list to the Franchise Tax Board (FTB) to match against any names that are due money from the State. If a match is made, the amount requested by the county is intercepted. The SCO deducts and retains a sufficient reimbursement amount for itself and the corresponding government office from where the funds were obtained for the administrative costs of processing the offset payment (Gov. Code, §12419.8).

Note: Before any funds can be intercepted, the tax collector must notify the taxpayer and be given an opportunity to pay the outstanding delinquent taxes.

Obtain Program Participation Approval

Obtain a copy of the Interagency Intercept Participation Guide provided by the FTB for a comprehensive outline of the program requirements. The guide is available on the FTB website at:

https://www.ftb.ca.gov/individuals/Interagency_Intercept_Collections/index.shtml. The guide and forms within it are updated annually. The most current forms must be used in order to participate in the program, so it is imperative to refer to the most up-to-date guide.

Note: The offset may not be used if an automatic stay in a bankruptcy proceeding is in effect.

Step 1: Designate a staff member to be the dedicated contact person for your office. This is important because FTB will not receive or provide communication about any accounts to anyone but the staff person listed on the participation application.

Note: Additional contact persons may be added, but doing so can impact the initial efficiency of the program.

Step 2: Determine whether your agency/office is already on file for the IIC by either of the following methods:

- Locate an existing approval letter from the SCO; or
- Contact the SCO Offset Coordinator at intercept@sco.ca.gov.

Step 3: Once you have determined whether or not your office is approved for the IIC, do one of the following:

- If your office is already on file as approved, refer to the Interagency Intercept Collection Program Participation Guide, Participation Overview, for instructions on completing the process.
- If your office is not on file as approved, refer to the Interagency Intercept Collection Program Participation Guide, Program Requirements, for instructions on completing the process.

For any questions regarding the IIC program or to receive services/support please contact FTB at:

State of California
Interagency Intercept Collections MS A140
Franchise Tax Board
PO Box 2966
Rancho Cordova, CA 95741

Phone: 916.845.5344
Fax: 916.843.2460
Email: iicgroup@ftb.ca.gov (do not send confidential account information through email)

You may also contact the SCO at:

State of California
Division of Accounting and Reporting
Tax Administration
ATTN: Offset Coordinator
Office of the State Controller
PO Box 942850
Sacramento, CA 94520

Email: intercept@sco.ca.gov

Step 4: Counties must renew participation annually.

Section 4: Bank Account Levy

Background

To levy a bank account, you must have both legal authority and corresponding documentation to present to a bank. Revenue and Taxation Code sections 2951 – 2953.1 provide such authority, and the *Seizure Notice for Taxes* (SCO 2-27, on page 23) satisfies the documentation requirement.

Note: Chapter 484, statutes of 2013 (AB 2364) altered servicing requirements in the Code of Civil Procedure for Bank Levy and Garnishments. When levying an account, the tax collector should try to adjust their service to work within the confines of Chapter 484 to alleviate confusion by levying departments in the bank.

Pursuant to the Code of Civil Procedure (Code Civ. Proc.) section 684.115(a), “A financial institution may, and if it has more than nine branches or offices at which it conducts its business within this state, shall, designate one or more central locations for service of legal process within this state. Each designated location shall be referred to as a ‘central location.’ If a financial institution elects or is required to designate a central location for service of legal process, the financial institution shall file a notice of its designation with the Department of Financial Institutions.”

The Code of Civil Procedure section 684.115(b) states, “Should a financial institution required to designate a central location fail to do so, each branch of that institution located in this state shall be deemed to be a central location at which service of legal process may be made, and all of the institution’s branches or offices located within this state shall be deemed to be a branch or office covered by central process.”

In accordance with the Code of Civil Procedure section 684.115 (e)(1) the Department of Business Oversight shall within 10 business days reflect a filing or a modification or revocation on its website, http://www.dbo.ca.gov/Laws_&_Regs/legislation/service_of_legal_process/.

Note: Should the notice be sent to the branch of an assessee, not designated as the central location, it will not be effective, unless the financial institution, in its absolute discretion, elects to act upon the request (unless the bank failed to properly designate a central branch (Financial Code § 1620)). If they elect not to act, the bank or credit union **may** send a notice informing the tax collector that the process was not properly served, and include the appropriate address (Code Civ. Proc., § 684.115).

Preliminary Procedures

Verify whether any bankruptcies are associated with the individual or business entity slated for a bank account levy.

- If a bankruptcy exists, or at any time during the levy becomes known, cease all collection activity and refer the account to your office’s bankruptcy specialist for further action; or
- If there is no bankruptcy, proceed to Locate the Individual’s/Business’ Bank Account, below.

Locate the Individual’s/Business’ Bank Account

Step 1: Researching the tax collector's database to locate an assessee's prior payment of taxes may be helpful in obtaining a current bank account number.

In addition, reviewing the county treasurer's archived check deposit records may also provide account number information for any assessee (individual or business) that has made payments to another county department.

Note: The bank checking and/or savings account numbers are not required to seize an account. If the account number is unknown, enter "Any & All" for the account number and include as much identifying information as possible (SSN, FEIN, Taxpayer Home and/or Business Address, etc.). This will assist the bank in locating an account and verifying that it is the correct taxpayer's account for seizure.

Step 2: If you were unsuccessful in locating the taxpayer bank account, you can still attempt seizure. Begin by serving banks that are near the taxpayer's home and/or business.

- Check the Internet via search engine (Google, Bing, MSN, etc.) for "Banks near (taxpayer address)." This will produce banks in the area by distance from taxpayer's address.

Under the "permissible purpose" clause of Title 15 United States Code section 1681(b), you may consider using locator options to find the assessee including those listed below.

Statewide Property Ownership Locator Resources:

- DataQuick; and
- Real Quest.

Individual Assessee Locator Resources:

- Infoquest;
- Accurint;
- Court records; and
- DMV records (best for ownership records/ lienholder information of vessels and boats).

Step 3: Compile a list of all banks and credit unions within the vicinity of the assessee addresses determined from above.

Step 4: Proceed to Seize the Bank Accounts, below.

Seize the Bank Accounts

Step 1: Complete a *Seizure Notice for Taxes* (SCO 2-27, on page 23) for each bank or credit union you determine may have an account of the assessee. Include the following information:

Pertinent Information:

- Date;
- Assessee name and address, including associated DBA names;
- FEIN or SSN, if available;
- Addresses; and
- Demand statement and statutory authority.

Billing Breakdown:

- Taxes owed;
- Initial 10% penalty calculation amount;
- Monthly 1.5% penalty calculation amount; and
- Collection fee;
- Release fee;
- Recording fee;
- Less payments; and
- Total taxes due.

Process Explanation Information:

- Information to show intentions/actions in complying;
- Penalty of perjury statement; and
- Signature line and date.

Step 2: Deliver a completed seizure notice to the **central location** of all banks and credit unions associated with the assessee's name.

Note: Banks and credit unions will provide any of the following account information:

- Active and funded account(s) exist, and that will be frozen.
- An account that is a joint account, of which one is not a debtor.
- No account(s) exist.
- The account has been inactivated.
- There are no funds to seize.

Step 3: Proceed according to the following scenario:

- Active account, proceed to Step 5; or
- No account, inactivated account, or no funds: end of procedure. You may elect to seek alternative collection actions outlined in the various volumes of the Unsecured Property Tax Collection manual.

Step 4: The financial institution is required to complete the notification requirements in 10 business days or less. For the notification process, the financial institution sends a notice to the assessee informing him or her that his or her assets have been frozen. Once the 10 business days have passed, the financial institution will release funds to the tax collector.

Note: The financial institution may charge fees for any internal-seizure-processing costs.

- Step 5: OPTIONAL:** After receiving confirmation of receipt of the seizure notices from the contacted institutions, the tax collector's office may elect to send the assessee a copy of the seizure notice as a means to motivate direct payment from the assessee.
- Step 6:** Proceed to Release of Bank Account Levy, on page 24.

(Tax collector's letterhead)

SEIZURE NOTICE FOR TAXES

RE:

Date:

Assesses Name(s)
FEIN or SSN
Address
City, State, Zip

Acct No.

You are hereby notified that, pursuant to sections 2902, 2903, 2921.5, 2922, and sections 2951 through 2963 of the Revenue and Taxation Code of California, I hereby seize, on this date, all money, funds, cash, savings, checking accounts, and bank deposits now in your possession and belonging to the above-named taxpayer(s).

Note: Penal Code section 428 states: "Every person who willfully obstructs or hinders any public officer from collecting any revenue, taxes, or other sums of money in which the people of this State are interested, and which such officer is by law empowered to collect, is guilty of a misdemeanor."

AS SUCH, PURSUANT TO CALIFORNIA CODE, YOU ARE ORDERED TO TRANSFER FUNDS TO THE TAX COLLECTOR FORTHWITH. Please make the check or money order payable to the _____ County Tax Collector. The total amount due, including costs, is stated below:

Base Tax
10% Penalty
1.5% Monthly Penalty*
Seizure/Collection/Release Fee
Recording Fee
Less Payments
Total Taxes Currently Due

*An additional 1.5% penalty will be added the first day of each month until paid

Enclosed please find check in the amount of \$ _____ for payment of the above seizure.

No account found No funds to remit Account closed prior to seizure request Other

I hereby certify under penalty of perjury that the foregoing is true and correct.

Signature and Printed Name Title Phone () Dated

Seizure Notice for Taxes SCO 2-27 (10-15)

Release of Bank Account Levy

On occasion, an assessee may complete payment on unsecured taxes owed (or the assessor cancels a tax bill) **after** a bank levy has been initiated.

Step 1: Do one of the following:

- If the payment is completed or is no longer owed, proceed to Step 2.
- If no payment is made, proceed to Receipt of Funds from Bank, below.

Step 2: Confirm that the bill has been canceled or payment has been made with good funds.

Note: It is recommended that you accept payment only by cash or money order. Refrain from accepting credit cards so that your office may avoid potential charge-backs.

Step 3: Fax a *Release of Seizure for Taxes* (SCO 2-28, on page 26) letter to each bank or credit union from which you received confirmation of assets being frozen. The letter should contain the following information:

- Date of letter;
- Bank name and address;
- Assessee name and address;
- Account number, if available;
- Dollar amount requested for seizure;
- Statement informing release of seizure request; and
- Date that the release of seizure was made.

Receipt of Funds from Bank

Step 1: Upon receipt of funds from the bank:

- If the funds have been seized pursuant to Revenue and Taxation Code section 2953.1 (Jeopardy Seizure), proceed to *Unsecured Property Tax Collection Manual, Volume III, Chapter 1, Section D, Determination of a Jeopardy Seizure Protest*; or
- If the funds seized are for taxes already delinquent, proceed to Step 2.

Note: Retain a copy of the receipt-of-mail notices from the financial institution and assessee.

Step 2: You may elect to do either of the following:

- Apply the funds toward the taxes due; or
- Record and hold the funds and offer the assessee an administrative hearing.

Note: An administrative hearing for accounts or related monetary instruments seized for delinquent taxes is not required.

Step 3: Do one of the following:

- If you apply the funds toward the taxes due without offering an administrative hearing, this procedure is complete; or
- If you choose to offer the assessee an administrative hearing, proceed to *Unsecured Property Tax Collection Manual, Volume III, Chapter 5, Section A, Preliminary Actions – Scheduling and Noticing*.

(Tax collector's letterhead)

RELEASE OF SEIZURE FOR TAXES

Date:

Bank Name

Bank Address

Attn:

Subject: _____ County Treasurer and Tax Collector Bank Account Seizure

Dear _____,

This letter is to notify you that the _____ County Treasurer and Tax Collector's Office is herewith releasing its seizure in the amount of \$_____, dated on _____, and duly served against the account of:

Assessee Name
Assessee Address
Account Number (if available)

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me at _____.

Sincerely,

Treasurer and Tax Collector

Signee Title

Release of Seizure for Taxes SCO 2-28 (10-15)

Section 5: Till Tap/Keeper's Levy

Background

The till tap levy and keeper's levy are collection techniques that involve seizing money and/or tangible items at the business premise.

These types of levies are most effective on retail-type businesses that maintain a cash drawer (or register) and conduct over-the-counter sales. Examples of retail-type businesses include restaurants, boutiques, and convenience stores, as well as nomadic or seasonal businesses such as carnivals and ski resorts.

Additionally, there are several variations to the till tap levy and keeper's levy collection techniques, depending on the circumstance of the individual business, that could involve taking inventory of the business equipment and other tangible assets, as well as guarding against removal of these items.

In some instances, law enforcement may be more appropriate for executing these types of collection techniques than county tax collector staff. However, when involving law enforcement, additional court documents may be required, delaying initiation of the collection effort and possibly requiring additional upfront costs.

Definitions

- A till tap levy is a collection action whereby a collection agent enters a business and takes cash and checks out of the cash register.
- A keeper's levy is a collection action whereby a collection agent is situated at the business for a specified amount of time to collect money as it is paid to the business. This can also include inventorying fixed assets and preventing any removal of them without a payment transaction.

General Process

For a till tap levy collection, an officer of the tax collector's office or law enforcement officer serves appropriate documentation (either a certificate of lien or a writ process) on the owner or responsible party of the business (judgment debtor or debtor's agent), explains the purpose of the levy, and then removes the cash and checks (checks should be signed over to the collecting officer – law enforcement officers usually have a stamp), found in the cash register or safe. Once the money is removed, the collection is concluded. If a new till tap must be conducted, even if it is the result of the business being closed in response to the collection effort, the process must be re-initiated.

Note: The levy instructions must include the exact name of the judgment debtor's business and address.

For a keeper's levy, the keeper (or Sheriff's Keeper, a civilian employee of the Sheriff's office) is placed in a debtor-owned business to collect money resulting from sales and transactions. During the keeper period, the business may continue to operate, provided all sales are final and are for cash or its equivalent (i.e., checks). Keepers are customarily installed for periods of 4, 12, or 24 hours per day. Many counties will provide creditors with instruction forms specifically designed for keeper levies. Use the *Levy Upon Debtor's Going Business* (SCO 2-29, on page 31) form with this type of levy.

Initial Procedures: Profile of the Business

Step 1: Determine the following information about the business; doing so may require inconspicuously contacting or visiting the business:

- Hours of operation;
- Hours of highest volume of transaction within the business; and
- Whether the business maintains a cash till.

Step 2: Determine whether the business is high-profile and engages in large-volume public traffic or is low-profile and somewhat light in public traffic.

- If a low-profile business with very little public traffic, the tax collector or appropriate staff may be sufficient to execute the collection action. Proceed to Collection by the Tax Collector Officer below.

Note: As with any effort to collect from recalcitrant taxpayers, consider the potential risks for the tax collector staff in trying to enforce collection at a business premises and plan accordingly.

- If a high-profile business with significant public traffic, it may be prudent to solicit law enforcement to execute the collection action. Proceed to Collection by Law Enforcement, on page 29.

Step 3: Calculate and estimate the total collection amount and take one of the following actions:

- If the amount owed is relatively small, to the degree that the business may have the funds available for immediate collection, initiate the till tap levy procedure.
- If the amount owed is such that the business may not have the funds available for immediate collection, initiate a keeper's levy procedure.

Collection by the Tax Collector Officer

Step 1: Determine the date and hour for till-tapping the business.

Step 2: Schedule two or three staff members to administer the till tap.

Step 3: Upon arrival at the business, identify the owner and present her/him with the seizure documents.

Step 4: Announce your collection intentions: either till tap or keeper's levy.

Step 5: Collect the cash and checks. For checks, request that the owner endorse the checks over to your office.

Note: If you are collecting checks and the owner refuses to endorse them, you may inform the owner that property seizure will be promptly initiated, with the first action being to close the business.

Step 6: Upon collection of the total amount, provide the owner with documentation detailing that the taxes paid have been paid in full. This procedure is complete.

Collection by Law Enforcement

- Step 1:** Obtain a Summary Judgment and Writ of Attachment from the courts. Refer to *Unsecured Property Tax Collection Manual, Volume II: Court Documents* for respective procedures and sample forms.
- Step 2:** Upon receipt of the Writ of Attachment, complete the *Levy Upon Debtor's Going Business* form (SCO 2-29, on page 31).

Note: Contact your local sheriff's department to determine any specific guidelines or forms they may require.

General Information Section

- Name of the County;
- Name of Plaintiff – The Tax Collector; and
- Name of Defendant(s) – The taxpayer owing taxes.

Section I (Property)

This section directs the method of collection: either a till tap or keeper's levy. Check one of the following boxes:

- Conduct "Till Tap" Only;
- Place A Keeper (for taking of cash/checks from sale transactions); and
- Place A Keeper (for taking of cash/checks from sale transactions and tangible personal property).

Section II (Keeper Period)

This section describes the duration (in hours) of the Keeper's installation in the business. Check one of the following boxes:

- 4;
- 12; or
- 24.

Section III (Business Information)

- Name of Business;

Note: The law enforcement officer cannot enforce a writ that does not list the debtor's legal entity. A "DBA" (doing business as) is not a legal entity. For example, A-1 Auto DBA A-1 Auto Parts does not list the legal entity. But, A-1 Auto, a corporation, DBA A-1 Auto Parts is acceptable.

- Business Address;
- Business Hours;

- Amount to Collect (Not including Levy Costs);
- Signature of Attorney;
- Date;
- Printed Name; and
- Telephone and fax Number.

Step 3: Present the *Levy Upon Debtor's Going Business* and *Writ of Attachment* to the law enforcement officer. The Writ is valid for six months after issuance from the court (Code Civ. Proc., §712.010).

Step 4: Upon receipt of the money from the law enforcement officer, prepare a payment received letter and send to the owner. This procedure is complete.

Levy Upon Debtor's Going Business

INSTRUCTIONS TO THE SHERIFF OF THE COUNTY OF _____

The Sheriff must have written, signed instructions by the attorney for the creditor, or the creditor if he / she has no attorney in accordance with the Code of Civil Procedure 262; 687.010.

_____ vs. _____ Case No. _____
 Plaintiff Defendant

If the writ contains multiple debtors, please indicate which debtor (s) is the owner of the going business:

SECTION I (Property)

YOU ARE INSTRUCTED TO LEVY ON THE JUDGMENT DEBTOR'S BUSINESS AS FOLLOWS:

(check only one box)

1. **CONDUCT "TILL TAP" ONLY** by taking immediate custody of CASH/CHECK PROCEEDS FROM SALES ONLY from the cash register or usual money receptacle at the business. (Section II below not required for this action)
2. **PLACE A KEEPER** in the judgment debtor's business for the period of time indicated in Section II (below), for the purpose of taking custody of CASH / CHECK PROCEEDS FROM SALES ONLY pursuant to Section 700.070(c) of the Code Civ. Proc.
3. **PLACE A KEEPER** in the judgment debtor's business for the period of time indicated in Section II (below), for the purpose of taking custody of CASH/CHECK PROCEEDS FROM SALES AND TANGIBLE PERSONAL PROPERTY in the manner prescribed by the law. At the end of the keeper period, or if, pursuant to the Code Civ. Proc. 700.070(b)(1), the judgment debtor objects to the placement of the keeper (check only one of the boxes below – A or B)
 - A. Seize all cash and checks, release all other tangible property, release the keeper and leave.
 - B. Seize cash and checks, inventory, move, store, and sell tangible personal property as directed by the judgment creditor, in the manner prescribed by law. NOTE: A minimum deposit of \$_____ is required pending further quotation. Pursuant to 685.100 of the Code Civ. Proc., the levying officer will not take exclusive custody of property unless the judgment creditor has deposited sufficient sum of money to pay costs of moving and storage.

SECTION II (Keeper Period)

THE KEEPER IS TO BE INSTALLED IN THE BUSINESS FOR A PERIOD OF:

(check one box only)

4 12 24 hours each day for _____ day (s).

SECTION III (Business information)

_____/_____/_____

Name of Business/ Address/ City

Business hours are _____ a.m. to _____ p.m., Days closed _____

NOTICE: ALL COMMUNICATIONS, REFUNDS, AND COLLECTIONS WILL BE MADE TO THE NAME AND ADDRESS LISTED BELOW: (Please Print)

Accept \$ _____ plus levy costs and interest to satisfy this case.

 Signature of attorney (or creditor without an attorney)

 Date

 PRINT Name and Address of attorney (or creditor without an attorney)

TEL () _____ EXT. _____ FAX () _____

APPENDICES

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Index of Volume V Forms

Following is a list of SCO forms relevant to the preparation and execution of preliminary unsecured collection processes as detailed in this manual.

Form #		Page
SCO 2-24	Bulk Sale Notice to Creditors	7
SCO 2-25	Estimated Taxes Due Claim Letter	8
SCO 2-26	Notice of Intent to Hold Liquor License	12
SCO 2-16	Liquor License Hold Request.....	14
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SCO 2-27	Seizure Notice for Taxes	23
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To view an electronic copy of this volume visit:
http://www.sco.ca.gov/ardtax_unsecured_proptax_collection_manual.html

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