

Collection Compliance Manual

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Chapter 1 Using the Manual

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The Compliance Manual is intended as a guide to the various legal issues, policies and processes with which compliance personnel need to be familiar to perform their duties as a part of the Collection team.

Navigating through the manual

Using the manual is easy once you become familiar with the navigation tools.

The table of contents is at the top. Click the title's link to jump to any of the chapters in the manual. At the beginning of each chapter (top of the page) are hyperlinks to section headings within the chapter.

Idaho Code Sections and Administrative Rules

Code sections and administrative rules references have been included at the beginning of the chapter. Not only does this make it easier to find the law behind the process, but also helps to show which processes are based on Idaho Code and which are internal administrative processes.

Links to Referenced Sections and Appendices

There are links cross-referencing chapters, sections and appendices to help you find information and resources.

Links to Helpful Internet Sites

There are a number of references to websites that may provide useful information. Click the hyperlink to visit that site.

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Chapter 2 The Mission of the State Tax Commission and Collection Division

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The Mission of the State Tax Commission

Philosophy

The administration of tax laws is a challenging and sometimes controversial responsibility. Recognizing this, we decided to complement our mission with a tax administration philosophy that emphasizes our dedication to providing quality public service.

Drawn from our goals and mission, our philosophy represents the fundamental beliefs that shape the Tax Commission's approach to policy and operations. Above all, it represents our commitment to **service**, **equity**, and **value**.

Service

- **Commitment to High Standards of Service.** We are committed to raising the standards of tax administration by providing professional, courteous, timely, accurate, and efficient service to taxpayers as they try to voluntarily comply with Idaho's tax laws. We want to make it easy to do business with us. We will think in terms of "Return on Value" for Idaho's taxpayers, asking ourselves how each initiative saves time and effort for our citizens.
- **Commitment to Helping Taxpayers.** We will improve our efforts to educate taxpayers about their tax responsibilities under the law. We will provide more and better service by continually streamlining our tax administration system. We will continue our outreach efforts to improve the exchange of information with stakeholders.

Equity

- **Commitment to Fair and Impartial Administration and Enforcement.** We are committed to administering Idaho's tax laws fairly, equitably, and impartially. We will minimize noncompliance and fairly enforce compliance with tax laws.
- **Commitment to Honesty and Integrity.** To retain the confidence of Idaho's taxpayers, we will display honesty and integrity in all dealings with taxpayers and avoid any situation or action which could result in the slightest perception of unfair practices or questionable behavior.

Value

- **Commitment to Employees and the Services They Provide.** We will attract, train and maintain the quality work force we need to instill public confidence and reach our goals for improved service to taxpayers. We recognize that our employees are our greatest asset, and they should be encouraged and empowered to use their creativity and resourcefulness in fulfilling our mission.
- **Commitment to Use Progressive Management Practices.** We will continually search for innovative management strategies, including privatization, to streamline our operations, improve internal processes, and provide citizens with the highest value for their tax dollars.

Mission

To provide courteous, quality services and to administer the state's tax laws in a fair, timely, and cost-effective manner to benefit Idaho and its citizens.

Vision

The Tax Commission will inspire public confidence through innovative service delivery, courteous professional conduct, and fairness in tax administration.

To make this vision a reality, we will:

Promote voluntary compliance.

- Employees contribute to voluntary compliance in their daily contact with taxpayers by being responsive, courteous, and respectful.
- Employees should identify problematic rules and laws and communicate them to management so our executive and legislative branches can consider changes.
- Formalize our business practices and communicate them to the rest of the agency.

Make it easy for the public to understand Idaho taxes.

- Employees are expected to make suggestions to ensure all tax returns, instructions, publications, and Web-based information are as simple and clear as possible.
- Employees should identify problems that will allow the Commission to focus training and outreach in the most critical areas.

Make the best use of Tax Commission resources.

- Each work unit should periodically review and change its operations to avoid duplication and wasted time and effort.
- Employees are encouraged to:
 - Consider how their actions impact others in the agency
 - Communicate changes
 - Be flexible and adaptable in the workplace
 - Use technology wisely; be sure the process is best served by automation
- Employees have a responsibility to seek growth opportunities, to foster teamwork, to share their skills and ideas, and to treat one another with respect.

Make our tax administration equitable.

If taxpayers do not comply, employees will work with them to bring them into compliance.

Employees will:

- Interpret and apply tax laws and rules consistently
- Problem-solve and produce timely, accurate results
- Treat all taxpayers in an impartial and fair manner

Key External Factors

- Population growth and Idaho's changing economy.
- The pace and cost of technological change.
- Increasing complexity of administrative procedures resulting from the mandates of other agencies, court decisions, or legislation.
- Changes in federal tax legislation that would have extensive effects on state tax statutes.
- The "New Economy" – more global than local – challenges our traditional tax structure.

Collection Division

Mission Statement:

Collection Division is committed to administering Idaho tax laws, rules, and policies to promote compliance in a fair and equitable manner, while providing excellent customer service to the taxpayers of Idaho.

Vision Statement:

- **Collect taxes that are due to the state of Idaho per Idaho code.**
- **Ensure consistency, equity, and professionalism through the collection process to ensure fair and equitable treatment of taxpayers.**
- **Provide excellent taxpayer service through education, training, and outreach.**
- **Partner with agency business units to enhance internal services and services to the public.**
- **Make data driven business decisions to be in line with the Strategic Plan.**

Strategic Goal #1: Administer tax law and develop rules and polices that promote fairness, consistency, compliance, security, and public confidence.

To collect unpaid taxes, administer tax laws, promote voluntarily compliance, and ensure we treat all taxpayers in a fair, consistent, and equitable manner to promote public confidence.

Strategic Goal #2: Promote and model behaviors that result in a high quality work force that takes pride in its work and the agency.

Optimize support and resources to staff and management to retain a high quality work force.

Strategic Goal #3: Seek and implement efficient operations within the agency to support our mission.

Prioritize caseloads to produce the greatest return on investment while operating efficiently and effectively to ensure that we are educating the taxpayers along the way.

Strategic Goal #4: Expand and enhance how the agency thinks about, maintains, and uses data to form internal and external decision making.

Collect data that will help us become more effective, efficient, and assist us in providing excellent taxpayer service.

[Tax Commission Strategic Plan FY 2016 - 2020](#)

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Chapter 3 Employee Codes of Conduct

[Standards of Professional Conduct](#) | [Taxpayer Bill of Rights](#) | [The Tax Collection Way](#)

- See the **Personnel Administrative Policies and Procedures Manual on Tax Insider** for more information on the **Code of Ethics and Professional Conduct** and required standards.
- A Code of Ethics titled the **Tax Collection Way** is specific to the **Collection Division**.
 - You are required to read and understand this information.
- Violation of these standards may lead to suspension, demotion or other personnel action.
- Employees and their immediate family are prohibited from bidding on any items seized by the Tax Commission.

Standards of Professional Conduct

The state of Idaho expects its employees to meet the highest standards of professional and ethical conduct. Since the State Tax Commission is charged with the responsibility of enforcing the complex and often unpopular tax laws of the state, Commission employees must be especially aware of the need to constantly meet these standards.

A Code of Ethical Conduct for all employees of the state was promulgated by Governor Cecil D. Andrus on February 1, 1988. It continues to be in effect and applies to all Tax Commission employees and is now included as part of the Personnel Manual.

Because Governor Andrus's order was directed to all state employees, it is necessary that the Commission provide its own guideline to supplement the Order as it applies to the particular circumstances commonly faced by Tax Commission employees, which is covered in this chapter. Additionally, guidelines for conduct relating to special problems such as confidentiality of taxpayer information are discussed.

Taxpayer Bill of Rights

The 1993 Idaho Legislature adopted SB 1123, Taxpayers' Bill of Rights, as Idaho Code with an effective date of January 1, 1994. This bill sets out all standards to be followed by compliance personnel in attempting to collect debts from taxpayers.

It is found in [Idaho Code Title 63 Chapter 40](#)

The Tax Collection Way

Integrity is essential to our success. The principles that shape this Code of Conduct and Ethics are the same ones we must demonstrate every day in our work. Our core values of Excellent Quality, Respect, Integrity, Ethical Conduct, and Lawful Conduct are all at the heart of a philosophy we call "The Tax Collection Way". The Tax Collection Way is a promise that we will:

Treat all taxpayers fairly and equitably

- Deliver what we promise
- Speak the truth
- Respect all people
- Obey the law

No matter where we work, we are representatives of the Tax Commission and our conduct represents the agency and the Collection Division. We understand the importance of our values and ensure that our daily actions reflect our high ethical standards and our commitment to excellent quality in all we do. This is true even when others may take actions that violate our ethical principles. We will not compromise our standards for any reason.

If we ever have a question, we take the extra steps needed to find the right answer by reading the collection manuals, reviewing statutes and rules, talking with coworkers, or seeking advice from any of our supervisors or managers. We understand that there are multiple resources to help us find answers.

As Tax Commission collectors, we must always act with integrity. We owe that to ourselves, our stakeholders, our taxpayers, and to others who depend on the reliability of our people and information.

Core Values:

Quality

- We deliver excellent service to our stakeholders.

Respect

- We treat coworkers, taxpayers, and all people with respect at all times.
- We protect Division assets and use them wisely.

Integrity and Ethical Conduct

- We honor our commitments.
- We are truthful in our communications and records.
- We avoid conflicts of interest; even the appearance of improper influence.
- We are always fair and impartial.
- We adhere to the highest standards of integrity in our relationships with our stakeholders, our taxpayers, and colleagues in the workplace.

Lawful Conduct

- We comply with both the letter and the spirit of all applicable laws, and the Taxpayer Bill of Rights.

	<ul style="list-style-type: none">• When compliance personnel are engaged in conducting business on the premises of a taxpayer, all political activity or appearance of political activity is prohibited.• Any employee whose conduct does not conform to these rules may be subject to disciplinary action to include separation from employment as well as potential criminal liability.
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Chapter 4 The Structure and Functions of the Collection Division

[Collection Division Management Support](#) | [CCB Administrative Support Unit](#) | [CCB Bankruptcy Unit](#) | [CCB Phone Power](#) | [FCB Tax Compliance Unit 1 and Unit 2](#) | [FCB Compliance Officer](#) | [Field Offices](#) | [Organization Chart](#)

Collection Division Managers

Division Administrator is responsible for the Collection Division.
Bureau Chief – CCB is responsible for the Central Collection Bureau.

Bureau Chief – FCB is responsible for the Field Collection Bureau and is the liaison between collection staff and the legal department.

Field Office Managers manage the field offices.

Tax Compliance Program Specialist is responsible for the temporary permits program.

Collection Division Management Support

Tax Automated System Specialist is responsible for the development, implementation and modification of automated systems.

Business Analyst analyzes, plans and coordinates the automated system modifications and supervises the TASS team.

Research Analyst performs qualitative and quantitative research involving data collection, data preparation and preliminary analysis.

CCB Administrative Support Unit

This unit is located in Boise and is supervised by the **Program Specialist**. They provide the administrative activities relating to liens, the Treasury Offset Program, refund seizures, electronic payment arrangements, and payment processing.

CCB Bankruptcy Unit

This unit is supervised by the **Program Specialist**. They review bankruptcy filings, file claims, process money received from trustees, review liabilities for discharge, and perform all other functions in connection with bankruptcy.

CCB Phone Power

This unit is supervised by the **Program Specialist**. The Technical Records Specialists in Phone Power work collection cases through a Predictive Dialer System. Uncollectible accounts are handled in this unit.

FCB Tax Compliance Unit 1 and Unit 2

This unit is supervised by two **Program Specialists**. The Tax Compliance Technicians (Techs) work all permit-based and income tax accounts.

FCB Compliance Officer

Compliance officers are supervised by their respective **Field Office Manager**. The Compliance Officers conduct field visits to collect on collection cases of all tax types. Compliance Officer 2 and Compliance Officer 3 work progressively more difficult cases.

Field Offices

There are six field offices in the Collection Division. Field offices are located in Boise, Coeur D'Alene, Lewiston, Idaho Falls, Pocatello, and Twin Falls. Each location deals with taxpayer services, compliance/enforcement activities, and audit functions to serve their local areas.

[Office hours and locations](#)

Organization Chart

[Collection Administration Org Chart](#)

[Field Collection Org Chart](#)

[Central Collection Org Chart](#)

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Chapter 5 Overview of Tax Types, Identification Numbers, and Business Entities

Tax Types and Tax Codes

Tax codes identify the type of tax in GenTax.

Tax Type	Tax Code
Individual Income Tax	01
Business Income Tax	05
Unclaimed Property*	06
Sales and Use Tax	08
Withholding Tax	09
Estate Tax	10
Travel & Convention Tax	11
Greater Boise Auditorium District Tax	12
Tobacco Tax	13
Fuel Distributor Tax	14
Cigarette Tax	15
Beer Tax	16
Wine Tax	17
Mine License Tax	18
Kilowatt Hour Tax	19
International Fuels Tax	31
Amusement Device Tax	35
Nez Perce Tax*	38
E911 Fee	39
City of Ketchum Tax*	40

*No longer in use

Idaho allows cities and counties to create local option taxes. These taxes can be administered by the Tax Commission. Circuit Breaker does not have a tax type. These payments are processed through internal receipts.

Identification Numbers

To access account information you need to be familiar with the different types of identification numbers and in what circumstances they apply. These numbers are often referred to as "Taxpayer Identifications Numbers" (or "TINs"). The identification numbers used in the Tax Commission are as follows:

- Social Security Number (SSN):** This is a number assigned by the Social Security Administration to every individual that is a citizen of the United States. This number is used to identify individuals on their individual income tax returns. The first number listed on a return is considered the "Primary" SSN. On a joint return, the second number would be considered the "Secondary" SSN. SSNs are also used as the primary number for businesses operating as "Sole Proprietorships" that have tax permits for other than withholding tax.
- Individual Taxpayer Identification Number (ITIN):** This is a tax processing number issued by the Internal Revenue Service. It is a nine-digit number that always begins with the number nine. It is for tax reporting only and is not intended to serve any other purpose.
- Federal Employer Identification Number (FEIN or EIN):** This is a number issued by the Internal Revenue Service. EINs are issued to any business entity other than a sole proprietorship. These business entities file their Business Income Tax and permit tax returns using the EIN as the primary number. EINs are also issued to sole proprietorships that have employees.
- Pseudo Taxpayer/Employer Identification Number:** This number is issued by the Tax Commission when an actual SSN or EIN is not available or is invalid.
- Temporary Taxpayer/Employer Identification Number:** This number is issued by the Tax Commission when an actual or valid SSN or EIN is anticipated to be provided.
- Permit/Account Numbers:** These are numbers issued by the State Tax Commission when an individual or business applies for a tax permit. The number is a nine-digit number with a dash followed by a two digit number, which identifies the tax type. After taxpayers apply on-line or mail in an application, they are issued a certificate listing their permit number.
- Collection Case Number:** When a collection case is created it is assigned a number.

8. **Levy Case Number:** When a levy case is created it is assigned a number.

Business Entities

1. **Sole Proprietorship:** A sole proprietorship is a business owned by one individual. Because Idaho is a community property state, spouses are usually considered to be co-owners of the business for compliance purposes. To claim their income for income tax purposes, sole proprietors file an Idaho Form 40 Individual Income Tax form and a Schedule F or Schedule C to report their business profits or losses. Sole proprietors without employees can report their taxes, both for income taxes and permit-based taxes, using their Social Security number. Sole proprietors with employees must get an EIN number to report their withholding taxes.
2. **Partnership:** A partnership is a business owned by two or more individuals. It may consist of one or more "general" partners who are usually involved with the daily operation of the business, and one or more "limited" or "silent" partners whose involvement is usually limited to financial or technical contributions to the business. Partners are not considered employees of the business, but they sometimes elect to treat themselves as employees for withholding tax purposes. The partnership is considered to be a legal entity and must obtain a Federal Identification Number. Any profit or loss is "passed through to" or reported by the partners on their Individual Income Tax returns. Therefore, the Partnership itself does not pay income tax. However, partners who have not filed an Idaho Income Tax Form 43 can elect to have the Partnership pay tax on their share of the income on the Idaho Form 65, Partnership income Tax return that the partnership files. (Example: non-residents, with no Idaho source income except from pass through entities).
3. **Corporation:** A corporation is a legal entity separate from its officers and stockholders. Corporations must file "Articles of Incorporation" and "Annual Reports" with the Secretary of State to maintain their legal standing. There is no specific requirement as far as the number of officers that a corporation must have. Thus, it is not unusual to find a "one person" corporation, where one person serves as president, secretary, treasurer, etc., or a "husband and wife" corporation along the same lines. Corporate officers are usually considered employees of the corporation if they perform services for the corporation and are compensated for those services. Even though the one and two person corporations operate more like a proprietorship, they must be treated as corporations if they are properly registered with the Secretary of State. Corporations must obtain an EIN, under which they file an Idaho Form 41 Corporate Income Tax return and pay tax on corporate profits. This type of corporation is also sometimes referred to as a "C" corporation
4. **S Corporation:** An S corporation is similar to a regular corporation, in that it must be registered with the Secretary of State to maintain its legal entity status, but its income is handled differently for tax purposes. The income or loss of an S corporation is passed through to its shareholders, similar to a partnership. While they are required to file Form 41S corporation tax returns and may pay a "minimum tax", S corporations generally do not pay corporate income taxes. Individual shareholders who have not filed an Idaho Income Tax return form 43 can elect to have the Partnership pay tax on their share of the income on the Idaho Form 65, Partnership income Tax return that the partnership files. (Example: non-residents, with no Idaho source income except from pass through entities). Any profit or loss is "passed through to" or reported by the shareholders on their Individual Income Tax returns. Therefore, the S Corporation itself does not pay income tax outside of any "minimum tax" from filing the corporate return. S corporations must obtain an EIN.
5. **Limited Liability Company:** A Limited Liability Company (or LLC) is a company of one to an unlimited number of people who are referred to as either members or managing members. LLCs elect to be treated for income tax purposes as either a Sole Proprietorship, Partnership, S Corporation, or a Corporation. All LLCs must obtain an EIN. Those electing to be treated as Partnerships follow the same filing procedures as those for a Partnership. Those electing to be treated as Corporations follow Corporation filing requirements. Those electing to be treated as Sole Proprietorships follow Sole Proprietorship filing requirements. Please Note: If an LLC does not notify the Tax Commission of its tax classification at the time they complete their Idaho Business Registration (IBR), they default to a Corporation.
6. **Trust/Estate:** A trust or "estate of" relationship occurs when a trustee, which may be an individual or business, is managing the property and/or business affairs of another for that other's benefit. These relationships may be created by specific written agreement or court order. Trusts and estates may have an income tax filing requirement.
 - Estate tax returns must be filed no later than nine months after the date of death of the decedent, unless the personal representative has requested a six month extension of time to file from the IRS. An additional six month extension of time to file may be requested if the personal representative resides outside the United States.



- **Income tax liabilities from Partnership, Corporate, and Fiduciary returns are all considered to be business income taxes.**
- **A Partnership (single partner), S Corporation (single shareholder), or an LLC (single member) can elect to be treated as a Sole Proprietorship. A married couple can be a Sole Proprietorship.**

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Chapter 6 Collection Cases

[How Collection Cases are Created](#) | [Self-Assessed Liabilities- Real Debt](#) | [Estimated Debt and Assessments](#) | [Case Automation- How Bill Items Stage for Due Process](#) | [Collections Analytics Treatment Plan](#) | [Using Customer Relationship Manager \(CRM\) Notes](#) | [Closing a Collection Case](#)

A primary function of compliance personnel is to secure returns and collect delinquent taxes.

We use GenTax software to manage individual accounts and associated collection cases. Debt is automated through the due process and lien phases. Action on the account is logged. Once the liability is resolved, collection cases close automatically.

How Collection Cases are Created

A collection case automatically creates when a taxpayer owes money or hasn't filed a return. There are three debt types: Real Debt, Estimated Debt, and Audit assessed debt.

Taxpayers holding active permits are required to file returns semi-monthly, monthly, quarterly, semi-annually, or annually, depending upon their filing cycle, whether there is tax due or not. For permit-based taxes, GenTax sets up an expectation and creates a collection case when a return becomes overdue or unpaid.

Taxpayers who meet the filing requirements for either Individual Income Tax or Business Income Tax are required to file a return annually for each year they meet those filing requirements. GenTax does not create a collection case for unfiled income tax returns. Audit reviews income sources and may prepare provisional returns

Self-Assessed Liabilities- Real Debt

Self-assessed debt, or real debt, refers to any liability created through an action of the taxpayer. Common sources of real debt in collection involve taxpayers who file a signed tax return and do not pay it in full or pay it but their check is not honored by the bank. Interest due is also considered self-assessed.

A payroll withholding payment not honored is considered a self-assessed liability, with or without a Form 910.

Estimated Debt and Assessments

The Tax Commission can estimate a tax liability for any required returns which a taxpayer has neglected to file. After the protest period has expired, the debt becomes a hardened assessment. In addition, when a taxpayer owes penalty for a late pay or late filed return, the Tax Commission can assess that penalty.

Taxpayers holding active permits are required to file returns regularly, whether any tax is due or not, according to a schedule based on their tax filing history. If it is a new business, the filing frequency is based on an estimate of tax from their permit application. Some of the filing frequencies are seasonal, semi-monthly, monthly, quarterly, semi-annually, or annually. GenTax searches these return expectations and creates a tax estimate, and ultimately a collection case, when a return becomes overdue or remains unpaid. Unpermitted and temporary permit accounts do not have recurring return expectations. Their tax estimates must be manually entered. The due process is automated.

- **Due Process is discussed in detail in [Chapter 12](#)**

For income taxes, GenTax does not create a collection case for an unfiled return. Individual Income Tax (IIT) taxpayers are required file annually if their income surpasses the minimum filing requirement. IIT returns are due by April 15th for the previous calendar year.

Business Income Tax (BIT) taxpayers often have a minimum \$20 tax due. They can file for a calendar or fiscal year.

The Audit Division reviews information from many sources and may assess tax, penalty, and interest.

Case Automation- How Bill Items Stage for Due Process

Debt is defined at each period where a return was due. These specific pieces of debt are treated independently as a period bill items. GenTax moves these bill items move through stages automatically. Through this Due Process, a series of letters are sent which describe the nature of the debt, provide the taxpayer with a protest period, and foretell of a potential lien filing against the taxpayer if the debt is not addressed.

- For income tax liabilities a collection case will open when the NOD or CND is issued. [REDACTED] (Redacted pursuant to 74-107(1)(b))
- Permit liabilities on self-assessed taxes will create a collection case and issue a statement three to five working days after they post to GenTax. Due process letters and staging will follow the same automated billing process as Income Tax.
- Permit nonfiler bill items will create a collection case or add to an existing collection case and generate an estimated balance [REDACTED]. (Redacted pursuant to 74-107(1)(b). If we do not receive actual returns, an estimated NOD is issued.

- [Automated Due Process and Bill Item Staging Chart](#)
- **For collections in the automated processing system, the stage will show the last letter sent. The staging date shows when the next automated letter is due.**

- **Special attention should always be given to the stage. If you are not familiar with the automated process and feel a stage should be changed, consult with your supervisor before initiating any changes.**
- **Special attention should also be given to the staging date to be aware of when the process will take place. For example, if you receive payment in full for the liability, and the account is staged to have a lien file the next day, you need to intervene or the lien will be filed. Processing based on staging dates can occur at any time during the day on the date that is set for staging.**

Collections Analytics Treatment Plan

The Analytics Treatment Plan is a program in which data is analyzed to measure the difficulty and collectability of a collection case. The predictive software determines which level of collection the case should be assigned to.

Using Customer Relationship Manager (CRM) Notes

Taxpayers interact with the Tax Commission at many points. It is essential that we document these contacts with taxpayers, the activity on their accounts, and particularly all collection action by entering complete and detailed CRM notes as they occur. CRMs show the history of taxpayer contact and may be entered in a multitude of locations within our tax software. Notes pertaining to a collection case must only be made within, and be visible from, the collection case. All notes must be factual.

An effective collection CRM note starts by choosing the most appropriate note type. To frame the context, begin the CRM by referencing the tax type and period. Follow with details of who you talked to in a visit or phone conversation. Be clear about promises they've made and the deadlines and advice you've given. If you sent or received an email, choose one of those note types. Make your note, then paste the complete email into the CRM.

Collection CRMs should be used by all collection staff to record our escalating collection efforts. Clear notes made by the case owner give them a recap of what has happened in the past and what steps or actions to take next. In their absence, a series of good notes can give a coworker enough information to assist a taxpayer over the phone or in person.

CRMs are used by supervisors in case reviews. Managers and Commissioners may review CRMs if there are customer service complaints or protest cases. CRMs are subject to disclosure under subpoena or taxpayer request.

- **Document everything of value in your CRMs. "If it's not in the notes, it didn't happen; likewise, if something is noted, it must be true!"**

Closing a Collection Case

GenTax will close resolved collection cases automatically overnight. Cases that do not close may have other unresolved issues that are not apparent. Contact your supervisor for assistance.

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Chapter 7 Contacting Taxpayers

[Methods of Contact](#) | [Taxpayer Bill of Rights](#) | [Collection Contact Guidelines](#) | [Confidential Information](#) | [Public Records Act](#)

- **Exceptions to contact guidelines can be found in Idaho Code Section [63-4003](#).**
- **Information on prohibited actions can be found in Idaho Code Section [63-4005](#).**
- **The statutes relating to confidentiality are Idaho Code Sections [63-3076](#) and [63-3077](#). These code sections are in the Income Tax Act, but apply to all other Tax Acts administered by the Commission.**
- **The statute relating to successor's liability is Idaho Code Section [63-3628](#).**
- **The statutes known as the Public Records Act are found in Idaho Code, [Title 74 Chapter 1](#).**
- **It is absolutely necessary that all compliance personnel read and understand the provisions of the Taxpayers' Bill of Rights [Idaho Code Title 63 Chapter 40](#).**
- **Remember you must have a [Power of Attorney \(POA\)](#) form on file in order to discuss account information with a third party.**

Methods of Contact

Taxpayers are generally contacted by telephone, written correspondence and personal contact.

Taxpayer Bill of Rights

The 1993 Idaho Legislature adopted SB 1123, Taxpayers' Bill of Rights, as Idaho Code with an effective date of January 1, 1994. This bill sets out all standards to be followed by compliance personnel in attempting to collect debts from taxpayers.

It can be found in [Idaho Code Title 63 Chapter 40](#).

Collection Contact Guidelines

1. Without knowledge of extenuating circumstances (like a specific request from a taxpayer), contact should not be made before 8:00 a.m. and after 9:00 p.m. local standard time for the taxpayer's location. This includes email.
2. If there is a power of attorney on file with the Tax Commission, we must abide by that directive.
3. A taxpayer may not be contacted at their place of employment if there is any reason to believe that the employer prohibits the taxpayer from receiving such communication. The taxpayer should also be advised that our inability to contact him or her will not cease collection efforts on our part.
4. The use of false, misleading, or deceptive representation by compliance personnel is strictly prohibited.
5. Compliance personnel may not engage in any conduct that would harass, oppress, or abuse the public. Advising the taxpayer of potential action on the part of the Tax Commission (liens, levies, seizures, etc.) does not constitute threats or harassment. If handled properly, they are considered statements of fact.
6. Every reasonable effort should be made so that compliance personnel are fully prepared before contacting the taxpayer. This includes reviewing all available information to ensure that your discussion with the taxpayer is as accurate, complete, and effective as possible.

Confidential Information

Much of the information that Commission personnel acquire in the course of performing their duties is confidential and must be treated as such.



- **Violation of confidentiality is a criminal act that can result in severe penalties for employees making unlawful disclosure.**

It is illegal to disclose any financial data or other information disclosed in a tax return, report, application, or acquired in the course of effecting compliance with Idaho tax laws to a third party. However, disclosure of whether or not a taxpayer is registered with the Tax Commission pursuant to registration or licensing laws is permitted. For example, whether a taxpayer has a valid sales tax permit, withholding permit, etc., may be disclosed. A "yes" or "no" answer should include a statement such as "Our records as of today indicate . . ." or similar words. **No expansion of the answer should be given.**

The confidential information provisions also allow disclosure of confidential information to third parties who have been authorized by the taxpayer to represent him or to receive such information. These third parties may include attorneys, accountants, assignees, grantors, or other persons named by the taxpayer in a signed Power of Attorney (POA) form or written statement, granting such person authority to act in his behalf or receive information.

Other persons may be authorized to receive confidential information by action of a court of law. Some examples would include a guardian or conservator, executor or personal representative of the taxpayer's estate, bankruptcy trustee, or court-appointed receiver. Commission personnel should request copies of court documents naming executors, conservators, or receivers before disclosing information to them. Compliance staff must also be careful not to discuss a case with a taxpayer in the presence of third parties without the taxpayer's permission. For example, when visiting a taxpayer at his place of business and other people are around, discreetly identify yourself and ask to speak with him privately. If he indicates that you should continue in the presence of third parties, do so, but continue to be discreet. Notate the circumstances in your collection notes.

Idaho also has exchange of information agreements with the Internal Revenue Service, member states of the Multistate Tax Commission and many other states, as well as other state agencies such as the Departments of Labor and Fish & Game. The [Government Liaison Specialist](#) has copies of the exchange of information agreements and can answer any questions about disclosing information to other agencies. In some cases, the information that can be provided is limited, and in most cases, only certain designated employees are allowed to give information to or receive information from these other entities, so compliance personnel must get approval from their supervisor before disclosing information.

Information contained in tax liens and court proceedings are public records, and as such may be discussed with a third party who normally would not be allowed to receive information. A common example would be providing a lien payoff amount to a title insurance company. Our discussion of liens with third parties should generally be limited to the payoff figure. If the inquiring party presses for additional information, they should be referred to the public record document itself. Court documents are usually on file at the county courthouse.

Enforcement of the Successor's Liability section of the Sales Tax Act also requires disclosure of information to a bona fide purchaser of an existing business. Upon receipt of a **Successors Liability Inquiry** form from the purchaser, and either a copy of an earnest money agreement or written permission to release information from the permit holder, the Commission may disclose to the purchaser any amount of sales or use tax that may be due under the Sales Tax Act. The release of any other information is not authorized without a Power of Attorney. All inquiries regarding successor's liability are handled by the Field Office Managers in the field offices and by the Technical Unit Supervisor in the Boise office. No information regarding the account will be released unless:

1. The party making the inquiry provides a copy of an earnest money agreement or similar document showing intent to purchase;
2. The party making the inquiry has a written release from the taxpayer; **or**
3. The amounts of the liability are liened, in which case you can release only the information contained in the lien.

Response must be made within 30 days.



- **Specific compliance procedures involving successor's liability can be found in [Chapter 17](#).**

Commission personnel are responsible for insuring that any information disclosed, other than public record information previously discussed, be given to persons authorized to receive it. Authorized persons may include the following:

Entity	Authorized Person, If Named on Application
Sole Proprietorship	The owner and the owner's spouse
Partnership	A Partner
Corporation	Directors, officers, controller, tax manager
Limited Liability Company	Members, managing members
Trust or Trustee	Fiduciary (trustee), bankruptcy trustee, trustee personal representatives

Other employees of the business known to be individuals with responsibility for preparing and filing tax returns or maintaining records, such as in-house accountants or bookkeepers, may generally be considered authorized employees for limited disclosures that may be necessary for conducting compliance activity. Outside bookkeepers, accountants or attorneys are not considered authorized to receive information without a POA form on file, unless they are shown on the permit holder's application form as being an authorized contact for the business.

Care must be taken in Identifying taxpayers when disclosing information. Review **Identifying Taxpayers and Preventing Disclosure for further information**.

Collection Division personnel may not speak to the news media concerning specific tax cases or compliance procedures without specific authorization from management. All such inquiries should be referred to the Public Information Officer in Boise. Any questions regarding disclosure should be directed to the supervisor.

Public Records Act

The Public Records Act opens all records of state agencies to public inspection, unless those records are specifically exempted. This means a taxpayer could request copies of any document relating to him, including those contained in a compliance file.

Records Request Policy

If a taxpayer comes to the front desk or makes a phone request for returns only, the **STC-06** form is to be used when the address is different from the address in GenTax or when the tax year is more than 5 years old. If the STC-06 form is used, add the image into the Customer manager. If the taxpayer presents their valid driver's license and the returns are available to be printed out of GenTax, the STC-06 form is not necessary.

You can give out the following information when **requested** by the taxpayer after proper identification. It doesn't matter if the driver's license or ID address matches the GenTax address if they appear in person. If they request by phone and the mailing address does not match GenTax, it has to be sent to the GenTax address or an STC-06 must be filled out. Do not offer or give them anything they do not specifically ask for.

- Collection letters they claim they have not received

- Copies of previously filed tax returns
- Copies of liens and lien release letters
- Copies of audit notices and letters (not audit crm notes)
- Copy of their account springboard or financial period detail screens to show the taxpayer how money is applied or missing returns
- W-2 and 1099 information from warehouse
- The entire "file" if they request it
- Federal transcripts if they request them
- CRM notes if they specifically ask for all "writing" or notes concerning them or their file/case
- Emails or other notes need to be given if requested

Be cautious about spouse information when dealing with divorced couples. Be sure to redact any information about the other party involved, unless it is part of the return itself.

If they are bringing information that is useful or beneficial to the file make a copy and image it into GenTax. Always be sure to make clear collection notes as to how the request was handled and what was provided.

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- **All employees should read and be familiar with the current policy relating to [public records request](#).**

Some important points to remember are:

1. Requests for public information require immediate attention. Under the law, the Tax Commission has a maximum of three days in which to grant the request, deny it, or request more time in which to respond.
2. Requests under the Public Records Act must be in writing.
3. Make no disclosure of information under the Public Records Act without specific permission from management and the Legal Department. Most requests will be answered from the administrative office.
4. When a public records request is received, immediately fax the request to the Government Liaison Specialist in the administrative office. If unsure of whether something is a request for public records or not, discuss the situation with a supervisor before responding or disclosing any information.

- 
- **Remember that anything put in writing could be requested and probably would have to be provided. Use discretion in all documentation to avoid any statements that could be viewed as defamatory, prejudicial, slanderous, or otherwise inappropriate in reference to the taxpayer involved. Stick to the facts.**

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Chapter 8 Returns

[Returns](#) | [Zero Returns](#) | [Return Due Dates](#) | [Extensions of Time for Income Tax](#) | [Penalty and Interest](#)

- Requirements of a valid tax return can be found in Administration and Enforcement Rule [150](#)
- Addition of penalty and interest is authorized by Idaho Code Sections [63-3045](#) and [63-3046](#) for income taxes and withholding tax, Idaho Code Sections [63-3632](#) and [63-3634](#) for sales tax, and Idaho Code Section [63-2442A](#) for IFTA
- When a negligence penalty can be assessed is found in Administration and Enforcement Rule [410](#)

- Information regarding fraud/intent to evade penalties is found in Administration and Enforcement Rule [420](#)

Returns

The Tax Commission processes hundreds of thousands of tax returns each year. Some returns are electronically filed. Many paper returns are processed and imaged by Revenue Operations (RO). It is important that we maintain the integrity of returns by sending any returns you receive to RO for processing and imaging. This guarantees the consistency of return information and images. It also ensures that any taxpayer correspondence triggered by the return is sent. Some exceptions to this include amended returns received after the statute has expired, temporary permits, and zero returns accepted over the phone.

Generally, when we obtain an amended return on an audit which is past the statute, we work with audit and ask that they review the return to see if it would have been accepted if it had been filed timely. If there is a credit to the taxpayer over the collection balance, the difference would be written off as a compliance adjustment. The amended return would be imaged as Return Information.

Temporary permits are manually entered and the returns are sent to RO to image.

A balance due from return information without a signature is not considered to be self-assessed. This debt must be assessed by the Tax Commission, therefore every effort should be made to secure a signed written document for no pay returns.



- Further information on assessing tax can be found in [Chapter 12](#)
- Information on retention guidelines can be found in [Chapter 39](#)

Zero Returns

A return with no information to report, due to no taxable activity occurring during the period, is called a “zero” return. This information can be provided by the taxpayer on a return or filed electronically.

EXAMPLE: If a taxpayer shows no sales made and no tax due on a sales tax return, this would be a zero return. If the taxpayer has only nontaxable sales in a period (no tax due) he would still be required to report them on a return. This does not constitute a zero return.

1. **Written/Email Correspondence:** A taxpayer can either send in his zero return, file electronically, or can send a letter or email stating that there were no sales made and no tax due for a certain period. Any written documentation should be retained, by attaching the image of the correspondence to the period as return information and making a CRM note, as justification for filing the zero returns.
2. **Telephone Conversation:** Compliance personnel may file zero returns based on telephone assurance from a taxpayer, or his specified representative, that there were no sales made and therefore no tax due. Be aware that there is a difference between not making any sales and not making any money. A single transaction would trigger them to report their sales on a return. Not making any money refers to making a profit or suffering a loss, and those items are addressed on an income tax return not a sales tax return. You must document in the collection notes who you spoke with, the periods concerned, and any other applicable information. If the taxpayer indicates that he can send returns for the periods, ask him to send them to your attention. If the taxpayer indicates that he does not have the returns, advise him that you will be filing the returns on his behalf.



- Accepting zero returns on hardened assessments are subject to your write off limits.
 - [Chapter 32](#) Ex Parte Settlement addresses hardened estimates
 - [Chapter 33](#) Delegations of Authority

Return Due Dates

1. Remittances delivered by hand:

- If the due date falls on any day other than a weekend or legal state holiday, a hand-delivered remittance is delinquent if received after the close of normal business hours on the legal due date.
- If the due date falls on a weekend or legal holiday, the remittance is considered timely if it is hand-delivered before the close of business on the next business day.

2. Remittances delivered by mail:

- If the due date falls on a business day, the remittance is timely if it is postmarked on or before the legal due date.
- If the due date falls on a weekend or legal holiday, the remittance is considered timely if it is postmarked before the close of business on the next business day.



- **Penalty may be waived for good reason, e.g. natural disasters, fire, sudden serious illness, death of a family member, etc. Car problems, forgetfulness, lack of funds, etc. are not valid reasons to waive penalty. More about abatement can be found in [Chapter 32](#)**

Below is a table showing due dates for our most common permit-based returns. For the complete table click this [link](#).

TYPE OF RETURN	DUE DATE
Sales tax and related tax types	20th of the month following the tax period being reported
IFTA returns	End of the month following the tax period being reported
Withholding Monthly Payment Voucher (Form 910)	20th of the month following the month being reported
Withholding Quarterly Payment Voucher (Form 910)	Last day of the month following the quarter being reported
Withholding Year-end Reconciliation Form (Form 967)	January 31 of the following year

**April 15 isn't set in stone**

Emancipation Day is a legal holiday in the District of Columbia which is celebrated on April 16. When it occurs on a weekend it is celebrated on the week day closest to the 16th, which may be Friday or Monday. Either way it conflicts with the April 15th deadline to file income taxes. The income tax filing date is moved to the Monday or Tuesday following April 15th.

Extensions of Time for Income Tax

Taxpayers filing income tax returns may be given an automatic six-month extension of time to file their returns. This extension gives the taxpayer until October 15 to file the return. In order to have a valid extension, the taxpayer must pay the lesser of:

1. 100% of the tax liability from the previous year by the original legal due date of the current year return, or
2. 80% of the tax liability for the current year being extended by the original legal due date of the return.



- **Extensions for income tax returns are extension of time to file ONLY. They are not extensions of time to pay. If the taxpayer does not follow the payment requirements above, he does not have a valid extension and normal penalty and interest apply.**

Penalty and Interest

Most late returns which have tax due are assessed penalty and interest. The exception to this is International Fuel Tax (IFTA) penalty, discussed below. In order to properly enforce and collect upon delinquent returns, you must have an understanding of how to compute the penalty and interest due.



- **In general, governmental entities should have penalty and interest computed or waived in the same manner and using the same considerations as any other entity.**

Penalty: Penalty is generally assessed in one of five forms: late file, late pay, negligence, fraud, and IFTA. Compliance staff deals mostly with late file, late pay, and IFTA penalties. Negligence and fraud penalties are assessed in connection with an audit. The explanations and examples of the types and amounts of penalties for income tax can be found in this [link](#). For all other tax types can be found in this link. Negligence, fraud, and IFTA penalties are explained below.

Negligence Penalty: This penalty occurs when a deficiency results from either negligence or disregard for state and/or federal tax laws. The amount of negligence penalty is 5% of the tax and can be assessed in addition to delinquency and no or part pay penalty.

Fraud/Intent to Evade Penalty: This penalty occurs with the approval of the Legal Department and is a blatant, intentional, and evidentiary disregard for the state and/or federal tax laws. The amount of fraud penalty is 50% of the tax. This penalty precludes the negligence penalty and cannot be assessed in addition to a negligence penalty.

IFTA Penalty: The International Fuels Tax Agreement provides for penalties of \$50.00 or 10% of the tax due, whichever is greater. This is a penalty on late filing and applies whether tax is due or not.

Interest: Idaho code provides that the [interest rate](#) charged by the State Tax Commission will be set annually by the Commission. The interest rate is determined by November 1st of each year for the succeeding calendar year. Interest applies to any delinquent, no pay or partially paid return, with the exception of zero returns and IFTA. Interest for a late IFTA return is calculated at 1% per month or portion thereof.

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Chapter 9 Temporary Sales Tax Permits and Promoter-Sponsored Events

[Issuing Temporary Permits](#) | [Collecting on Temporary Permits](#) | [Promoter-Sponsored Events](#) | [Exemption for Non-Profit Organizations](#).

- The Idaho Code Section authorizing the issuance of temporary sales tax permits is [63-3620](#).
- The Idaho Code Section relating to promoter-sponsored events is [63-3620C](#).

Temporary sales tax permits are designed to give infrequent retailers a simple way to remit sales taxes which they are required to collect from consumers. They are issued for a single event lasting less than 90 days, and limited to no more than three per taxpayer in a calendar year. Temporary permits are ideal for retailing residents or for out of state sellers at fairs, craft shows, firework stands, or organized non-exempt garage sales. They are also used for fixture sales, estate sales, and admissions to events.

They are not intended to be used on applications to obtain other permits or licenses (like a liquor license), or to be used in place of a regular SUT account. If a retailer is selling for a period of more than three months, needs a temporary permit more than three times a year, or is selling during the same time period every year (e.g. a produce stand), the taxpayer should be encouraged to obtain a regular sales tax permit.

Temporary sales tax permits are reconciled in Case Manager and in the temporary permit type sales & use tax accounts using Form 856. Compliance staff have varying levels of access in Case Manager. Everyone should have read-only access, at a minimum, to search the records.

Issuing Temporary Permits

Temporary permits can be obtained directly from the ISTC website by the taxpayer or through a TAX REP request. A temporary permit can be issued by calling an ISTC office, or can be issued by a compliance officer in the field. Also, promoters at retail events may be appointed to act as agents of ISTC to issue a temporary seller's permit to their retailer participants who have no other sales tax permit. Promoters should contact the Tax Commission well in advance to obtain an adequate supply of ST-124 forms.

There are three types of temporary permits that differ only slightly in how and from where they are issued:

- Field permits (FLD) are three-part, half page, permits issued by Tax Compliance Officers. When issuing field permits, be sure to capture all the information that the permit asks for. The tax is due within 15 days of the end of the event. Use the blank areas on the permit to notate vehicle information or other helpful data that might be used in a potential collection case. Also include your name somewhere on the permit. Give the colored copies to the taxpayer and the white top copy to the designated TSP worker in your office, for processing.
- The Web-generated [temporary seller's permit](#) (WEB) is a self-issued permit that taxpayers can retrieve online.
- ST-124's are the permit forms most frequently processed as temporary permits. They are available to Promoters, through the Tax Commission web portal, as a three part carbon-less paper form or as an electronic eST-124 link. Promoters must distribute the ST-124 to vendors at events. Refer to the [Promoter-Sponsored Event](#) section below for more info.

- **Compliance officers should always have a supply of field permits with them when they are doing field work. They should stop and talk to street vendors to check for sales tax permits, and to issue temporary permits if no sales tax permit has been obtained by the vendor.**

The definition of a retail sale and the percentage for sales tax is the same as for a regular sales tax permit. Taxpayers can also use their temporary permit number to buy items to place in a non-taxed inventory or to fabricate the items into a final product being sold at retail. If tax was paid at the original purchase of these items, there is a field on the temporary permit to claim a credit for

tax paid.

Collecting on Temporary Permits

Temporary permits generally have a due date of fifteen days after the closing sales date listed on the permit. When the permit becomes past due, collection proceeds in the same manner as regular sales tax accounts. Estimates for non-filed permits are manually assessed.

Bonds may be required from some temporary permit holders. See [Chapter 30](#) for more information.

Promoter-Sponsored Events

A promoter is someone who organizes a commercial event where retailers sell their products. A promoter-sponsored event such as a swap meet, flea market, gun show, fair; or any event where two or more retailers offer property and related services for sale or exchange; or the retailers pay a fee to the promoter or the general public is charged a fee for admission.

Any promoter of such an event is required by Idaho Code [63-3620C](#) to have each of the participants in the show complete an Idaho Sales Tax Declaration, Promoter-Sponsored Event Form ST-124. The promoter must submit copies of this form to the Tax Commission within ten days of the event. Promoters can take a \$1.00 tax credit for every temporary permit issued using the ST-124.

Promoters are not required to issue temporary permits nor are they required to collect vendor's sales tax. They are only required to have the participants complete the ST-124. They must report the contact information of participants who refuse to complete the ST-124. Promoters failing to comply with the ST-124 process may be subject to a penalty of \$25 for each ST-124; from a minimum of \$50 to a maximum of \$1,000 for each event, only after they or their agent has been given previous notice of the requirements of the Idaho Code [63-3620C](#) by certified mail. Penalties should be assessed in a similar manner as delinquent tax.

To complete the Sales Tax Declaration on the ST-124, the taxpayer must:

- complete the temporary permit section
- provide a permanent sales tax number, or indicate that they are in the process of obtaining a permanent sales tax number from the Tax Commission, or
- indicate that they will not make sales subject to Idaho sales tax.

The participant has fifteen days from the end of the show to return a copy of the ST-124, along with payment of any tax due, to the Tax Commission. If the participant does not submit the ST-124 and payment by the due date, collection will proceed.

Exemption for Non-Profit Organizations.

Idaho Code [63-3612\(e\)](#) provides an exemption from sales tax for admissions to certain events held by non-profit organizations. They must meet all the following requirements to qualify for the exemption:

The organization holding the event must be a 501(c)(3) non-profit organization, and:

1. The event cannot be predominately recreational or commercial in nature.
2. Any included entertainment value is minimal when compared to the charge for attendance.
3. The organization has paid sales and/or use tax on any taxable property or services used during the event.

EXAMPLE: A 501(c)(3) organization holds a charity auction, with admission tickets selling for \$100.00. Tax had been paid on all items donated. In this case the value of the entertainment derived from attending the auction would be minimal compared to the price of admission.

EXAMPLE: A 501(c)(3) organization holds a political dinner with a charge of \$100.00. Tax has been paid on all food. The meal, considered the entertainment, might have a market value of \$12.00, which is minimal compared to the price of admission.

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Chapter 10 Canceling Permits

[Canceling Permits Per Taxpayer Request](#) | [Canceling Permits for an Unlocatable Taxpayer](#) | [Reinstating Canceled Permits](#)

Canceling Permits Per Taxpayer Request

Taxpayers can request the cancellation of their permits in a number of ways. Each of the permit-based returns includes a check box indicating that the permit should be canceled. If the taxpayer checks this box, the cancellation should occur as the return is processed.

Taxpayers may call or write a letter indicating that a permit should be canceled. If the taxpayer has multiple permits and is not specific about which should be canceled, or has not provided an effective cease date, make every effort to contact the taxpayer to obtain this information before canceling the permit. This provides the most accurate information on the taxpayer's behalf, as well as avoiding problems arising from improperly canceling a permit for which a filing requirement still exists.

Taxpayers may verbally request a cancellation of their permit. If a taxpayer calls in and requests that we cancel their permits, staff will need to make a good collection note that includes the individual's name, the date they went out of business or the effective date, and that you sent the "Notice of Cancellation" letter to the taxpayer.

Canceling Permits for an Unlocatable Taxpayer

The Collection Division's policy on permit cancellations allows for cancellation of a permit number when the taxpayer cannot be located after extensive search efforts and adequate documentation exists to back up a determination that the taxpayer cannot be found.

Using sources of information for skip tracing as a guide, compliance staff should extensively investigate the matter. If at any point in the process, proof is obtained that the taxpayer has left the state and the business is no longer in operation, the findings should be documented and the permit canceled. However, if proof is not found, document the results of the investigation before canceling the permit.



- **Documentation is absolutely essential. Document in the customer notes any contact with the taxpayer, reasons for canceling the permit, or any other information that will justify the action taken.**

Reinstating Canceled Permits

If a taxpayer has had a sales tax permit canceled and wishes to have that permit reinstated, the policy of the Collection Division is to allow a reinstatement of the original number for up to six months after the permit was canceled. If it has been over six months, inform the taxpayer of the requirement to submit a new application which will result in a new permit number.

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Chapter 11 Researching Taxpayers and Their Assets

[Skip Tracing](#) | [Locating Taxpayer Assets](#) | [Other Sources for Locating Taxpayers and Assets](#) | [Formal and Short Form Summons](#)



- **The Idaho Code Section for a formal summons is [63-3042](#).**
- **The Idaho Code Section for actions resulting from failure to honor a formal summons is [63-3043](#).**
- **A description of documents commonly filed at county courthouses can be found in [Appendix C](#).**

Researching and locating taxpayers and their assets is an important part of resolving collection issues. Occasionally taxpayers move or close a business without updating their address. This makes it difficult to provide important tax notices or collect on overdue balances as we promote voluntary compliance. In other instances, we may need to research key members in order to assign the company's liability to its responsible parties. Or we may need to locate assets available for forced collection.

Having an abundance of tools is essential for effective skip tracing. Often, information already exists within GenTax, which can yield a new address or phone number. The internet is a very powerful source. We can also utilize other governmental agencies to discover information. Many have internet search portals or applications, while others have approved channels we must use. There are also legal requests we can use to summons information from taxpayers or third parties. But we must use these resources cautiously to safeguard taxpayer and federal information as well as protect the tax commission's property and interests.

Use this chapter as a resource for skip tracing and locating taxpayers and their assets.

Skip Tracing

Recently submitted returns and their schedules can provide contact info or levy sources. GenTax's Levy Manager collects information from returns and other data store sources like the Warehouse Manager, which is filled with links from income sources, outside agency data and federal tax information (FTI). Be sure to read the previous CRM notes as the clue you are looking for may exist within a note somewhere.

You must have a business-need-to-know before you access return information. Document your searches well as you investigate taxpayer returns so you can avoid claims of accessing confidential taxpayer information with no business purpose. This is called "browsing" and it is a serious charge, which can result in immediate dismissal and require disclosure to affected taxpayers. Another area where we must use an abundance of caution is when we encounter FTI. We are obligated to use extra scrutiny to protect federal tax information. If we locate an address from a federal source, for example, it is considered FTI until we can verify the info from a non-federal source. When we add FTI to the case, the account must be flagged noting the FTI in the indicator's CRM note. Try to avoid flagging accounts with FTI by leaving FTI within the warehouse data stores. Verify the data and disqualify the FTI when you can. Be sure to label FTI when you must use it. If you have questions about browsing or FTI, talk to your supervisor.

The internet is an amazing resource that is constantly changing. See [Appendix A](#) for links to web sites that range from people and business search engines to jail rosters and other public information. [Accurint](#) is the only commercial search site we subscribe to. Avoid other subscription sites. Use common sense before entering confidential taxpayer information as search criteria. Never enter a tax identification number into a site labeled something like "SSN Validator," for instance. And use good judgement to protect the tax commission's computer network. If a search site doesn't look or feel right, leave.

POSTAL TRACERS

- **When returned mail is marked "Moved Left No Forwarding Address" or "Forwarding Order Expired", consider sending a postal tracer for additional info. Post offices still may have additional information they can provide in response to a postal tracer request.**



When you obtain a new address or phone number, update each account with the new information.

Locating Taxpayer Assets

Wages, bank accounts, and automobiles are some of the most frequently seized assets.

1. Wages:

1. **Department of Labor (DOL) records:** The Tax Commission has an exchange of information agreement with DOL, which allows us to check employer records. For the most current information, log into the [IDOL Data Sharing System](#).
2. **GenTax:** DOL records are uploaded into the Warehouse Manager on a quarterly basis.
3. **Employment Verification:** If there is reason to believe a taxpayer is employed, call the employer to verify. You'll get a faster response and have an opportunity to ask for a levy fax number, if we don't have one on file.

Verifying information on employment is important because it may save the levy server time.

You can verify employment by a phone call or by sending an employment verification letter.

2. Bank Accounts:

1. **Collection Notes:** Read the past collection notes for prior history.
2. **Images or Copies of Checks:** Check for payment images in GenTax.
3. **Check for direct deposit info on income tax filings.**
4. **Credit Reports:** Credit reports may list banks where the taxpayer has a revolving line of credit (credit card) or a loan of some type. There is a charge associated with requesting credit reports, so try the methods listed above first.

Remember that you must have a signed financial statement in order to request a credit report.

3. Automobiles:

1. **Department of Motor Vehicles (DMV):** The Tax Commission has access to title and registration information from the Department of Transportation computer system. Searches can be done by name, VIN number, and license plate number. See [Department of Transportation](#).
2. **Visual Sightings:** Driving to the taxpayer's home or business location is a good way to see and verify vehicles a taxpayer may own.

Other Sources for Locating Taxpayers and Assets

In addition to the information already discussed, there are several other sources that can provide useful information. See [Appendix A](#) for more useful websites.

1. Other State Agencies:

1. **Parks and Recreation:** With a hull registration or VIN number, this agency may be able to provide additional information on recreational type vehicles.
2. **Idaho Transportation Department:** The online program provides the following information:
 1. *Individuals* – vehicle titles, registrations, addresses, liens, purchase price, and driver's license information.
 2. *Car Dealers* – owner's name and phone number, physical location of sales lot, and bond information.
 3. *Dealer Salespersons* – sales license (including home address and phone number), physical location of sales lot, and bond information
3. **Department of Labor:** DOL, in trying to collect unemployment insurance, frequently works with the same taxpayers as the Tax Commission. DOL may be able to provide information on the number of employees and amount of wages an employer has. DOL updates information in the Warehouse and has an online program which shows more up to date info.
4. **Secretary of State:** The Secretary of State's website provides business entity and UCC & lien searches. Other states have Secretary of State websites that may provide information.
5. **Fish & Game Department:** This agency provides information from hunting and fishing licenses. Often, taxpayers will not get a driver's license, but will get a hunting and fishing license. This information is available in the Warehouse. Since outfitters and guides are required to be licensed, the Fish and Game Department can also provide information concerning them. Contact the regional Fish & Game office for more information.
6. **Department of Insurance:** This agency can provide a list of all insurance companies in Idaho, types of insurance they provide, their market share in Idaho, and how to contact them.
7. **State Insurance Fund:** The State Insurance Fund provides Worker's Compensation Insurance to many businesses in Idaho. Since Worker's Compensation is a prepaid insurance, sometimes dividend payments are generated and sent out to employers. The Boise office attaches these payments annually.
8. **Department of Lands:** If trying to locate a logger, this agency may provide you with the address of the logger, the name of the landowner where logging is occurring, and the mill to which the lumber is being sold. If the logger is an individual, rather than a business, request a "slash" permit, which provides the same information.
9. **Idaho State Police:** This agency encompasses the Alcohol Beverage Control division, which issues liquor, beer and wine licenses, and the Brand Inspectors office, which maintains a registry of cattle brands.



- More on liquor licenses can be found in [Chapter 22](#).

2. County Courthouses:

1. **County Clerk/Recorder:** The County Clerk or County Recorder records all public records documents relating to transfers of real property. Information may also be available regarding trusts, marriages, divorces, and some filings of UCCs, liens, security agreements, etc. County clerks and recorders can often provide other information, particularly in smaller communities.
2. **County Assessor:** County assessors assess property tax for real property, as well as furniture and fixtures for businesses. They can provide the name of the current owner of a piece of property, furniture and fixtures associated with a business, property owned under a specific name, and property values. They may also be able to map a particular location, and list the last several owners or transactions for a piece of property. County assessors can often provide other information.
3. **County Treasurer/Tax Collector:** County treasurers and/or tax collectors can provide information regarding the amount of tax paid on a piece of property and by whom. They can also provide a list by name of how many pieces of property on which a person pays taxes.
4. **County Sheriff:** The County Sheriff can be a good source of information concerning a taxpayer. They also govern and patrol any lakes in their area, so may be able to provide information regarding where boats are housed.
5. **County Planning & Zoning:** They are responsible for permitting general, building and concrete contractors working at job sites in the county and may be able to provide information concerning a taxpayer's current job site.
6. **County Prosecutor and County Court Clerks:** They may have useful information on taxpayers with pending trials. County Clerks can also confirm sentencing to determine if a taxpayer is going to be incarcerated.

3. City Offices:

1. **City Clerk:** City Clerks may have information on licenses required by the city that have been issued to your taxpayer. They can provide addresses for services provided by the city.

2. **City Planning & Zoning:** They operate like county planning and zoning, but cover everything in the city limits.
3. **City Police:** Police may be a valuable source of information.
4. **City Parks and Recreation Division:** City Parks and Recreation Departments may be able to provide boat locations if there are city marinas in your area.
5. **City Airport Administrator:** If the city has an airport, the Airport Administrator may be able to provide information regarding ownership of planes.

4. Other Sources:

1. **Internal Revenue Service:** While some information reported to the IRS is already available in the GenTax Warehouse Manager, some W-2 and 1099 forms information is not captured here.

There are stringent requirements on how to handle federal tax information (FTI). Information, if printed, must be kept in an orange file folder, locked when not in use, and returned to the Tax Commission's Government Liaison Specialist to be destroyed when finished with the information.

2. **Labor Unions:** Labor unions can confirm if the taxpayer belongs to the union and who currently employs her.
3. **Occupational Licensing Boards:** Many occupations require licensing. Occupational licenses for each of these are administered by a Board based in Boise. Some Occupational Licensing Boards are as follows:
 1. Board of Dentistry
 2. Board of Medicine
 3. Board of Nursing
 4. Board of Occupational Licenses
 5. Board of Pharmacy
 6. Public Works Contractors Board
 7. Real Estate Commission – Realtor Licensing
 8. Idaho State Bar – Attorney Licensing

4. **Business Suppliers:** Business suppliers can provide information about where a taxpayer is located, how he pays his bills, etc.

EXAMPLE: A concrete supplier may know where to find a concrete contractor, tell you where his work site is, and who he is doing the work for.

5. **Credit Reports:** Credit reports can only be requested when the taxpayer has signed a financial statement. Besides giving possible bank account information, credit reports will show any reported aliases for the taxpayer. An alternative to using the credit report is to summons information from creditors based on information obtained from the financial statement.
6. **Ports of Entry:** Ports of entry have title and registration information on commercial vehicles, CDL information on truck drivers, and may be familiar with a particular taxpayer and able to provide other useful information.
7. **Insurance Companies:** If a taxpayer has wages or a pending insurance settlement, these companies may be a levy source.
8. **Banks and Credit Unions:** Besides giving information on accounts, banks can provide copies of signature cards, loan applications and financial statements, copies of deposit documents, and many other useful documents through serving a formal summons.
9. **Real Estate Offices:** If a property where the taxpayer was living is for sale, information on his whereabouts may be available from the listing realtor.
10. **Mortgage and Finance Companies:** These companies can provide copies of loan applications, financial statements, and payoff amounts for property used for collateral and real property. Read more about the summons process, below.
11. **Internet:** The internet has become a tremendous resource for locating taxpayers and assets.

Formal and Short Form Summons

The Idaho Tax Commission has the statutory authority, Idaho Code Section [63-3042](#), to demand information from third parties with a formal summons. Our code specifically states you must be about to distraint or having distrained, which means you would be preparing to levy or seize the asset in question. **The formal summons carries the same legal effect as a subpoena for information to which the entity being served must comply or be in contempt per Idaho Code Section [63-3043](#).**

Formal Summons:

A formal summons requires the person served to appear before the Commission at a designated time and place and to bring the required records to be examined. The summons usually allows copies of the required records to be provided to the Commission prior to the appearance date in lieu of appearing. A formal summons can also require a person to appear to give a deposition.

Failure to honor a formal summons may result in the Legal Department requesting a court order to enforce the summons, possibly followed by contempt of court penalties if the court order is not obeyed.

A formal summons must be signed by someone with delegated authority. A formal summons is normally issued when the information requested is important and cannot be obtained any other way. There is a cost associated with this summons. ISTC reimburses a certain amount per page (75¢) or disk. So choose wisely which information you require.

Items you might consider asking for in a summons include:

Monthly statements, deposit offsets (front & back), deposit tickets, cancelled checks (front & back), signature cards, applications, statements, customer information file, debit & credit memos, financial statements, safe deposit records (box entry cards & contacts), cashier's checks & money orders, electronic funds & transactions, copies of contracts, balances of vehicle loans, storage locker contracts, list of contacts with authority to act on behalf of an entity, foreign and domestic letters of credit & wires of funds with related documents disclosing source of funds and (for wires) the destination of the funds & corresponding documentation.

Service of formal summons requires the following:

1. Service must be made in person and must allow at least 20 days from the time of service to the time to appear.
2. While every effort should be made to serve the person named, if this is not possible, the summons may be left with the spouse or any responsible adult at the person's home or business.
3. When serving a formal summons, be sure to SHOW the original signed summons to the receiving party, but leave them only a photocopy for their records. Retain the original for our records. Upon returning to the office, complete the "Certificate of Service of Summons", have it notarized, attach it to the original signed summons for retention, and attach in the Collection Manage

Short Form Summons:

The short form summons requires manager approval and should be limited in use. Issuing a short form summons requires a valid warrant (discussed in [Chapter 16](#)). The short form summons can be mailed or faxed to the recipient or served upon them in person. If the entity being served refuses to honor the short form summons, advise them that the next step will be the issuance of a formal summons.

A short form summons does not specify a time period allowed for response, which in effect requires the information "now." However, there is no practical way to enforce this. So a reasonable amount of time should be allowed for a response, depending on the information requested and the entity served. One thing to be aware of is that some banks have a policy of notifying their customers of the summons before replying to it. This has the effect of telling the taxpayer we are looking for his assets and gives him a chance to move them. If there is a concern that this practice may jeopardize the collection attempts, ask about the bank's notification procedures before serving the summons.



- Warrants must always be served with the short form summons.
- There are specific guidelines when a short form summons or formal summons is appropriate to use. Please contact your supervisor with any questions.

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Chapter 12 Due Process Letters

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- Due process letters need to be sent to the taxpayer, the designated representative, and responsible parties.

Idaho Code Section(s)

- Providing authority for issuing NODs for sales tax is [63-3629](#).
- Providing authority for issuing NODs for income, withholding and IFTA tax are [63-3044](#) and [63-3045](#).
- Relating to the community property laws can be found in [Title 32 Chapter 9](#) of the Idaho Code.

- For assigning liability to a spouse are [63-3045](#) & [63-3046](#) for withholding tax and [63-3627](#) for sales tax.
- Relating to assigning liability for sales tax to responsible persons is [63-3627](#).
- Relating to holding a responsible person liable for withholding tax [63-3078](#).
- Authorizing jeopardy assessments are [63-3065](#) for income and withholding taxes, and [63-3630](#) for sales and related taxes.
- Discussing the requirements for proper service of sales tax NODs is [63-3045](#).

What is Due Process?

Due process is an established course for governmental activities designed to safeguard the legal rights of the individual. It requires adequate notice and the opportunity to be heard and defend one's rights before the government can deprive one of property. For the Tax Commission this includes a Notice of Deficiency Determination (NOD) and a Notice and Demand (HCND), which must be issued to the last known address of the taxpayer or business before making an attempt at forced collection.

Notices of Deficiency Determination

The Notice of Deficiency Determination (NOD) asserts liabilities for an estimated amount for taxpayers who fail to file returns, and assigns liability to responsible persons, such as corporate officers, partners, or sometimes spouses.

In many cases, assets are not under the control of the business entity. In these cases, Idaho Code allows the Tax Commission to assign the liability to other parties who can be held individually responsible. It is important to assign liability if the business entity itself is no longer operating. NODs for spouses and responsible parties follow the same timeframes and mailing procedures as NODs issued against the owner of a sole proprietorship or a business entity.

- **Self-assessed liabilities for business entities must be assigned to partners, officers, spouses, etc. within three years from the due date of the return, or the date the return was filed, whichever is later. Commission assessed liabilities must be assigned to partners, officers, spouses, etc. within three years from the date the NOD hardened, which would be the 64th day after the issue date on the NOD.**
- **NODs for self-filed income tax returns that have an additional tax amount due after correction , NODs for returns missing a signature and NODs for penalty on income tax are issued automatically by the Automated Billing System.**
- **Because of the issues of multiple jurisdictions, only certain compliance techs in the Boise office have the ability to issue NODs for IFTA.**
- **NODs for non-filed income tax returns are prepared by the Tax Discovery Bureau.**

Determining How Much to Assess for Unfiled Permit Tax Periods

In most cases GenTax will create an estimated liability for unfiled tax periods. However, there may be circumstances in which a manual estimate will be necessary. Avoid doing assessments that are excessively high. The Legal Department has advised that if they are required to defend assessment amounts in court, they must show that the amounts were reasonable.

Ways to determine fairly accurate estimates for permit based taxes:

- Take an average of previous actual figures and increase by a given percentage – usually 20 percent – and round up to the next highest number in increments of 100.
- If there are few or no previous periods, check the details of the taxpayer's permit application (IBR) for estimates, or review similar businesses for the average.

Issuing a Manual NOD

NODs are a legal document and part of the due process. Care should be taken to ensure that all information is correct. NODs are sent by first-class mail and no longer need to be sent certified. It is rare that a manual NOD is necessary outside the automated staging and requires supervisor approval. Remember to change the bill item stage to "Manual" to prevent GenTax from auto-creating the NOD, then manually create the NOD-Permit letter and enter the information.

Issuing a Penalty NOD

When a taxpayer files a late, no-pay, or part-pay return and the taxpayer does not self-assess penalty by listing it on the signed return, assess the penalty in order to have that penalty lien. Penalty is assessed by issuing a Penalty NOD (PNOD). A PNOD is available in the collection letters in GenTax.



- **Note: PNODs are issued automatically by GenTax if they meet a certain dollar amount criteria.**

Assigning Liabilities



- **Before assigning liability to a spouse or responsible party be sure the SCND or HCND has been sent to the business. Pay close attention that the date on the responsible party letter, NOD or RPNOD, is not dated prior to the date on the SCND or HCND letter. The CND is the Notice of Assessment so until this letter is sent there is not a liability to assign.**

Assigning Liabilities to Spouses

If the spouse is listed on the application (IBR) as an owner, issue an NOD in the spouse's name. Follow the same procedure as for the primary spouse, using the same letter (NOD-Permit) and figures. The advantage of having both spouses listed on the application is both NOD letters can be sent at the same time. If a spouse is not listed on the application for a sole proprietorship, or is listed only as a contact person, you must assign the liability for the sole proprietorship to the spouse. **You must wait for the Hard CND or Soft CND to be issued to the primary spouse before assigning liability to the spouse.** For sales tax or withholding tax, use the NOD-Responsible Person letter, selecting Spouse Jointly Responsible. Liabilities can be assigned for sales, travel and convention, and withholding tax pursuant to the community property laws of the state. For sales and withholding tax the entire amount of the liability including tax, penalty, and interest can be transferred to the spouse. Liability cannot be assigned to a spouse on individual income tax that is not on a joint return or for any other tax type other than those listed above. The reason for the deficiency on the NOD reads: "As a spouse in a community property state, you are jointly responsible for filing a return and paying the tax/fee, penalty, and interest due."



- **If the spouse is not named on the application as an owner, you must assign the liability by issuing the proper due process letters in the spouse's name to obtain a lien on the spouse.**

Assigning Liabilities to Responsible Parties

Idaho code allows the Tax Commission to hold partners, corporate officers, members of LLC's and other parties individually responsible for some tax liabilities of businesses. This could even include an employee that effectively controls the finances of the business or determines which bills are paid and when. Assignment of liability refers only to "trust fund" taxes. Trust fund taxes are collected on behalf of the state, held in trust until due, and then remitted to the state such as sales tax and withholding tax. We are not transferring the withholding liability to a responsible person, we are holding them liable for a penalty equal to the amount of unpaid tax. Liability cannot be assigned to responsible persons for any other tax types other than sales, travel and convention, and withholding tax. Due to the difference in the code sections for sales and withholding taxes, liability can be assigned to a responsible person for the entire amount owed for sales tax, including tax, penalty, and interest. However, they can only be held liable for a penalty equal to the amount of unpaid tax. Because of these differences, there are different letters used to assign liability. When assigning liability for sales tax, select the NOD Responsible Person letter. When holding someone liable for withholding tax, select the NOD WH Resp Person letter.

The reason for the deficiency on the NOD Responsible Person for sales tax reads: "We have assigned the debt to you as the person responsible for paying the balance owed." The reason for the deficiency on the NOD WH Resp Person for withholding tax reads: "We have assigned the tax debt to you as the person responsible for paying the tax because you did not pay all the tax due and/or submitted a late withholding payment voucher."



- **A Withholding tax liability is not transferred to a responsible person, we are holding them liable for a penalty equal to the amount of unpaid tax, [63-3078](#).**

Determining Who Are the Responsible Parties

Not all partners, members, or corporate officers may be individually responsible for the tax liabilities of the business. Both code sections referenced at the beginning of the chapter specify a "person with the duty to account for and pay over any tax imposed by this act..." Therefore, the facts of each case will determine which individuals should be named on an NOD. Remember, the code sections do not limit these assignments to owners or officers of the business. Any employee who fits the definition can be named. However, care should be taken when naming individuals other than owners or officers.



- **Note: Spouses of officers, partners, members, or other responsible persons cannot be named as a responsible person unless they fulfill the requirements of a**

responsible person.

Some factors to consider when determining responsible parties:

1. Who are the officers, partners, or members listed on the annual filings and Articles of Incorporation with the [Secretary of State](#) for the periods in question?
2. Who has check signing authority?
3. Who has the authority to determine which creditors get paid and when?
4. Who has the authority to obligate the business by signature?

Information for items 2, 3 and 4 above can be obtained by summons.

5. Who has signed previous checks and returns?

These records are imaged and can be viewed in GenTax.

6. In general, all managing members listed on the annual filings for the periods in question should be considered responsible persons. Other members may or may not be responsible and further research beyond the annual filings should be done to clarify their level of responsibility.

Assigning Liabilities to Other Responsible Parties of Sole Proprietorships

On some occasions, a person other than the owner named on the application or the owner's spouse is the person responsible for operating the business and paying business debts for the sole proprietorship. An example would be a sole proprietorship permitted under a father's name, but the father is mostly retired and has turned the operations of the business over to his son. In this case, the son could be named as a responsible party of the sole proprietorship. The process for naming someone in this situation is the same as for assigning liability to responsible parties of corporations or other business entities. The same letters are produced and the same code sections are referenced.

- **Remember to fully document the resources supporting your decision to hold the person responsible.**

Jeopardy Assessments

On rare occasions, it may become necessary to set up and collect a liability immediately, without having to wait 63 days for the NOD to "harden." In these cases, waiting would jeopardize the ability to collect the tax. For example, there is evidence a taxpayer is about to flee the state or move his property to another state to avoid payment. Idaho Code allows the Tax Commission to issue a jeopardy determination, which declares that the tax is immediately due and payable. After proper service of the jeopardy assessment, immediate collection is allowed.

For withholding tax and income tax, Idaho code limits the periods that can be assessed through a jeopardy assessment to the current or past taxable year. Sales tax has no such limitations.

Before a jeopardy assessment is issued, it is critical to be able to justify foregoing the normal assessment procedures. Fully document the situation and potential tax amounts due in GenTax. Jeopardy assessments are manually created in the Boise office and must be signed by the FCB Bureau Chief, or the written designee.

Once a jeopardy assessment is approved and signed, a lien and warrant can be issued and collection action, including seizing assets, may begin immediately after serving the taxpayer with the jeopardy assessment. When the jeopardy assessment is served, ask the taxpayer for payment, and if he cannot or will not pay, begin collection action.

After being served a jeopardy assessment, the taxpayer has 63 days for income tax or 30 days for sales tax to file a written request for redetermination. Unlike protesting regular NODs, the taxpayer must either pay the amount of the jeopardy assessment in full, or post a bond in the amount of the jeopardy assessment. If the taxpayer makes full payment or posts the bond, any assets seized may be returned to him.

In addition, Idaho Code allows that taxpayers may file a written request for return of property seized through a jeopardy assessment within fifteen days of the seizure, or prior to posting a notice of sale for the seized items, whichever time is greater. Before making a determination regarding the sale of the seized items discuss with your manager and the FCB Bureau Chief or Division Administrator.

- **Because of the legalities involved in these procedures, great care should be taken to justify the issuance of a jeopardy assessment.**

Jeopardy Assessments for Temporary Sales Events

Jeopardy assessments for temporary sales events function the same as other jeopardy assessments, as detailed above. Try to plan in advance when possible since the jeopardy assessment will need to be approved by a Bureau Chief. In special cases the Bureau Chief may provide written delegation of authority to temporarily authorize a local field office manager to sign the Notice of Jeopardy Assessment.

Returned NODs

NODs are sent to the taxpayer's last known address. If the NOD is returned "Unclaimed", "Refused", or with a bad address and there is no new address, document it in the collection notes and shred the letter.

Notice & Demand (CND)

The Notice and Demand (CND) formally and legally assesses tax liabilities by making demand for payment.



- **NOTE: CNDs are issued automatically for all tax types except IFTA.**
- **Collection cases for IFTA are worked by designated individuals in the Boise office until a lien is filed. Therefore, other compliance staff should not issue CNDs for IFTA accounts.**
- **Advancing the bill item to file the lien is recommended in the event real property is being sold and you need the lien filed before the next staging date.**

Soft CNDs

A soft CND formally assesses tax and interest on an unpaid, signed return. The tax and interest are considered self-assessed but the penalty is not. A lien can be requested for the tax and interest ten days after the issue date of the soft CND by advancing the bill item staging. **Remember a warrant cannot be created before 30 days from the CND date.**

Hard CNDs

A hard CND formally assesses tax, penalty, and interest. The verbiage at the bottom of the letter refers to tax, penalty, and interest, therefore allowing all amounts to be liened.

A hard CND is used in three situations:

1. An NOD has been sent for the periods, the taxpayer has not responded, and the NOD has hardened.
2. The taxpayer has filed returns with amounts owing and has listed penalty and interest on the signed returns. This can only be done after changing the bill item stage to manual.
3. A penalty NOD (PNOD) has been sent for periods filed by a taxpayer where penalty and interest was not listed on the returns and the PNOD has hardened without response from the taxpayer. If a soft CND for the tax and interest has not been sent for these periods, they will also be formally assessed when you send the hard CND.

This is the only letter used to formally assess penalty and should not be sent unless the taxpayer self assessed the penalty or the Commission assessed it with an NOD. A lien can be requested for the tax and interest ten days after the issue date of the hard CND by advancing the bill item staging. **Remember a warrant cannot be created before 30 days from the CND date.**

CNDs for Spouses of a Sole Proprietorship

When an Notice of Deficiency (NOD) or a Responsible Party Notice of Deficiency (NOD-Responsible Person) for sales tax or withholding has been issued to the spouse of a sole proprietorship, and it has hardened, issue a Responsible Party Notice and Demand (CND-Responsible Person) for sales tax or a Hard Notice and Demand (CND-Hard Permit) for withholding tax to formally assess the liability.

CNDs for Responsible Parties

When an NOD-Responsible Person or WHT-NOD Resp Person has been issued to a responsible party of a business, and has hardened, issue the CND-Responsible Person letter for sales tax or the WHT CND-Resp Person letter for withholding to the responsible party. The CND-Responsible Person letter formally assesses tax, penalty, and interest for sales tax. The WHT CND-Resp Person letter holds the responsible person liable for a penalty equal to the amount of unpaid tax for withholding.

Demands for Immediate Payment

A Demand for Immediate Payment, also known as an Immediate CND, is used when there is a pending sale of real property. This letter allows the Tax Commission to record an immediate lien to secure the state's interest. This letter is not in GenTax and is created as a [free form letter](#) since it is not frequently used. **A self assessed debt or a hardened NOD must exist before a Demand for Immediate Payment can be issued. However, a warrant cannot be issued until 30 days after the date of the Demand for Immediate Payment. A warrant is required for any forced collection action. Both the letter and the lien must be approved by the Field Office Manager.**



- **When considering sending a Demand for Immediate Payment, discuss the situation with a supervisor. Liens requested from Demands of Immediate Payment require the advance approval of the Field Office Manager.**

Consent to Assessment

Occasionally a taxpayer will agree to all the amounts that are either assessed through an NOD or calculated from a return that was filed, or a taxpayer agrees he is a responsible party for a particular liability. To speed up due process have the taxpayer sign a Consent to Assessment form. While not actually a "Notice and Demand" letter, the Consent to Assessment works in conjunction with the CNDs. If the taxpayer signs a Consent to Assessment, issue a hard CND. The lien can be requested for all periods and amounts on the Consent to Assessment ten days after it is signed and the CND has been issued. Remember that this is a voluntary act by the taxpayer and must be signed by him to be valid.

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Chapter 13 Protests of Notices of Deficiency Determination (NODs)

[Time Frames for Protesting NODs](#) | [Valid Protest Methods](#) | [Acknowledging a Protest](#) | [Tracking a Protest](#) | [Forwarding a File to the Legal Department](#) | [What Happens After the File is Transferred.](#)

- **The Idaho Code Sections providing legal recourse for appeal are [63-3049](#) for income and withholding taxes and [63-3631](#) for sales tax.**

When an NOD is issued, the taxpayer or person named on the NOD may file a protest. This chapter discusses what constitutes a valid protest, the Tax Commission's responsibilities in handling the protest, and the possible actions that may follow a protest.

Time Frames for Protesting NODs

A taxpayer has 63 days from the issue date of the NOD in which to file a written protest. If the 63rd day falls on a weekend or legal holiday, the next business day will be considered the final day of the protest period. The protest must be received or postmarked by the Post Office on or before the last day of the protest period.



- **There are two exceptions to the 63-day time frame. NODs for IFTA and Jeopardy Assessments on Sales Tax have a 30-day protest period.**

Valid Protest Methods

To be considered valid, a protest must be in writing and explain why the taxpayer or person named on the NOD believes the determination is in error. It may include additional documentation or a request for an informal or formal hearing. [Rule 320](#) explains in further detail.

There are several methods by which a taxpayer may file a protest. These are:

1. Letter Stating the Taxpayer Was Out of Business or Had No Filing Requirement:

If a taxpayer sends a letter or calls within the protest period and states that he is out of business or had no tax to report, unless there is good reason to question the information, file zero returns to clear the periods and close the account if applicable.

2. Letter Protesting the Amounts Assessed – Requesting Time to File Actuals:

If the taxpayer responds in writing within the protest period, stating that he does not agree with the determination, but needs extra time to provide actual returns or information, the protest must be acknowledged within 14 days and allow him 28 days to perfect the protest. If the returns or information are not received within 28 days from the date of the acknowledgment letter, the file must be transferred to the Legal Department, who will schedule a hearing with the taxpayer.

NOTE: Due to limited resources in the Legal Department, collection staff is encouraged to make every effort possible to secure the returns to avoid making a referral to Legal.

3. Letter Protesting the Assignment as a Responsible Party:

If a person named on the NOD as a responsible party sends a letter protesting the assignment, and provides information that he was not a responsible party as defined in Idaho Code [63-3078](#) or [63-3627](#), the information needs to be confirmed. If the information is confirmed, cancel the RPNOD by sending the Rescind letter. If the information provided does not substantiate the protest, review the information with a supervisor, send a Protest Acknowledgement letter, and transfer the file to Legal.



- You can release a person named on a responsible person NOD, but only a legal decision can hold them responsible if they are protesting that they are a responsible person.

Acknowledging a Protest

When a protest is received, for which the figures or other information presented are not accepted, acknowledge the receipt of the protest within 14 days by sending a Protest Acknowledgement letter. Enclose a return envelope and a copy of “Your Rights as a Taxpayer”.

Tracking a Protest

When a protest, for which you are not going to accept the information provided, is received and acknowledged, begin a process of tracking and documenting the protest by using the Protest Tracking Sheet and Protest Summary Sheet. This is a crucial step because there are important legal timeframes involved in addressing protests throughout the whole process and this sheet gives anyone working with the protest the information needed to make sure we remain within those time frames.



- If a protest is received and additional information is necessary, send the 28 Day Letter acknowledging the protest and requesting additional information.
- Create a separate file for each tax type NOD, including a separate Protest Tracking Sheet and Protest Summary Sheet for each tax type. If there is more than one tax type, cross-reference each of the protest files.

With each Protest Tracking Sheet and Protest Summary Sheet, include the pertinent NODs for that particular tax type, a copy of the protest letter from the taxpayer, and any supporting documentation (i.e. copies of returns, IBR’s, Secretary of State information, and anything else that would support the deficiency). This documentation will assist the Legal Department in supporting the original deficiency.

Forwarding a File to the Legal Department

If the protest has been acknowledged, and the taxpayer has not withdrawn his protest, or refused or failed to provide the information needed within the given timeframe, transfer the file to the Legal Department for further action. After reviewing the file with your supervisor, send a copy of the Protest Tracking Sheet and Protest Summary Sheet, along with all pertinent information regarding the issues raised in the protest, to the Government Liaison Specialist, who will forward the file to the Legal Department.

Before forwarding a file for a protest of a responsible party NOD, obtain as much of the information in the following checklist as possible before transferring the file:

1. Copies of any tax returns and checks for the tax types and periods in question that the person named on the NOD has signed.
2. Copy of the permit application (IBR).
3. Copies of signature cards that include the person named on the NOD for bank accounts in effect during the period in question.
4. Copies of annual reports for the business or other documents available from the Secretary of State showing the person named on the NOD was a member or officer of the business.
5. Meeting minutes and statements from other involved parties, or any other information that might help support your decision to assign the liability to the person named on the NOD.

What Happens After the File is Transferred

After the file is transferred to the Legal Department, the Legal Department will send a letter to the taxpayer attempting to set up a hearing before the Commission. The taxpayer can request either an informal or a formal hearing. At the informal hearing, the taxpayer is allowed to submit any information that supports his protest. A formal hearing is a very structured proceeding where summonses or subpoenas may be issued, oaths may be administered, and a stenographic record or audio recording is made.

If, after submitting a timely protest and being granted a hearing or submitting additional documents, the taxpayer is not satisfied with the Commission's decision, he has legal recourse under Idaho Code. He may either appeal to the Board of Tax Appeals or file a complaint in District Court within 91 days of being notified of the Commission's decision. The taxpayer is required to post cash or other acceptable security in an amount equal to 20% of the amount of the deficiency, pending the outcome of his appeal. If the taxpayer is not satisfied with the decision of the Board of Tax Appeals or the District Court, he may then appeal to the Idaho Supreme Court.

If the taxpayer fails to appear at his hearing or to provide additional information, the Legal Department has 180 days from issue date of the letter requesting a hearing in which to issue a decision. If no decision is issued in that timeframe, the assessment is null and void and we lose the rights to ever assess the periods in question.

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Chapter 14 Returned Payments and Postdated Checks

[Bad Check Charge](#) | [Notice of Returned Payment](#) | [Postdated Checks](#)

- **Bad check charges are authorized by Idaho Code Section [63-3046](#).**

Bad Check Charge

Idaho Code provides for a \$20.00 bad check charge to be applied to payments returned due to insufficient funds, closed accounts, or other dishonored payments. Payments returned for insufficient funds or closed accounts will have a \$20.00 penalty added automatically in GenTax. The fee does not require a Notice of Deficiency Determination or Notice and Demand to be liened.

Notice of Return Payment

Collection of bad checks are handled much like any other self-assessed liability. Issue a Notice of Return Payment letter to notify the taxpayer of the bad check fee.

Postdated Checks

It is against the Tax Commission's policy to accept postdated checks. If a postdated check is received, contact the taxpayer and advise them of the policy. Ask the taxpayer if he would prefer to have it applied to the account immediately, destroyed, or returned to them. If contact with the taxpayer cannot be made by telephone or the taxpayer requests the check be returned, write 'VOID' across the front of the check and mail it to the taxpayer with a letter explaining that the postdated check cannot be accepted.

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Chapter 15 Liens

[Requesting a Lien](#) | [Lifetime of a Lien and Lien Continuations](#) | [Statutory Liens](#) | [Releasing Liens](#) | [Short Sale](#) | [Lien Subordinations](#)

- **The Idaho Code Section authorizing the filing of a state tax lien is [63-3051](#).**
- **The Idaho Code Section authorizing statutory liens is [63-3051](#).**

The next step in the compliance process is to secure the state's interest in the liability by filing a state tax lien. A lien is recorded at the Secretary of State's office and is therefore a matter of public record. It applies to all property no matter where it is located in the state of Idaho. It attaches to all tangible and intangible personal property owned by the taxpayer and encumbers any real property the taxpayer may own. This means that if the taxpayer wants to sell or refinance his real property, our lien must be paid and released to give the taxpayer clear title to complete these transactions. Liens may also be reported on the taxpayer's credit report and affect the taxpayer's ability to obtain loans or financing. The lien publicly establishes, as of the date filed, that the taxpayer owes a debt to the state of Idaho. The lien also establishes a basis for obtaining a warrant (discussed in [Chapter 16](#)) and pursuing possible seizure action.

- **A lien does not, by itself, permit seizure of property.**

Requesting a Lien

Generally, liens are not requested for liabilities of [REDACTED] (Redacted pursuant to 74-107(1)(b)) or less. If there is good cause, such as habitually delinquent taxpayers, a lien may be requested for an amount under [REDACTED] (Redacted pursuant to 74-107(1)(b)). Before requesting a lien, the proper due process must have been sent. Lien request must be 30 days from the date of the demand letter. Lien requests without a valid assessment will be rejected.

For responsible parties and the spouse of a sole proprietorship, make sure the lien is requested under the correct person's name and Social Security number. Also confirm the source information assessing the liability for the business is correct. Finally, remember that for responsible party withholding liabilities, the only amount you can lien is a penalty equal to 100% of the tax. When selecting the withholding periods for the lien, the tax and interest fields should be zero, and the penalty field should be changed to show the amount of tax.

After the lien is filed, a copy is sent to the taxpayer. If the copy of the lien is returned by the Postal Service as undeliverable, it will be forwarded to the owner of the collection case. Make a collection note that the Notice of Lien was returned. Make every reasonable attempt to obtain a valid address and forward the Notice of Lien to the taxpayer. A copy of the lien can be viewed and printed from the Lien Manager.

Lifetime of a Lien and Lien Continuations

Liens are valid for five years from their original issue date. They will be continued in additional five year increments, which are done automatically in Boise. Once the lien expires or lapses, it no longer legally exists and cannot be released. Once a lien is no longer enforceable, it will be automatically released as long as there is not an Active Lien Zero Balance indicator set.

Statutory Liens

When a proper demand has been made through a CND, and the taxpayer has not paid his liability, a statutory lien is said to exist even if a State Tax Lien has not been filed with the Secretary of State. The statutory lien is effective against all tangible and intangible personal property belonging to the taxpayer, but not real property. Statutory liens are legally important and provide a legal basis for obtaining a warrant and levy on small balances.

 Note: We often use this on small balance accounts – [REDACTED] (Redacted pursuant to 74-107(1)(b)) – if we can identify a levy source as liens are not generally filed on balances of less than [REDACTED] (Redacted pursuant to 74-107(1)(b)).

Releasing Liens

Liens that have a zero balance will automatically release after 15 days. If there is a reason for requesting a qualifying immediate release, send a work item to the authorized person in the lien department, include the lien number, the date paid, and the type of payment received (i.e. personal check, cashier's check, cash, etc.). See [Lien Release Suspense Requirements](#).

Partial Lien Releases

A partial lien release occurs when a taxpayer is selling a parcel of land. The Tax Commission may determine that the amount of money available from the sale of property to apply to the tax liability is large enough to justify the particular parcel of land being released from the lien. When requesting a partial lien release, provide the legal description of the property being released from the lien, send the work item to the manager for approval.

 **NEVER release a lien until funds are received. A lien release should not be necessary prior to closing. A lender or title company will accept a temporary letter of commitment that verifies that the lien will be released upon receipt of funds. Before making any commitments, request a preliminary closing statement to verify the amounts being transferred in the closing.**

Short Sale

This occurs when a mortgage holder agrees to accept less than the loan balance in satisfaction of the contract to allow the sale of the property. The Tax Commission takes the position that every

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tax lien should have value and that the Tax Commission should receive funds to participate in the transaction. This may require negotiation before agreeing to a partial release of the lien. See a

Collection manager for approval.

Banks, realtors, and title companies talk, so it is important to be consistent and use the same standard across the state. To keep decisions fairly equitable, in Boise short sale decisions are negotiated by Field Collection Bureau Chief. Short sales outside the Boise area, should be reviewed with the Field Office Manager to determine how to proceed.

 **Before agreeing to a partial lien release for a sale of property, request a preliminary closing statement from the title or escrow company to verify the amount of equity that would be available to apply to our liens. In the case of a short sale, the closing statement would also verify the contract price.**

(Redacted pursuant to 74-107(1)(b).

Lien Subordinations

When liens, mortgages, and other security agreements are filed, the priority of these encumbrances is determined by the date of filing. The earliest encumbrance has the highest priority. In some cases, taxpayers may wish to refinance on a piece of real property. Many times there is not enough equity in the property to clear the liens. In these cases, a lien subordination is an option. A lien subordination allows the mortgage holder on the piece of property to file a new mortgage under the refinance, but maintain their position ahead of the Tax Commission liens. This should only be considered if the value that the Tax Commission receives would justify the action of subordinating. To subordinate, request a subordination agreement from the title or escrow company handling the refinance transaction. This agreement should then be reviewed and signed by a Collection manager.

 **Before agreeing to a subordination of our liens, request a preliminary closing statement from the title or escrow company to verify the amount of equity that would be available to apply to the tax liens.**

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Chapter 16 Warrants

[Creating a Warrant](#)

- The Idaho Code Section authorizing the issuance of warrants is [63-3059](#).

While a lien establishes a liability as a matter of public record, it is the warrant that provides the Tax Commission legal authority to seize property. The warrant carries the same legal authority as a writ of execution issued by a court and provides the legal authority to issue a levy (discussed in [Chapter 20](#)), which orders the seizure of property, and for issuing a Short Form Summons requesting information (discussed in [Chapter 11](#)).

Creating a Warrant

Warrants can be issued after a lien is filed. However, a warrant cannot be issued until 30 days after the date of the CND. This is true even of Demands for Immediate Payment. Warrants are valid for 60 days from their issue date. A current warrant is required for a short form summons, to issue a levy, or to take any other seizure action.

It is essential to make sure all information on the warrant is correct. Do not include amounts on the warrant that are not on the corresponding lien. For example, if penalty was not assessed and included on the lien, make sure the penalty is not included on the warrant.

Unless specifically requested, the warrant does not need to be printed to serve with the levy, but a valid warrant must exist, and be dated within the 60-day time frame.

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Chapter 17 Successors' Liability

- Information regarding successor's liability requests can be found in the [Confidential Information](#) section of Chapter 7.
- Idaho Code Section [63-3628](#) and [Rule 119](#) refers to the Successors' Liability statute

Another possible collection tool is known as successor's liability. Successor's liability basically states that the buyer of an existing business must check with the Tax Commission and complete the [Successors' Liability Inquiry](#) form to see if there is a sales tax liability. If one exists, the buyer must withhold from the purchase price an amount equal to the tax owed. Otherwise, the buyer may be held personally liable for the existing debt. This does not always apply and is not automatic. Review the case with a supervisor if successor's liability might apply.

Successor's Liability Applications

Successor's liability applies only to sales tax, travel & convention tax, and Greater Boise Auditorium District Tax. It does not apply to withholding or any other type of taxes.

Successor's liability **may** apply in the event of:

1. Sale of a business
2. Sale of the stock or inventory of a business
3. Repossession of a business where the seller buys out the taxpayer to avoid foreclosure or keep the business open
4. Transfer of a business from one owner to another for a consideration other than cash (such as an assumption of debt or barter)

Successor's liability **may not** apply in the event of:

1. Foreclosure
2. Lease of the business
3. Repossession where the seller does not buy out the taxpayer
4. Change in the officers or shareholders of a business
5. Purchase that is rescinded shortly after the sale

Preliminary Considerations

Before pursuing successor's liability, keep the following in mind:

1. Make every effort to locate and collect from the taxpayer who created the liability.
2. Successor's liability is often a difficult case to make and is usually protested. It is important to research and collect relevant facts **BEFORE** issuing the NOD. This information will be important to management and legal staff to prove or determine the validity of the claim. This documentation includes but is not limited to:
 1. Copy of the sale or purchase agreement between the taxpayer and the new buyer
 2. Copy of any bill of sale
 3. Copy of the check issued to the taxpayer, if any.
 4. Copy of any assumption agreement between the new buyer and a creditor of the taxpayer
 5. Statement or documentation that the new buyer did not inquire of the Tax Commission whether the taxpayer owed any taxes
 6. Documentation of the value of the seller's inventory and any debt the buyer is assuming
3. Obtain approval from Collection Division management.

Assessing Successor's Liability

The NOD-Successor Liability NOD can be done against the buyer of a business for tax only. Penalty and interest should not be included. Parties receiving the NOD have the usual NOD protest rights, including the 63 day protest period.

If the NOD is protested, follow the same steps as for responsible party NOD protests, found in [Chapter 12](#).

Once the NOD hardens, send a CND Successors Liability addressed to the buyer, using the same information used on the NOD.

The final step is to request a lien and warrant the same way as any other transfer of liability.

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Chapter 18 Payment Agreements

[Determining Length of Payment Agreements](#) | [TAP Payment Plans](#) | [Manual Payment Agreements](#) | [Voluntary Wage Assignments](#)

In some cases, a taxpayer wants to clear his liability, but is unable to pay the full amount due to financial or other reasons. The Taxpayer Bill of Rights establishes the right of the taxpayer to request a payment agreement. However, the Tax Commission retains the right to determine eligibility and terms of the agreement.

Determining Length of Payment Agreements

All taxpayers should be encouraged to do whatever they can to borrow the money to pay their liability in full before discussing the possibility of a payment agreement. However, there are times when this will not be possible. The goal of a payment agreement is to resolve the tax debt as quickly as possible using a minimum of Tax Commission resources. It is important to educate the taxpayer on how to avoid becoming delinquent again. For income tax, this could include a discussion about increasing withholding, or for the self-employed, making estimated payments. For businesses, it could include discussing having separate bank accounts for sales and withholding tax collected so the money is available to remit by the due date.

For income tax or closed permit based liabilities where the taxpayer needs to make payments, the taxpayer can enter into a TAP Payment Plan with up to 18 months to pay the liability (see below). Try to get the taxpayer to pay the liability as quickly as possible, rather than extending these agreements to the full 18 months. If the taxpayer does not qualify for the TAP program, or the liability is on an active permit account, attempt to have the liability paid as quickly as possible. The taxpayer should provide a completed comprehensive financial statement and supporting documentation before accepting a payment agreement greater than 6 months. The taxpayer must provide back-up documentation for the financial statement, such as medical bills, copies of paystubs, and bank statements for the last 90 days.

For open permit based liabilities where the taxpayer needs to make payments, the payment agreement cannot be longer than 3 months to have the liability paid in full. All returns must be filed and paid timely during the payment agreement. Any payment arrangements that will take longer than 3 months to pay the liability must be approved by a supervisor or manager.

When the taxpayer returns the requested information, review all of the listed income, expenses, and assets to determine if the amounts appear reasonable and if there are assets that could be sold to clear the liability. After you have verified the financial information is accurate and there are no other assets or means with which to clear the liability, determine the monthly payment amount.

TAP Payment Plans

Taxpayers can request a payment plan on-line through TAP ([Taxpayer Access Point](#)), if they qualify. A TAP payment plan should be the first option for most payment plans. Refer to the [TAP Payment Plan](#) procedures for complete information. These are payment plans where the monthly payments are transferred to the Tax Commission directly from the taxpayer's bank account. For taxpayers with income tax liabilities, the option of a TAP payment plan is available for a period of 6 to 18 months. If a lien has not already been filed on the debt and the taxpayer meets the 6 month qualifications, a lien is not filed. A lien will be filed on any TAP payment plan greater than 6 months. Always make sure the taxpayer is adequately informed about the lien process. The taxpayer must timely file and pay all returns that become due during the term of the payment plan.

Taxpayer Defaults on Plan:

A taxpayer will be considered in default of the TAP payment plan, if the bank is unable to clear the payment. The account will then be assigned to compliance staff.

Adding an Additional Liability:

If the taxpayer accrues an additional liability during the course of their payment plan, the first step is to ask for payment of the new liability in full before the lien is filed (usually within a month or two). Always encourage payment in full first. If the taxpayer is truly unable to pay the new liability in full, the taxpayer may include the new liability into the current payment plan; however, the taxpayer cannot do this on-line. This means increasing the monthly payments to ensure the new liability will be paid within the original period of the payment plan. Obtain signed correspondence from the taxpayer stating they are authorizing us to withdraw the new payment amount from their bank account. (No email requests will be accepted unless it has the signed letter attached). Forward the correspondence to the Payment Desk. Advise the taxpayer a lien will file on the new liability. For example, if the original liability was to be paid in 18 months, the new liability must also be paid by the end of the original 18 months. If the taxpayer cannot comply with this requirement, the TAP payment plan will be terminated. Any exceptions must be approved by a supervisor or manager.

Modifying the agreement:

If a taxpayer requests to change their payment amount, withdrawal date, or bank account information, a [Tap Payment Plan Change Request Email Form](#) can be emailed to the taxpayer. **The Tap Payment Plan Change Request Email Form can only be emailed to the email address used to set up their TAP account.** The TAP email address is in GenTax on the WEB tab under processed requests. The requested changes may take up to 14 days to be approved and effective.

NOTE: If the payment amount is modified for any reason, a verbal agreement is never adequate. The taxpayer needs to provide written or email authorization. Written authorization will need the specifics of the agreement (ex: "I agree and request that my existing payment amount will increase from \$100 to \$150 effective November 5, 2013." Be sure the written document is signed and dated. If the taxpayer refuses to respond by a specified date, they will be defaulted from the program.

Manual Payment Agreements

Taxpayers who are not eligible for the TAP payment plan can still make monthly payments to the Tax Commission. These would include taxpayers with no bank accounts or special situations. The manual payment agreement does not need to be approved by a supervisor or manager for periods of **twelve months or less**.

Voluntary Wage Assignments

For taxpayers who are earning wages, an Assignment of Wages is an alternative method of making payments. Collection staff do not need approval from a supervisor or manager if the term of the wage assignment is **24 months or less**. No additional liabilities can be added during the term of the agreement. By signing an Assignment of Wages and submitting it to the employer, the taxpayer authorizes the employer to deduct the payment amount from each paycheck and send it directly to the Tax Commission. Once the wage assignment is put in place, neither the taxpayer nor the employer can cancel the agreement without a release from the Tax Commission. In addition, employers are instructed that if the taxpayer is terminated or quits employment, the employer should contact the Tax Commission for further instructions before issuing the last paycheck. Once the liability is paid in full, notify the employer that the wage assignment is released.

The voluntary wage assignment is a tool to satisfy the requirements of a payment agreement. The wage assignment expresses the requirements of the employer, but it does not outline any requirements or commitments of the taxpayer. If the wage assignment fails for some reason, the Tax Commission needs to be ready to hold the taxpayer accountable. The Assignment of Wages letter does not replace the Payment Agreement letter. Both are required to be sent to the taxpayer. A Payment Agreement letter is automatically created by GenTax with the Assignment of Wages letter.

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Chapter 19 Seizing Refunds

[Seizing State Refunds](#) | [State Refund Offsets](#) | [Applying the Refund](#) | [Refund Intercepts](#) | [Seizing Federal Refunds](#)

- The Idaho Code Section authorizing seizing income tax refunds to apply to other tax liabilities is [63-3072\(a\)](#).

One of the easiest and most common seizures used is the seizure of a tax refund. Tax refunds are seized and applied to liabilities that are being paid through some sort of payment agreement, as well as being a method for collecting money from uncooperative taxpayers.

Seizing State Refunds

If the Responsible Party NOD will harden within 30 days, place a "Stop Refund" indicator in the Customer Manager. Once a debt that has been properly assessed (CND sent) to a responsible person of a business, we can seize the responsible persons income tax refund. Once a lien is filed against the responsible party, a "Refund Seizure" indicator will automatically set on the taxpayer. This is not necessarily the prime taxpayer, therefore, be sure to manually set the indicator on the prime of a joint filed return. **The Refund Seizure indicator can be set manually after the date of the CND to speed up the process.** If the RPNOD is protested, the seized refund may have to be released, consult your manager

The Tax Commission can seize a refund to apply against a liability even if the taxpayer specifies that it is to be applied as an estimated payment to next year's taxes. There must be a lien in place, the taxpayer must be notified, and the liability to which it is to be applied must not be in dispute.

A seized refund letter must be sent to notify the taxpayer(s) their refund was seized and applied.

State Refund Offsets

Credits generated for one period of a particular tax type will apply automatically to another period of that same tax type that has a liability. For example, if a taxpayer owes for 2013 income tax, but files for a refund with his 2014 return, the refund from the 2014 return will apply automatically to the liability for 2013. Credits generated for one tax type under a permit number can be transferred to a liability for another tax type under the same permit number.

Credits from a taxpayer's individual income tax account can be applied to a liability for a sole proprietorship. Likewise, credits from a sole proprietorship's permit-based accounts can be applied to the taxpayer's individual income tax liability.

Both of these credit offsets must be done manually by either the office managers or by sending an email to the CCB Administrative Support Unit.

Applying the Refund

Once the refund is seized the refund is forwarded to the CCB Administrative Support Unit for processing. The voucher is then sent to the case owner who is responsible for sending the Refund Seizure Letter.

Refund Intercepts

The Tax Commission is not the only agency authorized to seize a taxpayer's refund. Their Idaho refund could be intercepted by other agencies. The order in which state refunds are paid to other agencies are as follows:

1. The Department of Labor (IDOL)
2. The Department of Health and Welfare (IDHAW)
3. The Sheriff's Department (IDSHR)
4. The IRS (SITLP)
5. The Supreme Court (IDSUP)



- **A refund seizure indicator on responsible parties will not stop a refund from being intercepted.**

Seizing Federal Refunds

The Tax Commission also has the ability to attach federal tax refunds through Financial Management Service (FMS), which is the central payment processing center for the Treasury Offset Program (TOP). Federal refunds can be applied to income tax and withholding tax liabilities. In order to be included in TOP, the liability must be liened, and a TOP Notification letter must be sent, which gives the taxpayer 60 days to resolve their account before being submitted to the program. The TOP Notification letter is automatically sent for Income tax debt, sole proprietor withholding debt, and for responsible party withholding debt. The TOP Notification letter is sent certified. Effective January 20, 2015, the Tax Commission can now attach federal refunds with an out of state address. For more information on TOP, refer to the [TOP Processes and Procedures](#).

There are certain situations where we cannot send a record to the FMS, so the indicators are not set. These situations are as follows:

1. There is a "Bankruptcy" indicator set.
2. There is a "Divert Refund to Trustee" indicator set.
3. The return that created the balance due is out of statute.
4. The period balance is less than \$25.00.

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Chapter 20 Levies

[Steps to Take Before Serving a Levy](#) | [Preparing a Levy](#) | [Serving a Levy](#) | [Releasing a Levy](#) | [Refusal of Levy Through "Right of Offset"](#) | [Failure to Honor a Levy](#)

- **The legislation relating to designated bank service offices can be found in Idaho Code Section [8-507](#).**

- **The Idaho Code Sections discussing sales and withholding taxes being held in trust are [63-3623A](#) and [63-3035c](#).**
- **The rule governing responsibility of third parties to honor a levy can be found in [Idaho Administration and Enforcement Rule 220](#)**

While a warrant provides the legal authority to seize property, a levy is the document that actually orders the surrender of money or property held by third parties. All levy letters and associated letters are issued through the Levy Manager. A levy requires a third party to surrender, in a reasonable amount of time, any money or property due and owing to the taxpayer at the time the levy was served. There are two types of levies:

1. The Notice of Continuous Wage Levy is served to employers. This levy attaches to 25% of gross taxable earnings until the amount levied is satisfied.
2. In cases other than wages, the Notice of Levy is served to any third party, such as a bank, a brokerage, or a renter. This levy attaches to 100% of available assets up to the amount of the levy. It is not continuous, and a new levy must be served each time.

Steps to Take Before Serving a Levy

Prior to levying against a taxpayer, notify the taxpayer that this collection action is pending. The taxpayer can be notified either in person or by telephone. Give the taxpayer a specific deadline by which he must resolve his liability. Inform him that if the deadline is not met, seizure action may proceed without further notice. Once the taxpayer has been contacted, document the conversation in the collection note, including the deadline that was set, the terms, and the type of collection action discussed.

Do as much research as possible to verify that the levy sources are valid and that the third parties to be levied upon are holding money due and owing to the taxpayer. Hints for locating taxpayer assets can be found in [Chapter 11](#).

- **Before preparing a continuous wage levy for service on an employer, make every attempt to verify that the taxpayer is still employed and to verify the location where the levy should be served. At times the process of locating and driving to an employer is very time-consuming and a little research before preparing the levy can reduce the time involved considerably.**

Preparing a Levy

Before issuing a levy, a current warrant is required. Without the warrant, there is no legal authority to seize any property. In issuing the levy, verify that the taxpayer and third party information is correct. Remember to include the spouse for a joint liability. Verify that all the amounts are correct and confirm that the penalty has been assessed against the party you are levying. Instructions can be found in the [Levy Manager Procedures](#).



- **All levies must be reviewed by the supervisor or designee for accuracy.**

Serving a Levy

The Notice of Levy can be served in person, by certified mail or by electronic means (fax). Levies can be faxed if the contact person for the company being served has been contacted and has agreed to service by fax.

Generally, a levy and warrant have no authority out of state and do not reach across state lines. A levy being served on a “foreign corporation” (a corporation chartered in another state) should be mailed if the corporation is operating and registered in Idaho but has no business office or registered agent in the state. An example would be a corporation whose only physical presence in Idaho is salesmen who work in Idaho out of their homes. These levies should be mailed certified to the corporate headquarters or to the registered agent if one has been designated.

If a foreign corporation is not registered in Idaho and has no Idaho nexus, it has no obligation to honor our levies. As a general rule, do not levy out of state entities unless there is evidence or there is reason to believe they may have nexus in Idaho.

Levies for Federal Government entities are generally mailed, certified, to a central office for that agency. Listings of the addresses for several Federal agencies can be found in the **Boise Levy fax number list**.

A final option for serving a levy is to have a local law enforcement agency serve the levy for the Tax Commission. Although this should not be used on a consistent basis, it is very helpful if the levy needs to be served in a distant area, no compliance staff members are planning to drive to that area in the near future, or there is a concern of interaction with a violent or dangerous person. Most sheriffs' departments are willing to assist when asked. Contact the Sheriff's civil department and ask for their procedures regarding serving levies. When sending a levy for service by law enforcement, include a free form letter giving them detailed instructions, the date by which the levy needs to be served, and thanking them for their assistance.

When serving a levy to a third party, properly complete the "Certificate of Service" box on the levy. **Retain the original.**

	<ul style="list-style-type: none"> • NOTE: The only signature required in the "Certificate of Service" box is the signature of the levy server. • If there is a request to see a warrant, inform the requester that upon returning to the office a warrant will be forwarded to them. Mailed and faxed levies should not include the warrant.
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If serving a continuous wage levy to an employer, include the Wage Computation Letter and instructions. Gross taxable earnings can be seized at a rate of 25% from each paycheck, unless an IRS levy exists, then the rate is 10%. Gross Taxable Earnings are:

- **Gross earnings**
- Less Qualified retirement contribution
- Less Pre-taxed insurance
- Less Flexible spending accounts
- Less Deferred comp (457)
- Less 401(K)
- **Equals Gross Taxable Earnings**

If the person being served is hesitant to be identified on the levy, tell them that their name on the levy is only evidence that the levy has been served and, other than turning over the property being seized, does not involve them. If the person being served refuses the levy, complete the certificate of service and leave the levy at the location, advise the person that you are retaining the original, and document the circumstances in the collection notes.

At times, it is not necessary to serve the levy. This happens most often when an employer states the taxpayer is no longer employed, or a bank cannot find an account for the taxpayer. In these cases, notate the circumstances on the levy and leave without serving it. Document the circumstances in the collection notes.

	<ul style="list-style-type: none"> • If a third party states that they are holding no funds for the taxpayer and there is reason to believe this is untrue, serve the levy anyway. This will require them to acknowledge the levy in writing.
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When serving a levy to a bank, check the Levy Fax Number List for the most current levy service information. The Department of Finance also maintains a website at <http://finance.idaho.gov/Banking/BankGarnishments.aspx> where a list of banks using a designated service office is maintained.

By **Idaho Code 8-507**, any bank can elect to have a designated service office where all levies and garnishments must be served. If a bank elects to have a designated service office, they must review accounts from all branches, no matter where they are located, to determine if the taxpayer has any accounts. Keep in mind that if a bank uses a different corporation for each state, this does not apply (for example Key Bank of Idaho Inc. vs. Key Bank of Utah Inc.). In these cases, they will only check the branches administered by the corporation to which the levy was served.

ng	<p>Remember that levies served on bank accounts will also attach to any accounts where the taxpayer has co-ownership, such as on a minor child's or elderly parents account. If a complaint is received, it will have to be decided on a case-by-case basis if the funds should be kept.</p>
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Releasing a Levy

Because a levy is served only after other attempts at getting the taxpayer to comply have failed and after the taxpayer has been duly notified, levies should only be released for very good cause.

Once it is determined that a release is in order, the release letter can be faxed, mailed, or personally delivered to the third party as soon as possible so they can stop any processing they may have begun.

It is also possible to do a partial levy release. The amount released would be the amount of the original levy minus the amount that is being seized.

Refusal of Levy Through “Right of Offset”

A bank may refuse to accept a Notice of Levy for reasons called “right of offset”. This means the taxpayer owes the bank money, and the bank has first priority to the available funds. This may or may not be true. Idaho Code provides that sales and withholding taxes in the possession of the taxpayer are held in trust by the taxpayer for the benefit of the State and are not available to third parties, even through right of offset. This will require further investigation to determine what, if any, funds in the account are truly trust funds. The Tax Commission may choose to challenge the bank’s right of offset.

In some instances, an employer or other third party may claim a right of offset when a levy is served. Whether or not this person has a right of offset depends on what rights the taxpayer would have if the third party were attempting to collect on their debt. If the third party could claim the right of offset against the taxpayer, then he has a valid claim of right of offset against the Tax Commission. Check the accuracy of the third party’s claim by requesting examination of the records. If the third party refuses to allow examination of the records, use a formal summons to require them. Formal summonses are discussed in [Chapter 11](#).

Failure to Honor a Levy

Any party on which a levy has been served who fails to honor that levy can be held responsible for the amount of assets not surrendered. Per Idaho Statute [63-3059\(3\)](#): *Any person who fails or refuses to surrender any property or rights to property, subject to levy, shall be liable to the state of Idaho in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate established under section [63-3045](#), Idaho Code, from the date of such levy.*

If no information has been received within a reasonable amount of time from the party served, contact them. If it is determined that the third party will not honor the levy, contact your supervisor for further instruction. In most cases, a letter will be sent referencing the above statute advising them to quickly remit the funds or the matter will be referred to the Idaho Attorney General.

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Chapter 21 Fourth Amendment and Curtilage

[U.S. Constitution: Fourth Amendment](#) | [Curtilage](#) | [Writ of Possession](#)

- The section providing protection against unreasonable search and seizure in the Idaho Constitution can be found in [Article 1, Section 17](#).
- The Idaho Code section authorizing the issuance of a Writ of Possession is [63-3057](#).

When preparing to seize vehicles, business inventories, alcohol beverage licenses, other personal property, or do till taps, it is important to remember that certain areas are protected in and near the homes and businesses of taxpayers, and are therefore off limits for seizures. This chapter explains the Fourth Amendment, which prohibits illegal search and seizure, and curtilage, which defines what can be considered as protected areas.

U.S. Constitution: Fourth Amendment

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

While this amendment specifically relates to unreasonable search and seizure by the Federal Government, the Idaho Constitution contains a similar guarantee.

- **The “Warrants” mentioned above are not the warrants that the Tax Commission uses, but are normally interpreted as a “Search Warrant”. Idaho statute provides that only law enforcement officers can obtain search warrants.**

The Fourth Amendment prohibits unreasonable search and seizure by “the Government.” In our capacity as compliance personnel, we are “the Government.” At this point with a Tax Commission warrant and Notice of Seizure, compliance personnel are only allowed to enter an establishment or residential property and stay within the “public area”, without the express permission of the owner or an employee. You must ask yourself two questions:

1. Does the individual generally have an expectation of privacy in the area that I am about to enter?
2. Would a “reasonable person” generally recognize the expectation of privacy in the specific area?

In a business or residential property, the owner has a reasonable expectation of privacy in all areas other than where the public can freely access. The business owner also has an expectation of privacy in areas open to his employees.

Curtilage

Curtilage: The enclosed area immediately surrounding a house or dwelling. (*American Heritage Dictionary*)

The U.S. Supreme Court noted that in addition to the above definition, curtilage also includes that area surrounding the residence that “. . . harbors the intimate activity associated with the sanctity of a man’s home and the privacies of life.” Curtilage, like the house itself, is under Fourth Amendment protection from unreasonable search and seizure.

Determining the boundaries of curtilage is considerably more problematic than just fixing the limits of the house.

United States v. Dunn, 480 U.S. 294 (1987). DEA agents did not violate the Fourth Amendment when they entered defendant’s property, ignored “No Trespassing” signs, climbed two fences surrounding a barn a short distance from a ranch house, and shined flashlights into the barn revealing a drug lab. Defendant claimed the activity violated the Fourth Amendment because the agents penetrated the ranch house Curtilage, a constitutionally protected area, without a warrant.

The U.S. Supreme Court established four factors to determine whether an area is curtilage:

1. *Its proximity to a home.*
2. *Whether the area is included in an enclosure surrounding the home.*
3. *The nature of the uses to which the area is put.*
4. *Protective measures taken to protect the area from sight by passersby.*

The Court said the barn, 180 feet from the house, was too far away, no fence surrounded the house and barn, and the barn was not being used for activities intimately associated with the house. Instead, it was housing a drug lab, and finally, the fence surrounding the barn was a stock fence designed to keep animals in, not people out. (The case is properly analyzed as an “open fields” case and open fields do not enjoy Fourth Amendment protection. *Hester v. U.S.*, 265 U.S. 57 1924 and *Oliver v. U.S.*, 466 U.S. 170 1984).

Another court has said, “In conducting a criminal investigation, a police officer may enter those residential areas that are expressly or impliedly held open to casual visitors. If one has a reasonable expectation that various members of society may enter the property in their personal or business pursuits, he should find it legally likely that the police will do so too.”

While compliance personnel are not DEA agents or police officers, they still must respect the area around a residence when it comes to seizure action. Obviously, by the above citations, curtilage is not a black and white issue. It is quite gray and each action must be judged on its own merit.

- **If there is a question as to whether compliance personnel can enter an area of a residence to take seizure action, photograph the area and provide a sketch of all features. Then discuss the area with a supervisor, who will consult the Legal Department through proper channels.**

It may be legal to seize a car from a private driveway or on a street in front of a private residence, but not from a fenced back yard accessible from an alley. By virtue of erecting a fence around his back yard, the property owner has a reasonable expectation of privacy, even if it is only a two-foot high decorative fence.

Writ of Possession

Idaho Code allows a Writ of Possession to be issued by a court. A Writ of Possession extends the accessibility that Tax Commission personnel have to items for seizure that would otherwise be prohibited by the Fourth Amendment. If a situation exists where a taxpayer has assets that would normally require a search warrant to access, discuss the situation with a supervisor, who will refer the case to the Legal Department through proper CCB channels. In order to have a Writ of Possession issued, there must be something similar to “probable cause”. For example, if a compliance officer has seen through an open doorway a back storeroom in a business with assets of value, he would normally not be able to seize those assets because it is not an area where a respectful citizen would go. He would, however, want to document thoroughly what he has seen and where it is located to send to the Legal Department. This information would be used to show probable cause for a Writ of Possession.

Once the Legal Department reviews the case and decides to pursue the Writ, they will go to court to obtain the order. Also at that time, the Legal Department will file a motion for a temporary restraining order restricting the taxpayer from hiding or disposing of the asset. The judge will issue the order to the Sheriff in the county where the property is located. The Sheriff then conducts the seizure within a reasonable timeframe. Tax Commission personnel can accompany the Sheriff during the seizure, but will not be conducting the seizure themselves.

Upon seizing the assets, the Sheriff can hold the property for up to five days before releasing it to the Tax Commission. Once released, the Tax Commission would be free to sell or release the property just as with any other seizure.

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Chapter 22 Alcoholic Beverage Licenses



IMPORTANT: BE SURE TO REFER TO THE [SEIZURE MANUAL PROCEDURES](#) WHEN CONTEMPLATING OR DOING A SEIZURE.

[Finding a Liquor License](#) | [Liquor License Hold](#) | [Seizing a Liquor License](#)

- **Boise is the point of contact for Department of Law Enforcement Alcohol Beverage Control Division (ABC). Do not contact ABC directly.**
- **The Idaho Code Section authorizing the liquor license levy is [23-950](#).**
- **The Idaho Code Section relating to the revocation or suspension of beer licenses is [23-1052](#).**

Finding a Liquor License

Every business that wishes to serve hard liquor must lease or purchase a liquor license, which must be renewed annually. Placing a hold on the liquor license will effectively prevent the taxpayer from renewing, transferring or selling the license. This is particularly effective because by State law, the number of liquor licenses issued in each city is determined by population, which can mean they are hard to find and can be very valuable. ABC in Boise administers liquor licenses and maintains a list of all liquor licenses, identifying location, and ownership. To find who leases or owns liquor licenses go to the [Alcohol Beverage Control license search](#).

Liquor License Hold

When the request to hold a liquor license is served at ABC, the license cannot be renewed, sold or transferred until we notify ABC that the matter has been resolved. There is also a potential risk of losing the license. A License Hold on renewal of liquor licenses can be put in place at any time during the year, but the License Hold must be served before the renewal date. The licensee (taxpayer) cannot sell any alcohol after the expiration date of the license. Each county has different renewal dates. For the list of liquor license renewal dates by date or county, refer to the document [ABC Liquor License Renewal Dates](#).

A License Hold can be served at ABC as soon as a CND has been sent, even though no lien has been filed. Refer to the [Seizure Manual Procedures](#), Chapter 4, for step by step instructions.

Boise personnel will deliver this letter to ABC, research their file and complete the Info Sheet. The Boise office will prepare and send a Notice of liquor license hold letter to the lessor of the liquor license. In the Seizure Case manager add a note that a stop license hold has been placed and attach the letter and ABC Info Sheet.

	<ul style="list-style-type: none"> • Note: Extreme caution must be exercised in discussions with lien holders and liquor license lessors if they are not the taxpayer. Some information may not be liened and we must be cautious not to breach confidentiality.
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Dealing with Third Party Lessors of Liquor Licenses

When third party lessors are notified of levies against the liquor license they lease to the licensee (taxpayer), special consideration should be given to clear the liability and free the license. Although Idaho code allows the Tax Commission to collect tax, penalty, and interest, policy is to hold third party's responsible for only the tax to release the liquor license hold. The same holds true for situations when the physical license has been seized from the premises.

Seizing a Liquor License

Before seizing a liquor license, there are some things to consider. Determine if the Liquor License is an "Incorporated City Liquor License." These are the only licenses that can be moved from premise to premise and the only license that is regulated by population, which gives it a resale value. Other types of licenses issued by ABC are Golf Course, Ski Resort, Waterfront Resort, Theme Park, and Continuous Use. These licenses have no value, but our hold will stop the renewal or transfer to another owner. You must be able to physically take possession of the license without violating any curtilage laws. The one time it would be possible to seize a liquor license without locating it would be at the renewal date. If a hold has been served and the taxpayer does not clear the liability in order to renew the license by the renewal date, the Tax Commission can seize the license, pay the renewal fee, and then sell it. Manager approval is needed at this level of seizure activity. Contact the Boise office, who will contact ABC to determine if a renewal fee has been paid, and if someone else has applied for the license. If a license is within 60 days of renewal, start the process to have it renewed and seized by sending a work item to a manager, listing the premise number of the license and the amount of the renewal fee.

Once an Incorporated City Liquor License has been seized, advertise and sell the license as any other seized property. The procedures for sales are listed in the [Seizure Manual Procedures](#), Chapter 4.

	<ul style="list-style-type: none"> • When a taxpayer wants to pay his liability to release the liquor license hold, payment must be made by certified funds, cash, cashier's check, or credit card.
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Suspending or Revoking Beer / Wine Licenses

Beer/wine licenses can be revoked or suspended for any tax type owed by the taxpayer who owns the license. Refer to the [Seizure Manual Procedures](#), Chapter 4.

Beer licensees are a wide range of retailers which can include grocery and convenience stores, restaurants, recreation facilities, and taverns. Beer/wine licenses are regulated by Idaho State Police's ABC unit. The status of a license can be confirmed at [Alcohol Beverage Control license search](#).

These licenses are relatively inexpensive. They have no value when seized, and their seizure is not provided for in statute. Revoking a beer/wine license requires both the Tax Commission's and ABC's Attorneys General to become involved. The nature and expense of the work required to revoke a license eliminates revocation as a possibility in most cases. For these reasons, suspension is the best option.

Beer licenses can be suspended for non-filing or non-payment of any type of tax due by the licensee ([23-1052](#)). Suspending a beer license effectively suspends all alcohol sales until ISTC notifies ABC that the tax issue has been resolved.

The process involves delivering the Beer Suspension Notification letter to the taxpayer explaining our intention of suspending their license and working with the taxpayer to enter into an agreement before the deadline given. The few taxpayers who won't respond will be referred to ABC for suspension. [REDACTED] (Redacted pursuant to 74-107(1)(b)). We shouldn't suspend a license and then try to negotiate a debt. Our main goal should be to negotiate a mutually acceptable agreement prior to getting ABC involved in enforcing a suspension on our behalf.

The Beer Suspension Notification letter may be created as early as the tax estimate stage. This letter spells out the impending suspension process and gives the taxpayer a specific amount of time, typically ten days, to work out a plan of compliance in lieu of a suspension. Consult with your manager or CO3 for acceptable terms if the taxpayer cannot pay in full. Most cases can be cleared with delivery of this letter. It's best to let the taxpayer know of the beer suspension process in advance. Personal delivery of the letter with a CO3 can have a more powerful impact.

Document each conversation about the beer suspension in the seizure case notes. Should the case move to an actual suspension, the seizure case notes will clearly show the justification of the process.

If the taxpayer won't work to resolve their debt, notify ABC and request they suspend the license. ABC's Attorney General will prepare the Cease and Desist Order. State Police detectives will serve it to the business. No alcohol can be sold at the premises until ABC is notified that a satisfactory agreement has been reached. Notify ABC to reinstate the license when the taxpayer is in compliance.

The Beer Suspension Default letter should be sent when the taxpayer defaults from an agreement made while their license was suspended. It gives the taxpayer an amount of time, [REDACTED] (Redacted pursuant to 74-107(1)(b)), to be back in compliance before a second suspension occurs. Be sure to notify ABC when the taxpayer has satisfied their obligation or entered into another agreement, so they can continue their alcohol sales.

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Chapter 23 Vehicle Seizures

	IMPORTANT: BE SURE TO REFER TO THE SEIZURE MANUAL PROCEDURES WHEN CONTEMPLATING OR DOING A SEIZURE.

[Research](#) | [Placing a Title Stop on a Vehicle](#) | [Seizing a Vehicle Title](#) | [Preparing for the Seizure](#) | [Pre-Seizure Briefing](#) | [Using a Car Boot](#) | [Performing the Seizure](#) | [At the Staging Area:](#) | [Upon Arrival at the Site:](#) | [Documenting Inventory](#) | [Post-Seizure](#) | [Some Situations That May Be Encountered](#) | [Drugs:](#) | [Guns:](#) | [The wrong property has been seized:](#) | [The property is damaged during the seizure:](#) | [Lost Property:](#) | [You are accused of stealing something:](#)

Research

The Department of Transportation (DOT) system will provide the titled owner, registration information, Vehicle Identification Number (VIN), and lien holder information of all Idaho vehicles. License plates can also be researched on the DOT system.

Determine the value of the vehicle by doing an onsite inspection and checking NADA or Kelly Blue Book to determine if the vehicle is worth pursuing.

	<ul style="list-style-type: none"> • The Tax Commission does not have to leave the taxpayer with a vehicle as allowed by Idaho Code 11-607. The decision whether or not to leave the taxpayer with a vehicle should be made using your best judgment. If you decide to leave them a vehicle, consider asking for the title and a spare key. Follow the procedure in the section below "Seizing a Vehicle Title".
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Placing a Title Stop on a Vehicle

If a decision is made to pursue seizure action, place a title stop. Create a Seizure Title Case and follow the instructions in the [Seizure Manual Procedures](#). It is important to note that the title stop does not cross state lines and the Tax Commission will not harm third parties if the vehicle is sold while the title stop is in place.

Seizing a Vehicle Title

If a lien holder exists, the Tax Commission may levy the lien holder for the title. When the lien holder is paid in full, the title would be surrendered to the Tax Commission. The Tax Commission can then be listed as the lien holder on the title. [REDACTED] (Redacted pursuant to 74-107(1)(b)). Unlike a title stop, the lien holder information also crosses state lines if the vehicle is sold out of state.

When seizing a title, contact the current lien holder for a payoff. If the debt will be paid off within a few months or has a low balance, prepare a levy to be served to the lien holder. Add the following verbiage:

"This levy will operate to seize the title document of one [year, make, and model], VIN # . . . after satisfaction of first mortgage."

When a vehicle has a title stop and the taxpayer has attempted to transfer the title to a third party it is necessary to research the facts to determine if the Tax Commission should release the stop.

Example: If we are harming a third party, issue a title stop release and fax or email it to DOT. The third party may be a dealership who took the vehicle in trade or an individual who purchased the vehicle in good faith.

If we are not harming the third party, request that DOT send a "30-day Letter." This will allow the Tax Commission up to 30 days to either seize or release the title. If no action is taken, after 30 days the title is automatically released by DOT. If the Tax Commission decides to take action, seize the title. Prepare a levy to be served to DOT, and add the following verbiage:

"This levy will operate to seize the title document of one [year, make, and model], VIN # . . ."

Once the title is received, complete the section for new lien holders, and send the title with a request to have the Tax Commission added as a lien holder. Field offices will mail the title and request to Idaho Transportation Department, Vehicle Services Stop, PO Box 7129, Boise, ID 83707-7129 and Boise can send the title by mail or through interdepartmental mail. The new title will be mailed back and should be retained per office policy.

[Redacted]

[Seizure Manual Procedures](#)

[Redacted]



[Redacted]

[Redacted]

	• [Redacted]
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[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

(Redacted pursuant to 74-107(1)(b)).

Pre-Seizure Briefing

The seizure coordinator will have a seizure folder with all the relevant information about the seizure.

1. **Assign specific duties to each staff member.** Identify the actions that must be taken during the course of the seizure and assign to a compliance officer. Provide staff members everything they need to complete the tasks assigned to them.
2. **Describe the seizure site.** Provide a description of the seizure site and point out hazards, escape routes, and areas where vehicles will need to park and maneuver.
3. **Describe the items to be seized.** Describe where the vehicle will be located, what color it is, any distinguishing marks, the make, model, and year, and anything else that may eliminate confusion.
4. **Coordinate activities of outside assistance.** Discuss with staff members what outside assistance will be on site and, if available, the name of the law enforcement officer on site.
5. **Identify the staging area.**
6. **Discuss possible scenarios and appropriate reactions.** While the vast majority of seizures are performed without incident, there is always the possibility that something could go wrong.

Using a Car Boot

Do not use a car boot in place of seizure action. Use it only to hold a vehicle while waiting for law enforcement or a towing vehicle when the taxpayer is known or suspected to be uncooperative. The following guidelines should be used when booting a car:

- There should be at least two compliance officers at the time of booting.
- The use of the boot must be approved by management.
- Seizure stickers will be attached to the vehicle at the time of the booting, and the booting sticker will be attached to the drivers' window.
- The compliance officers should leave the immediate area and allow law enforcement to arrive before continuing.

Performing the Seizure

At the Staging Area:

While at the staging area, the seizure coordinator will talk to all outside parties about the layout of the seizure site, the vehicles involved, and individual duties. Do not proceed to the seizure site until all parties understand their roles. **Safety is most important.**

Inform the wrecker operator to be prepared to load the vehicle after the VIN has been verified, pictures have been taken, and any damage to the vehicle and/or any aftermarket additions have been documented. Verify where the vehicle is to be towed and stored.

The primary reason for a law enforcement officer to be present is to keep the peace and protect the compliance officers involved. Ask the law enforcement officer if he is familiar with the taxpayer to verify that there is no conflict of interest. If there is, request a new officer on scene. Otherwise, ask the officer to accompany the seizure coordinator to contact the taxpayer. Also explain that no negotiation will occur at that time, and the only interaction with the taxpayer will be to notify them of the actions to be taken, to deliver the necessary paperwork, and to request keys to the vehicle. If the law enforcement officer feels the situation is disintegrating, he should assume control of the situation and do whatever he feels necessary to protect the parties involved.

Upon Arrival at the Site:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Seized Vehicle Insurance Template

	• [REDACTED]
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(Redacted pursuant to 74-107(1)(b)).

Documenting Inventory

The contents of a seized vehicle are recorded on the "Seized Property Inventory" forms. Upon reaching the storage area and unloading the vehicle(s) from the wrecker(s), inventory all items in the vehicle(s) with at least one other Tax Commission employee. Be descriptive.

Mail copies of the Seized Property Inventory forms to the taxpayer or deliver them in person if the taxpayer arranges to come into the office to pick up released items.

Any money found in the vehicle should be counted by two employees, noted on the Seized Property Inventory form, and applied to the liability.

Any items in the vehicle with a resale value should be kept for possible sale to apply to the liability. Release the remaining items to the taxpayer. Refer the matter to a supervisor or manager if the taxpayer does not claim the remaining items within a reasonable time.

Post-Seizure

Conduct de-briefing.

Once the seizure and inventory are completed, all staff involved in the seizure should hold a post-seizure de-briefing. The seizure coordinator should conduct the meeting. This is a good time to discuss what happened, what went well, and what improvements are needed in future seizures. This is also a good time to gather feedback from compliance officers on the scene for future reference.

Some Situations That May Be Encountered

While these situations are the exception rather than the rule, be aware of the procedures to follow should any of them be encountered.

Drugs:

Any type of drug that is not a prescription in the name of the taxpayer or a member of the taxpayer's family, or anything that can't be easily identified as an over-the-counter medicine (such as aspirin or antacids) is an illegal drug. Any prescription drugs or over-the-counter medicines belonging to the taxpayer or his family should be returned. If there are any drugs that appear to be illegal, secure the scene by stopping the inventory immediately and contacting law enforcement (preferably the ones that helped with the seizure).

If prescription drugs in the name of someone other than the taxpayer and his family members are found, contact law enforcement. It is illegal to be in possession of someone else's prescription drugs.

Guns:

Guns are assets that can be sold through the normal Tax Commission procedures. Do not handle guns if not familiar with them.

The wrong property has been seized:

Notify the rightful owner of the seized property of the intent to return the property immediately. Request a law enforcement officer to be present when returning the property.

Complete, sign, and deliver to the owner a copy of the "Receipt for Return of Seized Property" form. Make sure the owner also signs the form. Upon request from the owner, provide any description or recording of the condition of items prior to the seizure to document the damage.



- **Because of the potential liability that could be incurred by the Tax Commission in these situations, take extreme care to ensure that you are seizing property that belongs to the taxpayer from which you are collecting. IF YOU AREN'T SURE, DON'T TAKE IT.**

The property is damaged during the seizure:

If any damage occurs to the property while in the possession of the Tax Commission, document the damage and notify a manager. The Tax Commission is insured through the State's Risk Management.

Lost Property:

If some or all of the property is lost, document any lost items and notify management. Again, this is covered under Risk Management.

You are accused of stealing something:

If you are accused of theft of any property involved in a seizure, notify management immediately for direction.

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Chapter 24 Seizures of Other Personal Property



IMPORTANT: BE SURE TO ALSO CHECK THE [SEIZURE MANUAL PROCEDURES](#) WHEN CONTEMPLATING OR DOING A SEIZURE.

[Till Taps and Till Seizures](#) | [Procedures for Doing a Till Tap](#) | [Procedures for Having Law Enforcement Do a Till Tap](#) | [C.D.'s, Stocks, and Mutual Funds](#) | [Cash Value Life Insurance Policies](#) | [Accounts Receivable and Contracts](#) | [Commissions for Insurance and Real Estate Agents](#) | [Finance Companies](#) | [Other Personal Property](#) | [Equity Seizures](#) | [Seizures of Unstamped Cigarettes or Delisted Products](#) | [Unclaimed Property \(UCP\) Seizures](#) | [Lottery Commission](#)

- The Idaho Code Section discussing seizing unstamped cigarettes is [63-2514*](#).
- The Code Section describing unstamped cigarettes is [63-2523](#).
- The Code Section describing the Tobacco Master Settlement Agreement Complementary Act is [39-8406](#)

Till Taps and Till Seizures

Till taps are the act of seizing cash from the physical business and are done by Tax Commission personnel or a local sheriff. Till seizures may also involve seizure of the cash register. Request that law enforcement be present both for security and as a witness.

To determine whether to do a till tap or a till seizure, consider the following factors:

1. The relative value to be received compared to the risk of exposure involved.

Till taps, and particularly till seizures, can be high-profile events. Seizing a cash register can result in a taxpayer having to close their business until they work out an arrangement with the Tax Commission to have their cash register returned, or until they can find some alternative way to handle the cash and credit cards transactions in order to operate their business. Even till taps, where the cash register remains with the business, can be disruptive, particularly if there are customers in the business at the time the till tap occurs.

The amount that the Tax Commission receives from these actions is usually comparatively low, generally a few hundred dollars plus the value of the cash register. While in some cases it is a desirable effect to temporarily hinder the taxpayer's business, this approach should only be considered after other less disruptive collection activities have been tried.

2. The location of the cash register.

The cash register must be in an area where it can be seized based on the Fourth Amendment and curtilage. If the cash register is located within reach of where a respectful customer would stand, it can be seized. If the cash register is located outside the reach of a respectful customer, ask the taxpayer (or the taxpayer's employees) to unplug the cash register and hand it over. In many cases they will comply, and Tax Commission personnel can proceed with the seizure. If not, the cash register and contents cannot be seized.

3. The complexity of the cash register and its connections.

Many cash registers are large and include many complex connections to peripheral devices, or they may be bolted to a counter. If a cash register is too complex or is bolted down, the machine may be damaged by any attempts to unhook it. Therefore, in these situations, perform a till tap and leave the cash register.

4. The ownership of the cash register.

If possible, determine the ownership of the cash register before seizing it.



- **Thoroughly research the business to determine the location, complexity, and ownership of cash registers before attempting a till tap or till seizure.**

Procedures for Doing a Till Tap:

Approach the taxpayer or the employee at the counter, notify that person that the Tax Commission is there to seize all money located on the premises, and give them the warrant. Ask them to remove the cash drawer from the cash register. Also ask for any other cash that might be in bank bags, safes, or any other location at the business. Remember, if the cash register is in such a place that the contents cannot be legally seized, and the taxpayer or employee will not voluntarily surrender it, the contents cannot be seized. The money and checks in the till should be counted in the presence of the taxpayer (and/or his employee) if the situation allows, and a C-12 should be completed and signed. Give the taxpayer or his employee a copy of the C-12, which will serve as a receipt for the funds.



- **Generally, the Tax Commission only seizes and counts checks, currency, and rolled coins. The objective of seizures is to perform them and leave as quickly as possible. Counting loose coins prolongs the amount of time you are in the taxpayer's establishment and increases the odds that the situation could deteriorate.**

- If possible, the seized money should remain in the custody and control of two compliance officers until processed at the Tax Commission office.

Procedures for Having Law Enforcement Do a Till Tap:

Usually the sheriff's department requires a copy of the warrant and a letter of instruction. Verify the sheriff department's procedure and find out to whom the papers should be directed. Once the seizure has been completed, the sheriff's department will deliver the funds per their established procedure.

C.D.'s, Stocks, and Mutual Funds

When levying a bank for any bank accounts held by the taxpayer, often they do not include CDs. If there is information indicating the taxpayer has a CD, specifically list any CD accounts on the levy served to the bank.

If a taxpayer has investment assets that can be identified, they can be seized unless they are part of a qualified retirement plan. Prepare a levy to the brokerage handling the taxpayer's accounts, or to the company for which the taxpayer holds stock.

Mutual funds are somewhat more difficult as they are almost always purchased by the taxpayer rather than through a broker and most mutual fund companies do not maintain locations in Idaho. However, if mutual funds are part of a brokerage account, they may also be levied.

Cash Value Life Insurance Policies

If a taxpayer owns a cash value life insurance policy that has a cash value worth seizing, serve a levy on the insurance company to seize it. However, some life insurance companies will also cancel the policy if a levy is served. For this reason, try other less serious collection methods first, and obtain permission from management before proceeding with a levy.

Accounts Receivable and Contracts

If other businesses or individuals buy the taxpayers products or services, or might otherwise owe him money, these other businesses can be levied for any amounts due and owing to the taxpayer. Likewise, if the taxpayer is a contractor or a subcontractor, levy the business or individual that contracted with the taxpayer for any money due and owing to the taxpayer. For subcontractors, levy the prime contractor. A good resource for finding contractors with public works projects is the Sales Tax Audit Bureau, which regularly receives a list of the contractors involved in these projects. They review the list and will notify the case owner if they find a liability for a contractor.

Commissions for Insurance and Real Estate Agents

A levy to seize commissions of insurance agents can be delivered to either the insurance broker or the Department of Insurance in Boise. Levies to seize commissions of real estate agents should be served to the broker for whom the agent works.

Finance Companies

If the taxpayer finances or "factors" his inventory, he may have money coming back from the financing company in the form of rebates, profit sharing, or commission, which can be obtained by levying the financing company.

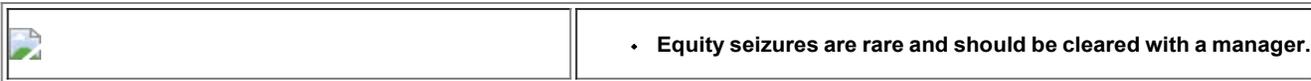
Other Personal Property

While the Tax Commission has the authority to seize all types of personal property including household furnishings, most miscellaneous and household property brings in a fraction of its value when sold at a Tax Commission auction. Additionally, in the majority of cases, the items are located in areas that cannot be entered because of the Fourth Amendment restrictions. For this reason, seizures of other personal property are rarely done.

Equity Seizures

Tax Commission levies are not continuous. However, in an equity seizure, Tax Commission levies may act as continuing garnishments, because they are seizing the equity that a taxpayer has in the property, regardless of how it is paid to him. For example, if the equity is paid out in monthly payments, the Tax Commission would be entitled to receive each monthly payment because each is a portion of the equity that was seized in its entirety. Examples of property that can be seized as an equity seizure are:

1. Escrow accounts: If a taxpayer is receiving payments pursuant to the contract sale of real property, it will usually be through an escrow company. Serve a levy on the escrow company, which requires the escrow company to send all payments to the Tax Commission without serving another levy. Explain this to the escrow company and answer any questions they might have. Also, because this involves real property, provide a copy of the lien with the levy.
2. Other contract sales: The same principle applies in these situations. The buyer of the property must be served a levy and an explanation of what is required.



Seizures of Unstamped Cigarettes or Delisted Products

All cigarettes are required to have Idaho tax stamps. On occasion, unstamped cigarettes will need to be confiscated. While this happens rarely, and does not always involve compliance personnel, be aware of the procedures if asked to assist in such a seizure. The following are the important points to note:

1. Seizure of unstamped cigarettes applies only to vendors or holders of ten or more packages not located on an Indian reservation. Cigarettes on reservations are not required to be stamped.
2. These seizures do not require a collection warrant, but may require a search warrant, if areas not open to the public must be searched.
3. Like any other seizure, prior approval from management is required.

Delisted products are brands that have not been re-certified and have been removed from the [Idaho Directory of Compliant Product](#). Instructions will be provided by the Tax Discovery Bureau and blue instruction folders should be available in each office.

Unclaimed Property (UCP) Seizures

The Idaho State Treasurer's Office is the administrator of the Idaho Unclaimed Property (UCP) program. UCP is the custodian of unclaimed personal property for citizens whose last known address was reported to be in the state of Idaho. UCP funds cannot be transferred out of the unclaimed property account without following due process laws, which indemnifies the state of any liability that may arise if unclaimed property is paid out to a wrongful owner in error.

A claim for unclaimed property may be made by faxing a levy to Idaho Unclaimed Property at 208-332-2970 (fax). The minimum amount for a levy on Unclaimed Property is \$5.00.

- Be sure that you include the "Property ID" number on the levy and fax cover sheet to Idaho Unclaimed Property (UCP). To make it easily identifiable and prominent, use capital letters and note in the "AKA/FKA" box of the UCP levy: PROPERTY # 12345. If the individual has more than one property and a large liability, list all of the property ID numbers on the UCP levy.
- Put the GenTax "**Collection ID #**" in the upper right hand corner of ALL UCP levies. This number will be notated on the checks that come in from UCP in lieu of the collector's name. UCP will notate it on the outside in the address section of the check. This step is important to help ISTC identify the taxpayer and case owner when the payment is received.

UCP will review the claim initiated by the tax levy within 90 days. If any levies are close to statute date, Unclaimed Property would be happy to assist in expediting them. Please contact Unclaimed Property for those that might require special handling.

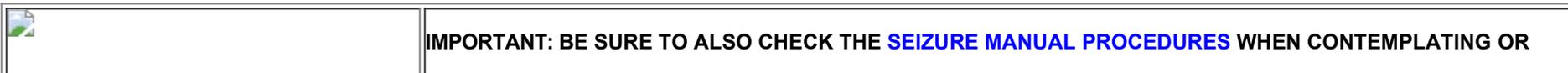
Contact Unclaimed Property in Boise at message numbers 208-332-2942 or 1-877-388-2942 (toll free) with questions. UCP is located at 304 N. 8th St, Suite 208, Boise, ID 83702.

Lottery Commission

The Idaho Lottery Commission and the Idaho State Tax Commission have a Memo of Understanding (MOU) on file which allows for the sharing of information. When a claim is made to the Lottery Commission, they review for any matches to a weekly upload of liened individuals and if a match is found, the amount of the lien is seized and sent to the Tax Commission in check format. If an overpayment results from this payment, the balance will then be returned to the individual per normal procedures. In certain circumstances, Lottery may call ISTC for a payoff confirmation before they remit payment.

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Chapter 25 Property Exempt from Seizure



Certain types of property are exempt from seizure for various reasons. It is important to be aware of the types of property exempt from seizure.

Retirement Accounts

Any pension plan from the government of the United States (e.g. Social Security or Veterans) or that is qualified under the [Employee Retirement Income Security Act \(ERISA\)](#) may **NOT** be seized because they are exempted by federal law.

IRAs and 401Ks not specifically exempted by federal law are seizable. However, as stated in Idaho Code [11-604A](#): *"It is the policy of the state of Idaho to ensure the well-being of its citizens by protecting retirement income to which they are or may become entitled."* From this and the wording that follows in the rest of this section of the Idaho code, the Tax Commission's legal department has determined that in most cases, IRA and 401K retirement income cannot be seized.

A Spouse's Separate Property

Generally, separate property belonging to the spouse prior to marriage or if there is a pre-nuptial or post-nuptial signed agreement, the property cannot be levied or seized.

Property Exempted from Attachment or Levy

Pursuant to Idaho code section [11-603](#), the following property is exempted from attachment or levy without limitation:

- (1) A burial plot for the individual and his family;
- (2) Health aids reasonably necessary to enable the individual or a dependent to work or to sustain health;
- (3) Benefits the individual is entitled to receive under federal social security, or veteran's benefits;
- (4) Benefits the individual is entitled to receive under federal, state, or local public assistance legislation;
- (5) Benefits payable for medical, surgical, or hospital care and the amount in a medical savings account as that term is defined in section [63-3022K](#), Idaho Code;
- (6) State unemployment compensation to the extent provided for in section [72-1375](#), Idaho Code.

Prior Lien holders and Creditors

State tax liens do not have priority over prior liens, mortgages, judgments, or other security agreements that have been properly recorded.

Other Things to Consider

By policy there are certain types of property that may not be approved to seize:

1. any property that is perishable.
2. alcoholic beverages, as Alcohol Beverage Control does not recognize the Tax Commission as a licensed seller. Therefore, we could not sell any alcohol that has been seized. There may be an exception if the taxpayer is wine distributor.
3. animals, no matter how valuable, because of the logistics of keeping and caring for the animals. The general rule is, "if it eats, don't seize it."

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Chapter 26 Seizures of Business Inventories

IMPORTANT: BE SURE TO ALSO CHECK THE [SEIZURE MANUAL PROCEDURES](#) WHEN CONTEMPLATING OR DOING A SEIZURE.

[Initial Considerations](#) | [Seizing the Business Inventory](#)

Seizing a business inventory can be one of the most serious and potentially devastating collection methods we can use as it could effectively put a taxpayer out of business. Because of this, all other collection methods should be attempted first.

Initial Considerations

Conduct research of county records and Secretary of State UCC or other security agreement filings before seizing a business inventory. Consider the inventory that would be seized. If the inventory is large, there may be considerable problems involving inventory, transportation, and storage. Another consideration may be the resale value of the seized inventory.



- **Do not seize alcoholic beverages, anything perishable, or anything that eats.**

Compliance personnel can only seize items from “public” areas. In general, a search warrant or Writ of Possession is required to seize items which are located in other than public areas. See section on curtilage in [Chapter 21](#).

Seizing the Business Inventory

Seizures for business inventories should be conducted like seizures for vehicles, with the following differences:

1. Arrange for enough law enforcement personnel to keep the peace with regard to taxpayer, employees, length of time required for the seizure, and other concerns arising from being inside a building or other confined area. Specific areas of concern should be discussed at the pre-seizure briefing.
2. Be familiar with the inventory to determine the necessary equipment to transport the items for storage. In some cases, items will fit in state cars. Other times may require a U-Haul or something similar. In a few cases, professional movers may be required.
3. Seizure tags can either be applied to the items themselves, or in the case of smaller items, on boxes or containers holding the items.

This process can be stopped at any time if the taxpayer pays the full amount of the warrant, plus any expenses incurred, with cash, credit card, or certified funds. All other seizure steps, including documenting damage, taking pictures, inventorying, etc., should be performed as previously detailed for vehicles.

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Chapter 27 Seizures of Real Property

[Determining Whether to Seize Real Property](#) | [The Homestead Exemption](#)



- **The Idaho Code section relating to the Homestead exemption is [Chapter 10, Title 55](#).**

Determining Whether to Seize Real Property

In Idaho, seizure and sale of real property by judgment creditors (including the Tax Commission) requires formal foreclosure proceedings in court. Consequently, only certain cases will be approved for foreclosure. The Tax Commission should either be in first place in the order of creditors (which is rare), or the value of the property must greatly exceed the payoffs to the mortgage holder and other creditors ahead of the Tax Commission. The Homestead Exemption, discussed below, must also be considered.

In determining whether or not a property should be considered for foreclosure, research the title trail of the property at the county courthouse for the county in which the property is located.

Additionally, check for UCC and lien filings that would attach to the property through the Secretary of State's office.

Discuss the possible foreclosure case with your supervisor, who will decide if the account should be referred for further action.

The Homestead Exemption

Idaho code provides for an automatic \$100,000.00 "Homestead" exemption on real property. Generally, this exemption applies to owner-occupied homes and mobile homes, the land on which they are located, and is subject only to prior liens, judgments, and mortgages. In effect, this means that the first \$100,000.00 would be exempt from our seizure and could not be counted as part of the value of the home for foreclosure purposes.

Chapter 28 Returning Seized Property



IMPORTANT: BE SURE TO ALSO CHECK THE [SEIZURE MANUAL PROCEDURES](#) WHEN CONTEMPLATING OR DOING A SEIZURE.

[Releasing Property to the Taxpayer](#) | [Releasing Property to Third Parties](#)

Releasing Property to the Taxpayer

If the taxpayer offers the amount of the warrant, plus expenses incurred in the seizure, and pays with certified funds (a cashier's check), cash, or credit card – release the seized property. If payment is not made within five business days of the seizure, begin the process for selling the item. Personal effects that are seized in the course of seizing other property should be released to the taxpayer if he comes to pick them up, and if they have little value. Valuable items should be retained to be sold and the proceeds applied to the liability.

When any property is returned, complete a "Receipt for Return of Seized Property" form, listing a description of all property released. Suggest that the taxpayer inspect their property before signing the Receipt for Return of Seized Property. This is to protect the Tax Commission and the Compliance Officer from being accused of any damage. Document these actions in your seizure case notes. This document is to be signed by the taxpayer and two Compliance Officers, or a Compliance Officer and a Supervisor. In the rare event that a difficult taxpayer refuses to sign the Receipt for Return of Seized Property form ("You put miles on my car and it is no longer in the same condition."), it is acceptable to write "Refused to Sign" and witness it with your signature and that of another compliance officer or police officer. Retain the original to be scanned into the seizure asset case and give the taxpayer a copy.

Releasing Property to Third Parties

When a third party comes forward and presents evidence of ownership of seized property, it should be returned to them. If they do not have a sales slip, receipt, canceled check, or other documentation showing ownership, a signed statement from the third party, stating that they are the owner of the property and requesting its return, can be accepted. As long as there is no reason to doubt the third party, or believe that they are trying to aid the taxpayer, release the property to them. If there are questions as to the true ownership of the property, or if the property is valuable enough to justify further investigation, the third party may be required to sign an affidavit under oath, stating their claim of ownership and justification for the claim. If an affidavit is needed, contact your supervisor or manager, who will make a decision as to whether to request that the affidavit be drafted by the Legal Department.

When releasing property to a third party, use the Receipt for Return of Seized Property form.

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Chapter 29 Sales of Seized Property



IMPORTANT: BE SURE TO ALSO CHECK THE [SEIZURE MANUAL PROCEDURES](#) WHEN CONTEMPLATING OR DOING A SEIZURE.

[Advertising the Seized Property](#) | [For personal property:](#) | [For real property:](#) | [Types of Sales](#) | [Procedures for Conducting the Sales is found in the Seizure Manual Procedures](#) | [Postponing, Stopping, or Interrupting the Sale](#) | [Procedures for Submitting and Reimbursing Sales Expenses are found in the Seizure Manual Procedures](#) | [Distribution of Surplus Funds](#)

- The Idaho Code section relating to sales of seized property is [11-302](#).

Advertising the Seized Property

For personal property:

Idaho Code requires that a notice of the time and place for the sale or auction be posted for not less than five days, or more than ten days before the time set for the sale. For sealed bid sales, post in three public places of the city in which the sale will take place OR the information can be published in a newspaper in the county in which the sale will occur at least one week, but not more than two weeks, before the time of the sale. Agency policy, in most cases, is to do the three postings and run local advertisements that direct interested parties to the agency website for sale of seized property (see highlight below). For auction sales, post in three public places in the city in which the taxpayer resides. Auction companies will handle all the advertising. Additional advertising options could include classified ads that are distributed free to the public, posting on public bulletin boards in commercial and public buildings, and delivering notices of the sale to dealers who may be interested in the inventory.

	<ul style="list-style-type: none"> • A good source for free advertising is the Tax Commission's website http://istcsales.idaho.gov where a listing of all seized items currently being sold is maintained. • A good way to sell collectable items is e-Bay
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For real property:

Notices should be posted in three public places for twenty days in the city in which the sale will occur and where the property is located, and by publishing a copy once a week for the same time period before the sale in a newspaper published in the county.

Types of Sales

Sales of seized items can be conducted in three ways:

1. Sealed Bid

When selling by sealed bid, prospective buyers submit sealed bids, which are opened at a specified date and time, and the highest suitable bid is accepted.

2. Public Auction Conducted by an Auction Service

This is a public auction where prospective buyers verbally or electronically place bids, but it is conducted by a professional auction service.

3. Public Auction Conducted by Tax Commission Personnel

When selling at a public auction, a date and time for the auction is set and prospective buyers verbally place bids, with the highest suitable bid being accepted. A public auction conducted by Tax Commission personnel may be used when there are several large, individual items to be sold. However, this is rarely done.

Procedures for Conducting the Sales are found in the [SEIZURE MANUAL PROCEDURES](#)

Postponing, Stopping, or Interrupting the Sale

Sales can only be postponed for good reason, such as disputed ownership, improper assessment of the taxes, etc. A sale may be stopped if the taxpayer comes forward prior to the sale and pays the warrant plus associated costs in full. If a sale is interrupted by a third party with a claim of ownership for the items you intend to sell, and the third party can provide preliminary evidence of a claim, remove the items from the inventory of goods to be sold, and continue the sale. After the sale, verify the claim on the disputed property, and determine whether the items should be released to the third party, or retained and sold at a later date.

Procedures for Submitting and Reimbursing Sales Expenses are found in the [SEIZURE MANUAL PROCEDURES](#)

Distribution of Surplus Funds

If the proceeds of the sale of seized property exceed the liability plus any costs of the seizure and sale, the excess must be returned to the taxpayer. This can be done by posting the excess money to the taxpayer's account to allow a refund to be issued. It is possible that some other lien holder may demand payment from any surplus funds. The Tax Commission requires any such

lien holder or creditor to serve a levy, garnishment, or other legal document that requires the Tax Commission to surrender the funds to the creditor rather than the taxpayer. The excess may also be offset by another state agency.

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Chapter 30 Bonding

Requiring Bonds

- The Idaho Code Sections relating to bonding for security for tax are [63-3034](#) and [63-3035\(c\)](#) for withholding and [63-3625](#) for sales tax.

Requiring Bonds

Idaho code lists certain requirements for employers and retailers to provide security for taxes withheld from employees' wages and for sales tax collected on purchases.

For withholding tax, the Tax Commission can require an employer to post a cash or surety bond to protect the State from non-payment of money withheld from their employees. However, if the employer owns real property in the State of Idaho, usually a bond for withholding cannot be requested. The idea behind this decision is that the real property owned by the employer would have sufficient value to cover any probable tax. If the employer does not own real property in the State of Idaho, consider the employer's past filing and payment record, the amount of the probable tax liability, and the general financial condition of the business. If the past filing has been negligent, and the amount of tax is high enough that the financial situation of the business would not be able to cover the unpaid debt, discuss bonding with a supervisor. Idaho sales tax code allows for bonding whether or not the retailer owns real property within the State of Idaho. The sales tax code also lists some specific conditions that apply when determining the amount of the bond. These are as follows:

1. The retailer may be required to post a cash or surety bond in an amount not greater than three times the estimated monthly amount payable by that retailer.
2. In cases where the retailer is habitually delinquent and no property is evident or the taxpayer's record justifies such action, the bond may be raised to an amount not greater than five times the estimated monthly average.
3. In both cases there is a maximum of \$10,000.00 that can be required.

Like withholding, this is generally only invoked if they are chronically delinquent in filing.

A third instance where bonding may be required is in the case of temporary sales tax permits. A [Temporary Permit Bond form](#) may be required from any taxpayer who is not an Idaho resident or from residents who have been a collection problem in the past. In the case of temporary permits, the amount of the bond should be based on an estimate of the tax that would be due. For example, if the estimated tax on the value of the merchandise being sold is \$250.00, require a bond for \$250.00. The minimum amount for a bond for temporary sales tax permits is \$25.00 and must be paid with cash, a cashier's check, or a money order.

Any time a bond is required and posted, the money should be processed through Internal Receipts. Bureau Chiefs must approve bond demands, releases and waivers.

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Chapter 31 Handling Special Collection Cases

In and Out-of-State Uncollectable Cases

If a taxpayer moves out of state and does not arrange to pay his tax liability of \$100 and over, change the District Office to Out of State, the Type to Uncollectable, the Stage to Uncollectable, the Owner to None, and set the Work Date to the out of statute date for the oldest period.

In state Uncollectable accounts \$100 and over should have the Type changed to Uncollectable, the Stage changed to Uncollectable, the Owner to None, and the Work Date to the out of statute date for the oldest period. The District Office would not change.

Make sure all responsible parties have been liened. You must have made levy attempts to local levy sources with Idaho nexus, three skip trace sources attempted, and a field call. Document in the CRM notes with the skip traced locations for the address and phone numbers, and put the OUT OF STATUTE DATES for each period.

Out-of-State Cases in Washington

The Coeur d'Alene office has a Washington attorney on contract who is given certain cases to pursue out-of-state judgments. Contact Rod Howard for more information.

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Chapter 32 Abatements, Write-offs, and Settlements

[Write-Offs](#) | [Settlement \(Permit Taxes\)](#) | [TDB Actuals after Non-filer assessments \(Individual and Business Income Tax\)](#) | [Settlement Agreements](#) | [Approvals](#) | [Denied Abatement, Write-off, and Settlement Requests](#)

- The requirements for acceptable settlement offers can be found in Administration and Enforcement Rule [500](#).



- **IMPORTANT:** It is critical to understand the Delegations of Authority found in [Chapter 33](#). Each level of compliance has authority to abate, write-off, or settle tax, penalty, and/or interest within specified dollar limits as defined in the Delegations of Authority. Approvals over \$30,000 require a Compliance Adjustment Request. Approvals over \$50,000 require a Compliance Adjustment Request and a 501 meeting.

- If penalty and interest were assessed in error, they should be "reversed" rather than "abated".
- Abatements and Write-offs for IFTA can only be done by a Tax Compliance Tech specializing in IFTA cases.

There are valid reasons to adjust or remove a liability in GenTax. Some adjustments are the result of an action of the taxpayer. Other adjustments may be because the amount has been determined to be uncollectable.

Many adjustments will automatically be limited by GenTax. Other adjustments are manually monitored by your supervisor. If an adjustment beyond your scope or authority is accidentally made, the supervisor should be notified immediately. Any write-off or adjustment of an account above your limit must be authorized through a work item to your supervisor or Management, depending on the amount of the adjustment.



NOTE: Collectors are limited as to the amount(s) they are authorized to adjust (see [Chapter 33](#)). Any ongoing variance from those delegations of authority must be approved in writing from the collector's supervisor, and must be renewed annually.

- Limits for write off and settlement adjustments to income tax are always calculated in the aggregate, counting all periods adjusted.
- Limits for adjustments to permit taxes, where an actual return is being accepted in lieu of a "hardened" deficiency, are calculated per return*

Collection staff must obtain approval from a supervisor if an adjustment exceeds the authorized amount as indicated above and in [Chapter 33](#). When adjusting a deficiency that has not yet reached the 64th day of the NOD, there is no requirement to follow the delegations of authority since the debt is not yet assessed.

Abatements or Waivers

Abatements of penalty and interest occur when a return is filed late, but the taxpayer provides extenuating circumstances that justify penalty and/or interest not being collected. An abatement can be done in two ways: either the return has been processed with penalty and interest, which is then written off; or compliance staff files a late return on-line and opts not to add penalty and interest. Each constitutes an abatement, and each is subject to the Delegations of Authority found in [Chapter 33](#). If a taxpayer requests an abatement of an amount above your limit, do a work item requesting authorization from a supervisor before proceeding.

Abatements are usually justified by circumstances that lead to late filing, which were beyond the control of the taxpayer. Examples would be a death in the family, illness, natural disaster, or similar reasons that made it impossible for the taxpayer to file a timely return. Consideration is sometimes also given for good filing history, situations involving loss of records or embezzlement, or other similar situations. Forgetting to file or not setting money aside to pay are not good reasons to abate penalty and interest.

Write-Offs

Write-offs occur when liabilities are removed from the collection receivables in GenTax but are still considered owing. Liens for these liabilities are not released until they are no longer enforceable. Situations where write-offs occur are as follows:

1. **Too Small to Pursue:** The balance is under \$100.00, and all attempts at collection have failed.
2. **Unable to Locate:** After extensive skip tracing and research, the taxpayer or his assets cannot be found, and it is unlikely that the taxpayer will not be located while the liability is in statute (statute for forced collection is discussed in [Chapter 38](#) Statutes of Limitation)
3. **Out of Statute:** If an account is beyond the statute for forced collection it should be written off. The statute for forced collection is discussed in [Chapter 38](#) Statutes of Limitation
4. **Uncollectible:** See criteria below.

CRITERIA FOR WRITING OFF LIABILITIES AS UNCOLLECTIBLE

An account would be deemed uncollectible if the following is present:

1. Age of account is three years or older, there is no Treasury Offset Program potential, and any one of the following is present:
 - o Medical condition of the taxpayer prevents payment of tax liability.
 - o Taxpayer has only disability income.
 - o The taxpayer will be incarcerated until liability is out of statute.
 - o There are no assets for levy or seizure, now or in the future.
 - o Taxpayer has no earning ability, now or in the future.
 - o Taxpayer is out of state and no assets exist within Idaho.
2. The taxpayer is deceased and:
 - o An asset search yields no results.

A detailed explanation of the reasons for the write-off must be listed on the adjustment work item or Compliance Adjustment Request form and routed for approval.

THE LIEN WILL REMAIN IN PLACE UNTIL IT IS NO LONGER ENFORCEABLE (once the period goes out of statute it is no longer enforceable)

REMINDER: Don't forget to set the active lien zero balance indicator in GenTax. Set the Thru date to the date the lien is no longer enforceable (the date the period goes out of statute)

Settlement (Permit Taxes)

A settlement occurs when the Tax Commission has estimated amounts for permit-based tax periods, the NOD has hardened, and then the taxpayer files actual returns. Though the Tax Commission is not legally required to accept the actual figures after the NOD hardens, by policy they are generally accepted.



- **If the taxpayer is habitually delinquent, discuss the account with a supervisor regarding rejecting the actual returns and requiring payment of the assessments. Consider sending a "no more actual" letter and setting the indicator.**

EXAMPLE: An April 2007 return, due May 20, 2007, was Commission assessed and paid by the taxpayer in 2008. On January 10, 2010, the taxpayer files his actual return, which is lower (including applicable penalty and interest) than the amount paid on the assessment by \$60.00. We would refund the \$60.00 because the actual return was filed within three years from the original May 20, 2007 due date for the return. When accepting actual returns for a settlement where the amount paid or collected is greater than the amount due from the actual figures, the Tax Commission will refund any overpayments of money applied to periods where the actual returns were filed within a period of three years from the original due date of the return.

On rare occasions, with the approval of CCB Management, monies obtained by forced collection that would normally be refunded under the situation described above may be kept. This generally will only be approved for cases where the taxpayer has been habitually delinquent or from whom it has been difficult to collect.

TDB Actuals after Non-filer assessments (Individual and Business Income Tax)

When the Tax Discovery Bureau (TDB) has assessed amounts for income tax periods, and then the taxpayer files the returns, these returns are reviewed for approval to accept. After the NOD hardens, the assessment is considered to be the return. Any return received by the Tax Commission after the NOD has hardened is considered an amended return - even if the taxpayer is considering it the original return. All actual returns received MUST be reviewed and approved by the original auditor or another auditor if the original one is no longer with us. The tax commissioners have advised that, as a general rule, we do not want to collect more than what is truly owed - even though we may have the legal ground to pursue our deficiency. After audit approval, the return will be sent to RO for processing.

When accepting amended returns where the amount paid or collected is greater than the amount due from the amended figures, the Tax Commission will refund any overpayments that were applied to the specific periods, if filed within statute.

If the actual return is received more than three years after the non-filer assessment, it can be considered as a settlement as a disputed liability (see below). The return is still reviewed by the auditor for accuracy, but it is not sent to processing.

Settlement Agreements

A settlement agreement occurs when a taxpayer offers to pay an amount lower than the amount due for actual tax liabilities, and the Tax Commission agrees to write off the balance. Settlement agreements can include tax, penalty, and/or interest.

As stated in the Administration and Enforcement Rules, the Tax Commission can only accept a settlement for one of four reasons:

1. Disputed Liability:

A disputed liability exists where there is a reasonable disagreement as to the existence or amount of the correct tax liability under the law. A disputed liability does not exist where the liability has been established by a final court judgment concerning the existence of the liability. An offer to settle a disputed liability generally will be considered acceptable if it reasonably reflects the likelihood the Commission could expect to collect through litigation. This analysis includes consideration of the hazards and costs of litigation that would be involved if the liability were litigated. The evaluation of the hazards and costs of litigation is not an exact science and is within the discretion of the Commission.

2. Doubt as to Collectability:

Doubt as to collectability exists in any case where the taxpayer's assets and income may not satisfy the full amount of the liability. An offer to settle based on doubt as to collectability generally will be considered acceptable if it is unlikely that the tax, penalty, and interest can be collected in full and the offer reasonably reflects the amount the Commission could collect through other means, including administrative and judicial collection remedies. This amount is the reasonable collection potential of a case. In determining the reasonable collection potential of a case, the Commission will take into account the taxpayer's reasonable basic living expenses. In some cases, the Commission may accept an offer of less than the total reasonable collection potential of a case if there are special circumstances.

3. Economic Hardship of the Taxpayer:

The Commission may settle where it determines that, although collection in full could be achieved, collection of the full amount would cause the taxpayer economic hardship. Economic hardship is defined as the inability to pay reasonable basic living expenses. An offer to settle based on economic hardship generally will be considered acceptable when, even though the tax, penalty, and interest could be collected in full, the amount offered reflects the amount the Commission can collect without causing the taxpayer economic hardship. The determination to accept a particular amount will be based on the taxpayer's individual facts and circumstances.

4. Promotion of effective tax administration:

The Commission may settle to promote effective tax administration where compelling public policy or equity considerations identified by the taxpayer provide a sufficient basis for settling the liability that is equitable under the particular facts and circumstances of the case. Settlements pursuant to this paragraph will be justified only where, due to exceptional circumstances, collection of the full liability may undermine public confidence that the tax laws are being administered in a fair and equitable manner. The taxpayer will be expected to demonstrate circumstances that justify settlement even though a similarly situated taxpayer may have paid his liability in full. The State Tax Commission may decline a settlement for reasons promoting effective tax administration if the settlement of the liability would undermine compliance by taxpayers with the tax laws.

In all cases, except a disputed liability, require the taxpayer to submit a completed comprehensive financial statement and any other information supporting the request for a settlement. Anything on the financial statement that indicates the taxpayer may have the ability to pay the liability in full should prompt further investigation before considering the settlement.

In addition to meeting these requirements, the taxpayer must also be current on all tax filing requirements for all tax types, the offer should address all taxes owed, and payment of the offer should be made in a lump sum, preferably with certified funds. The purpose of a settlement is to clear the liability, so installment payments should be limited to very unusual circumstances.

Settlements may be approved up to your limit as detailed in the Delegations of Authority. Any amounts above your limit must be approved by a supervisor and must be supported by an approval work item in GenTax. Once the approval work item has been received, complete a Settlement Agreement, sign it and send it to the taxpayer.

- Be sure to scan a copy of the signed Settlement Agreement into GenTax.

Approvals

Approval authority for adjusting a liability for an abatement, write-off, or settlement is found in [Chapter 33](#) Delegations of Authority - Adjusting Returns.

Anything over \$30,000 will require Commissioner approval and must have a Compliance Adjustment Request attached. Send the request to your supervisor, who will follow the normal approval process. You will receive the original signed Compliance Adjustment Request back via the green bag for the field offices. The case owner will be responsible for scanning the CAR under the

customer manager as an image with the image type of Comp Adjustment.

Anything \$50,000 or over will require a Compliance Adjustment Request and a 501 meeting. See [Rule 501](#).

	<p>NOTE: Collectors are limited as to the amount(s) they are authorized to adjust (see above). Any <u>ongoing</u> variance from those delegations of authority must be approved in writing from the collector's supervisor, and must be renewed annually.</p> <ul style="list-style-type: none"> • Limits for write offs and settlements to <u>all</u> tax types are always calculated <u>in the aggregate</u>, counting all periods adjusted. • Actual return being accepted in lieu of a "hardened" deficiency are considered a settlement, are calculated <u>in the aggregate</u>. <p>Collection staff must obtain approval from a supervisor if an adjustment exceeds the authorized amount as indicated above. When adjusting a deficiency that has not yet reached the 64th day of the NOD, there is no requirement to follow the delegations of authority since the debt is not yet assessed.</p>
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Collection staff must obtain approval from a supervisor if an adjustment exceeds the authorized amount as indicated above and in [Chapter 33](#). When adjusting a deficiency that has not yet reached the 64th day of the NOD, there is no requirement to follow the delegations of authority since the debt is not yet assessed.

Denied Abatement, Write-off, and Settlement Requests

If it is determined that there is inadequate information for an abatement, write-off, or settlement, or that a settlement offer is insufficient, notify the taxpayer in writing of the reasons the request was denied. Advise the taxpayer that collection activity could begin without further notice unless satisfactory arrangements are made.

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Chapter 33 Delegations of Authority - Adjusting Returns

Some classifications may not have write-off authority due to money processing responsibilities.

Adjustment of tax liabilities:

AMOUNTS	APPROVAL (As below or written designee)
\$200 or less	Technical Records Specialist 2
\$500 or less	Tax Compliance Technician
\$1,000 or less	Compliance Officer 1
\$2,000 or less	Compliance Officer 2 or CCB Program Specialist
\$5,000 or less	FCB Program Specialist, Compliance Officer 3
\$10,000 or less	Field Office Manager, Tax Compliance Program Specialist
\$15,000 or less	CCB and FCB Bureau Chiefs

Please refer to Resolution 16-01 at the following link: <http://taxinsider/doccenter/Documents/Resolution%2016-01.pdf>

 <p>http://taxwiki/wiki/images/icons/emoticons/warning.png</p>	<p>NOTE: Collectors are limited as to the amount(s) they are authorized to adjust (see above). Any <u>ongoing</u> variance from those delegations of authority must be approved in writing from the collector's supervisor, and must be renewed annually.</p> <ul style="list-style-type: none"> • Limits for write offs and settlements to <u>all</u> tax types are always calculated <u>in the aggregate</u>, counting all periods adjusted. • Actual returns being accepted in lieu of a "hardened" deficiency are considered a settlement and are calculated <u>in the aggregate</u>. <p>Collection staff must obtain approval from a supervisor if an adjustment exceeds the authorized amount as indicated above. When adjusting a deficiency that has not yet reached the 64th day of the NOD, there is no requirement to follow the delegations of authority since the debt is not yet assessed.</p>
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Attachment to the Delegation of Authority
 Collections Division
 Quarterly Update as Required by Resolution 16-01

1. Notice of revocation of permits, licenses, and account numbers issued by the Commission_
Central Collection Bureau, Field Collection Bureau

Tax Bureau Chief	Field Office Manager	Program Specialist
Tax Compliance Program Specialist	Program Specialist	Compliance Officer 3

(2) Bond demands, bond releases or bond waivers_

Central Collection Bureau, Field Collection Bureau

Tax Bureau Chief	Field Office Manager	Tax Compliance Program Specialist
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(3) To Sign and issue Notices of Deficiency:

Central Collection Bureau, Field Collection Bureau

Tax Bureau Chief	Field Office Manager	Program Specialist
Compliance Officer 3	Compliance Officer 2	Compliance Officer 1
Tax Compliance Program Specialist	Compliance Technician	Technical Records Specialist 2

(4) Formal Summons

Central Collection Bureau, Field Collection Bureau

Tax Bureau Chief	Field Office Manager	
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(5) Jeopardy Assessment

Field Collection Bureau

Tax Bureau Chief		
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(6) Notices of liens, tax collection warrants, levies_

Central Collection Bureau, Field Collection Bureau

Tax Bureau Chief	Field Office Manager	Program Specialist
Compliance Officer 3	Compliance Officer 2	Compliance Officer 1
Compliance Technicians	Tax Compliance Program Specialist	

(7) To Sign Waivers of Statute Limitations on assessment or collection of tax

Field Collection Bureau

Tax Bureau Chief	Field Office Manager	Program Specialist
Compliance Officer 3	Compliance Officer 1	Compliance Officer 2
Compliance Technicians		

(8) To Assign Authority to conduct audits, nexus and non-filer investigations

None

(9) Assignment of collection accounts to third party vendors.

Central Collection Bureau, Field Collection Bureau

Tax Bureau Chief	Field Office Manager	Program Specialist
Compliance Officer 3	Compliance Officer 2	Compliance Officer 1
Tax Compliance Program Specialist	Compliance Technicians	

(10) Request for a writ of mandate.

Field Collection Bureau

Tax Bureau Chief	Field Office Manager	
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(11) Settlement or write off of tax liabilities (including penalty).

Central Collection Bureau, Field Collection Bureau

\$200 or less

Technical Records Specialist 2	
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\$500 or less

Tax Compliance Technician	
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\$1,000 or less

Tax Compliance Officer 1	
--------------------------	--

\$2,000 or less

Tax Compliance Officer 2	
--------------------------	--

\$5,000 or less

Tax Compliance Officer 3	Program Specialist
--------------------------	--------------------

\$10,000 or less

Field Office Manager	Tax Compliance Program Specialist
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\$15,000 or less

Tax Bureau Chief	
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(12) Notice and demand letter to record assessments.

Central Collection Bureau, Field Collection Bureau

(13) Abatement of penalties prescribed by the International Fuels Tax Agreement.

Central Collection Bureau, Field Collection Bureau

Tax Bureau Chief	
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Debbie Coulson, Administrator

Collection Division

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Chapter 34 Bankruptcy

[Bankruptcy Terms](#) | [Chapters](#) | [Stays Against Action](#) | [Assigning Collection Cases to Bankruptcy](#) | [Collection Cases Returned From Bankruptcy](#) | [Post Chapter 13 Collection](#)

- **The three-year statute for assigning liability to responsible parties is not suspended in bankruptcy. The liability must be assigned timely or the Tax Commission will lose the ability to collect from responsible persons.**

Bankruptcy and how it affects collection can be complex. It is important to understand the timelines and legal requirements involved.

Bankruptcy Terms

Automatic Stay: A federal law, § 362 of the Bankruptcy Code. The automatic stay provision stays all debt collection against the taxpayer on his/her/its property. The automatic stay applies to all creditors for all pre-petition debts.

Bankruptcy Code: A federal law (Title 11 United States Code) for the benefit and relief of creditors and debtors. The Bankruptcy Code is designed to provide: (1) a "fresh start" to a debtor and (2) an orderly procedure for payment of the debts of individuals, corporations and partnerships.

Bankruptcy Estate: The property and interests-in-property of a debtor under the protection of the bankruptcy court constitutes the bankruptcy estate. In a Chapter 13 bankruptcy, this definition is expanded to include post-petition earnings (equal to plan payments).

Claim: Any type of obligation owed by a debtor to a creditor.

Closed Case: A case in which a court has made a final determination with respect to all of its aspects. No further action will be taken.

Confirmation: Official approval of a Chapter 11 Plan of Reorganization or Chapter 13 Plan.

Debtor: Term refers to the individual or business entity that is the subject of the bankruptcy.

Debtor-in-Possession: A debtor in a Chapter 11 bankruptcy that continues to operate the business after the filing of the bankruptcy.

Discharge: The decree of the bankruptcy court that extinguishes a debtor's personal liability for certain types of debts. A creditor whose debt is discharged cannot pursue the debtor personally for repayment of the debt. Certain debts are excepted from discharge.

Dismissal: An action by the Court, either with or without the consent of all parties, where the case or matter is dismissed without any further action to be taken. Dismissal is not the same as a discharge.

Exempt Property: By statute, property of the petitioning party that is specifically exempted for inclusion in the bankruptcy estate.

First Meeting of Creditors: A meeting pursuant to 11 U.S.C. § 341 of the Bankruptcy Code where the debtor is required to appear and be available to answer questions from creditors, commonly referred to as the "341 meeting."

Liquidation: With respect to a business, the act of ending its affairs and settling its claims and debts by converting the business' assets into cash and applying the cash to the payment of the debts in order of their priority. With respect to individuals, the act of collecting and selling of all non-exempt assets and distributing the proceeds to creditors based on the priority of the debts.

No Asset Chapter 7 Case: No non-exempt property exists in the estate to liquidate. Therefore, there is no distribution to the creditors.

Objection to Claim: An action where a debtor, trustee, or creditor challenges a claim filed.

Petition: Within the context of a bankruptcy proceeding, the petition refers to the first document filed by a debtor with a federal bankruptcy court that seeks all the protection of the automatic stay.

Petition Date: The date a petition for bankruptcy is received by the bankruptcy court.

Plan of Reorganization: A detailed document filed by the debtor in a Chapter 11 bankruptcy that proposes a schedule for the payment of debts. The plan provides the method and timing of payments by the debtor to creditors. The plan will also provide for the discharge of any debts.

Post-Petition: Refers to the period of time after a petition commencing the bankruptcy is filed with the bankruptcy court.

Preference Period: The Bankruptcy Code sets two (2) time periods, ninety (90) days for non-insiders and one (1) year for insiders. The Court may overturn any payments/actions that occurred during this period that enables a creditor to receive more than it would have under a Chapter 7 bankruptcy.

Statements and Schedules: Refers to the debtor's statement of affairs and schedules of assets and liabilities. These documents contain important information about the debtor, i.e. debts, assets, etc.

Trustee: In a Chapter 7 a person appointed to supervise the liquidation and distribution of an estate. In a Chapter 13 a person who reviews the debtor's plan, oversees its operation, and distributes payments. In a Chapter 11 a trustee usually is not appointed.

United States Trustee: An attorney employed by the Federal government who does a general review of current bankruptcies and presides at the Chapter 11 341 hearings. The United States Trustee is not the same as the chapter 7 or 13 trustees.

Chapters

Chapter 7: Under this chapter, the trustee takes control over the debtor's non-exempt property, liquidates it, and distributes the proceeds to the creditors in the order of their priority. Many Chapter 7 cases are "no assets;" that is, there are no non-exempt assets for liquidation.

Chapter 9: This bankruptcy applies to municipalities.

Chapter 11: This chapter allows a corporation or an individual debtor with substantial liabilities to reorganize its/his/her financial affairs. The debtor continues to operate the business. The debtor submits a plan of reorganization for creditor and/or court approval that provides for the debtor's payment of outstanding obligations via either reorganization or liquidation.

Chapter 12: This bankruptcy applies to family farmers with regular annual income sufficient to make payments under a Chapter 12 plan. A "family farmer" receives more than 80 percent of his gross income from a farming operation owned or operated by such person.

Chapter 13: This chapter allows individuals with regular income to reorganize their financial affairs. This chapter applies if their unsecured debts are less than \$336,900 and their secured debts are less than \$1,010,650. The debtor submits a plan for court approval that provides for payments to the creditors.

Chapter 15: Ancillary and Other Cross-Border Cases

Stays Against Action

An automatic stay arises upon the filing of a bankruptcy and prevents any collection from being taken against the debtor or his property. Violation of an automatic stay can result in sanctions.

The Tax Commission is prohibited from:

1. The commencement or continuation of a process or action against the debtor to perfect an interest or recover a claim against the debtor that arose before the commencement of the case;
2. The enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title;
3. Any act to obtain possession of property of the estate or to exercise control over property of the estate;
4. Any act to enforce any lien against property of the estate;
5. Any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title;
6. The commencement or continuation of a proceeding before the United States Tax Court concerning the debtor;
7. The setoff of any debt owing to the debtor that arose before the commencement of the case except the seizure of a refund pre or post-petition may be allowed if the debt and credit are both pre-petition or both post-petition. In Chapter 7 cases post-petition refunds can be seized and applied to pre-petition debts after case has discharged.

The Tax Commission is not prohibited from:

1. The issuance of a Notice of Tax Deficiency;
2. Action to assign debt to a responsible party;
3. Action to collect from a responsible party, if the party is not in bankruptcy;
4. Protecting the same secured position as when we entered the case. If we have a lien in place we may renew as allowed by Idaho Code.
5. Demanding tax returns;
6. An audit by a governmental unit to determine tax liability.

Automatic Stay is in effect when the debtor files the bankruptcy petition until:

1. A judge lifts the stay at a request of a creditor;
2. Discharge for a Chapter 7 case for an individual but still stayed from action against property of the estate; for a business at closing (no discharge is granted a corporation);
3. Date of confirmation for a Chapter 11 but restricted against property of the estate by the plan of reorganization;
4. Discharge and closing for Chapter 12 and 13 cases for pre-petition debts; in most cases the property of the estate vests back to the debtor and will be stated in the plan.

Assigning Collection Cases to Bankruptcy

Collection for taxpayers who have filed Chapter 11, 12 or 13 bankruptcy should be assigned to the Bankruptcy Unit to work. GenTax will create a work item if there is a collection case for the individual or business and they file bankruptcy.

Chapter 7 no asset cases are kept by the assigned compliance employee. The taxpayer can make voluntary payments, but there can be no forced collection action until discharge. Cases making voluntary payments need to be assigned to the Bankruptcy Unit. No letters regarding a payment arrangement should be sent. The Bankruptcy Unit will notify the case owner when the bankruptcy has been discharged and collection can begin again. Any debt that has been discharged will be written off and the lien(s) released prior to notification to proceed with collection action. If a business is in bankruptcy, continuing to pursue responsible parties does not violate the stay.

Collection Cases Returned From Bankruptcy

Once a case is granted discharge or dismissed, collection can begin immediately.

Cases are transferred from bankruptcy at:

1. **Dismissal:** A court order terminating the case without providing relief to the debtor;
2. **Discharge:** A court order granting the relief requested by the debtor.
3. **Closure:** A case is closed after being discharged and when all assets have been distributed and/or plan payments received.

Every effort is made to write off taxes that have been discharged in the bankruptcy. For any questions regarding a liability that should have been discharged but was not written off, contact the Bankruptcy Unit.

Liens are released for discharged debts in Chapter 7 cases.

Post Chapter 13 Collection

The only property that we cannot pursue in a post-petition collection would be payments required to be paid to a trustee and other property ordered to be property of the estate. The levy would have to stipulate that it is for all assets held except an amount of funds (plan payment) required by bankruptcy law to be paid by the debtor to trustee. These cases should be referred to the Bankruptcy Unit.

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Chapter 35 IFTA and Miscellaneous Taxes

[Assessing IFTA](#) | [Collecting IFTA Liabilities](#)

IFTA liabilities are more complex than most other tax types because of pro-rated interstate agreements. Therefore, IFTA liabilities are handled in a different manner. In addition, there are some

collection tools available for IFTA liabilities that are not available to other tax types. There are other tax types that also require special handling.

Assessing IFTA

All IFTA assessments are done through the Boise Field office. There are specific Tax Compliance Technicians assigned in the CCB to work these accounts.

If a taxpayer has an existing liability and an IFTA liability is created, send a work item to the IFTA assigned technician in Boise, who will handle the IFTA portion of the liability. Do not send NODs or CNDs to assess IFTA or request liens for IFTA liabilities.

IFTA accounts undergo the same basic assessment procedures. The major differences are as follows:

1. The amount assessed must be pro-rated based on the number of miles the taxpayer's trucks traveled in each state.
2. Interest is 2% over the IRS Underpayment rate, which can be accessed at <http://www.iftach.org/index.php>.
3. Penalty is computed at 10% or \$50.00, whichever is greater, even for returns with no tax due.
4. NOD protest periods run for 30 days instead of 63 days.
5. IFTA liabilities cannot be transferred to responsible persons.

Once an IFTA liability is assessed and liened, the account is open for normal collection procedures, including levies and other forced collection tactics.

Collecting IFTA Liabilities

One of the tools that is often used and very effective for IFTA liabilities is revoking IFTA permits. This function is once again performed only by the IFTA technicians. Any interstate carrier that travels to states other than Idaho must either register for an IFTA permit, or pay a "trip permit" each time they travel into and out of another state. Those with IFTA permits purchase decals that are checked as they enter and leave states. If an IFTA license is revoked, the taxpayer is cited and is forced to purchase temporary trip permits, which can become costly. IFTA licensing is checked at Ports of Entry. When IFTA technicians revoke a permit, they notify the Department of Transportation, who notifies all Ports of Entry. When a truck stops at a Port of Entry, and the IFTA license has been revoked, the truck is detained at the Port of Entry and the taxpayer must contact an IFTA technician to clear the liability and get the permit reinstated.

Other Miscellaneous Taxes

- **Fuel Distributors:** The Tax Commission permits and collects taxes on fuel distributors at the wholesale level. Due to the complex issues involved in determining assessments, contact the Fuels Distributor Supervisor or a Fuels Tax Financial Technician for assistance. Trucks carrying fuel cannot be detained by Ports of Entry for Fuel Distributor liabilities, unlike IFTA liabilities.



- **NOTE: Fuel Distributors are required to post a bond. However, some fuel distributors are granted a waiver. If there is a pattern of delinquency, contact a supervisor.**

Beer, Wine, Cigarette, and Tobacco Distributors: The Tax Commission also permits and collects taxes on distributors of beer, wine, cigarettes, and tobacco. These taxes are imposed at the wholesale level.

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Chapter 36 Tax Protestors

[Tax Protestor Arguments](#) | [Contacting Tax Protestors](#) | [Collecting from Tax Protestors](#)

There are people who refuse to file and/or pay tax returns for a number of reasons. Often these people form groups or subscribe to theories promoted by groups who base their refusal to obey tax laws on what they term as "constitutional" grounds. These groups are generally referred to as tax protestor groups. Although we cannot label a specific individual as a "tax protestor" for legal reasons, this chapter will use the term tax protestor to refer to the type of person that subscribes to these beliefs.

Tax Protestor Arguments

Some of the most common tax protestor arguments are:

1. A belief that filing a tax return will violate the Fifth Amendment right to be protected from self-incrimination.
2. Recognition of only the first 10 amendments to the Constitution as being valid.
3. A belief that the Sixteenth Amendment authorizing federal income tax was never properly ratified, and is therefore unconstitutional.
4. A belief in the so-called "free man" status based in common law, that if no government services are used, a person is not subject to tax laws to pay for those services. (This is also presented with the theme of being a "sovereign entity".)
5. A belief that the filing of a tax return is voluntary.
6. A belief that the IRS is a private corporation rather than an agency of the United States.

These and other protestor arguments have been litigated repeatedly and have been found to have little basis in law. Unfortunately, the protestors' response to these court decisions is that the courts are wrong or there is some sort of conspiracy at work. A good number of tax protestors truly believe in these arguments. Others are just trying to use these systems to get out of paying taxes. Whether they truly believe the arguments or not is immaterial, in that by the time the account is ready for collection, the protestor has had all of his legal appeal rights and the amount is due and payable.

Contacting Tax Protestors

There are some considerations to keep in mind when preparing to contact tax protestors:

1. Some protestors may be violent or may belong to radical fringe groups that advocate violence. If concerned about approaching a tax protestor, do not hesitate to ask for law enforcement backup.
2. Do not debate with a tax protestor over constitutional law. If the courts can't convince them, you probably can't either. The account is due and payable regardless of any constitutional arguments, and the account is what should be addressed.
3. Protestors will often threaten to sue the Tax Commission and you, personally. Do not be intimidated by these threats. It is rare that they are ever pursued, and if they are, Idaho law protects state employees from personal liability in lawsuits, as long as their actions were within the scope of their official duties.
4. Tax protestors will often make requests for information. This can be done as an Idaho Public Records request, a Freedom of Information request, a general request in a letter, or by sending a federal form W-9 asking for a taxpayer identification number. Any such request should be sent immediately to the Government Liaison Specialist to determine what reply is necessary under the Idaho Public Records act. The difficulty here is that tax protestors typically send many documents and letters. A good number of them are lengthy protest letters challenging the Tax Commission's authority or other similar issues. In general, these letters can be ignored. But often there is a public records request buried in the middle of the lengthy document. Carefully read any documents received. If there is any doubt as to whether it constitutes a public records request, send it to the Government Liaison Specialist to make the determination.

Collecting from Tax Protestors

Tax protestors are generally very good at hiding assets, making collection difficult. The following is a list of some of the tactics used by tax protestors to hide assets.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(Redacted pursuant to 74-107(1)(b)).

Some things to consider if attempting to collect on a tax protestor are:

[REDACTED]

[REDACTED]

[REDACTED]

4. [REDACTED]

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Chapter 37 Alter Egos, Trusts, and Fraud

[Alter Egos](#) | [Trusts](#) | [Fraudulent Transfers](#) | [Criminal Fraud](#) | [Recognizing Possible Criminal Fraud](#) | [Referral Program and Procedure](#) | [General Responsibilities of Bureau Chiefs, Managers and Department Personnel](#) | [Definitions](#) | [Compliance Criminal Fraud and Evasion Referral Guidelines](#):

- The Idaho Code Section relating to fraudulent transfers is [55-906](#).
- The Idaho Code Section referring to willful intent is [63-3075](#).

Individuals may attempt a number of methods to evade paying taxes. This chapter discusses some of these methods, including alter egos, trust, fraudulent transfers, and other types of fraud.

Alter Egos

On some occasions, a taxpayer, who has a corporation or LLC, may not distinguish his corporate affairs from his personal affairs. In these cases, the taxpayer assigns all of his personal assets to the business entity. This can make our collection efforts to clear the individual's liability more difficult.

The legal theory of Alter Ego may be a course of action to consider. This is the assertion that the individual and the corporation or LLC are in fact the same entity and a true distinction between the two cannot be made. If alter ego is proven, the Tax Commission can seize business assets to satisfy the individual liability.

The general criteria applied by the courts to disregard the entity can be found in the [Alter Ego Checklist](#). Use the checklist to assist you in gathering all the needed evidence to make your alter ego case.

Some of the factors used to prove alter ego are:

1. Is the corporation or LLC a legal entity, in good standing, and registered with the Secretary of State?
2. Does the entity meet the business purposes criteria?
3. Does the taxpayer have control over the entity?
4. Are the taxpayer's and entities assets commingled?
5. Does the entity pay the personal liabilities of the taxpayer?
6. Does the entity have a board of directors?
7. Does the board of directors have control of the entity?
8. Does the taxpayer hold himself out as a corporation or LLC? (Does he make no distinction between himself and the entity?)
9. Are there any outstanding contracts between the entity and other third parties?
10. Are the directors paid any salary?
11. From where did the assets of the entity come and was there any consideration given?
12. Does the entity have any employees?
13. Has a UCC/lien search on both the entity and the taxpayer been completed?
14. Has a search of ownership of personal property been completed? This search can be done through the county assessor's office for property in the specific county. However, an Accurint property report may show property in other states and may provide leads to other entity or trust names.

This list is not all-inclusive. There may be other factors that may go towards proving an alter ego situation. Each case will be reviewed by the Legal Department and all information will be considered before a decision is issued.



The more information you gather, the greater the likelihood that the Legal Department will determine that the situation is an alter ego situation.

If an alter ego situation is discovered, review the case with a supervisor, who will transfer the case to the Legal Department through proper channels. When the Legal Department makes a determination of alter ego, request a lien, issue a warrant, and levy against the entity as an alter ego of the taxpayer.

Trusts

Trusts in general are a useful part of society and provide beneficial services. However, certain types of trusts are sometimes used to hide assets in an attempt to avoid creditors.

A valid trust is one established for the benefit for others, such as parents setting up a trust for their children -- to set aside money or assets the children will receive upon the death of the parents. Trust property is property that has been irrevocably transferred into the trust. The grantor of the property (the person who owned the property) gives up all rights of control and benefit of the trust property when it is transferred into the trust.

If a trust is not irrevocable or the assets are still controlled by the grantor of the trust, the assets of the trust are still available to the creditors of the grantor to satisfy their debts.

In determining whether a trust is valid, you should investigate and:

1. Obtain a copy of the trust document.

This is often the most difficult step in researching trusts. About the only consistent source for finding trust documents is at the county where the grantor resides or where property belonging to the trust is located. If the trust owns real property, the trust document must be filed in the county. Outside of county documents, trust documents may be hard to locate. Other information may be available by contacting the Department of Transportation (if there is a car registered in the trust's name), or contacting banks holding accounts in the trust's name. While these sources may not produce trust documents, they may produce leads to new sources of evidence.

2. Determine if the Idaho-formed trust is filing or required to file fiduciary returns.

Any irrevocable trust that generates \$100.00 or more in income has a filing requirement with the State of Idaho. Revocable trusts do not have that requirement, as they are considered to be just another source of income for the individual with access to the assets of the trust. That income should be reported on the individual's return.

3. Determine if the property in the trust is for the benefit of the grantor of the trust.

If the trust has the following characteristics, the Legal Department will review and generally support seizures of the assets of the trust to satisfy the tax liability of the grantor.

1. The trust is not irrevocable, meaning the grantor retains control of the property.
2. The beneficiary of the trust is the grantor.
3. The Idaho-formed trust is not filing required fiduciary forms.
4. The grantor of the trust has complete use of the trust property.

Once the Legal Department has determined that a trust is invalid, a lien may be filed against the trust as a nominee of the taxpayer, which can then be followed by a warrant and normal collection procedures.

Review any invalid trust case with a supervisor, who will transfer the file to the Legal Department through proper channels.

Fraudulent Transfers

Occasionally a taxpayer will transfer assets to another party prior to being levied or seized. This may be done by signing a vehicle title over to the other party, transferring personal property to related parties, or a similar transaction. While transfers of property are presumed to be valid, investigation may show that the transfer was fraudulent.

Fraudulent transfers are a matter of intent. The mental state of the taxpayer during the transfer cannot be proven, so it must be shown from that facts and circumstances surrounding the transfer that there was a fraudulent motive for the transfer.

In general, a transfer is not considered fraudulent if the transfer was done in exchange for valuable consideration. This does not mean that all transfers with no consideration given are fraudulent. Parents gifting land to their children out of love when they move to a more convenient living arrangement is an example of a transfer without consideration that is not fraudulent.

Some of the situations that may indicate a fraudulent transfer of property are:

05-11-2020

1. Fair consideration was not given for the property.
2. Possession and control of the asset did not change.
3. The property that was transferred was subject to our lien.
4. The property is assigned and the person assigning it retains the same control and management of the property.
5. Personal property was transferred and it was not accompanied by an immediate delivery and actual, continued change of possession of the property.
6. The taxpayer transferred all of their assets.
7. The assets were transferred to a lien holder, who transferred the property to a friend or relation of the taxpayer..
8. Fair consideration was given but the taxpayer intended to incur or seemed to be going to incur debts beyond their ability to pay.

If a situation is encountered where one or more of these circumstances are evident, investigate more to determine if other factors point to a fraudulent transfer.

The ultimate goal is to convince the Legal Department that fraud has occurred. If a lien was filed prior to the transfer of the asset, proof of fraud is not needed. However, it is the policy of the Tax Commission to protect innocent third parties, so justify all actions by thorough investigation.

If there was no lien in place, discuss all the information obtained in the investigation with a supervisor, who will forward the case and the information to the Legal Department through proper channels. The options available to the Legal Department are to sue in court for delivery of the assets, or to advise seizure of the assets based on the investigation.

Criminal Fraud

Compliance personnel enforce State tax laws on a civil basis, focusing on collecting revenue due to the State. This means the Tax Commission normally pursues payment of tax and statutory additions, like penalty and interest. If the taxpayer pays the liability, he is generally not subject to any further collection action. However, as part of a balanced enforcement program, the Tax Commission will conduct audits, and investigate and prosecute violations of tax laws on both a civil and criminal basis. When this occurs, the taxpayer may not only be responsible for paying tax and statutory addition, but also be subject to fines and/or imprisonment.

Once an agency level decision has been made to conduct a criminal tax fraud and/or evasion investigation, the Tax Discovery Bureau is designated to conduct these types of investigations. If criminal tax fraud and/or evasion is suspected, it is the responsibility of the compliance staff to refer cases for evaluation as to potential for criminal investigation. Compliance personnel may be assigned to assist in the case development if the case is pursued. Therefore, it is very important that they be able to recognize potential criminal fraud indicators and understand the procedures for referring those cases for criminal investigation.

Recognizing Possible Criminal Fraud

Because every case is different, there is no one indicator or action that will alert to possible criminal fraud violations. Idaho Code, in referring to criminal fraud and evasion, refers to willful failure to collect, file returns, and other action. Therefore, criminal fraud must involve specific intent on the part of the taxpayer to evade, conceal, or misrepresent.

The following is a list of actions or behaviors that may indicate fraud. Observing any one of these indicators should not generally justify a suspicion of fraud. Criminal fraud usually involves a combination of these factors:

Badges of Fraud:

1. Omission of specific items of income where similar items were reported in the past.
2. False or misleading statements.
3. Large currency transactions.
4. Failure to file returns for several years although substantial taxable income was received.
5. Maintaining a double set of records or no records.
6. Loose internal controls of cash receipts.
7. False entries in books or alteration of records.
8. The destruction of books or records including records lost from fire, theft, or flood.
9. The use of straw parties or figureheads.
10. A substantial net worth increase inconsistent with reported income.
11. Excessive personal expenditures.
12. Unexplained bank deposits exceeding reported income.
13. False or overstated deductions.

14. Substantial understatement of income over a number of years.
15. Unusual handling of business receipts, such as the failure to deposit checks received as receipts to the business bank accounts, or the cashing of those checks.
16. Any conduct, the likely effect of which would be to mislead or to conceal.

The Tax Discovery Bureau (TDB) developed the next section as procedures for referring possible criminal fraud cases. However, before referring a possible criminal fraud case, there are some important things to remember:

1. Once a possible situation is identified that might be a fraudulent act, **Stop**. If there are any questions about whether or not a case may qualify for referral or how to proceed, consult a supervisor. Unresolved issues will be forwarded to management. While the staff in TDB will be happy to answer questions of a general nature, they should generally not be contacted about a specific case at this early stage. The civil rights of taxpayers selected for criminal investigation must be observed, and the Commission personnel that may be conducting the actual investigation should not be involved in the referral decision process. Legal, Collection Bureau management, and the Tax Discovery Bureau Chief can discuss the appropriate action to be taken on the referral.
2. When the decision is made to refer a case, be extremely careful in dealing with the taxpayer. Refer to the "Compliance Criminal Fraud and Evasion" guidelines that follow, and adhere to them. Remember that complete and accurate documentation of all actions of the taxpayer and the Commission is vital.
3. Once a case has been referred, do not contact the taxpayer or take any action on the case unless instructed to do so by management.

Referral Program and Procedure

The Tax Discovery Bureau Criminal Fraud Program is charged with the investigation and prosecution of criminal fraud violations of the State tax code. The purpose of the Criminal Fraud Program is to create maximum positive impact on the compliance attitudes and practices of taxpayers, through the application of the statutes governing criminal fraud violations of the tax code. The first essential step in accomplishing this end is identification of those taxpayers that are believed to be in violation of these laws.

The investigation of criminal fraud violations is and must be a separate specific activity. This is necessary to insure that the civil rights of taxpayers suspected of criminal fraud violations are scrupulously observed. It is therefore essential that referrals of potential criminal fraud cases occur at that point in time when firm indications of criminal violations are uncovered.

It is the intent of these guidelines to clarify responsibilities and to create a referral framework where referrals are:

1. Timely
2. Properly prepared
3. Based on identifiable violations
4. Given thorough consideration for inclusion under the program.

Audit and Compliance staff should be provided training in identifying and properly responding to indicators of criminal fraud. In the interest of creating the framework in which these objectives can be met, a coordinated approach between the Bureau Chiefs is seen as the cornerstone in bringing the operating units of various bureaus into the referral process. Management reviews the referral and a decision is made to either return the referral to the sender with appropriate explanation or forward the referral to TDB. A coordinated and timely effort will be made with the Collection Bureau, Legal Department, and Tax Discovery regarding the referral in light of agency policy and decision-making.

GENERAL RESPONSIBILITIES OF BUREAU CHIEFS, MANAGERS AND DEPARTMENT PERSONNEL

The successful prosecution of tax law violators is important to the fair and uniform administration of the tax law. All personnel share a responsibility in identifying criminal tax fraud. It is imperative that Bureau Chiefs, managers at all levels, and department personnel contribute their personal support to the criminal fraud referral program. Development of the criminal fraud tax evasion aspects of examinations and delinquency investigations is of paramount importance. Managers and supervisors must ensure that employees who refer quality cases receive proper recognition.

DEFINITIONS

REFERRAL – A case for which a referral to the Tax Discovery Bureau Chief is in process or has been submitted. To protect the civil rights of persons suspected of criminal violations, the referrer will suspend action on the case until a decision is made about the investigation. The referral report will document the progression of the case through the evaluation and recommendation of the Tax Discovery Bureau Chief. The Tax Discovery Bureau Chief receives direction and recommendation from our Legal Department and Commissioners.

JOINT INVESTIGATION – An investigation of suspected criminal fraud violations where a cooperating officer/auditor is assigned. Where practical, this will be the referring officer/auditor.

COOPERATING OFFICER/AUDITOR – Assists the special agent with technical problems. The amount of time the cooperating employee is to spend on the case will be determined by his supervisor and bureau chief, taking into consideration all relevant factors.

COMPLIANCE CRIMINAL FRAUD AND EVASION REFERRAL GUIDELINES:

The criminal fraud referral program is essentially a three-step process:

- Step 1 – any Tax Commission employee recognizing what he or she considers to be a candidate for referral, and completing the potential fraud referral form. The particular format of your referral can vary from the referral form. Utilize the template as a check to include all of your information. Staff reviewing and making decisions on your referral will be relying on the information you provide.
- Step 2 – review the form and the information contained in it with your supervisor, who will make a determination as to whether the referral should be sent to the Tax Bureau Chief or Tax Compliance Program Specialist.
- Step 3 – Collection Management reviews the case with Agency management to determine the next appropriate action.

The following guidelines will apply to those cases identified as potential criminal fraud cases.

1. The taxpayer should be asked whether he filed a return for the periods involved.
2. If the taxpayer claims that he filed a return, obtain identifying data from the taxpayer, both individual and business entities, including any related persons, e.g., wife, partner, etc. Ask for copies of the returns or proof of payment of the taxes. Determine how, where, when, and with whom the taxpayer filed the returns and made any payments.
3. If the taxpayer admits that he failed to file returns, ask when and where he filed his last returns and the period(s) for which he failed to file. Ask if extensions of time to file were sought and note the correct identifying numbers of such extensions.
4. It is vital to ask the taxpayer why he did not file the returns in question. Note that simply asking this question does not constitute soliciting the returns and does not compromise the criminal prosecution potential of the case.
5. Attempt to determine the nature and extent of the taxpayer's records, his occupation or business, all sources of income, an estimate of net income and an estimate of tax liability. If the taxpayer does not have books and records or does not comply with your request for information about them, carefully evaluate the taxpayer's surroundings, standard of living, known assets including bank accounts, and any other facts which will assist the department in determining the taxpayer's net worth and the taxpayer's tax deficiency.
6. **DO NOT CONTINUE TO SOLICIT A TAX RETURN** when it is determined that a case will be referred. Solicitation of returns is often considered a decision by the department to proceed with a case civilly and generally results in the declination of a case from criminal prosecution.
7. There should be no occasion to offer advice to the taxpayer concerning the preparation of tax returns or the determination of tax liability. Such matters should be left entirely to the taxpayer's own judgment.
8. **DO NOT** tell the taxpayer that all he needs to do is file the delinquent returns and pay the tax due with interest and penalty. Such statements again are considered evidence of the department's determination to treat a matter civilly and generally preclude the maintenance of criminal prosecution.
9. **DO NOT** discuss penalties, fraud, or the potential of a criminal referral with the taxpayer. If he inquires as to any of these possibilities, be candid but cautious: make no misstatement of fact or opinion; offer no advice; volunteer no information; and state only that all such matters will be determined during and as a result of the findings of the department's investigation.
10. Take delivery of delinquent returns and payments **ONLY** if affirmatively offered by the taxpayer.
11. Follow these same guidelines in any contacts with the taxpayer's representative.
12. If a decision is made to refer a case, take the following action:
 1. Prepare the referral documents.
 2. Mention specifically in the referral report any action or documents that may indicate that the taxpayer acted with specific intent, e.g., "willfully" to evade taxation.
 3. Prepare a detailed memorandum of the interview with the principal and include a specific description of it, e.g., place, date, time, witnesses or participants, documents examined, etc. Realize that possible misrepresentations or false statements made by the principal during such an interview could have a material effect on a case and that documentation of any preferred defense is important since further interviews may be declined by the taxpayer.
 4. Include all case history and contact sheets with the referral documents.
 5. Suspend all collection activity and do not contact the taxpayer or any representative until management instructs otherwise.
 6. In order to protect the revenue, the earliest civil statute expiration date must be stated in each referral for each class of tax referred.
 7. If advice or assistance concerning the handling of a case with criminal referral potential is required, consultation with management is appropriate.
 8. A referral should include any financial or net worth information, which is readily available.
 9. The referral report should not contain statements of opinion concerning the taxpayer or any of the activity upon which the referral is based. Such opinions are of no value as evidence and can damage an otherwise well-prepared case.
10. The State Tax Commission is charged with administering the tax laws fairly and uniformly. The possibility of criminal tax fraud is not limited to those receiving income from illegal sources but relates to all taxpayers whatever their business or occupation.



- **Remember to thoroughly explain and document any actions witnessed that promote the belief that this is a potential criminal fraud case.**

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Chapter 38 Statutes of Limitation

[Statute of Limitation for Assessing Returns](#) | [Statute of Limitation for Assessing Unfiled Returns](#) | [Statute of Limitation for Collection](#) | [Out of Statute Accounts](#)

- The Idaho Code Section relating to the statute of limitation for assessing sales tax is [63-3633](#).
- The Idaho Code Section relating to statute of limitation for assessing income, withholding, and fuels tax is [63-3068](#).
- The Idaho Code Section relating to foreclosure is [63-3056](#).

Statute of Limitation for Assessing Returns

Per Idaho Code, returns must be assessed within three years from the due date of the return, or the date the return was filed, whichever is later. This applies to both self-assessed returns and returns assessed by the Tax Commission. Legal has advised that the statutes do not support this limitation with regard to assigning liability to responsible persons (RP). However, it is Collection Division policy to adhere generally to the same three-year rule. If the responsible party has not been NOD'd within that period, it is probably not practical to pursue it. Keep in mind that the collector needs to be able to make a case to support the responsible party claim. If too much time is allowed, it may be impossible to make a viable case due to deceased members, divorces, relocation out of state, loss of records, lack of memory of issues, and a general inability for the RP to realistically be able to defend the claim. Please see a supervisor for permission if there is good reason to operate outside this policy.

General rule: Self-assessed or Commission assessed liabilities for business entities must be assigned to partners, officers, spouses, etc. within three years of the date of the original assessment.



If a liability is not assessed within these time frames, the ability is lost to ever assess an amount for that period and collect against that tax in any way.

Statute of Limitation for Assessing Unfiled Returns

Regarding Idaho Code sections [63-3633](#) and [63-3068](#), the Legal Department has taken the position that if no return is filed, the statute does not begin to run so there is no limit to how far back the Tax Commission can look to assess unfiled returns.

Statute of Limitation for Collection

The code sections [63-3068](#) and [63-3633](#), state that the assessed taxes may be collected by means of forced collection within a period of six years from the date of assessment of the tax. For a self-assessed liability, the assessment date is the date the return was received from the taxpayer or the due date of the return, whichever is later. For a Commission assessed liability, it is the 64th day after the date of the NOD. The statute of limitations for liabilities assigned to a responsible party is six years from the 64th day after the date of the NOD for the responsible party. The statute of limitations for an account that has a legal decision is six years plus 91 days from the date of the legal decision.



- Effective July 1, 2013 the statute of limitations for income tax (includes Individual and Business income tax), withholding tax, and IFTA was extended from 6 years to 12 years from the date of entry of the record of assessment, which is the CND date, not the 64th day of the NOD, nor the received date on a self filed return. Refer to code section [63-3068\(b\)](#)
- Per Idaho Code [63-3633\(d\)\(2\)](#) The statute of limitations does not apply if taxes collected by a retailer, seller, or any other person who has failed to pay over such taxes to the State Tax Commission. See your supervisor for more information.

Out of Statute Accounts

When a tax period is determined to be out of statute, it is written off the accounts receivable and can no longer be forcibly collected. However, if the taxpayer is making voluntary payments towards those amounts, keep the accounts receivable in place until the liability is paid or the taxpayer ceases making payments. Compliance staff may write off out of statute accounts within their Delegation of Authority limits (see Delegations of Authority in [Chapter 33](#)). **For any amounts over the delegated authority limit, send an adjustment work item to a supervisor who will make the necessary approval to write off the tax period.**

	<ul style="list-style-type: none"> • Before writing off a tax period for statute, be very careful in researching the statute date. There is a difference in statute dates. <ul style="list-style-type: none"> ◦ The statute of limitations on Sales tax for self-assessed liabilities begin the received date or due date, which ever is later. ◦ The statute of limitations on Sales tax for Tax Commission assessments begin on the 64th day after the issue date of the NOD. ◦ The statute of limitations on Income and Withholding tax for self-assessed and Tax Commission assessments begin on the record of assessment date (CND).
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Extending the Statute of Limitation for Collection

The statute of limitations for collection can be extended beyond the original six years for sales tax and twelve years for withholding and income taxes. The statute can be extended in two ways:

1. **Judgment:** Obtaining a judgment in court extends the statute an additional five years from the date of the judgment.
2. **Bankruptcy:** The statute ceases to run during the time the taxpayer is in bankruptcy. This period extends from the date of the original bankruptcy filing to the date of dismissal or discharge plus 30 days.

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Chapter 39 Record Retention Guidelines

Idaho Code provides little guidance as to how long the Tax Commission must retain documents. Idaho Code [63-218](#) allows that original documents may be destroyed, once imaged and available for reproduction (as is possible in GenTax). Therefore, all pertinent information should be imaged into GenTax for the permanent record. Retention Guidelines allow for a protective buffer period after being imaged in the event of a computer glitch. Always verify the image is in GenTax before destroying the document. While most documents will be imaged or attached to GenTax to provide a permanent record, some documents, such as served levy documents are not. Seizure video recordings are retained on the [REDACTED] (Redacted pursuant to 74-107(1)(b)). Contact a supervisor with any questions.

The following are the guidelines that have been developed for retaining certain documents and records:

Document	Retention Period
Liens and releases (From pre-GenTax era)	Indefinitely
Settlement Agreement Documents	6 months after imaged into GenTax
Documentation for abatements	6 months after imaged into GenTax
Compliance Adjustment Requests	6 months after imaged into GenTax
Copies of returns	6 months after imaged into GenTax
Daily Report (DR)	6 months after transmittal to Boise
Return information	6 months after imaged into GenTax
Levy Documents (Served)	6 months after being served
Seizure Documents and Expenses	6 months after imaged into GenTax
Bids on Seized Items	6 months after scanned and attached into the GenTax Seizure Case Manager (NOTE: All bid forms received must be attached into GenTax Seizure Case Manager.)
Recordings (Audio & Video)	3 years after recording. (NOTE: All seizure videos and misc recordings are retained in specified files on [REDACTED] (Redacted pursuant to 74-107(1)(b)). See a supervisor with questions.)
Visitor Access Log	5 years

Appendices

[Appendix A - Useful Websites](#)

[Appendix B - County Documents](#)

[Appendix C - Delegations of Authority](#)

Appendix A - Useful Websites

Click the link for a comprehensive spreadsheet of skip trace sites

[Skiptrace list](#)

<http://irs.gov> IRS website for forms, past year forms, small business information, etc.

<http://www.irs.gov/businesses/small/article/0,,id=102767,00.html> IRS website for applying for an EIN online

<http://idaho.gov> State of Idaho

<http://iic.idaho.gov> Idaho Industrial Commission

<http://accessidaho.org/public/sos/corp/search.html> Idaho Secretary of State Business Entity search - shows officers, partners, current ownership of corporations, partnerships, etc.

<http://accessidaho.org/secure/sos/liens/search.html> Idaho Secretary of State lien and UUC search – shows recorded liens and UCCs.

<http://itd.idaho.gov/aero/> Idaho Division of Aeronautics for information on airplanes.

<http://www.ISTCsales.idaho.gov> State Tax Commission's website for selling seized items

<http://labor.idaho.gov> Links to the Idaho Departments of Labor

<http://www accurint.com> Website with address/phone information, employment information, vehicle information, bankruptcy and court order information, and much more. Access is limited but each area and office has people who are authorized to use this site. There are fees attached so use other sources first.

<https://cviewid.com/> Semi-truck information

<http://access.wa.gov> State of Washington website

<http://www.doh.wa.gov/> Washington State Department of Health website, including employee listing, licensing, etc.

<http://www.anywho.com> Skip tracing website (AT&T sponsored) with addresses, phone numbers, maps

<http://www.blackbookonline.info/> Skip tracing and lots of other good information

<http://www.google.com> Skip tracing website where you can just put in a name and see what comes up.

<https://www.frbsservices.org/operations/epayments/epayments.html> Website where you can check a routing number to see which bank the account is.

<http://www.infospace.com> Skip tracing website with address, phone number searches, as well as reverse lookups.

<http://www.landings.com> Provides information on registration of planes from all over the country. Searches can be done by name of owner or call letters from the plane. <http://www.mapquest.com>: Create maps and get driving directions to and from addresses.

<http://www.nada.com> Website to research blue book values of vehicles.

<http://www.dexpages.com> Skip tracing website for yellow pages and white pages.

<http://www.reverseaddress.com> Skip tracing website with links to three reverse lookup sites.

<http://www.reversephonedirectory.com> Ship tracing website with links to three reverse lookup sites.

<http://www.searchsystems.net/> Nationwide & state-by-state records search.

<http://www.skipeace.com> Skip tracing website with address/phone number searches and reverse lookups.

<http://www.superpages.com> Skip tracing website with maps, people searches, reverse lookups.

<http://www.switchboard.com> Skip tracing website for phone searches and phone reverse lookups.

<http://www.uslegalforms.com/freeforms.htm> Lots of free legal forms for any application.

<http://usps.com> Website to track certified mail numbers (such as used on NODs)

<http://www.whitepages.com> Skip tracing website for individual & business address & phone searches, and reverse lookups.

<http://www.yahoo.com> Skip tracing website with maps, people searches, yellow pages.

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Appendix B - County Documents

Types of information you can find at the various county offices:

COUNTY CLERK	COUNTY ASSESSOR	TREASURER
Amount of debt	Who owns property	
Who holds mortgages	What property an entity owns	
Number of pieces of property owned	The last few instrument numbers	
Verification of financial statement	Property values	Who pays tax
Fraudulent transfers	Homeowners Exemption	How tax is paid
Order of Liens	Personal property values	
Business associates	Address & directions	
Trusts	Verification of financial statement	
Sources of rental income	Sources of rental income	

Various Documents Filed at County Courthouses and Their Meanings

Documents Dealing With Transferring Property

Warranty Deed: Document recording that a piece of real property has transferred from one owner to another. This document requires a clear title, so a title company or escrow agent must do a title search and ensure there are no encumbrances on the property. The Grantor is the entity selling the property. The Grantee is the entity buying the property.

Corporation Warranty Deed: Same function as a Warranty Deed. However, the entity selling the property is a corporation.

Grant Deed: Document recording a transfer of interest in a piece of property. This document is similar to a Warranty Deed. However, verbiage may be included that the property is being transferred subject to some encumbrance, such as the mortgage, which the Grantee recognizes and accepts. The Grantor is the owner of the property. The Grantee is the entity to which the interest is being granted.

Quit-Claim Deed: Document recording that a piece of real property has transferred from one owner to another. This document does not require a clear title – the property is transferred subject to all pre-existing encumbrances. This document is filed without the benefit of a title company or escrow agent's involvement and no title search is done. The Grantor is the entity selling the property. The Grantee is the entity buying the property. This document is used mostly to transfer property to a spouse, relative, or other related party, but that is not always the case.

Quit-Claim Deed Correction: Document recording a change in an earlier Quit-Claim Deed filing. This document is used to correct errors made when the original Quit-Claim Deed was filed. The Grantor and Grantee are listed the same as they were on the original Quit-Claim Deed.

Resignation of Trustee: Normally a Title Company, Escrow Agent or Attorney acts as a trustee while the Mortgage or Deed of Trust for a piece of property is being repaid. This document is filed when a Title Company, Escrow Agent, or Attorney will no longer be acting as the trustee for that property. The Grantors are the Title Company, Escrow Agent, or Attorney and the buyer of the property. The Grantee is "Public", since it acts as a public notice of this resignation.

Appointment of Successor: This document is filed to show what entity is taking over as the trustee for the piece of property after the original trustee resigns. The Grantors are the new trustee (Title Company, Escrow Agent, Attorney) and the buyers. The Grantee is the old trustee (Title Company, Escrow Agent, Attorney).

Substitution of Trustee: This document serves the same purpose as the Resignation of Trustee and Appointment of Successor. It is filed to say that the old trustee is resigning and to list the new trustee. The Grantors are the new trustee and the buyers. The Grantee is the old trustee.

Documents Dealing with Debts

Deed of Trust: Document recording a mortgage or other similar encumbrance on the property. This document records the amount owing from the buyer to the seller or other financier (such as a bank). The Grantor is the entity buying the property. The Grantee is the lender (the entity selling the property, the bank, etc.)

Deed of Reconveyance: Document recording the satisfaction of a Deed of Trust and the transfer of clear title to the owner of the property. This document is recorded when a Deed of Trust is paid off. It reconveys the property back to the buyers of the property. The Grantor is the typically the title company or escrow agent working on behalf of the lender (although the lender may also be listed as a Grantor). The Grantee is the buyer of the property.

Partial Deed of Reconveyance: Document recording the partial satisfaction of a Deed of Trust. This document works much like our partial lien releases. It serves to release a portion of the

property from the Deed of Trust to give that portion a clear title. For example, in a condominium development, there may be a Partial Deed of Reconveyance done for one or two of the units so they can be sold, while the rest remain under the Deed of Trust until it is paid. The Grantor is the lender. The Grantee is the entity buying the property.

Real Estate Mortgage, Mortgage: Same function as a Deed of Trust

Satisfaction of Mortgage: Same function as a Deed of Reconveyance. However in this case, the Grantor is the lender and the Grantee is the buyer of the property.

Promissory Note: Security agreement where the lender is posting a notice of the amount they are loaning to the borrower. Entered into voluntarily between the lender and the borrower. The Grantor is the borrower. The Grantee is the lender.

Lien: Document recording an encumbrance. This document usually results from some sort of a judgment that has been issued (as in the case of a labor lien filed by a local business) or through the authority of some State or Federal entity. The Grantor is the entity filing the lien. The Grantee is the entity that owes the money.

Judgment/Default Judgment/Summary Judgment: Documents recording encumbrances. These documents are similar to liens in that some sort of a judgment has been issued through the courts (usually, but not always, some sort of small claims court or civil court decision). The Grantor is the entity that filed the suit. The Grantee is the entity that owes the money.

UCC-1, UCC-2, UCC-3, UCC-4: Security agreements similar to a Deed of Trust. A entity has been loaned money, but instead of real property being used a collateral (as in the case of a Deed of Trust), personal property is typically listed as collateral on the document. The Grantor is the entity borrowing the money. The Grantee is the lender (individual, business, bank, etc.).

Release: Document recording the satisfaction of the corresponding type of encumbrance. This document is recorded when a security agreement (such as a UCC or a Promissory Note) or a lien or judgment is paid off. It releases the personal property from being held as collateral and clears the title of the encumbrance for real property. The Grantor is the lender. The grantee is the entity borrowing the money.

Partial Release: Works the same way as our partial releases. It releases a portion of the property from the Deed of Trust, Mortgage, Lien, etc. The Grantor is lender or the entity to which money is owed. The Grantee is the entity that owes the money.

Modification Agreement: A document filed to change the conditions of a previous document. This document is used to modify the terms of a Deed of Trust, Mortgage, or similar lending arrangement. The Grantor is the entity buying the property or borrowing the money. The Grantee is the lender.

Documents Dealing with Foreclosure

Notice of Default: Document recording that the entity borrowing money has defaulted on their repayment agreement. This document is filed when the buyers of property have failed to make payments towards their Deed of Trust or Mortgage. It is the first step toward a foreclosure. The Grantor is typically either a title company/escrow agent or an attorney working on behalf of the lender. The Grantee is the entity buying the property.

Rescission of Notice of Default: Document recording that the Notice of Default has been withdrawn. This document is filed when the buyers of the property have met the necessary terms to stop the foreclosure process and return to their normal repayment plan for the Deed of Trust/Mortgage. The Grantors are the title company/escrow agent or the attorney for the lender and also the entity buying the property. The Grantee is "Public", meaning that this is a notice to the public in general.

Lis Pendens: Document serving notice of an upcoming legal proceeding. This document is filed when a legal action such as a foreclosure is imminent. It serves as a public notice of the legal action that is pending. The Grantor is the entity to which money is owed. The Grantee is the entity buying the property or the entity borrowing the money.

Affidavits: There are various affidavits. Some are filed by individuals as public notices on various miscellaneous statements, and while interesting, are usually not helpful in compliance. However, there are a number of affidavits that are filed leading up to a foreclosure. These are as follows:

Affidavit of Posting and Service: States that notices have been posted and/or served to affected parties.

Affidavit of Publication: States that appropriate notices have been published in a particular newspaper.

Affidavit of Service by Mail: States that the appropriate notices have been served via mail.

Affidavit of Trustee's Sales: States that a trustee's sale has occurred.

Trustee's Deed: A document stating that ownership has transferred to the trustee of the property due to foreclosure proceedings. The Grantor is the entity who was buying the property and who was foreclosed upon. The Grantee is the trustee to whom ownership is transferring.

Miscellaneous Documents

Easement: Document granting a strip of land for the purpose of access. This document grants rights to a strip of land to another entity so they can use that strip as an access route to property that they owe. For example, the owner of a piece of property may allow his neighbor behind him an easement so his neighbor has a lane with which to access his property which would otherwise have no access to a public road. The Grantor is the original owner of the property. The Grantee is the entity to which the easement is being granted.

Agreement: In return for the easement, the entity being granted the easement may file an agreement regarding the usage of the strip of land. The Grantor is the entity that was granted the easement. The Grantee is the original owner of the property.

Declaration of Covenants: This is a document stating regulations determined by a group of residents in a particular neighborhood. These regulations state certain conditions that anyone moving into that neighborhood must agree to conform to. The Grantors are the current owners of the property at the time the document is filed. The Grantee is "Public".

Miscellaneous Recording: This is a catch-all for miscellaneous things that individuals want to record. Once again, interesting, but not necessarily always useful.

Certificate of Fictitious Name: At one time, Certificates of Assumed Business Name were filed at the counties as Certificates of Fictitious Name.

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Appendix C - Delegations of Authority

State Tax Commission Delegations of Authority

[REDACTED]

[REDACTED]

[REDACTED] less [REDACTED] County Support Division [REDACTED]

[REDACTED]

[REDACTED]

(Redacted pursuant to 74-107(1)(b)).

Collection Bureau Delegations of Authority

DOCUMENTS/ACTIONS

Abatement of penalty and interest when the interest due is less than \$25.00 and the total amount in question is:

Write-off of out-of-statute accounts receivable when the amount in question is:

Changing hardened assessments to actual return figures when the amount per return filed is:

Settlement offers reducing tax, penalty, and interest when the amount in issue is:

AMOUNTS

APPROVAL

- \$200 or less Technical Records Specialist 2
- \$500 or less Tax Compliance Technician
- \$1,000 or less Tax Compliance Officer 1
- \$2,000 or less Tax Compliance Officer 2
- \$5,000 or less Program Specialist, Tax Compliance Officer 3
- \$10,000 or less Field Office Manager, Tax Compliance Program Specialist, or written designee
- \$15,000 or less CCB and FCB Tax Bureau Chiefs
- \$30,000 or less

05-11-2020

Division Administrator

Jeopardy assessment for sales tax deficiencies when needed to enforce compliance at temporary sales events.

Field Office Manager, Tax Compliance Officer 3, or written designee

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RELATED TOPICS