

CHAPTER 1
RESPONSIBILITIES
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CHAPTER 1

RESPONSIBILITIES

1. AUTHORITY. Sections 6776 and 19232 of the Revenue and Taxation Code (RTC) and Section 1785 of the Unemployment Insurance Code (UIC) authorize the California Department Tax and Fee Administration (CDTFA), Employment Development Department (EDD), and Franchise Tax Board (FTB) to issue tax seizure warrants for collections of any delinquent fees due the state. As required by state law, tax seizure warrants shall be served by the California Highway Patrol (CHP), any sheriff, marshal, or constable. Sections 6777 and 19233 of the RTC and Section 1786 of the UIC provides for the agency serving the tax seizure warrant to be reimbursed for all expenses and equipment damage incurred during the process.

2. BACKGROUND. Tax seizure warrants are an effective means for state agencies to collect taxes, interest, and/or penalties due the state. As a result of the July 12, 1995, merger between the CHP and the California State Police (CSP), the Department has the responsibility for administration of the Tax Seizure Program (TSP), previously managed by the CSP.

3. OBJECTIVES. The primary objective of the TSP Manual is to provide standardized direction and guidelines to TSP personnel for executing tax seizure warrants issued by CDTFA, EDD, and FTB (taxing agencies). An additional objective of this manual is to facilitate positive and productive working relationships between the taxing agencies and departmental personnel. This manual also is intended to provide TSP personnel information on applicable laws and departmental procedures to protect the statutory rights of tax debtors.

4. PROGRAM MANAGEMENT.

a. Office of the Commissioner. The Office of the Commissioner is responsible for establishing policy for the departmental TSP.

b. Assistant Commissioner, Field. The Office of Assistant Commissioner, Field shall be responsible for ensuring field Divisions are in compliance with the policy and procedures contained within this manual.

c. Protective Services Division. The Protective Services Division shall be responsible for ensuring the Emergency Operations and Safety Services (EOSS) Section coordinates and monitors the TSP.

d. Emergency Operations and Safety Services Section. The EOSS Section has been deemed the Office of Primary Interest (OPI) for coordinating and monitoring the Department's execution of the TSP. The EOSS Section shall develop and provide CHP-specific initial and refresher training courses for Division TSP personnel. The EOSS Section shall designate a Statewide Tax Seizure Program Coordinator (STSPC) for this program.

e. Statewide Tax Seizure Program Coordinator. The STSPC shall be responsible for the following duties:

- (1) Issue tax seizure case numbers for newly-issued tax seizure warrants to Division Tax Seizure Program Coordinators (DTSPC) or their designees.
- (2) Act as the Department's liaison to representatives of the taxing agencies.
- (3) Provide advice and assistance to field Divisions regarding the execution, management, and administration of the TSP.
- (4) Assist with the resolution of any issues or conflicts that may arise between the field Divisions and taxing agencies.
- (5) Schedule periodic meetings and/or teleconferences to foster productive and effective working relationships between field Divisions and taxing agencies.
- (6) Regularly disseminate relevant TSP information to field Divisions and taxing agencies regarding TSP policy changes, TSP personnel changes, and the status of outstanding tax seizure case files.
- (7) Review and maintain copies of field Division tax seizure case files in accordance with Chapter 3 of this manual.
- (8) Update and maintain the Department's TSP database, which tracks the status of all tax seizure warrant cases throughout the state.
- (9) Consult with the Department's legal counsel to obtain interpretation of existing laws that affect the TSP.

5. FIELD DIVISION MANAGEMENT.

a. Field Division Commanders. Field Division commanders are responsible for managing and directing the overall TSP within their respective Divisions. Commanders shall designate a Division Tax Seizure Program Supervisor

(DTSPS) and coordinator (including an alternate coordinator). When delegating the responsibilities of the TSP, Division commanders should consider the existing duties of personnel assigned as the DTSPS and coordinator to ensure adequate time is allocated to administer the program in accordance with departmental policy and procedures. Additionally, Division commanders shall develop and maintain Standard Operating Procedures to address specific TSP-related requirements unique to each Division.

b. Division Tax Seizure Program Supervisor. A sergeant or above shall be assigned as the DTSPS and shall implement the policies and procedures outlined in this manual. Additionally, the DTSPS shall be responsible for the following:

- (1) Supervise the Division tax seizure operations.
- (2) Adhere to the policies and procedures outlined in this manual and have a working knowledge of the California Code of Civil Procedure that governs tax seizure warrants.
- (3) Ensure assigned tax seizure warrants are executed in accordance with policies set forth in this manual and the provisions of the California Code of Civil Procedure. Tax seizure warrants should be returned to the issuing taxing agency if it cannot be served in a timely manner.
- (4) Review all reports and forms for accuracy and completeness that are submitted by Division tax seizure personnel to the EOSS Section.
- (5) Ensure all assigned TSP personnel complete OPI-approved training before performing any TSP-related duties.
- (6) Inform the STSPC of any changes to personnel assigned to the TSP (supervisors, primary/alternate coordinators, tax seizure officers) on a quarterly basis, no later than the 20th day following the close of each quarter (January, April, July, and October). Negative reports are required.

c. Division Tax Seizure Program Coordinator. An officer or above shall be assigned as the DTSPC and shall be responsible for the following:

- (1) Act as the designated Division point of contact for the taxing agencies geographically located within the Division's area of responsibility.
- (2) Adhere to the policies and procedures outlined in this manual and have a working knowledge of the California Code of Civil Procedure that governs tax seizure warrants.

(3) Contact the STSPC and obtain a case file number for newly-issued tax seizure warrants.

(4) Review tax seizure warrants and accompanying warrant instructions for accuracy and completeness before accepting the warrant.

(5) Complete and maintain the CHP 478A, Tax Seizure Tracking Log, at the Division office.

(6) Complete and forward the original CHP 478B, Division Tax Seizure Program Summary Report, to the EOSS Section on a quarterly basis, no later than the 20th day following the close of each quarter (January, April, July, and October).

(7) Complete the tax seizure warrant case file report and associated tax seizure-related forms in accordance with Chapter 2 of this manual.

d. Division Tax Seizure Officers. An officer (or above) may be assigned as a Tax Seizure Officer (TSO) after completing OPI-approved training in the proper execution of tax seizure warrants. The TSP supervisor and coordinator may conduct the duties of a TSO. The TSO shall be responsible for the following:

(1) Adhere to the policies and procedures outlined in this manual and have a working knowledge of the California Code of Civil Procedure that governs tax seizure warrants.

(2) Maintain an effective working relationship with taxing agency representatives to ensure the proper and efficient service of tax seizure warrants. The TSOs should keep the tax agency representatives informed on the status of the tax seizure warrants.

(3) Keep the DTSPS and coordinator apprised of the status of the tax seizure warrants, including when the tax seizure warrant will be served and the results of the service.

(4) Ensure all statutory rights of tax debtors, afforded by the California Code of Civil Procedure, are not violated. The TSOs shall treat tax debtors in a professional and courteous manner consistent with the high standards expected by the Department.

e. Area Commands. To ensure consistency of the TSP throughout the state, CHP Area personnel shall not execute tax seizure warrants; however, upon request by Division TSP personnel, Area officers may assist by providing cover officer duties,

preparing a CHP 180, Vehicle Report, or other duties as requested by the TSOs. The use of Area officers requires the approval of the Area commander/supervisor.

6. TAXING AGENCY. The Department serves tax seizure warrants for CDTFA, EDD, and FTB. It is the responsibility of the taxing agencies to issue the tax seizure warrant and request that the Department execute the tax seizure warrant. The taxing agencies shall be responsible for all costs, in accordance with the Statewide Interagency Agreement, incurred as a result of executing tax seizure warrants. Before the issuance of a new tax seizure warrant to Division, the taxing agencies shall contact the statewide TSP coordinator by telephone or e-mail and provide preliminary information regarding the tax seizure warrant, to include the taxing agency warrant number, the location of where the tax seizure warrant will be served, and the name(s) of the tax debtor(s). This will ensure the tax seizure warrant is routed to the appropriate Division.
7. DEFINITIONS. The following terms and definitions are used throughout this manual:
 - a. Taxing Agency. State taxing agencies (CDTFA, EDD, or FTB) are responsible for collecting taxes and liabilities due the state. Taxing agencies issue tax seizure warrants and receive law enforcement services rendered by the Department.
 - b. Judgment Creditor. A judgment creditor or creditor means the state, department, or agency of the state seeking to collect the liability. The terms judgment creditor or creditor apply to the plaintiff.
 - c. Judgment Debtor. A judgment debtor or debtor means the entity from whom the liability is sought to be collected. The terms judgment debtor or debtor apply to the defendant.
 - d. Levy. A levy is the property identified as a result of a tax agency's request through the court to set aside property to be seized from the debtor to satisfy a judgment.
 - e. Levying Officer or Tax Seizure Officer. For the purposes of this manual, the title of levying officer and TSO are synonymous. A levying officer/TSO may be the sheriff, marshal, constable, or a CHP officer.
 - f. Natural Person. A natural person is an individual and not a member of a corporation or a partnership.
 - g. Notice Motion. A notice motion occurs when the party upon which the warrant is being served is made aware of this event.

- h. Writ of Execution. A writ of execution is a document executed by the court that requires the TSO to whom it is directed to enforce a money judgment. For the purposes of this manual, a writ of execution is synonymous with a warrant for collection (tax seizure warrant).
- i. Writ of Possession. A writ of possession is a document directed to the TSO enforcing the possession of specific property to be seized. The writ of possession is issued by the clerk of the court upon application of the judgment creditor and shall be directed to the levying officer in the county where the judgment is to be enforced.
- j. Warrant for Collection. A warrant for collection shall be directed to any CHP TSO, sheriff, constable, or marshal and shall have the same effect as a writ of execution. The warrant for collection shall be levied and a sale made pursuant to the warrant in the same manner and with the same effect as a levy and a sale pursuant to a writ of execution. For the purposes of this manual, the warrant for collection is identified as a tax seizure warrant.
- k. Ex Parte Writ. Ex parte writ is a written judicial order served on a person who is unaware of the proceedings prior to service.
- l. Private Location. A private location is private property such as a house.
- m. Private Place. A private place is located within a private location, such as a box placed within a house.
- n. Sureties/Undertakings. Sureties/undertakings and bonds are protections provided by law to protect third-person parties in a legal action.
- o. Statewide Interagency Agreement. A Statewide Interagency Agreement is a contract between a taxing agency and the Department to provide reimbursement to the Department for tax seizure warrant service, hours of service, mileage, and damage sustained to departmental equipment.