

## SAM - DISBURSEMENTS

### BACKUP WITHHOLDING NOTICES (B-NOTICES)

8422.194

(Revised 06/2010)

Annual information returns reported to the IRS are subject to various computer matching analyses to determine, in part, whether the payee's name and Taxpayer Identification Number (TIN), as reported in the Form 1099, matches that in the taxpayer's account in the IRS computer files. If they do not match, the IRS will send the payor (state department) a CP2100 or CP2100A Notice, depending on the number of mismatches. The Notice will include a list of payees whose TINs (on Form 1099 filed by, or on behalf of, the state department) are missing, incorrect, or not issued.

When a state department receives a CP 2100 or CP 2100A Notice, the IRS Publication 1281, *Backup Withholding for Missing and Incorrect Name/TIN(s)*, provides detailed instructions and requires the following:

Examine the Payee Data Record form [STD. 204](#) and verify that if the:

1. TIN provided by the taxpayer matches that on the IRS Notice, the department will:
  - a. Send the payee a blank STD. 204 and the required "B" Notice which is a backup withholding notice within 15 business days. The "B" Notice will:
    - i. Request a response date within 30 business days from the date the department received the IRS notice.
    - ii. Include date, taxpayer name, TIN, backup withholding rate, and return to information.
    - iii. Be sent in an envelope that is clearly marked, "IMPORTANT TAX INFORMATION ENCLOSED" or "IMPORTANT TAX RETURN DOCUMENT ENCLOSED."
  - b. Begin backup withholding no later than the 31<sup>st</sup> business day after receipt of the IRS Notice. Per Revenue and Tax Code (R&TC) section 18664, vendors who are subject to federal backup withholding are also subject to state backup withholding except for payments of interest and dividends and any release of loan funds made by a financial institution.
  - c. Stop backup withholding when the payee provides the correct TIN on the STD. 204.
  - d. Keep track of each payee listed in the IRS Notice in order to determine when the same payee appears twice in three years. Upon receipt of another IRS Notice listing the same payee within three years, the payor department is required to:
    - i. Send a second "B" Notice as described above, and direct the taxpayer to contact the IRS or Social Security Administration to obtain the correct Name/TIN combination. Do not send another STD. 204.
    - ii. Begin backup withholding no later than the 31<sup>st</sup> business day after receipt of the IRS Notice. Per R&TC section 18664, vendors who are subject to federal backup withholding are also subject to state backup withholding except for payments of interest and dividends and any release of loan funds made by a financial institution.

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### **BACKUP WITHHOLDING NOTICES (B-NOTICES)**

**8422.194** (Cont. 1)

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- iii. Continue withholding until an official stop notice is received from the IRS.
2. Taxpayer did not provide a TIN and the IRS Notice shows a missing TIN, the department will:
  - a. Ensure that the annual requests to the taxpayer for a TIN have been made in accordance with SAM 8422.193
3. TIN provided by the taxpayer does not match that on the IRS Notice; *do not write to the IRS*. However, the department will:
  - a. Correct its records if they reported incorrect information to the IRS or if the information changed after they reported to the IRS.
  - b. Note its records if the IRS misprinted the information, but do not take any further action.

Each department is required to maintain a current copy of IRS Publication 1281, *Backup Withholding for Missing and Incorrect Name/TIN(S)*, for reference in processing IRS Notices and "B" Notices. The publication is available at <http://www.irs.gov/>. In addition, SAM section 8422.195 provides further information and instructions on the withholding requirements. Furthermore, pursuant to R&TC sections 18662(d) and 18668, state departments are liable for amounts not withheld, under-withheld, or not remitted to the FTB.