



## **Governor**

### **Executive Order and CDTFA Payment Plan**

Last week Governor Newsom introduced two programs to temporarily defer sales tax liabilities for California businesses. These programs, which could defer more than \$3 billion statewide, and provide relief for up to 300,000 businesses, will have a significant impact on local government budgets. While some questions remain, the following describes the programs, including a Q&A and provides links to calculations prepared by HdL showing the estimated impacts of these programs on Bradley-Burns sales tax revenues for cities and counties.

### **Executive Order 90-Day Sales Tax Payment Extension**

On March 30, Governor Newsom signed an Executive Order allowing the California Department of Tax and Fee Administration (CDTFA) to offer a 90-day extension for sales, use and transactions tax returns and tax payments for all businesses filing a return for less than \$1 million in tax liability. This order automatically enrolls qualified businesses allowing them until the end of July to file their first-quarter returns. Deferrals for taxpayers with tax liabilities above the \$1 million threshold which are undergoing hardship due to the COVID-19 outbreak will be considered on a case by case basis. The order also extends the statute of limitations to file a claim for refund by 60 days to accommodate tax and fee payers. The Executive Order may be found in the link below:

[Governor Gavin Newsom Executive Order N-40-20](#)

[HdL's Projected Impact of Sales Tax Receipts - 90 Day Extension](#)

### **CDTFA Small Business Relief Payment Plans**

In addition to the 90-Day Sales Tax Extension Plan, small business taxpayers will be able to enter into a 12-month, interest-free, Installment Plan Agreement (IPA) for up to \$50,000 of sales and use tax liability. Small businesses defined under this order are businesses with less than \$5 million in taxable annual sales. This means that a small business that would typically remit sales tax in April can enter into an IPA to spread their 1st Quarter 2020 liability over a twelve-month period. A business that takes advantage of this program will owe their first payment on August 31, 2020 if they utilize this program and combine it with the three-month (90 day extension, as described above. All payments made under this plan will be 1/12 of their liability.

Taxpayers that do not exceed the \$50,000 cap with their 1st Quarter 2020 liability can add future sales tax liabilities up to the \$50,000 cap, by amending their IPA. However, the payoff terms will not extend beyond July 31, 2021. No additional interest relief will be given past this date for the impacted periods.

The maximum amount that any taxpayer can defer, interest-free under this relief effort, is \$50,000. However, the CDTFA will work separately with businesses that need a payment plan for a sales tax liability amount higher than \$50,000. The CDTFA's relief guidance may be found in link below:

[CDTFA COVID-19 State of Emergency Relief](#)

[HdL's Projected Impact of Sales Tax Receipts - \\$50K Payment Plan](#)

## Question & Answer

**How will the April advance be calculated? What adjustments will be made to account for the 90-day deferral program and the Relief Payment Plan?**

*Advances will be calculated in the same manner, however, there may be a slight decrease as a result of extension requests. The CDTFA cannot pay out funds which have not been received. The CDTFA will provide updates on April advances once final amounts have been determined.*

**Will a similar plan be created for special taxes accounts (Alcoholic Beverage Tax, Cannabis Tax, Cigarette Taxes, etc.)?**

*At this point, the program is only available for sales, use and transactions tax liabilities.*

**Which businesses qualify for the 90-day payment extension?**

*All businesses with filing liabilities of \$1 million annually will be automatically enrolled in the payment extension.*

**Is the 90-day payment extension a one-time program?**

*As of now, yes. It's an extension that is consistent with CDTFA disaster statutes. The primary difference being taxpayers don't need to request the extension or principal & interest relief under penalty of perjury.*

**How will the payment plans work?**

*Qualifying sales and use taxpayers with deferred liabilities up to \$50,000 will pay their tax due in 12 equal monthly installments. No interest or penalties will be assessed against the liability.*

**Does the taxpayer have to file a return to set the liability threshold and start the process of applying for the \$50,000 loan?**

*Yes, that is correct.*

**When will the deferred payments begin and end?**

*Deferred payments for 1Q20 will begin on August 31, 2020 and will end on July 31, 2021. Qualified businesses will be able to make 12 equal payments each month to cover 1Q20's total liability.*

*Example: A business has a total 1Q20 liability of \$12,000. This business will be able to pay \$1,000 each month for 12 months to fulfill its total liability for 1Q20.*

**Does the \$50,000 deferral apply to the total sales and use tax rate including state and countywide rates? As an example, in Los Angeles County where the base rate is 9.5%, a taxpayer could defer taxes on \$526,315, of which the local portion would be \$5,263 - is that correct?**

*Yes, total taxes include all state and countywide rates.*

**If a return is not paid in full, will the local tax be reduced across all agencies proportional to the amounts due each jurisdiction, and likewise paid back using that same proportion?**

*Yes, as money is received/paid, it is allocated in proportion to funds as reported on the returns filed. This is how both CDTFA's legacy system (IRIS) and CROS is programmed.*

What if taxpayers owe more than the \$50,000 limit on the relief?

*The maximum amount that any taxpayer can defer, interest-free under this relief effort, is \$50,000. If a taxpayer owes more than \$50,000 and needs a payment plan for the amount over \$50,000 the CDTFA will work with these taxpayers to establish a payment plan that handles both interest-free and interest-accruing balances.*

What if taxpayers with more than \$5 million in annual taxable sales need this relief?

*The CDTFA will work with these taxpayers to establish a payment plan on a case by case basis.*

How will the CDTFA monitor taxpayers over the next few quarters to determine when they have reached the \$50,000 Relief Payment Plan cap?

*CDTFA staff will work with taxpayers that request to be enrolled in the Relief Payment Plan to determine eligibility.*

Will either of these programs be available to Marketplace Facilitators that are collecting taxes for small businesses?

*Yes, if businesses qualify based on the thresholds set in place per the Governors Executive Orders. The \$1 million in statewide sale and use tax liability is the threshold for the three-month extension. Those above that for the period in question will NOT be automatically extended or waive of principal & interest payments. The \$5 million in annual taxable sales or LESS is for the "tax layaway" or loan plan.*