

E-Withhold Procedures for Financial Institutions

(04/15/2010)

E-Withhold is a process to serve Notices and Orders to Withhold and Deliver (NOWD) levies by electronic list to financial institutions. The list will contain some or all of the unpaid tax liens filed by the Department of Revenue (DOR). This electronic process is in addition to existing paper NOWD processes and service. Authority for this new process can be found in Revised Code of Washington (RCW) 82.32.235. Additional procedural information has been provided in Washington Administrative Code (WAC) 458-20-21701.

The general procedures provided here should be workable for most of the financial institutions holding assets in Washington. However, DOR can and will adjust these procedures or processes for financial institutions that are challenged by these steps on a case by case basis. More information about exceptions processing can be found on page 7.

Step 1 – Service by DOR

E-Withhold Lists

DOR will create a list of tax warrant (lien) records with unpaid balances. DOR will exclude the following:

- Taxpayers that are meeting the terms of an established payment plan with DOR.
- Taxpayers under current bankruptcy protection.
- Taxpayers with certain hold or exclusion statuses on their registration account, and
- Taxpayers without tax identification numbers.

The list provided by DOR will be formatted as described in the Data File Formats section of the menu. DOR-specific taxpayer and lien references are added.

Alternative Excel Format Available

DOR provides an Excel Spreadsheet for financial institutions who prefer to process E-Withhold lists in this format. The Excel spreadsheet is programmed to import a flat file list, or to export the prepared Excel spreadsheet back into a flat file for return to DOR

Instructions for converting E-Withhold flat files to or from an Excel spreadsheet are provided in Excel Instructions. The Excel spreadsheet template is available at: www.dor.wa.gov/E-Withhold

Secured File Transfer (SFT) Service

The primary method to transfer lists from DOR to financial institutions, and receive responses back will be via the Department of Information Services (DIS) SFT Service. A computer with internet access is required. There is no fee charged to financial institutions to use this service. Use of SFT allows for a secure method of transmitting information between DOR and the Financial Institutions. All data transfers are performed using SSH Encryption.

An E-Withhold list contains tax identification numbers provided to the Department by taxpayers. This is confidential taxpayer information and financial institutions served via E-Withhold must ensure that the data remains secure per RCW 82-32-330. No confidential taxpayer or financial institution information can be transmitted through regular e-mail.

DOR will establish two folders for each financial institution using contact information provided by the financial institution. **(Financial institutions are responsible to maintain current contact information with DOR.)** One folder will be used by the financial institution to retrieve lists/information from DOR. The second allows the financial institution to submit responses and data back to DOR.

A unique logon ID and password will be sent via e-mail to the contact person provided by the financial institution. The logon and password allows the financial institution to access the SFT site. Passwords expire every 90 days. An e-mail will be sent to the financial institution contact person two weeks prior to expiration. Once the initial password is changed, DOR does not have access to the security passwords.

Each time DOR serves an initial list or withhold/release instructions for a list served, an e-mail message will be sent to the financial institution notifying them that service has occurred. The e-mail message will have an active link to take you to the SFT Service logon page. A copy of the e-mail notification will also be sent via U.S. Mail (first class) as a backup notification in case security blockers prevent the e-mail notice from arriving.

Please refer to SFT Login and Use section of the menu. Information provides step by step instructions for logging into the SFT Service and accessing the correct folders for retrieving lists from DOR or providing responses to DOR.

For additional questions regarding the secured website, unlocking your login, or password issues, please contact DORDLSFTAdmin@dor.wa.gov

Initial Service of E-Withhold Lists by DOR

Service of E-Withholds will be considered to officially have occurred at the time DOR places the list in an SFT folder specific to the financial institution. Items placed into SFT folders are date/time stamped. DOR will capture and retain this information at all steps in the process.

DOR requests financial institutions to identify if they have accounts or assets for the persons, and businesses listed within ten days of when the list was served and provide that information to DOR. **Do NOT freeze or withhold assets from your account holder yet.** More detail on how to respond is provided in the next section. (DOR will review/validate the initial findings and confirm that the debt is still valid

before instructing a financial institution to withhold.) In all circumstances, a financial institution must respond no later than 31 days after the date of initial service.

Lists posted to a financial institution's designated SFT folder are available for 14 days. If a financial institution has not retrieved the list by that time, they will need to contact DOR for a replacement copy. DOR will also begin trying to reach the financial institution to ensure there hasn't been a change in contact information. **E-Withhold service is still considered to have occurred at the date and time the list was originally placed in the SFT folder.**

Step 2 – Review and Initial Response

Financial Institution Response to Initial Service and Location of Accounts/Assets

A financial institution accesses the designated SFT folder (a link will be included in the e-mail notification) and pulls the list from it. The financial institution then identifies any accounts or assets they hold on behalf of the individuals or businesses on the list, by using the federal tax identifier numbers provided by DOR. The other data provided on this list is important reference information for DOR and should remain intact in the eventual response by the Financial Institution.

Do not rely only on the electronic search using tax identification number(s). After locating accounts or assets, manually confirm your account holder(s) name the taxpayer(s) name provided by DOR. If the names are not the same, use the mismatch value code as your response to DOR.

The financial institution will use one of the values listed below to indicate if there are assets/accounts and the type, or reason the account is not subject to the NOWD/levy. It is not necessary to provide account number in this response. This data field will be two numerical characters long and coded as follows:

00 – No Asset Located – This is the default value

01 – Asset Located – Checking, Saving, or Share Account

02 – Asset Located – Brokerage Accounts

03 – Asset Located – Term Investment such as Certificate of Deposit

04 – Asset Located – Safe Deposit Box

05 – Asset Located – Other

06 – NOWD SUPERSEDED – An indicator that another judicial or administrative process supersedes DOR's NOWD action, (i.e. writ of garnishment, bankruptcy court order, previous levy service, etc.)

07 – EXCEPTION – If or when a financial institution has reason to believe there is a legal reason the asset is exempt from the NOWD action (i.e. minor's account, escrow or trust account, only protected retirement benefits deposited, etc.)

08 – MISMATCH – The name(s) and/or tax identification number(s) provided are significantly different and may not be the same person(s).

09 – UNRELATED LLC – The tax identification numbers provided reference to an LLC but the person or entity being levied is only a member of the LLC.

If multiple accounts/assets are located, insert a separate taxpayer record for each account/asset found. Responses of Superseded (6), Exception (7), Mismatch (8), Unrelated LLC (9), or no response (0) constitute a satisfactory response for these taxpayers and the E-Withhold is considered released by DOR.

The financial institution posts the revised list to the designated SFT Service folder. **(Do not transmit data over regular e-mail.)** The financial institution is not required to notify DOR that the response has been posted – DOR will search the incoming SFT Server folders several times a day to locate the responses.

DOR representative may contact financial institutions outside of the E-Withhold process regarding initial responses excluding assets or accounts.

Step 3 – DOR Review and Final Instructions

Revised (Second) Service by DOR

DOR will take no more than five working days to review the responses received and assets/accounts identified by the financial institution to the initial service. At the end of the review, DOR will place a revised NOWD/levy list in the designated SFT folder. This action will generate a new e-mail notice to the financial institution that the revised list is available in their SFT folder. A duplicate notification will also be sent via U.S. Mail to the financial institution. This message will include directions to the financial institution to either withhold assets/funds for the selected accounts or release the NOWD/levy for the account. The financial institution retrieves the revised NOWD/levy from the designated SFT folder. The e-mail and U. S. Mail notification will also include instruction to remit the withheld funds by the 31st day after the original service.

Financial Institution Response to Revised Service

A financial institution follows its policies and procedures to withhold and remit for the designated levies. Guidelines for remitting payment and special instructions for withholding on safe deposit boxes can be found elsewhere in this document.

Financial institutions provide a response to the revised service with the amount(s) recovered as a new data file. The flat file format for this data is provided in the Data File Formats section of the menu.

Notification of NOWD/Levy to DOR Taxpayers and Financial Institution Customers

DOR will send a paper copy of a NOWD/levy to the taxpayers via U.S. Mail at the point an asset has been identified and the financial institution has been instructed to withhold and remit.

This is also the appropriate point for financial institutions to notify their customers of the NOWD/levy service **if** notice is part of their normal process. DOR asks financial institutions to refrain from notifying their customers of NOWD/levy service at any time before they are instructed to withhold. Earlier notification may cause a customer to move or hide the asset(s) in the financial institution's possession before DOR can verify that it should be withheld.

DOR will not hold the financial institution liable for funds that are withdrawn by the taxpayer/customer before withhold when the financial institution has acted in good faith as outlined in these service and process steps.

DOR Release of NOWDs/Levies

Releases of NOWD/levy actions will usually be automatic and incorporated within processes and notifications. However, some partial or full manual releases may occur late in the process.

The first automated release of NOWD/levy will occur when a financial institution places their response to DOR's initial service in the designated SFT folder. NOWD/levy responses of value codes 06, 07, 08 or 00 are released and no further action is required. A statement about release of NOWD/levy for these responses will be included in each initial service e-mail/letter.

Another release of NOWD/levy may occur after DOR has reviewed a financial institution's response of the assets/accounts located, and responded with instructions to withhold or release.

The final automated release will occur at the time payment of any funds withheld are remitted to DOR, and the corresponding payment data placed in the designated SFT folder. These actions represent full and final delivery as required by the original service. Although DOR NOWD's/levies are normally continuing in nature, only funds on deposit or in the possession of the financial institution when instructions to withhold were served will be subject to levy. (Contract collections and safe deposit boxes are an exception and may be treated as a continuing levy.)

Full or partial releases of NOWD's/levies may also occur after DOR has sent electronic instructions to withhold and remit funds. A full release cancels the withhold process for that taxpayer/customer. A partial release will usually include special instructions, and can release the NOWD/levy for one individual or may release some of the funds but require some portion to still be remitted.

If a release is received after funds have already been sent, DOR will work out arrangements with our taxpayer outside of the E-Withhold process.

Step 4 – Payment Remittance

Submitting Payment and Corresponding Payment Detail

DOR has established a primary payment method for remittance of payments generated by E-Withholds. This is a two part process. Funds recovered from one list served should be remitted together as one

combined ACH Credit payment. ACH Credit payments should be submitted to the account and routing numbers provided in the revised service e-mail message.

Next, the financial institution must provide the payment detail that corresponds to the amount remitted via ACH Credit. Using the revised service list, financial institutions must update the designated data field when funds have been recovered and are being remitted to DOR. This field has a default of zero (\$0). When an account has been located but no funds were available to withhold and remit, the financial institution leaves the default at zero.

DOR recognizes that a small number of financial institutions may not be able to process payments via ACH Credit. If necessary, payment for E-Withholds can be remitted by bank draft (check), or as separate payments. Special arrangements and tracking will need to be arranged if this is necessary. Please contact DOR as outlined in the section below on mitigating impacts.

Special Instructions for Safe Deposit Boxes

Safe deposit boxes will be identified as a unique type of account by a financial institution in their response to the initial service. When DOR provides instructions to withhold on a safe deposit box, the financial institution blocks access to the box and its contents until further notice. DOR may obtain a search warrant and make arrangements for the box to be drilled open to seize the contents, or may issue a manual release of levy.

Financial Institutions Needing Mitigation Assistance in the E-Withholds Process

When a financial institution faces significant issues in meeting any of the procedural requirements outlined in this procedure or WAC 458-20-21701, they must submit a written request to DOR for special handling. The request should identify the conditions(s) creating the challenge(s). DOR will work with the financial institutions on a case by case basis to develop a mitigation plan that will still achieve the desired outcome of locating and recovering assets of debtors with filed tax liens.

Possible ways to mitigate the impact would be to limit the service frequency for small institutions, limiting tax liens to specific criteria, or have DOR match to the institution's accounts.

Requests for mitigation assistance should be directed to DOR

Via e-mail to: dorewithholds@dor.wa.gov

Or via U.S. Mail to: Department of Revenue
Attn: Compliance Division – CRRT
PO Box 14699
Tumwater, WA 98511-4699