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Web Pay for Individuals and Businesses

Do your clients know they can use Web Pay to pay their tax liability, including estimated tax payments?

Remind your clients they can use Web Pay to debit their bank account electronically versus writing a check. They can schedule their estimated tax payments in advance, and not worry about remembering to mail their check on time. This payment method could save them from penalties assessed later.

When scheduling their payments, they need to provide their bank routing number and account number. We provide some basic help to show where taxpayers can find this information on their check. However, bank routing and account numbers may not be the same for all financial institutions or if they are paying from a savings account. If your clients are unsure of the banking information they should provide for electronic payments and should always consult with their financial institution.

In addition, for those clients that login to their MyFTB Account, additional features exist in Web Pay such as the ability to:

- **View Payments** – Allows both Individuals and business entities to view the status of payments made in Web Pay.

- **Cancel Payments** – Allows both Individuals and business entities to cancel pending payments online. If your client needs to cancel a scheduled payment, they don't need to call us, they can cancel it themselves online.

- **Save Banking Information** – Individuals and business entities may now save their bank account information for the future payments for up to two financial institutions.

To use Web Pay, advise your clients to go to ftb.ca.gov and login to their account, or they can search for **web pay**.

Are You Familiar with our Political Reform Audit Program?

As part of the Political Reform Act of 1974, California voters created our Political Reform Audit (PRA) program which was intended to improve political entities' disclosure and accountability. It is a separate, nontax audit program and although part of FTB, the policy prohibits any information exchange with the department's other programs. The goal of this program is not only to ensure compliance with the Political Reform Act, but also education to improve future compliance.

A Political Reform Audit evaluates an entity's recordkeeping and disclosure practices for compliance with the Political Reform Act. Our findings are then sent to the Fair Political Practices Commission (FPPC), Secretary of State, the Attorney General, and the audited entity. Depending on the entity, we may also send local filing officers and district attorneys copies.

In most cases, the FPPC randomly selects entities for audit. They are often:

- Candidate-controlled committees.
- State ballot measure, state general purpose, and primarily-formed committees.
- Lobbyists, lobbying firms, and lobbyist employers.

We audit the selected entities to ensure independence and objectivity. We do not audit candidates for State Controller, the Board of Equalization, or the Public Employees Retirement System's Board of Administration. The FPPC conducts those audits.

The Secretary of State or the local filing officer makes the report available to the public. If we identify violations, the FPPC, and possibly other enforcement agencies, review the reports and determine whether to open an investigation.

If you have questions about FPPC's enforcement process, the Political Reform Act or FPPC regulations, go to FPPC's website or call them at **866.275.3772** or **916.322.5660**.

If you have questions about an audit, contact either the auditor that handles your case or the Political Reform Audit Program's main number at 916.845.4847.

References

FTB 780, General Purpose Committee Audit Questionnaire
FTB 781, Measure Committee Audit Questionnaire
FTB 782, Candidate Audit Questionnaire

Withholding Voluntary Compliance Program

Beginning July 1, 2013, we implemented an ongoing Withholding Voluntary Compliance Program (WVCP) that allows eligible withholding agents (businesses and individuals) to remit past-due, nonwage withholding for the previous two calendar years, including interest. We offer this program to withholding agents who have a requirement to withhold resident, nonresident, and real-estate withholding and have not previously withheld.

The program is available to all withholding agents, unless:

- The withholding agent participated in the 2008 Nonresident Withholding Incentive Program.
- We audited the withholding agent for nonwage withholding.
- We assessed a withholding liability or information return penalty for nonwage withholding.

Benefits

If the withholding agent qualifies, we agree to:

- Waive information return penalties for the required look-back period.
- Eliminate withholding audits prior to the look-back period.
- Limit the tax withholding liability to the look-back period, plus interest.

To participate, we require you to:

- Submit an application.
- Submit an estimate of the amount of withholding for each calendar year covered.
- Pay the required withholding amount, plus interest.

We cannot waive interest.

If we accept the application, the applicant enters into an agreement for the approved calendar years and agrees to:

- Pay the past-due withholding amounts, including interest.
- Comply with California's nonwage withholding requirements going forward.
- Make all books and records available to us upon reasonable notice to verify the withholding liability calculation the applicant includes in the application.

We will keep the agreement confidential and will not disclose any agreement terms or conditions to any other state or governmental tax authorities, except as provided under California Revenue and Taxation Code (R&TC) Section19551.

For the application and instructions, go to ftb.ca.gov and search for **wvcp**.

Top Twelve Tax Scams Revised

We recently revised FTB 987, Top Twelve Tax Scams. This brochure helps you identify and avoid the twelve most common tax scams affecting California taxpayers. Go to ftb.ca.gov and search for **987**.

Promoters of fraudulent tax scams attempt to cheat our tax system and contribute to California's $10 billion estimated tax gap, the difference between what taxpayers owe and what they pay voluntarily.

We continue efforts to counter fraudulent activity through audit enforcement with the Internal Revenue Service partnership, and public education.

FTB en Español – New Español link

To assist taxpayers to fulfill their tax obligations, we enhanced our services by adding a new Español link to our homepage. We made it easier for Spanish speaking taxpayers and their representatives to find and navigate through the services and information we offer in Spanish.

The new Español link, located at the top, right-hand corner of our homepage, leads you to a gateway of Spanish information for:

- Forms and Publications.
- Head of Household filing status.
- Court-Ordered Debt collections.
- And much more!

Spanish services such as check your refund status and answers to frequently asked questions are only a click away!

For more information, go to ftb.ca.gov and click on the Español link. Make the Español page one of your favorites and be one of the first to see more of our new products and services.

Event Calendar

As part of education and outreach to our tax professional community, we participate in many different presentations and fairs. We now provide a combined-calendar to show the events we are attending, as well as other events happening with us such as interested party and board meetings.

Enterprise. Data. Revenue!

EDR in the News

July Marked 24 Months Completed of the 66-Month EDR Project

We kicked off the EDR Project in July 2011. Since then we implemented multiple initiatives improving service for taxpayers and increasing revenue. Additionally, we deployed three new systems that increase productivity in our return and payment processing areas.

This filing season was our first opportunity to take full advantage of new EDR Project systems for imaging and data entry of paper returns and electronic deposits of paper checks. Using these new systems, we processed more than 45,000 paper returns in one day. And, through the end of June, we deposited over $2 billion using our Image Cash Letter system. We reduced the volume of paper that we route throughout the department by making images of paper returns available for viewing for all eligible staff. These new systems resulted in higher productivity and speedier processing of returns and payments this filing season.

Additionally, we made it more convenient for taxpayers to pay their tax bills by providing a self-service on our Information Validation Return system that lets taxpayers set up installment agreements on their own, rather than waiting for an agent to assist them. We are pleased that many taxpayers are benefiting from this easy-to-use service.

As we enter our third year of the project, we are committed to work on new processes and systems that will support and improve our services for many years into the future.

Inside FTB

Interest Rates Stay the Same

In accordance with Revenue and Taxation Code Section 19521, the adjusted interest rate for the period January 1, 2014, through June 30, 2014 remains at three percent. This rate compounds daily and accrues with respect to various state taxes including: personal income, corporate income, and franchise income. The rate for corporation tax overpayments for the period will remain zero percent.

For both current and past interest rates, go to adjusted interest rates.

Criminal Corner

Hawaii Woman Sentenced To Four Years State Prison for State Income Tax Fraud and Grand Theft

A former resident of Santa Clara County was sentenced today to four years in state prison on two felony counts of state income tax fraud and one felony count of grand theft with a white collar crime enhancement.

Theo Lani Bell, 62, of Kamuela, Hawaii, pleaded no contest after she admitted to stealing more than $405,000 from her employer in California. Bell siphoned the money from a Santa Clara County-based non-profit that provides low-income housing for the developmentally disabled, people with AIDS, and the elderly.

From 2004 until 2009, Bell falsified hundreds of documents and created elaborate stories to convince her former employer to pay for extensive and unneeded plumbing repairs to an Oakland property, which houses a homeless shelter. The scheme was discovered when another employee took over management of the property and discovered none of the repairs were necessary or completed.

In addition, Bell filed false state personal income tax returns for 2006 through 2008, and failed to report the more than $328,000 in embezzled income. All income is taxable including income from illegal sources.

Bell was arrested by local authorities at her family's horse and cattle ranch on the island of Hawaii late last year and brought back to Santa Clara County.

Bell was also ordered to pay restitution of more than $71,000 to the state representing the unpaid tax, penalties, interest, and the cost of the investigation.

Santa Clara Superior Court Judge Philip Pennypacker handed down the sentence in Department 23 of the Santa Clara Superior Court. Santa Clara County Deputy District

Attorney Vishal Bathija of the major fraud unit prosecuted the case. This was a joint investigation between the Santa Clara County District Attorney's Office and the Franchise Tax Board's Criminal Investigation Bureau.

Our criminal investigation program identifies and investigates cases of tax evasion and tax fraud to encourage compliance with California tax laws and maintain the public trust.

Big Business

What is the Difference Between an S Corporation and a Limited Liability Company (LLC)? Part 3

In our June 2013 Tax News edition, we discussed the differences in the formation of an LLC (state law) verses an S corporation (federal tax classification election), and in our July 2013 Tax News edition, we discussed taxation and significant state and federal tax differences. In this article, we will discuss if your client is considering making a change in ownership, or a change to their federal "check-the-box" tax classification election, and the affect these changes have to their tax year and tax payment due dates.

An LLC is a legal business entity formed under state law whose default classification is a partnership or a disregarded entity, depending on the number of members, but may file an election1 to be classified as an S corporation provided the entity meets all other requirements to qualify as a small business corporation under Internal Revenue Code (IRC) Section 1361(b).2 An LLC treated as a partnership must follow the federal partner and partnerships rules, Subchapter K (IRC Sections 701 through 777) including the ownership change rule. This rule requires the partnership to be treated as terminated when there is a change of 50 percent or more of the total interests in a partnership within a 12-month period. This is commonly referred to as a Technical Termination. If there is a Technical Termination mid-year, the LLC will have to file two short-year tax returns and pay for two entities (annual tax and fee) because we treat each short-period return as a separate taxable year, and the due date for the filing and payment of taxes will be based on both the beginning and ending of each separate taxable year.

For example, if a multiple-member LLC is taxed as a partnership with two members, each owning 50 percent, and one member sells his interest to the other on June 30, the LLC terminates as a partnership effective June 30. The remaining member continues doing business as a disregarded single member LLC. The multiple-member LLC must file for the period from January 1 to June 30, and pay the annual tax and fee. The single

[1] This S corporation election is made by filing the federal Form 2553, Election by a Small Business Corporation, with the Internal Revenue Service (IRS). A taxpayer who has a valid federal S corporation election must file in California as an S corporation.
[2] For more details on the eligibility tests get IRS Instructions for Form 2553, Election by a Small Business Corporation.

member LLC must file for the period from July 1 to December 31, and pay the LLC annual tax and fee.

Remember an LLC's annual tax is due on the 15th day of the 4th month after the beginning of the LLC's year to avoid penalties. And both LLCs must estimate and pay the LLC fee by the 15th day of the 6th month after the beginning of the tax year. An estimated fee penalty may be assessed if it is underpaid. The tax return must be filed by the 15th day of the 4th month after the end of the taxable year.3

On the other hand, an S corporation that has a 50 percent or more change in ownership will not have this requirement. However, if the S corporation has a change in ownership that causes the corporation to cease to be a small business, for example having more than 100 shareholders, the S corporations will terminate. This is also commonly referred to as a Technical Termination. If there is a Technical Termination mid-year, the corporation will have to file two short-year tax returns. However, if there is a sales or exchange of 50 percent or more of the stock in the corporation during such year, or as otherwise provided a pro rata allocation must be made to determine which items are to be taken into account for each of the short taxable years. The minimum tax is required on all short period tax returns. However, since California law conforms to IRC Section 1362 and Treasury Regulation Section 1.1362-3(c)(5), both tax returns will be due on the same day.

[3] California does have a paperless extension that allows the tax return to be filed six months later.