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4.1 BUSINESS ENTITIES

4.1.1 Account Analysis

4.1.1.1 Prepayment Tax / Commencing Tax

Background

Secretary of State (SOS) Prepayment Tax

Prior to January 1, 2000 a prepayment tax was paid to the Secretary of State (SOS) at the time of incorporation or qualification. The prepayment was for the privilege of "doing business" during the business entity's first income year and could not be claimed as an estimate tax payment or credit against the tax liability shown on the return for any given year.

NOTE: The corporation's first year would appear as if the minimum tax was paid twice.

Qualified New Corporations (QNC)

For income years beginning in 1997 and 1998, QNC's were eligible for a reduced prepaid minimum tax of \$600. A QNC is defined, for purpose of the reduced prepaid minimum tax, as a corporation that:

For income years beginning in 1997 or 1998:

- Estimates gross receipts (less returns and allowances) to be \$1 million or less on the first tax return [form FTB 100](#)
- Estimates the tax liability to be \$800 or less on the first tax return [form FTB 100](#) per [Revenue and Taxation Code Section 23151](#)
- No more than 50% of the corporate stock is owned by another corporation

For income years beginning in 1999 QNC's were eligible for a reduced prepaid minimum tax of \$300. A QNC is defined, for purpose of the reduced prepaid minimum tax, as a corporation that:

For income years beginning in 1999:

- Begins operations at or after the time of incorporation
- Estimates gross receipts (less returns and allowances) to be \$1 million or less on the first tax return form FTB 100
- Estimates the tax liability to be \$800 or less on its first tax return form FTB 100
- Does not begin business operations as a sole proprietor, partnership or other business entity prior to incorporation

Reduced Prepayment Minimum Tax

For income years beginning prior to January 1, 1997 the corporation's prepayment to SOS was equivalent to the franchise minimum tax.

Incorporate or Qualify in 1997 and 1998:

- Must be QNC
- Gross Receipts less than \$1 million
- Tax liability \$800 or less on first year's return
- The reduced amounts are:
 - Prepayment of \$600
 - First year tax \$800

Incorporate or Qualify in 1999:

- Must be QNC
- Was not in business (of any type) prior to date of incorporation
- Gross Receipts less than \$1 million
- Tax liability \$800 or less on first year's return
- The reduced amounts are:
 - Prepayment of \$300
 - First year tax \$500-\$800

NOTE: If a corporation paid the \$300 prepayment, and the \$500 first year tax, but did not qualify for the reduced prepayment minimum tax, a SOS prepay adjustment of usually \$800 is performed on the return. The first year's tax return will show a total tax of \$1300. ((****))

Incorporate or Qualify in 2000:

- No qualifications (the zero pre-payment to SOS is for any corporation which registers through SOS)
- No Prepayment for any corporation which registers through SOS
- First year tax has no minimum tax requirement and is based on measured tax

If a corporation's SOS prepayment is a dishonored check, SOS will cancel the corporation number and post the status as "canceled".

Limited Liability Companies (LLCs) and partnerships are not required to pay an SOS prepayment.

Commencing Tax

Non-Qualified Franchise Tax (NQFT) entities “doing business” in California are required to pay to the Franchise Tax Board (FTB) a commencing tax for the privilege of doing business within the state. The commencing tax is equal to the minimum tax for the year covered by the entity’s first return. This commencing tax is similar to the prepayment tax paid to the SOS at the time of incorporation or qualification. The commencing tax may not be claimed as an estimate tax payment or credit against the tax liability shown on the return for any given year.

A reduction in tax was not allowed for tax years beginning in 1997-1999. NQFT entities “doing business” in California on or after January 1, 2000 are not subject to commencing tax, but are subject to the minimum tax on their first return.

NOTE: An LLC not registered with SOS electing to file as a corporation would be subject to the commencing tax prior to January 1, 2000.

Purpose

The prepayment and commencing tax is assessed for the privilege of "doing business" in California.

Action

FTB staff should recognize and resolve situations where the corporation’s commencing tax or prepayment tax was assessed incorrectly.

Reference

[Revenue and Taxation Code Section 23153](#)

[Revenue and Taxation Code Section 23221](#)

[Assembly Bill 10](#)

[Assembly Bill 2798](#)

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.1.2 Business Entity Income Tax

Background

Business entities have various filing and taxation requirements. They are as follows:

- **Corporate Income Tax - C Corporation** - C corporations are taxed at the general tax rate and subject to the minimum franchise tax. C corporations may also be subject to a Secretary of State (SOS) [prepayment tax](#) prior to January 1, 2000.

General tax rate links:

((***)

[Revenue and Taxation Code Section 23151](#)

Minimum franchise tax links:

((***)

[Revenue and Taxation Code Sections 23151](#) and [23221](#)

- **Corporate Income Tax - S Corporation** - Subchapter S of the Internal Revenue Code allowed the pass-through method of taxation for corporations that elected S status. All corporate income, losses, deductions, and credits pass through to the shareholders where they are taxed only once, at the shareholders' level. Beginning January 1, 2002, corporations with a valid federal S election will automatically become California S corporations. This law applies to all corporations, whether or not they are registered with the SOS.

General tax rate links:

((***)

[Revenue and Taxation Code Sections 23800, 23800.5, and 23802](#)

Minimum franchise tax links:

((***)

[Revenue and Taxation Code Section 23151](#)

- **Qualified Subchapter S Subsidiary (QSub)** - California conformed to the federal QSub provisions in 1997. S corporations must meet the following requirements to become a QSub:
 - The parent S corporation must hold 100 % percent of the stock of the eligible subsidiary corporations.
 - The parent S corporation must elect to treat the subsidiary as a Qsub.
 - The parent S corporation must pay the \$800 annual tax for each of its QSubs that are doing business in California. The parent S corporation also pays tax on the total business income earned from the QSubs and the parent.

((****))

[Revenue and Taxation Code Section 23800.5](#)

- **Non Qualified Corporation** - Corporations not qualified through SOS but doing business in California are subject to the franchise tax. The entity may be a C corporation or an S corporation. Non-Qualified corporations may also be subject to the commencing tax prior to January 1, 2000. They are assigned a corporate number by Franchise Tax Board (FTB) ranging from 9500001 through 9549999. There are two types of non qualified entities:

- **Non-Qualified Franchise Tax (NQFT)** - These are corporations doing business in California and are subject to not less than the minimum franchise tax.
- **Non-Qualified Income Tax (NQIT)** - These are corporations not doing business in California (unless they are a homeowner's association), but are deriving income from within the state. These corporations are liable for measured tax on the income derived from California, and are not subject to minimum tax.

NOTE: NQIT are not subject to the commencing tax

General tax rate links:

((****))

[Revenue and Taxation Code Section 23151](#)

Minimum franchise tax/commencing tax:

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[Revenue and Taxation Code Sections 23101, 23151, and 23153](#)

- **General Partnership** - In a general partnership all of the partners are general partners and are entitled to participate in the operation of the business. Also, they are all liable for the full amount of the partnership's debts. There is no tax assessed against general partnerships, the income flows through each partner and is reported on each partner's individual tax return.

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[Revenue and Taxation Code Section 18633](#)

- **Limited Partnership (LP)** - An association that has at least one general partner and at least one limited partner. A LP is subject to tax as long as it registers with the SOS or is “doing business” in California.

NOTE: Between January 1, 1988 and December 31, 1992 only LPs actually “doing business” in California were required to pay minimum tax.

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[Revenue and Taxation Code Section 17935](#)

- **Limited Liability Partnership (LLP)** - An association in which all partners have limited liability. LLPs must be Public Accountancy, Architectural, and Law Firms only. LLPs are subject to an annual tax equal to the corporation minimum tax.

((****))

((****))

[Revenue and Taxation Code Section 17948](#)

- **Investment Partnerships** - An investment partnership is a partnership that meets the following criteria:
 - No less than 90% of assets consist of qualifying investment securities (stocks, bonds, currency, future contracts, etc.), bank deposits, and office space and equipment.
 - No less than 90% of income is from interest, dividends, and gains from sale of qualifying investment securities.

NOTE: For nonresident partners, income derived from investment partnerships is generally considered as income from sources other than California.

((****))

[Revenue and Taxation Code Section 17955](#)

- **Limited Liability Company (LLC) Annual Tax** - An LLC may elect to file as a corporation or a partnership. An LLC filing as a partnership is subject to the annual tax if it is “doing business” in California or registered with SOS. The annual tax is pre-paid for the privilege of “doing business” in California. An LLC that elects to be taxed like a partnership will have the following features:
 - All members have limited liability
 - The number of members is unlimited
 - No restrictions exist on who may become a member, it may include: individuals, corporations, partnerships, LLCs, and estates or trusts
 - Special income/loss allocations are allowed

- Flexible management arrangements; all members may actively participate in management

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((***)

[Revenue and Taxation Code Sections 17941, 17942, 17944](#), and [18633.5](#)

- **LLC filing as a corporation** - An LLC may elect to file as a partnership, as an S corporation (with Internal Revenue Service (IRS) approval by filing Federal form 2253) or as a C corporation (with IRS approval by filing federal form 8832). An LLC filing as a corporation is subject to the same taxation as a corporation if it is “doing business” in California or registered with SOS. If the LLC elects to file as a corporation, SOS registration will be as an LLC, not a corporation.

See [Corporate Income Tax C-corporation](#) and [S-corporation](#) above.

[Revenue and Taxation Code Section 23153](#) (corporation minimum tax)

- **Single Member LLC (SMLLC)** - An SMLLC is considered a disregarded entity by the IRS and has no federal filing requirement. The entity still has a state filing and minimum tax requirement if registered with the SOS or “doing business” in California.

((***)

[Revenue and Taxation Code Section 23038\(b\)\(2\)\(B\) iii](#)

- **LLC Fee** - In addition to the annual tax, LLCs are also subject to a graduated fee (tax) based on total income reportable to California ((***)). Total income for the LLC fee purposes is gross income plus cost of goods sold from the LLCs trade or business. Total income includes income from all sources (worldwide) reportable to California.

((***)

[Revenue and Taxation Code Sections 17941, 17942 and 17944](#)

- **LLC Non-consenting Non-resident Tax (NCNR)** - If an LLC filing tax returns as a partnership has nonresident members, they are required to file [form FTB 3832](#) with [form FTB 568](#). Form FTB 3832 is an agreement signed by the nonresident members of the LLC requiring them to:
 - File a California income tax return
 - Pay all taxes imposed on their share of income from the LLC on time

If the LLC fails to file form FTB 3832 timely (by the extended return due date) on behalf of any nonresident member, then the LLC is responsible for payments of tax on each of its nonresident member's distributive share of income. The NCNR tax is computed on Schedule T of form FTB 568 by multiplying the non-consenting nonresident member's distributive share of income by the highest marginal tax rate for the applicable year:

- C Corporation tax rate if the member is a C corporation
- S Corporation tax rate if the member is an S corporation
- Personal Income Tax (PIT) single tax rate if the member is an individual, partnership, LLC, estate or trust

((****))

[Revenue and Taxation Code Sections 17851-17860](#)

[Revenue and Taxation Code Sections 18633, 18633.5, 18662 and 18666](#)

- **Banks and Financial Institutions** - Banks and financial institutions "doing business" in California are subject to a special tax rate, consisting of the general tax rate plus two percent (2%) for tax years beginning after December 31, 1995.

Prior to 1995, the financial rate was determined by computing the percentage of personal property tax and business license tax paid by general corporations to their net income and adjusting the franchise tax rate to account for this additional tax to be assessed against banks and financial corporations.

General tax rate links:

((****))

[Revenue and Taxation Code Section 23151](#)

Minimum franchise tax links:

((****))

[Revenue and Taxation Code Sections 23186\(f\) and 24251](#)

- **Non-Admitted Insurance Company** - Effective January 1, 1994, entities who independently purchase or renew an insurance contract covering risks located in California during the calendar quarter from an insurer not authorized to transact business in California are required to pay a three percent tax on all premiums paid.

Not all contracts with non-admitted companies are subject to the Non-Admitted Insurance Premiums Tax. They are as follows:

- Non-admitted insurance that is obtained through a California insurance broker is not taxable to the purchaser
- Reinsurance of the liability of an admitted insurer
- Insurance of ship-owner interests
- Aircraft insurance

- Interstate railroad insurance and life insurance

((***)

[Form FTB 570 Non-admitted Insurance Tax Return](#)

[Revenue and Taxation Code Section 13201-13222](#)

- **Real Estate Mortgage Investment Conduit (REMIC)** - A qualified entity that has made a REMIC election is provided special tax treatment allowing income to flow through to investors without taxation at the entity level. A REMIC may file as an LLC, partnership, corporation or trust. REMIC's issue mortgage backed securities to investors. A REMIC is not required to make estimated tax payments.

((***)

[Revenue and Taxation Code Sections 23036, 24870, 24873, and 24874](#)

- **Real Estate Investment Trust (REIT)** - A REIT is a special entity created under federal tax law that is taxed as a corporation for both federal and California purposes. Although REIT's have the word „trust“ in their name, they are formed as domestic corporations, trusts or associations. To qualify as a REIT certain organizational, income, asset and distribution requirements must be met. REIT's own regional shopping malls, industrial properties, office/professional buildings, and retail buildings/strip malls.

((***)

[Revenue and Taxation Code Sections 19147, 24870, and 24872-24872.7](#)

- **Regulated Investment Company (RIC)** - A RIC is a special entity created under federal tax law that is taxed as a corporation for both federal and California purposes. RIC's are formed as domestic corporations, trusts or associations. To qualify as a RIC, certain organizational, income, asset and distribution requirements must be met.

((***)

[Revenue and Taxation Code Sections 17145, 24870, and 24871](#)

- **Financial Asset Securitization Investment Trust (FASIT)** - A FASIT is a qualified pass-through entity that may be used to secure debt obligations such as credit card receivables, home equity loans, and auto loans. Upon making the federal election, the entity is provided special tax treatment that allows all tax attributes of the FASIT to be considered those of the single ownership interest holder. As a result, a FASIT is treated similar to a disregarded entity. The ownership interest holder is treated similar to the single owner of a disregarded entity and is not subject to tax on its income or loss.

((***)

[Revenue and Taxation Code Sections 24870, 24875, and 24875.5](#)

- **Water's Edge** - For taxable years beginning on or after January 1, 1988, taxpayers may elect to file on a water's-edge basis. Under a water's-edge election, affiliated foreign corporations are generally excluded from the combined report. However, the election does not supersede the concept of unity; it merely limits the unitary entities included in the report.

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[Revenue and Taxation Code Sections 23036\(c\), and 25110 – 25113](#)

- **Exempt** – Refer to [Section 4.1.7.1 Exempt Organizations](#).

Purpose

There are various entity types and each entity type is subject to specific reporting requirements and tax rates.

Responsibility

FTB staff must understand the various filing requirements of each type of entity.

References

[FTB Publication 1060 - A Guide for Corporations Starting Business in California](#)
[FTB Publication 1063 - California Corporation Tax Law - A Guide Corporations](#)

NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.1.3 Accounting Period (Taxable Year)

Background

A business entity “doing business” in California must select an accounting period. This accounting period must be the same for state and federal purposes, unless otherwise initiated or approved by Franchise Tax Board (FTB).

If no prior notification is sent, the entity, in its first return, may adopt any income year ending without approval from the FTB. The income period may not exceed 12 months, unless a 52-53 week filing period is chosen.

The accounting period ending determines the entity’s due date for returns and payments.

NOTE: If the entity does not choose a filing period, the return will automatically receive a calendar year ending accounting period, as stated at the top of the [form FTB 100](#). See [Section 4.1.1.4](#) for information on due dates for filing returns.

Purpose

A business entity should notify FTB of its accounting period as soon as possible so it may receive the proper forms needed to meet the filing requirements specified in the law.

Responsibility

It is FTB staff’s responsibility to ensure the entity’s tax returns cover all accounting periods from their incorporation, qualification, or start date. It is also important to educate the taxpayer of the importance to remember their accounting period.

NOTE: There should be no missing short period returns. A short period is any accounting period of less than twelve months. It can occur in the first or subsequent accounting period.

If the accounting period is one-half month or less, it may be disregarded provided the business entity was not doing business and received no income from sources within California during that period.

In order for a portion of a month to be disregarded under this rule, the Articles of Incorporation would have to be filed based on the following:

- A 28-day month- 15th or after
- A 29-day month- 16th or after
- A 30-day month- 16th or after
- A 31-day month- 17th or after

Action

FTB staff must identify and notify the entity of any missing accounting periods. The emphasis should be on verifying with the entity the date that they actually began doing business in California. If a missing period is identified, FTB staff should issue the appropriate notice to request the return depending on the entity type. If no response, and unit procedure criteria are met, FTB staff should pursue assessment of the missing year tax.

Reference

((***)

((***)

[Revenue and Taxation Code Section 24632](#)

((***) - Corporations – demand to file tax returns

((***) - Limited Partnerships – demand to file tax returns

((***) - General Partnerships – demand to file tax returns

((***) - Limited Liability Companies – demand to file tax returns

((***)

[Section 4.1.1.4 Due Dates for Filing Returns](#)

[Section 4.1.3.1 Payment Due Dates](#)

NOTE: ((***)) = Indicates confidential and/or proprietary information.

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4.1.1.4 Due Dates For Filing Returns

Background

Every business entity shall file a return within the time frames listed below after the close of its income year with the Franchise Tax Board (FTB). The entity may choose either to file as a calendar filer with a December 31 year-end, or as a fiscal filer with the tax year ending on any other month. The entity's filing period must coincide with the Internal Revenue Service (IRS) filing period.

The filing date changes according to the entity type. Listed below are the different types of business entities and their filing dates:

- Corporations and Limited Liability Corporations (LLC) filing a [form FTB 100](#) file on the 15th day of the third month after the end of the accounting period
- Partnerships and LLC's filing a [form FTB 568](#) file on the 15th day of the fourth month after the end of the accounting period
- Exempt Corporations file [form FTB 199](#) on the 15th day of the fifth month after the end of the accounting period

Entities filing form FTB 100 and form FTB 199 will receive an automatic seven month extension to file if they have an active status on the original due date for that years return.

Entities filing form FTB 568 will receive an automatic six month extension to file if they have an active status on the original due date for that years return.

An extension to file is not an extension to pay. Tax is due on or before the original due date of the return, regardless of an extension to file.

NOTE: An extension to file is not an extension to pay. Tax is due on or before the original due date of the tax return, regardless of an extension to file.

NOTE: If the first income period is 15 days or less and the entity was not doing business the filing requirement may be disregarded.

Purpose

If a business entity is doing business in California it is required by law to file a tax return by the specified due dates.

Responsibility

It is the responsibility of FTB staff to be aware of the return due dates for each entity type and request tax returns for any missing periods.

Action

FTB staff should educate the entity of their due date requirements and request any missing returns.

If an entity questions whether or not their business activity is considered “doing business”, FTB staff should request the entity fill out [form FTB 4684A](#) ((****)). (Refer to your unit procedures for the form being used.)

NOTE: The business activity questionnaire specific for Partnerships and Limited Liability Companies is not available at this time.

Reference

Revenue and Taxation Code Sections [18601](#), [18633](#), and [18633.5](#)

((****))

[California Corporation Tax Law – A Guide for Corporations – FTB 1063](#)

[Guide for Corporations Starting Business in California - FTB Publication 1060](#)

[Form FTB 1063A](#)

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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.1.1.5 Scoping An Account

Background

When an account has not reached resolution in the automated system, manual intervention becomes necessary. The process Franchise Tax Board (FTB) staff utilizes to identify the details of the collectable account is called a scope.

Purpose

Scoping an account will decrease production time and eliminate repetitive actions by developing a plan of action to resolve the account in the most effective manner.

Responsibility

FTB staff will utilize a scope on accounts, which will include, but is not limited to identifying:

- The tax year(s) and basis of assessment
- Balance due for each tax year
- Establishment of due process
- Any duplicate corporation numbers
- Pending Notice of Proposed Assessment (NPA)
- Previously discharged years
- Doing Business As (DBA), business activity
- Lien(s) filed (check the Bank and Corporation Master file for non-converted liens)
- Returns filed
- Missing tax returns
- Third Party Contact ((***)
- Any other information pertinent from the Business Entities Tax System (BETS), or Integrated Non Filer Compliance (INC)

Action

((***)

Reference

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((***)

NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.1.6 Suppression - Business Entities Tax System (BETS)

Background

Business Entities Tax System (BETS) allows for Franchise Tax Board (FTB) staff to place a manual or automatic suppression on the account for specific tax years. Suppression stops refund and billing notices from being issued by BETS.

NOTE: Franchise Tax Board (FTB) staff must follow up on the account to release a manual suppression.

Purpose

Suppressions allow FTB staff to review and check for inconsistencies on the account without having the business receive erroneous bills or refunds.

Responsibility

FTB staff must recognize when an account may need more time to be reviewed, and know their unit procedures for placing or requesting suppressions.

Action

FTB staff should choose an automatic end date when possible to avoid accounts no longer meeting suppression criteria.

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NOTE: Collectors should follow their unit procedures when placing suppressions.

Reference

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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.1.1.7 Case Hold - Accounts Receivable Collection System (ARCS)

Background

Accounts Receivable Collection System (ARCS) allows for Franchise Tax Board (FTB) staff to place a hold on any account for payment deferral, entity response time, processing time frames, collector discretion, etc. ((***)

Purpose

A case hold will defer all collection actions, which allows the corporation time to comply and/or produce information, as well as allowing FTB time for processing and review.

Responsibility

FTB staff will need to recognize when an account may need more time for processing or review. This is based on case history, compliance, payments made, etc.

Action

FTB staff should place holds on accounts according to their unit procedures.

Reference

((***)
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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.1.8 Statute Of Limitations (SOL)

Background

The Statute of Limitations (SOL) is the time limit imposed by law on the right of both the state and the entity to increase or decrease the entity's self-assessed taxes, or for the entity to file a claim for refund.

For collection purposes these are the most common SOL dates:

- Claim for refund (normal statute) - [Revenue and Taxation Code Section 19306](#)
 - Four years from the original due date of the return or, one year from the date of overpayment, whichever is later
- Notice of Proposed Assessments (NPA) -
 - See link for Audit and Revenue Agent Report:
 - [Multistate Audit Procedures Manual](#)
 - ((****))
- Erroneous Refunds - [Revenue and Taxation Code Section 19411](#)
 - Two years from the date the erroneous refund was issued or, normal statute for Franchise Tax Board (FTB) to issue an NPA
- Transferee - [Revenue and Taxation Code Sections 19074, 19074\(b\)](#)
 - One year beyond the normal statute
 - Transferee of a transferee is one year after the expiration of the statute for the preceding transferee
- Assumers - [Revenue and Taxation Code Sections 19071-19074](#)
 - One year beyond the normal statute
- Liens - [Government Code Section 7171](#)
 - 10 years from the date of the assessment
 - Overpayments - [Revenue and Taxation Code Section 19306](#)
 - Normal statute or, one year from the date of payment, whichever is later
- Electronic Funds Transfer (EFT) Penalty - [Revenue and Taxation Code Section 19306](#)
 - One year from the date of the payment or, one year from the transaction date, whichever is later
- Decertified Secretary of State Penalty - [Revenue and Taxation Code Section 19306](#)
 - One year from the date of decertification or, one year from the payment date, whichever is later
- Fees - [Revenue and Taxation Code Section 19306](#)
 - One year from the date of the payment or the transaction date, whichever is later
- Missing Year NPA:
 - No statute of limitations for false returns or no returns filed

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Involuntary collection actions include:

- Earnings Withholding Orders (EWOT) (assumers or transferee)
- Orders to Withhold (OTW)
- Offset of other year overpayments
- Intercepts, such as interagency offsets from and to the Employment Development Department, Internal Revenue Service, and Board of Equalization.
- A combination of the above

Purpose

For income tax purposes, the SOL establishes a time frame allowed for actions to be taken by, for, or against the entity.

Responsibility

FTB staff is responsible for understanding, identifying, and educating business entities on the various SOL dates, which are mentioned above.

Action

FTB staff should assess, collect and issue refunds when the appropriate SOL applies.

Reference

[Multistate Audit Procedures Manual](#)

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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.1.1.9 Ceasing Business In California

Background

Entities qualified/registered with the [Secretary of State \(SOS\)](#) must take specific steps to cease operations. The type of entity determines these steps.

Corporations

To **dissolve** a domestic corporation, the entity must file the following with the SOS:

- SOS Dissolution documents
- [Form FTB 3555](#) “Request for Tax Clearance Certificate”

To **surrender (withdraw)** a qualified foreign (out of state or country) corporation's right to transact business in the state of California, the corporation must file the following with the SOS:

- SOS Surrender documents
- [Form FTB 3555](#) “Request for Tax Clearance Certificate”

Limited Liability Companies (LLC)

To **cancel** a domestic LLC, the entity must file the following with the SOS:

- SOS Cancellation documents
- [Form FTB 3555L](#) “Request for Tax Clearance Certificate (not required if domestic, inactive **and** registered less than 12 months- See [AB 1859](#))”

NOTE: An LLC filing as a corporation must file LLC Cancellation documents with SOS.

Limited Liability Partnerships (LLP)

To **cancel** a domestic LLP, the entity must file the following with the SOS:

- SOS cancellation documents
- [Form FTB 3555L](#) “Request for Tax Clearance Certificate”

Limited Partnerships (LP)

To **cancel** a domestic LP, the entity must file cancellation documents with SOS.

NOTE: Although a Tax Clearance Certificate is not required, an LP should file and pay through the cancellation date.

General Partnerships (G/P)

Registration with the SOS is optional and is not required. The only cancellation requirement is marking the final return as final.

Entities not Qualified/Registered with SOS

Entities not qualified or incorporated through the SOS must:

- File a final return and check the final return box
- Attach a statement saying that they are no longer “doing business” in California

Responsibility

It is Franchise Tax Board (FTB) staff responsibility to be knowledgeable of the various entity types and requirements to properly cease business in California.

Action

FTB staff must collect the return(s) and proper amount(s) due until the business has ceased in California or through the end date with SOS.

Reference

[Revenue and Taxation Code Sections 23331-23335](#)
[California Secretary of State – California Business Portal](#)

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.1.10 Protest Rights

Background

Notices of Proposed Assessment (NPA) inform business entities that the Franchise Tax Board (FTB) is assessing the business entity tax and penalties on a tax year(s). NPA's also provide instructions for protesting an assessment, and inform business entities of the 60-day time frame to protest the NPA.

A business entity may request an oral hearing when submitting a NPA protest. Hearings are granted upon request, and enable businesses to present information to support their protests. A hearing does not extend the 60-day protest period. If a protest is not filed within 60 days, the assessment becomes final and a notice of balance due is issued. For suspended business entities, they must revive within the 60-day grace period to protest their NPAs.

There are two types of protests, docketed and undocketed.

- Docketed protests involve a question of law supporting a NPA
- Undocketed protests question the facts supporting a NPA

To protest Jeopardy Assessments, business entities have 30 days from the date of the assessment to protest the jeopardy portion, and 60 days to protest the NPA basis. Business entities may protest a JA to dispute:

- Whether the collection of tax is in jeopardy
- The basis of an assessment

Purpose

[Revenue and Taxation Code Section 19041](#) provides business entities the right to disagree with a NPA or JA by filing a protest.

Responsibility

If a protest is filed on a regular NPA within the 60-day protest period, it suspends billing and collection action on the protested tax year until FTB staff resolves the protest. However, protesting a JA does not stop collection action. To stop JA collection actions, a business entity must submit:

- A cash bond, or other security (FTB determines the necessary amount); or
- Sufficient evidence that shows that the collection of tax is not jeopardized

Liens may be filed on protested Jeopardy Assessments (JA) once the JA is assessed, but liens must not be filed on regular protested assessments until due process is served.

Action

An NPA protest must be submitted in writing and state that a protest is being made. The protest must include:

- Business entity name and address
- Business entity number
- The amount and year involved
- A detailed description and the supporting documentation substantiating the protest
- The signature of a business entity officer, partner, or other authorized representative, as well as a daytime telephone number
- A copy of the NPA

Upon receipt of an NPA protest, FTB will send the business entity a notice confirming that the protest was received and will be processed. The unit that issued the NPA handles undocketed protests, with the exception of Business Entity assessments. The FTB Collection Advisory Team (CAT) handles docketed and undocketed protests only involving Business Entity issued NPA's.

After a protest is reviewed, a Notice of Action (NOA) is issued informing the business entity that the NPA is affirmed, revised, or withdrawn. Business entities in disagreement with a NOA may:

- Pay the assessment and file a claim for refund
- File an appeal with the State Board of Equalization (BOE) within 30 days from the date on the NOA ((****))

If an appeal is not filed within 30 days, a demand for payment is mailed to the business entity. The NPA amount is due and payable within 15 days of the demand notice. Interest on the demand notice is computed to the date of the NOA.

An NPA paid under protest, during or after the 60-day protest period, is considered a claim for refund. A statement of facts in support of the claim must also be included.

Reference

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[Revenue and Taxation Code Sections 19041 and 19044](#)

[Revenue and Taxation Code Sections 19084](#)

NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.2 Account Management

4.1.2.1 Business Entities (BE) Associated Accounts

Background

Business Entities (BE) associated accounts are those assigned by the Accounts Receivable Collection System (ARCS) to Franchise Tax Board (FTB) staff or a specific group. Associated accounts are identified on the main case window of ARCS. The name of the person responsible for the account will appear in the "user" field.

Purpose

BE associated accounts create a division of labor via a series of work states that allows specialization in each functional area. The functional area defines the type of work or action to be performed in that state. This allows the responsible FTB staff to have the highest level of familiarity with the account; working the account from the time it enters the functional area until resolution.

Responsibility

FTB staff will be able to identify an associated account on the main case window. If the account is assigned to FTB staff, the individual's name will appear in the "user" field. If the account is not assigned to a specific individual, the "user" field will be blank and grayed out. The telephone number of the FTB staff that the account is associated to can be obtained by clicking on the "State Management" icon.

Action

- Associated accounts should be processed in accordance with the [Statement of Principles of Tax Administration](#). ((****)) Exceptions will be made when it is necessary to concentrate collection efforts to address areas of noncompliance.
- Collection accounts should be worked as soon as the account becomes associated.
- Accounts over ((****)) will automatically route to the complex accounts (CA) functional area in the Accounts Receivable Collection System (ARCS). The Complex Account Resolution Team (CART) works these accounts. Follow-up action should be within 30-45 days from the last action, depending on the nature of the last action. Correspondence and telephone messages should be responded to according to unit procedures.

- FTB staff work accounts in the Manual Process (MP) functional area, which includes both pooled and staff associated work lists. Since the implementation of ARCS, individual unit guidelines, and work plan goals outline the expectations of FTB staff.
- ((****)) ((****))
- ((****)) For more on scoping an account see [Section 4.1.1.5 Scoping An Account](#).

For BE assigned accounts, FTB staff's approach should be:

- Designed to resolve the account at the earliest point and make the best possible use of collection resources
 - Designed to prevent repetitive actions
 - Individually tailored to the facts of the account (FTB staff should examine account history to determine the course of action)
 - ((****)) For more on Missing Years see [Section 4.1.1.4 Due Dates for Filing Returns](#).
- FTB staff should use the most expeditious method possible to resolve their accounts. FTB staff should use the telephone as their primary tool in obtaining asset information and in contacting the entity to secure a commitment to resolve the account. The following are critical guidelines for working accounts:
 - FTB staff should not, as a general rule, repeat actions already taken by ARCS.
 - If due process is in question, an attempt must be made to contact the entity by mail prior to taking further collection action.
 - If attachable asset information is readily available and due process has been established, assets may be seized. If not, FTB staff should use the telephone to contact the entity. Third parties may also be contacted to locate any information on the entity. Effective interviewing techniques should focus on obtaining asset information and/or information on the current location of the entity. FTB staff should determine the objective of the call and plan pertinent questions that will lead to account resolution. They should also attempt to obtain all information needed from initial contact, as the first contact may be the last.
 - If attempts to contact the entity, representative, or third party are unsuccessful during normal work hours, FTB staff should communicate via mail.

NOTE: Before a third party contact is made, a notice, ((****)), must be mailed to the entity advising of such contact.

- All telephone numbers that are potential leads should be exhausted prior to recommending discharge or field office transfer.
- Accounts that are associated should be referred to the field as soon as it is determined that all reasonable actions have been taken to resolve the account. For field office referral criteria see Section 6.1.4.1 Field Office Transfers.
- As a general rule, FTB field staff should not repeat actions already taken by a central office collection group. FTB staff should utilize public records, third party contacts and, when warranted, a Subpoena Duces Tecum to identify seizable assets. It is FTB staff responsibility to bring accounts to a final resolution by taking appropriate enforcement actions in the field. Appropriate enforcement actions may vary based on each circumstance.
- Seizure and sale of real property should always be considered when the action is anticipated to be the most cost effective way to collect the balance due. Although a lien filed in the county where real property is located may secure the tax liability, collection of the balance is delayed until the property is transferred or a refinance of the property is complete.
- When resolving an account, FTB staff should account for all missing tax returns that will not be identified through the automated systems. If FTB staff are unable to get the entity's cooperation in filing returns, income information should be located through skip tracing, and an assessment made in accordance with [Section 4.1.1.4 Due Dates for Filing Returns](#). If the liability resulted from failure to make estimate payments, an effort should be made to ensure that current withholding is correct or that the entity is making correct estimate payments.

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.2.2 Accounts Receivable Collection System (ARCS) Account Documentation

Background

The Accounts Receivable Collection System (ARCS) is an online system that supports the collection of delinquent franchise and income tax accounts. ARCS allows Franchise Tax Board (FTB) staff to make permanent documentation of account activity through the use of history text, notes and primary memos. Once the information is saved, ARCS automatically records a permanent history line for all automated or manual actions or events. Having a history record of entity interactions and correspondence will assist all FTB staff that work on an account. In addition, this will ensure that there is no duplication of collection efforts.

Purpose

ARCS account documentation allows FTB staff to document account history and contacts. Documentation also ensures permanent and accurate account history used to assist with future interactions with or pertaining to entities.

Responsibility

FTB staff are responsible for ensuring clear and concise account documentation of all account interactions are entered into ARCS.

Action

FTB staff will input the complete, detailed history pertaining to the account. See unit procedures for specific information to be documented.

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.2.3 Account Review

Background

Leads and supervisors conduct periodic reviews of accounts for quality assurance and adherence with the [Statement of Principles of Tax Administration](#). During the review process, the appropriate staff or unit will focus attention on the quality of work in four areas:

- Effective development of facts
- Correct technical conclusions
- Effective preparation of the account
- Customer service, equitable and considerate treatment of the entity representative(s)

Purpose

The account review process focuses attention on the quality of work performed on accounts processed in the Accounts Receivable Management (ARM) Division. The purpose of this process is to ensure conformity with the department's [Statement of Principles of Tax Administration](#) and the collection program policies and procedures.

Responsibility

The reviewer's role is to verify adherence to state governmental and departmental policies and procedures. Quality control is the responsibility of Franchise Tax Board (FTB) staff, their lead, and supervisor. Additionally, the reviewer's role is to ensure that accounts achieve resolution in the most expeditious method within the scope of collection activities.

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- Concentration on these areas will measure the:
 - Conformance to standards, policies and procedures
 - Consistency with standards, policies and procedures
 - Effectiveness of FTB collection techniques
 - Results of the mandated and discretionary programs in both quality and production

Action

Supervisors, leads, and other appropriate staff account review will include, but is not limited to:

- Review all accounts ((***) submitted for discharge
- Review on a random basis, discharge accounts ((***) submitted for discharge
- Review all decreases in account liability which result in closed accounts
- Review accounts submitted for transfer to the field office
- Return accounts to originating units when accounts need additional work, are incomplete or do not meet the criteria for discharge, field office or abatement
- Perform an in-progress review of accounts for conformance with the Collection Program Policies
- Provide the appropriate bureau directors, section managers and collection supervisors with feedback on quality of completed accounts

Accounts closed by payment in full, abatement, or balances resolved as a result of applied credits are reviewed to assure compliance with policies and procedures. This is done by assuring that:

- Taxpayers' rights are addressed

- Account status shows “closed” on Accounts Receivable Collection System (ARCS)
- All information received from the Internal Revenue Service (IRS) in response to department's request ((****)) are destroyed and records marked accordingly
- Missing tax returns are accounted for in the summary in the ARCS history comments
- All outstanding orders have been released

Discharge Functional Area:

- All reasonable steps have been taken to resolve the account
- Facts indicate no future collection potential within a reasonable period of time
- Lien filed, or the reason for not filing stated
- Correct discharge reason code

Transfer to Field Office:

- There is no obvious manual or automated action available to resolve the account from the central office
- The summary supports the necessity for field office transfer
- The correct field office code is used

Accounts in process:

- Accounts are being worked into inventory correctly and timely
- Correspondence and follow-ups are processed on a current basis
- Collection procedures are applied appropriately

[See Section 4.1.2.1 BE Associated Accounts.](#)

Reference

[Statement of Principles of Tax Administration](#)

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.1.2.4 Complex Account Resolution Team (CART)

Background

The Complex Account Resolution Team (CART) resolves the following assigned accounts with:

- Open balances due ((****))
- Accounts that are complex
- Accounts that are sensitive in nature

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Purpose

CART allows designated Franchise Tax Board (FTB) representatives to work accounts that meet specific requirements.

Responsibility

FTB staff should request accounts that meet the open liability criteria be routed to CART to be worked in their functional area.

Action

When an account meets CART criteria, FTB staff should refer to unit procedures to request an inter-office transfer or work the account once it has been auto routed.

Reference

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.1.2.5 Field On-Site Requests

Background

To resolve some tax accounts, desk collectors need field collector assistance. This occurs because some business entities evade tax collection, while others ignore it. But our field collectors give FTB a physical presence in our communities. Performing field on-sites, they visit business entities, encourage compliance, verify income activity, document asset information, and identify assets for possible seizure (this includes identifying when warrants are needed).

Purpose

If business entities do not voluntarily resolve their tax accounts, we must compel compliance, which can include field on-site actions. However, we try to use the least intrusive actions possible to resolve their tax accounts. There are several types of on-site requests:

- 1) Financial Evaluation
Identify, locate, and evaluate assets for collection action, **or** to confirm a business entity's financial hardship. This can involve examining a business for income and other assets.
- 2) Broken Promise
Gain compliance from business entities that default on promises to file tax returns or pay tax balances ((****)).
- 3) Evasive Taxpayers

Gain compliance from business entities that avoid our calls and ignore our correspondence.

- 4) COTW/EWOT Non-compliance¹
Follow-up when a payor will not respond to our levy and ignores/evades our phone requests for compliance.
 - **Note:** Desk collector must attempt to verify that a business entity is entitled to receive funds from a payor **before** the collector requests this action. The field collector can hand-deliver the COTW/EWOT along with a non-compliance notice, form FTB 4931.

¹ A **COTW** is a Continuous Order to Withhold, and it is sent to payors to levy payments for services rendered. An **EWOT** is an Earnings Withholding Order for Taxes. It is sent to payors to levy income, and it can be sent as a result of a transferee assessment, etc.

- 5) ((****)) Final Evaluation
Evaluate the collection potential of an ((****)) account before recommending a discharge.
- 6) Field Transfer Evaluation
Confirm whether an account meets the field transfer criteria when available information makes this determination uncertain.
- 7) Rush Actions
Deliver a demand notice to an escrow company, or a lien to a county recorder.
- 8) Record Verification
 - Check the status of a pending or active court case.
 - Examine bankruptcy archives for financial disclosure documents on discharged bankruptcy cases.
- 9) Field Support Referral – ((****))
 - Clarify a lien's status when we lack a lien record, yet public records indicate a lien exists.
 - If a lien does not appear to be recorded three months after it was filed, examine the public records.
 - Visit county courts to obtain information for the Attorney General or for the CAT² unit.

Responsibility

Desk collectors should perform the following actions **before** requesting an on-site:

- Exhaust collection actions (i.e. liens, COTWs, OTWs, etc.).³
 - **Exception:** when an account is at risk (such as a business entity liquidating assets to avoid collections), then a collector can request an on-site before exhausting collection actions.
- Verify that the account has ((****)) a valid address.
- Ensure there is a reasonable expectation that an on-site will help resolve an account.

² CAT abbreviates the name Collection Advisory Team.

³ An **OTW** is an Order to Withhold, and it is sent to banks and other financial institutions to levy bank funds or to liquidate stocks and securities.

Action

Desk collectors should document ARCS with the information described below.

- **Note** the case history. This includes:
 - Due process status.
 - Delinquent tax issues.
 - Business entity status (i.e. active, suspended, etc.)
 - Any DBAs.
 - Liens filed.
 - Collection actions taken.

- **Document** the reason for the field visit, and the criteria met.

- **List** the corporate officers' names, their social security numbers, and their verified phone numbers and physical addresses (business, home, etc.).

- **Include** business activity (e.g. business operation facts), bank information, and other asset information.

- **Identify** the field office that is requested to perform the on-site.

Field collectors and leads ensure the following is performed:

On-Site Timeframe

- Attempt to complete an on-site within 14 days of being assigned to it.
- If an on-site location is far from the field office and the on-site may take more than 14 days to perform, communicate any delay to the desk collector by phone or Email.

Field Collector Preparation

- Examine the case history, the previous collection actions, and the on-site request. If necessary, contact the desk collector for additional information.

Execute the On-Site

- Perform the requested actions, or note why any actions were not taken.
- Follow standard on-site procedures. Ask all pertinent questions; note critical observations; search for assets and information; take any appropriate actions.

Process the On-Site Results

- Document the on-site results, the basis for those results (if applicable), and any field recommendations.
- Address any phone calls prompted by the on-site.

- If an account qualifies for a field transfer, the field supervisor/lead will notify the Central supervisor/lead.

Reference

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.2.6 BE Investigation Referrals

Background

The Investigation Bureau is responsible for the criminal enforcement activities within the department. The bureau's principal mission is to identify, investigate and effect the prosecution of tax evasion, fraud and employee misconduct; to encourage compliance with the California income tax laws; and to maintain the public's trust through publicity.

Purpose

The purpose of the referral is to enable the Investigations Bureau to evaluate the criminal potential of the case and decide whether or not a criminal investigation should be undertaken.

Responsibility

When a firm indication of fraud is discovered, collection activity should be suspended immediately without disclosing the reason to the taxpayer or his/her representative.

1. **Do not** propose adjustments or solicit agreements to any proposed assessments (or portions of proposed assessments).
2. **Do not** imply favored treatment if requested information is furnished.
3. **Do not** place yourself under any obligation to the taxpayer or his/her representative. Never negotiate for the release of taxpayer records.
4. **Do not** advise or counsel the taxpayer or his/her representative of possible defenses or explanations of understatements, acts of concealment, omissions or other possible acts of fraud.
5. Avoid statements, remarks, or the commission of acts that are subject to misrepresentation.
6. Make thorough and precise notes of all contacts and conversations.
7. **Do not** accuse the taxpayer of cheating or failing to comply with the income tax laws.
8. **Do not** suspend collection actions in an abrupt manner that may alarm or embarrass the taxpayer.
9. Document the location of accounting records, if known.
10. **Do not** make any notations or marks on the taxpayer's records.
11. **Do not** mark or write on a tax return.
12. **Do not** contact the taxpayer or his/her representatives after the case has been referred to the Investigations Bureau.

Action

All cases of suspected criminal fraud should be discussed with your lead prior to being referred. **Your lead should call ((916) 845-1069) to discuss the case prior to referral.** Investigations Bureau staff will review the case and notify the lead within one week of the outcome. If accepted, the case file and a completed ([Fraud Case Referral, form FTB 7040](#)) should be sent to the Investigations Bureau as soon as possible.

A separate referral form should be prepared for each person or entity involved, except for a husband and wife who filed a joint return. Separate referrals are not prepared for each different type of violation.

Referral guidelines to assist the collector are stated in general terms below. There is no absolute criterion established as to when to suspend collection activity and refer the case to the Investigations Bureau. Additional referral information can be found in the ([Criminal Tax Fraud Referral Handbook](#)).

Definition of Fraud

Actual fraud is intentional; it consists of deception intentionally practiced to induce another to part with property or surrender some legal right and which accomplishes the end designed. More simply, it is obtaining something of value from someone else through deceit.

Tax fraud sometimes involves false documents, tax returns or statements and includes attempted evasion, conspiracy to defraud, aiding, abetting, counseling fraud and willful failure to file income tax returns.

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Preparing the Referral

- **Your lead should call (()) to discuss the case prior to referral**
- File all liens
- Attach INC transcripts for the years to be investigated
- Attach payer information to the file
- Attach a DMV printout to the file
- Suspend automated collection action on the account
- Attempt to obtain current address and spouse information
- Answer all account correspondence and phone calls
- Make any necessary account adjustments
- Apply all known withholding credits
- Complete Fraud Case Referral, form FTB 7040

Information From the Referring Collector

If the referral is accepted, the Investigator may discuss the case with the referring collector. Particular attention will be given to the following:

1. Any explanations offered concerning the alleged offenses,
2. Whether returns were solicited, there were any attempts at civil settlement or if prior actions similar to the alleged offense were condoned by the department; and
3. The referring collector's observations about the age, health (physical and mental) and education of the taxpayer.

After the Referral

After evaluation of a referral the Investigations Bureau Chief, or his designee, will inform the appropriate departmental personnel whether the referral has been declined or accepted for investigation.

Reference

[Revenue and Taxation Code Section 19701](#) - Failure To File Return
[Revenue and Taxation Code Section 19704](#) - Statute Of Limitations
[Revenue and Taxation Code Section 19705](#) - False Return
[Revenue and Taxation Code Section 19706](#) - Failure To File with Intent to Evade
[Revenue and Taxation Code Section 19721](#) - Willfully Generating A False Refund Warrant
[Penal Code Section 67.5](#) - Bribery
[Penal Code Section 118](#) - Perjury
[Penal Code Section 182](#) - Conspiracy (Definition; Punishment; Venue)
[Penal Code Section 186.10](#) - Money Laundering
[Penal Code Section 476\(a\)](#) - Checks, Drafts or Orders on Banks; Insufficient Funds; Intent to Defraud; Punishment; Evidence; Credit Defined; Partial Validity
[Penal Code Section 487](#) - Grand Theft Defined
[Penal Code Section 502](#) - Unauthorized Access To Computer, Computer Systems And Computer Data
[18 United States Code Section 1341](#) - Mail Fraud
[18 United States Code Section 1956](#) - Money Laundering
[31 United States Code Section 5324\(a\)\(3\)](#) - Structuring Transactions

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4.1.3 Payments

4.1.3.1 Payment Due Dates

Background

A business entity subject to franchise tax must pay at least the required minimum franchise tax as an estimated tax installment on the 15th day of the fourth month after the income year begins.

The following business entities being taxed as a corporation are required to make estimated tax payments:

- Corporations qualified or incorporated in California
- S corporations
- Qualified subchapter S corporation subsidiary (Q-Sub)
- Foreign corporations doing business in California
- Out of state corporations having income from sources within California
- Limited Liability Companies (LLCs) that are treated as a corporation
- Regulated Investment Companies (RIC's)
- Real Estate Investment Trusts (REIT's)
- Exempt organizations or trusts with unrelated business income
- Exempt homeowners' associations
- Inactive corporations

EXCEPTION: The first year's tax is based on measured tax for income years beginning January 1, 2000 and subsequent. The estimate payment needs to be determined from the estimate of the first year's tax.

If the estimate tax exceeds the minimum franchise tax, the business entity must pay the estimated tax in four installments. The payments are due on the 15th day of the fourth (4th), sixth (6th), ninth (9th), and 12th month of the income year. S corporations are required to pay the \$800 annual tax for Qualified Subchapter S Subsidiaries. [Form FTB 100ES](#) is used to file or pay the estimate payments.

NOTE: The first installment cannot be less than the minimum tax.

The following business entities are **not** required to make estimated tax payments:

- Real Estate Mortgage Investment Conduits (REMICs) (An exception to the requirement to file form 100)
- General Partnerships
- Limited Partnerships
- LLCs that are treated as a partnership
- Limited Liability Partnerships

- Exempt Organizations filing the form FTB 199 only

REMIC's are generally not subject to taxation. REMIC's doing business in California must pay the minimum franchise tax of \$800.

LLCs filing as a partnership are subject to an \$800 annual tax. The Annual Tax is prepaid for the privilege of doing business in California and is due on the 15th day of the fourth (4th) month after the beginning of the taxable year. [Form FTB 3522](#) is used to pay the annual tax. LLC's must pay the Annual Tax for each tax year or part of a tax year until they are cancelled with the Secretary of State (SOS).

LLC's are also subject to a graduated fee based on total income reportable to California. The [Revenue and Taxation Code Section 24271](#) defines total income as the sum of world wide gross income plus the cost of goods sold in connection with the entity's trade or business.

The LLC fee is due on the original due date of the return, which is the 15th day of the fourth (4th) month after the **end** of the taxable year using the tax return [form FTB 568](#).

If an LLC has nonresident members, the LLC is required to file [form FTB 3832](#), Limited Liability Company's List of Members and Consent with the tax return form FTB 568.

If the LLC fails to file form FTB 3832 timely on behalf of any nonresident member, the LLC is responsible for payments of tax on each nonresident member's distributive share of income.

Limited Partnerships (LP) and Limited Liability Partnerships (LLP) are subject to pay \$800 tax on the original due date of the return, which is the 15th day of the fourth (4th) month after the end of the taxable year using [form FTB 565](#).

Tax is not assessed against General Partnerships because the income flows through to the partners and is reported on each partner's income tax return.

Purpose

If a business entity is doing business in California, the entity is required by law to pay taxes by the specified due dates depending on the entity type.

Responsibility

It is Franchise Tax Board (FTB) staff's responsibility to be aware of the payment due dates for each entity type.

Action

FTB staff should educate the entity of the payment due dates and collect all past due amounts. In addition, FTB staff may need to research missing or misapplied payments.

Reference

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[Revenue and Taxation Code Section 19025](#)

[Revenue and Taxation Code Section 24271](#)

[Instructions for Form 100-ES](#)

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.3.2 Payment Methods

Background

Franchise Tax Board (FTB) acknowledges the following as acceptable payment methods:

- Personal or business check
- Cashier's or Certified check
- Electronic Funds Transfer (EFT) - Excluding Partnerships and Limited Liability Companies filing as Partnerships
- Wire Transfer
- Money Order
- Cash - Only through the Field Office
- Western Union Quick Collect (WUQC) method
- Tax Withheld at Source

FTB **does not** accept the following types of payments from business entities:

- Foreign (out of country) checks
- Credit card payments

NOTE: Cash remitted via mail is discouraged.

Responsibility

FTB staff must request an acceptable payment form to ensure funding and terms of negotiation

NOTE: FTB staff should **not** request payment via check if the entity is EFT mandatory. A payment received by check of a corporation that is EFT mandatory will create an EFT penalty.

Action

FTB staff must advise taxpayers of acceptable payment methods to resolve the account.

Reference

[Revenue and Taxation Code Section 19011](#)

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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.1.4 Interest

4.1.4.1 Interest Assessed On Tax

Background

Interest is assessed on unpaid tax, and water's-edge fees from the original due date of the return to the date paid. Interest is charged at an [annual rate](#) compounded daily. The interest rate used for the computation will depend on the period of the underpayment. If the balance due shown on the bill is paid in full within 15 days of the billing date, no additional interest will be assessed.

NOTE: Prior to July 1, 1983 simple interest was assessed on interest bearing liabilities. Starting July 1, 1983 interest is compounded daily.

Purpose

[Revenue and Taxation Code Section 19101](#) mandates that interest be assessed on tax imposed if it is not paid on or prior to the last date established under [Revenue and Taxation Code Section 19521](#).

Responsibility

Franchise Tax Board (FTB) staff must have the ability to communicate the basis of interest (California Tax Law) being assessed and how it is computed. Additionally, FTB staff must inform taxpayers that interest does not stop accruing on unpaid tax and penalties.

Action

Generally, Business Entities Tax System (BETS) automatically assesses interest. When BETS is not able to correctly calculate interest, FTB staff should correct with manual interest calculations.

Interest is assessed on the unpaid tax from the original due date of the return until the date the tax is paid in full. The original due date of the return varies with each entity:

- **Corporation** - (Including Limited Liability Company (LLC) filing as a corporation) - 15th day of the third month following the end of its tax year.
- **Water's Edge Filer** - 15th day of the third month following the end of its tax year.
- **General Partnership (GP)** – 15th day of the fourth month following the close of its tax year. (GP pays no tax.)
- **Limited Partnership (LP)** - 15th day of the fourth month following the end of its tax year.
- **Limited Liability Partnership (LLP)** - 15th day of the fourth month following the end of its tax year.

- **Investment Partnership** - 15th day of the fourth month following the end of its tax year.
- **Limited Liability Company (LLC) Annual Tax** - 15th day of the fourth month from the beginning of the tax year.
- **LLC Fee** - 15th day of the fourth month following the end of its tax year.
- **LLC Non-Consenting Non-Resident Tax** - 15th day of the fourth month following the end of its tax year.
- **Single Member LLC Annual Tax** - 15th day of the fourth month from the beginning of the tax year.
- **Single Member LLC Fee** - 15th day of the fourth month following the end of its tax year.
- **Real Estate Investment Trust (REIT)** - 15th day of the third month following the end of its tax year.
- **Real Estate Mortgage Investment Conduit (REMIC)** - It can be organized as any entity type including LLC, partnership, corporation, or trust.
- **Regulated Investment Company (RIC)** - 15th day of the third month following the end of its tax year.
- **Banks and Financial Institutions** - 15th day of the third month following the end of its tax year.
- **Financial Asset Securitization Investment Trust (FASIT)** - 15th day of the third month following the end of its tax year.
- **Non-Admitted Insurance Company** – First day of the third month following the end of the quarter.

NOTE: [Tax Exempt Organizations are covered in Section 4.1.7.1.](#)

Reference

Publication 1060 - A Guide for Corporations Starting Business in California

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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.1.4.2 Interest On Penalties

Background

Franchise Tax Board (FTB) assesses interest on outstanding penalties from the interest effective date to comply with state and federal laws and rulings. The interest start date varies according to the penalty and entity type. If the entire bill is paid within 15 days of the date of the billing notice, interest will not be charged from the date of the notice to the date paid.

NOTE: Prior to July 1, 1983 simple interest was assessed on interest bearing liabilities. Starting July 1, 1983 interest is compounded daily.

Purpose

Interest is the premium charged for the use of money. As such, various statutes and legal rulings have established criteria for assessing interest on penalties.

Responsibility

FTB staff must have the ability to communicate the basis of interest and penalty assessed and how it is computed.

Action

The interest start date varies with the penalty:

- **Delinquent Penalty for Partnerships and Corporations** - Interest accrues from the original due date of the return.
- **Delinquent Penalty for Limited Liability Company (LLC) (Fee and Non Consenting Non Resident (NCNR) tax)** - Interest accrues from the original due date of the return.
- **Demand Penalty/Failure to furnish information** - Interest accrues from the Notice of Proposed Assessment (NPA) issue date.
- **Dishonored Payment Penalty** - Interest accrues from the date of notification.
- **Electronic Funds Transfer (EFT) Penalty** - Interest accrues from date of notification.
- **Estimate Penalty** - Interest accrues from the notification date.
- **Exempt Penalties** - Interest accrues from the original due date of the return.
- **Late filing penalty for LLC's and Partnerships** - Interest accrues from the date of notification.
- **Monthly penalty** – Non-interest bearing.
- **Secretary of State (SOS) Certification penalty** – Non-interest bearing.

- **Suspended/Forfeiture; Failure to File (\$2,000 penalty)** - From the NPA issue date.
- **Underpayment Penalty (LLC Annual Tax, NCNR and Fee)** – From the later of the original return due date, the extended return due date for timely filed, returns or from the original return due date for late filed returns.
- **Underpayment Penalty (Corporation)** - From the later of the original return due date or the extended return due date for timely filed returns or from the original return due date for late filed returns.
- **Underpayment Penalty (Partnerships)** – From the original due date.

Reference

[Revenue and Taxation Code Section 19101](#)

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.4.3 Interest Allowed On Overpayments

Background

Interest is allowed on overpayments from the date of overpayment to 13 days prior to the current date for manual refunds and seven days for automated refunds. This ensures that the interest is allowed to a date within 30 days of the refund issue date.

Interest must be allowed on overpaid returns if the refund warrant is not dated within 90 days of the return due date or the received date of the return, whichever is later. In the case of a late filed return, no interest will be allowed for any day before the filing date.

NOTE: An overpayment is an amount in excess of the amount due, including tax, interest, and penalties.

NOTE: Prior to July 1, 1983 simple interest was assessed on interest bearing liabilities. Starting July 1, 1983 interest is compounded daily.

Purpose

Assessing interest on overpayments adheres with the California [Revenue and Taxation Code Sections 19301-19368](#) that mandates timeframes in which interest is allowable on overpayments.

Responsibility

Franchise Tax Board (FTB) staff are responsible for recognizing when interest should be allowed on overpayments.

Interest Is Allowed on:

- Payments not claimed on the return (estimates, extensions, etc.)
- Payments received with the return
- Billing payments
- Overpayments of tax and applicable penalties
- Limited Liability Company fees
- Payments requested by collections
- Tax rate adjustments (ex: bank tax rate) credit balances created when FTB has applied an overpayment to a balance due on another year and the taxpayer also pays the balance due

Interest Is Not Allowed on:

- Overpayments applied as an estimate payment for the year immediately following
- Payments of exempt return fees
- Overpayments on decertified Secretary of State (SOS) certifications or overpayments of SOS certifications
- Overpayments sent to FTB in error (e.g., payments meant for Internal Revenue Service, Employment Development Department, Board Of Equalization, etc.)
- Voluntary payments (taxpayer specifically states it is a deposit or cash bond)
- Interest prior to July 1, 1983
- Collection fees
- Filing enforcement fees

Action

FTB staff should be aware when to request interest allowed on adjustments, and make the appropriate support request. (Refer to your unit procedures regarding submitting a support request).

Reference

[Revenue and Taxation Code Sections 19325, 19340 -19343](#)

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.4.4 Interest On Credit When An Assessment Or Amended Return Is Present (Avon)

Background

In the federal case of Avon Products, Inc. vs. United States, the court ruled, that if there is a subsequent assessment (Notice of Proposed Assessment (NPA) or amended return with additional tax due) on the same tax year that had an overpayment that was refunded or transferred to another tax year without interest being allowed, the entity must be given credit in the interest calculation for the period of time we held the overpayment. This ruling effects interest assessed on corporation accounts for any open tax year or income year whether the original return was filed timely or delinquent.

Avon applies when all of the following are met:

- The additional tax is the result of an amended return or an NPA
- There was an overpayment on the original return
- The overpayment was refunded or credited to another year without interest allowed

Interest is not allowed on an overpayment that existed when the entity filed the original return, and:

- Interest was not allowed on the overpayment from the original return
- A tax deficiency is being assessed as a result of either an NPA or amended return assessment as a result of an audit by Franchise Tax Board (FTB)

NOTE: Prior to July 1, 1983 simple interest was assessed on interest bearing liabilities. Starting July 1, 1983 interest is compounded daily.

Purpose

The Avon decision is based on the “use of money” principle. This principle states that for any period during which the government has the use of the taxpayers’ money, interest on a subsequent assessment should not be charged if during the same period the government had use of the overpayment.

Responsibility

FTB staff are responsible for being aware of the interest provisions affected by the federal court case, Avon Products, Inc. vs. United States, and insuring that accounts are corrected if the interest calculation results in a significant difference ((****)).

Action

Once FTB staff determines that Avon applies, interest will be computed on the amount of the deficiency in excess of the overpayment from the original return due date to the refund issue date or effective date of an offset to another liability, whichever is applicable.

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.4.5 Additional Interest on Large Corporation Underpayments – Two Percent (2%) Interest

Background

Generally, California conforms to federal laws by charging an additional two percent (2%) to the current interest rate, if the unpaid tax exceeds \$100,000 for any tax year and is not paid within 30-days (applicable date) of the first notice.

The additional two percent (2%) is due if the corporation:

- Is a "C" corporation
- Meets the cumulative threshold tax amount of \$100,000
- Has an established applicable date 30 days after the first notice
 - Prior to January 1, 1999 the threshold amount includes tax, penalties and interest
 - After January 1, 1999 the threshold amount included tax only

NOTE: The additional two percent (2%) does not apply prior to January 1, 1992.

NOTE: Prior to July 1, 1983 simple interest was assessed on interest bearing liabilities. Starting July 1, 1983 interest is compounded daily.

Purpose

The two percent (2%) interest is assessed for failure to pay the total balance for any unpaid tax year within 30 days of the first notice.

Responsibility

Franchise Tax Board staff must be able to identify why the additional two percent (2%) is assessed.

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[FTB Publication 1138](#)

Revenue and Taxation Code Sections [19101](#) and [19521](#)

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NOTE: ((***)) = Indicates confidential and/or proprietary information.

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4.1.4.6 Automated Interest Program ((***)

Background

The Automated Interest Program ((***) is used to manually compute:

- Estimate penalty
- Interest on tax and penalties
- Interest on overpayments
- Detailed computation of historical interest rates
- Additional payments or debits to be added to the account
- Business entity balance due
- Additional interest of two percent (2%) charged to certain large corporations who meet certain requirements

NOTE: ((***) will not work for computing interest on accounts based on AVON. [See Section 4.1.4.4.](#)

Purpose

((***) allows Franchise Tax Board (FTB) staff to calculate and forecast balances due for each tax year.

Responsibility

FTB staff are responsible for using ((***) to assist with computing the proper amount of total liability due.

NOTE: Fees are non-interest bearing.

Action

FTB staff should utilize ((***) when a manual computation is appropriate.

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.5 Penalty**4.1.5.1 Penalties – Common****Background**

Penalties are assessed on a tax year when a business entity fails to comply with California tax law. Penalties may be assessed manually, automatically or both. The following are the most common business entity penalties:

- **Contract Voidability Penalty** ([Revenue and Taxation Code Sections 23304.1 and 23305.1](#))

During or after reviving the corporation to good standing, the corporation may request relief from contract voidability. Clarification of the penalty will be given when contract void is requested.

NOTE: See Section 7.1.4.1 Suspension and Forfeiture for additional information.

- **Delinquent Penalty for Partnerships and Corporations (Late Filing)** ([Revenue and Taxation Code Section 19131](#))

If an income tax return is not filed by the extended due date, Franchise Tax Board (FTB) will impose a penalty of five percent (5%) of the tax due, after applying any payments and credits made on or before the original return due date, for each month or part of a month the return is late. The maximum penalty is 25% that FTB will impose the penalty from the original due date of the return.

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- **Delinquent Penalty for Limited Liability Companies (LLC's)** ([Revenue and Taxation Code Section 19131](#))

If an LLC's income tax return is not filed by the extended due date, FTB will impose a penalty. After FTB applies timely payments and credits, FTB will charge a five percent (5%) monthly penalty on the fee and/or on the Non-Consenting Nonresident (NCNR) members' tax indicated on the return, not to exceed 25%. FTB will impose the penalty from the original return due date.

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- **Demand Penalty-Failure to File Return** ([Revenue and Taxation Code Section 19133](#))

If a demand to file an entity's income tax return is issued, and the return is not filed, FTB will impose a penalty of 25% of the tax liability before applying any payments or credits. For LLCs, the penalty is 25% of the LLC annual tax and LLC fee shown on the return (without regard to timely or refundable credits).

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- **Demand Penalty/Failure to Furnish Information** ([Revenue and Taxation Code Section 19133](#))

If a demand to file an entity's income tax return or provide FTB with information is issued, and the entity does not comply, FTB will impose a penalty of 25% of the tax liability before applying any payments or credits. The LLC penalty is 25% of the LLC annual tax and LLC fee shown on the return (without regard to timely or refundable credits).

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- **Dishonored Payment Penalty** ([Revenue and Taxation Code Section 19134](#))

FTB will impose a penalty if an entity's financial institution does not honor a payment made by check, money order, or electronic funds transfer (EFT). For a payment of \$750 or more, the penalty is two percent (2%) of the payment amount. For a payment less than \$750, the penalty is \$15 or the payment amount; whichever is less.

- **Electronic Funds Transfer (EFT) Penalty** ([Revenue and Taxation Code Section 19011](#))

Once an entity remits an estimated tax or extension payment in excess of \$20,000 or has a total tax liability in excess of \$80,000 in any taxable year beginning on January 1, 1995, it must make all future payments, regardless of the taxable year or amount, through an EFT. Payments made by other means will result in a penalty of ten percent (10%) of the amount paid.

NOTE: LLC and Partnerships are not set up to make EFT payments at this time.

- **Estimate Penalty** ([Revenue and Taxation Code Sections 19136, 19142- 19161](#))

If an entity does not pay, pays late, or underpays an estimated tax installment, it is assessed a penalty. The penalty is assessed on the unpaid amount from the due date of the estimated tax installment to the date the payment is received or to the due date of the return, whichever is earlier. ((****))

NOTE: LLCs and Partnerships are not assessed this penalty.

- **Exempt Penalties** (See [Section 4.1.7.7 Exempt Penalty](#) and [Section 4.1.7.8 Registry of Charitable Trusts](#))

- **Late Filing Penalty for LLCs and Partnerships** ([Revenue and Taxation Code Section 19172](#))

FTB will impose a penalty if an entity does not file a partnership or LLC return by the extended due date. The penalty is \$10 per partner or member for each month or part of the month the return is late. The maximum penalty is \$50 per partner or member. The penalty is imposed from the original due date of the return.

- **Secretary of State (SOS) Certification Penalty** ([Revenue and Taxation Code Section 19141](#)) (Corporations Code - Sections [1502](#), [2117](#), [2204](#), [2206](#), [6210](#), [6810](#), [8210](#), [8810](#), [9660](#), [9690](#), [17060](#), [17651\(b\)](#), and [17653](#))

The California Secretary of State (SOS) imposes a penalty on corporations and limited liability companies that do not timely file their [Statement of Information](#) with the SOS. Domestic stock corporations, foreign corporations, and limited liability companies are subject to a \$250 penalty, and domestic nonprofit corporations are subject to a \$50 penalty. ((***)
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- **Suspended/Forfeiture; Failure to File (\$2,000 penalty)** ([Revenue and Taxation Code Section 19135](#))

FTB will impose a \$2,000 penalty on nonqualified, suspended, or forfeited corporations “doing business” in California if the entities do not file a tax return within 60 days after FTB sends a demand to file. ((***)

- **Underpayment/Monthly Penalty for Partnerships and Corporations** ([Revenue and Taxation Code Section 19132](#))

FTB will impose a penalty if the entity does not pay the total amount due shown on the return by the original due date. The penalty is five percent (5%) on the unpaid tax, plus one-half percent (1/2 %) on the unpaid tax for each month or part of a month it remains unpaid. The maximum penalty is 25% of the unpaid tax.

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- **Underpayment/Monthly Penalty for LLCs** ([Revenue and Taxation Code Section 19132](#))

FTB will impose a penalty if the LLC does not pay the:

- Annual tax by the 15th day of the fourth month of its taxable year.
- Fee and NCNR tax by the fifteenth day of the fourth month after the end of its taxable year.

The penalty is five percent (5%) on the unpaid tax or fee, plus one-half percent (1/2 %) on the unpaid tax or fee for each month or part of a month it remains unpaid. The maximum penalty is 25% percent of the unpaid tax or fee.

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Purpose

Penalties are punitive assessments that deter non-compliance and lessen FTB's collection costs.

Responsibility

FTB staff must verify the accuracy of existing penalties, and identify when penalties need to be assessed.

Action

FTB staff will manually assess penalties when appropriate, and abate penalties assessed in error.

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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.1.5.2 Penalties – Other

Background

Penalties are assessed on a tax year when a business entity fails to comply with California tax law. Penalties may be assessed manually, automatically or both.

- **Accuracy Related Penalty** ([Revenue and Taxation Code Section 19164](#))
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- **Aiding And Abetting By A Preparer Penalty** ([Revenue and Taxation Code Section 19178](#))
- **Failure To Comply With Ownership Disclosure Penalty (for Real Estate Investment Trusts (REIT))** ([Revenue and Taxation Code Section 24872.7](#))
- **Failure to Disclose Ownership Penalty** ([Revenue and Taxation Code Section 24872.7](#))
- **Failure to Disclose Reportable and Listed Transaction Penalty** ([Revenue and Taxation Code Section 19772](#)) ((****))
- **Failure to File Education Individual Retirement Accounts (IRA) Report Penalty** ([Revenue and Taxation Code Section 19184](#))
- **Failure to File IRA Report Penalty** ([Revenue and Taxation Code Section 19184](#))
- **Failure To Furnish Copy Of Return To Taxpayer Penalty -** [Revenue and Taxation Code Section 19167\(a\)](#)
- **Failure To Furnish Identification Number Penalty -** [Revenue and Taxation Code Section 19167\(b\)](#)
- **Failure to Maintain Investor List Penalty** ([Revenue and Taxation Code Section 19173](#)) ((****))
- **Failure to Register Penalty** ([Revenue and Taxation Code Section 19173](#)) ((****))
- **Failure To Retain A Copy Or List Penalty -** [Revenue and Taxation Code Section 19167\(c\)](#)
- **Filing A Frivolous Return Penalty (\$500)** ([Revenue and Taxation Code Section 19179](#)) ((****))
- **Foreign Owned Corporation Penalty (\$10,000 Per Foreign Corporation) -** ([Revenue and Taxation Code Section 19141.5](#)) ((****))
- **Fraud Penalty** ([Revenue and Taxation Code Section 19164](#)), ((****))
- **Fraud Delinquent Return Penalty** ([Revenue and Taxation Code Section 19131\(d\)](#))
- **Frivolous Submission Penalty** ([Revenue and Taxation Code Section 19179](#))
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- **Interest Based Penalty** ([Revenue and Taxation Code Section 19777](#)) ((****))
- **Late Payment Penalty for Non-Admitted Insurance Companies -** 10% of the tax due for late filing and paying.
- **Negligence Penalty** (Revenue and Taxation Code Section [12634](#) and [30204](#))
- **Negotiation of Taxpayer Check by Tax Preparer** ([Revenue and Taxation Code Section 19169](#))

- (AKA Tax preparer endorsing penalty)
((****))
- **Noneconomic Substance Transaction Understatement Penalty** ([Revenue and Taxation Code Section 19777](#)) ((****))
 - **Overstatement of IRA Contributions Penalty** ([Revenue and Taxation Code Section 19184](#))
 - **Personal Property/Business License Tax Penalty (\$5,000)** ([Revenue and Taxation Code Section 23186](#)) ((****))
 - **Promotion Of Abusive Tax Shelter Penalty** ([Revenue and Taxation Code Section 19177](#)) ((****))
 - **Reportable Transaction Understatement Penalty** ([Revenue and Taxation Code Section 19773](#))
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 - **Small Business Report Penalty** ([Revenue and Taxation Code Section 19133.5](#))
 - **Substantial Understatement Of Tax Penalty** ([Revenue and Taxation Code Section 19773](#))
 - **Tax Promoter Delinquency Penalty** ([Revenue and Taxation Code Section 19177](#))
 - **Tax Promoter Information Penalty** ([Revenue and Taxation Code Section 19177](#))
 - **Tax Promoter Required Records Penalty** ([Revenue and Taxation Code Section 19177](#))
 - **Tax Promoter Required Statements Penalty** ([Revenue and Taxation Code Section 19177](#))
 - **Understatement Of Tax By A Tax Preparer Penalty** ([Revenue and Taxation Code Section 19166](#)) ((****))
 - **False Withholding Penalty** ([Revenue and Taxation Code Section 19176](#))

Purpose

Penalties are punitive assessments that deter non-compliance and lessen Franchise Tax Board's (FTB) collection costs.

Responsibility

FTB staff must verify the accuracy of existing penalties, and identify when penalties need to be assessed.

Action

FTB staff will manually assess penalties when appropriate, and abate penalties assessed in error.

4.1.6 Fees

4.1.6.1 Collection Cost Recovery Fees

Background

Collection Cost Recovery Fees are assessed as a method to reimburse Franchise Tax Board (FTB) for costs incurred in the process of collection activity.

The most common fees assessed are:

- **Collection Fee** ([Revenue and Taxation Code Section 19254](#)):
Assessed to entities that require FTB to take collection action.
- **Filing Enforcement Fee** ([Revenue and Taxation Code Section 19254](#)):
Assessed to entities that do not file tax returns by the date indicated on our written Demand to File notice.
- **Lien Fee** ([Revenue and Taxation Code Section 19221](#) and [Revenue and Taxation Code Section 19209](#)):
Assessed to entities with delinquent liabilities when FTB files a state tax lien with the [county recorder](#) or the [Secretary of State](#).
- **Out of State Collection (OSCAR) Fee** ([Revenue and Taxation Code Section 19376](#)):
Assessed to entities with delinquent liabilities when FTB assigns the liability to an outside collection agency.
- **Sheriff Fee**
The Sheriff fee is assessed when a warrant has been issued to enforce collection of unpaid tax. See Section 7.0.2.18 Payment and Reconciliation of Sheriff Charges for additional information.

Purpose

Collection cost recovery fees are assessed as a method to reimburse FTB for costs incurred in the process of collection activity.

Responsibility

It is the responsibility of FTB staff to understand all cost recovery fees and ensure the fees are properly assessed.

Action

FTB staff must assess or abate fees when appropriate.

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.7 Exempt Organizations

4.1.7.1 Exempt Organizations

Background

The Franchise Tax Board (FTB) has special designations that allow organizations to be exempt from paying California franchise or income tax. The [Revenue and Taxation Code Section 23701](#) contains 21 types of exempt classifications. The majority of exemptions granted under Revenue and Taxation Code Section 23701 are patterned after [the Internal Revenue Code 501\(c\)](#).

The entity must submit a [form FTB 3500](#) and \$25 to apply for exemption with the FTB before the requirement to pay income or corporate tax is waived.

NOTE: The terms “Non Profit” and “Exempt” are not synonymous. Non Profit refers to the type of entity that has been created with the Secretary of State. These, as well as other business types, may then apply to be exempt from tax.

Limited Liability Company (LLC)

The Franchise Tax Board has recently started allowing LLCs to file for exemption per Senate Bill 1061, which became effective January 1, 2003. (No retroactive exemptions will be granted prior to January 1, 2003 for LLCs.) The [California Corporations Code Section 17002](#) allows LLCs to engage in lawful business activities regardless whether or not for profit. This allows any LLC to apply for California exemption under [Revenue and Taxation Code Section 23701](#), specifically subsections (h) and (x). These entities will be responsible for filling out the application for exemption, [form FTB 3500](#), and paying the \$25 application fee.

All LLCs given exemption will have to [file](#) as a corporation, and will be given a corporation number as follows:

- Qualified or registered LLCs will receive a number starting with 87.
- Non-qualified or non-registered LLCs will receive a number starting with 89.

NOTE: LLCs will not be able to file a group exemption return because they cannot qualify as a subordinate organization. Subordinates must be a branch, local, or similar type of organization.

All other aspects of the LLC exemption will be the same as general C exempt corporations.

Purpose

Exemption allows entities to fulfill their design to assist children, animals, schools, and create housing, etc., without having the requirement of paying income or corporate taxes.

Responsibility

FTB staff must be able to differentiate between non-profit and exempt, and be able to advise taxpayers of the proper procedures for becoming exempt and remaining compliant.

Reference

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[FTB Publication 927](#)

[FTB Publication 1068](#)

NOTE: ((***)) = Indicates confidential and/or proprietary information.

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4.1.7.2 Application For Exemption Processing

Background

Corporations that are either unincorporated or incorporated and designed for non-profit purposes may apply to be exempt from paying the California corporate tax. A [form FTB 3500](#), and \$25 must be sent to Franchise Tax Board (FTB) along with the company's by-laws and articles of incorporation (if applicable).

NOTE: Some trusts, political organizations, and corporations covered under group exemption do not have to file the form FTB 3500.

NOTE: An unincorporated association with exempt status must reapply for exemption if they incorporate with the California Secretary of State.

NOTE: Entities needing immediate exemption can, in very limited situations, apply for walk-through exemption. See unit procedures and the link below for details.

Purpose

Corporations file form FTB 3500 to become exempt from state income or franchise tax.

Responsibility

FTB staff must understand the difference between exempt and taxable.

Action

FTB staff will advise corporations of the ability to be exempt and give the corporation the [public web site](#) to view the appropriate forms, such as form FTB 3500.

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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.1.7.3 Gross Receipts And Three Year Rule

Background

Gross receipts are the gross amount received by the organization during its annual accounting period from all sources without reduction for any costs or expenses such as cost of goods or assets sold, cost of operations, or expenses of earnings raising or collecting such amounts. Thus, gross receipts include, but are not limited to:

- The gross amount received as contributions, gifts, grants, and similar amounts without reduction for the expenses of raising and collecting such amounts.
- The gross amount received as dues or assessments from members or affiliated organizations without reduction for expenses attributable to the receipt of such amounts.
- Gross sales or receipts from all business activities (including business activities unrelated to the purpose for which the organization received an exemption, the net income or loss of which may be required to be reported on [form FTB 109](#)).
- The gross amount received from the sale of assets without reduction for the cost, other basis of the property, and expense of sale.
- The gross amount received as investment income such as interest, dividend, rents, and royalties.

Exempt corporations will not have to file [form FTB 199](#) if their total gross receipts are normally not more than \$25,000 if the organization:

- Has been in existence for one year or less, has received, or donors have pledged to give, gross receipts of \$37,500 or less during the first year of the organization.
- Has been in existence for more than one year, but less than three years, and the average gross receipts received in each of its first two years are \$30,000 or less.
- Has been in existence for three years or more, and the average gross receipts received in each of its immediately preceding three years, including the year for which the return is filed, are \$25,000 or less.

NOTE: Exempt organizations coded as private foundations must file form FTB 199 regardless of yearly gross receipts. ((***) Both organizations with gross receipts of more than \$25,000 and private foundations must complete Part II of form FTB 199, and may be required to furnish additional information. However, the information requested in Part II and other schedules could be furnished by attaching reports prepared for other agencies.

All required information could be furnished by attaching any of the following information:

- A copy of Registry of Charitable Trust, [form RRF-1](#) (Department of Justice form).
- A complete copy of [Federal form 990](#), including all schedules and private foundation reports are required.
- For Labor organizations, a copy of [Federal form LM-3](#) can be submitted.

Purpose

An explanation of gross receipts gives Franchise Tax Board (FTB) staff and taxpayers an understanding of the different filing requirements that apply to each entity.

Responsibility

An understanding of the gross receipts allows FTB staff to explain specific requirements, and gives a basis for administering applicable penalties.

Action

To enforce a filing requirement for the [form FTB 199](#), FTB staff will need to use the “three year” average to determine the filing requirement for each year.

Reference

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[FTB Publication 927](#)

[Form 199 Instructions](#)

NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.7.4 Filing Fee

Background

Exempt organizations do not have to pay any tax on their gross receipts once their exemption is granted, but there are a few fees that are applicable throughout the exemption process. These fees are:

- Exempt Application fee ([form FTB 3500](#))
- Exempt Organization Annual Information Return fee ([form FTB 199](#))

NOTE: Exempt entities used to be charged a revivor fee that is no longer applicable. Exempt entities are not assessed a collection fee, given their exemption is valid.

Only Franchise Tax Board (FTB) staff in the exempt audit unit can view the exempt application.

The \$10 return filing fee is due by the original or extended due date with the information return, and to not to be paid after form FTB 199 is filed. If the filing fee is late for any reason a \$15 late payment fee is assessed.

NOTE: A variety of entities under [Revenue and Taxation Code Section 23701\(d\)](#) and corporations with gross receipts under \$25,000 will not have to pay the filing fee.

Purpose

Filing fees give FTB staff the ability to understand which fees are applicable for each exempt corporation.

Responsibility

It is the responsibility of FTB staff to ensure that entities pay all applicable fees.

Action

FTB staff will advise corporations of the appropriate fees needed pending the exempt requirements of the entity.

Reference

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.7.5 Filing Requirements For Exempt Organizations

Background

An organization that has applied for and has been granted tax-exempt status by the Franchise Tax Board (FTB), may be required to file one or more returns that may have different filing dates.

Tax Returns for Exempt Organizations:

- [Form FTB 199](#) - California Exempt Organization Annual Information Return. This return reports the annual gross receipts, and must be filed on or before the 15th day of the fifth month (within 4-1/2 months) following the close of the organization's annual accounting period.
- [Form FTB 109](#) - California Exempt Organization Business Income Tax Return. This return reports the unrelated business income, and must be filed on or before the 15th day of the fifth month (within 4-1/2 months) following the close of the organization's annual accounting period.
- [Form FTB 100](#) - California Corporation Franchise or Income Tax Return. This return reports the taxable income for homeowners associations, mutual water companies, and political organizations. This return must be filed on or before the 15th day of the third month (within 2-1/2 months) following the close of the organization's annual accounting period.

All corporations will receive an automatic extension for seven months to file all returns if their corporate status is active at the time of the original due date. This is an extension to file, not pay. All tax must be paid in full at the time of the original due date.

NOTE: A homeowners association will never have a requirement to file a form FTB 109. No other exempt organization but homeowners associations, mutual water companies and political organizations, will file a form FTB 100.

Purpose

Filing requirements give the corporation a time line for when the return and tax or fee must be filed and paid.

Responsibility

FTB staff must be familiar with all returns and their due date to ensure the highest level of customer service.

Action

FTB staff will need to educate the business entity of their need to file return(s) for each accounting period.

Reference

[Revenue and Taxation Code Sections 23772 and 23774](#)

[Revenue and Taxation Code Sections 23711 and 18506](#)

[Revenue and Taxation Code Section 23701t](#)

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[FTB Publication 927](#)

[FTB Publication 1068](#)

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.1.7.6 Unrelated Business Income

Background

Organizations exempt under [Revenue and Taxation Code Section 23701](#) and pension trust entitled to exemption under [Revenue and Taxation Code Section 17631](#), with income from unrelated business activities (including income from leases of debt-financed property), may be required to file the Unrelated Business Income (UBI) tax return, [form FTB 109](#). This may be in addition to filing [form FTB 199](#) annually.

Any income from a trade or business that does not conform to the organization's exempt purposes, even though the profits are used for exempt purposes, is subject to taxation.

For Exempt Unrelated Business Income Account type (form FTB 109), the estimate penalty will be computed on the underpaid amount from:

- Income years beginning prior to January 1, 1991 - the installment due date to the earlier of the date paid or the entity's original return due date.
- Income years beginning January 1, 1991 and later - the installment due date to the earlier of the date paid or the UBI Account original return due date.

NOTE: If the unrelated business income for a single year does not exceed \$1000, the exempt organization will not be required to file form FTB 109.

NOTE: Organizations that may have a requirement to file form FTB 109 will never file form FTB 100, while their exemption is valid.

Purpose

Form FTB 109 allows Franchise Tax Board (FTB) to differentiate between an exempt organizations' gross receipts and unrelated business income, giving FTB the ability to collect tax on income that doesn't conform to the organizations exempt purposes.

Responsibility

FTB staff must understand the filing date and penalty differences between gross receipts (form FTB 199) and unrelated business income (form FTB 109).

Action

FTB staff will advise exempt organizations of the possible requirements to file form FTB 199 and/or form FTB 109, and be able to apply all appropriate penalties.

Reference

((***)

NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.7.7 Exempt Penalties

Background

Exempt organizations have three possible tax returns that can be filed in an income year. These returns have a variety of penalties associated for late filing and late payment. They are as follows:

- **Delinquent (late filing) Penalty** – failure to file a timely return
 - [Form FTB 199](#) - \$5 for each month the return is late - \$40 maximum
- **Delinquent Penalty** - failure to file a timely return and there is unpaid tax
 - [Form FTB 100](#) – Calculated the same as for non exempt corporations
 - [Form FTB 109](#) – Calculated the same as for non exempt corporations
- **Underpay/Monthly Penalty** – late payment of tax with a timely filed return
 - Form FTB 199 – Does not apply
 - Form FTB 100 – Calculated the same as for non exempt corporations
 - Form FTB 109 – Calculated the same as for non exempt corporations
- **Estimate Penalty** – not making timely estimated tax payments
 - Form FTB 199 – Does not apply
 - Form FTB 100 – There is no minimum tax for exempt organizations. The total tax is divided by four (4), and distributed equally into the four quarters of the Automated Interest Program ((****))
 - Form FTB 109 - There is no minimum tax for exempt organizations. The total tax is divided by four (4), and distributed equally into the four quarters of the ((****)). The estimate penalty will be computed on the underpaid amount from:
 - Income years beginning prior to January 1, 1991 - the installment due date to the earlier of the date paid or the entity's original return due date
 - Income years beginning January 1, 1991 and later - the installment due date to the earlier of the date paid or the Unrelated Business Income account's original return due date
- **Secretary of State (SOS) Penalty** – failure to file statement of information with SOS
 - \$50 for domestic non profit entities
 - \$250 for foreign non profit entities
- **Failure to Furnish Information Penalty** (for private foundations)
 - \$5 per month up to a maximum of \$25

- [Registry of Charitable Trust](#) Penalty

NOTE: The return due date determines the date a penalty becomes applicable. Not all returns due for exempt corporations have the same due date.

- Form FTB 199 – due the 15th day of the fifth month (within 4-1/2 months) following the close of the organization's annual accounting period
- Form FTB 100 – due the 15th day of the third month (within 2-1/2 months) following the close of the organization's annual accounting period
- Form FTB 109 – due the 15th day of the fifth month (within 4-1/2 months) following the close of the organization's annual accounting period

Purpose

Penalties are punitive assessments that deter non-compliance and reduce Franchise Tax Board's (FTB) collections costs.

Responsibility

To identify penalties that need to be assessed and verify existing penalties are accurately assessed.

Action

FTB staff will monitor automated penalties, manually assess penalties when appropriate, and abate penalties that are incorrectly assessed.

Reference

((****))

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.1.7.8 Registry Of Charitable Trust

Background

The Registry of Charitable Trust is a part of the [Attorney General's](#) office. [Government Code 12580](#) allows the Attorney General to supervise, investigate, and audit all charitable assets in California. These organizations are granted California exemption under [Revenue and Taxation Code Sections 23701d, 23701f, and 23701u](#). [Government Code 12583](#) excludes hospitals, churches, and schools from filing with the Registry of Charitable Trust.

Corporations that do not comply with Registry of Charitable Trust may have their exemption disallowed for the year they were delinquent in filing the RRF-1, per [Revenue and Taxation Code Section 23703](#). Franchise Tax Board (FTB) is notified, and minimum tax is assessed for that year. A tax return is not required, and penalties are not assessed, but interest does accrue. The Registry of Charitable Trust penalty can only be cancelled at the direction of the Registry of Charitable Trust representative at the Attorney General's Office. In addition, the entity is still required to file and pay under their exempt requirements.

Purpose

This filing allows the State of California to monitor corporations that are designated as charitable entities.

Responsibility

FTB is required to send a copy of the exemption determination letter to the Registry of Charitable Trust. Exempt corporations are required to file a form [RRF-1](#) with the Registry of Charitable Trust.

NOTE: The RRF-1 was formerly known as the CT-2.

FTB staff must recognize the minimum tax assessment as the Registry of Charitable Trust penalty, with no affiliation to filing form FTB 100.

Action

FTB staff will advise corporate representatives that the penalty is assessed by the Registry of Charitable Trust, and can only be cancelled by them. FTB staff will advise the balance due is valid until paid or canceled.

Reference

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.7.9 Exemption Revocation

Background

If an unincorporated or incorporated exempt organization fails to file a return or statement on time or pay the filing fee, its exemption from tax may be revoked. Technically, an organization that has its exemption revoked is subject to taxation if it continues to operate. Organizations should reapply for exemption, as provided in [Revenue and Taxation Code Sections 23775 and 23778](#) within one year of revocation.

Purpose

Revocation allows Franchise Tax Board (FTB) to ensure exempt corporations are staying in compliance with the requirements defined by their exemption.

Responsibility

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Action

FTB staff will advise corporations that they are a taxable entity, give only general tax requirements, and advise them of the need to file a new [form FTB 3500](#). If a corporation has questions regarding their loss of exemption, they need to contact the Exempt Audit Unit at their public telephone number 916-845-4171.

Reference

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.1.7.10 Mutual Water Companies

Background

Mutual water companies include businesses that operate wells, electric generating facilities, and/or other utilities. They do not have a specific exemption designation under the Revenue and Taxation Code, but have been included under [Revenue and Taxation Code Section 23701\(t\)](#), and will be treated as a homeowners' association.

Purpose

Mutual Water Companies are set up as homeowners' associations to monitor companies that own or maintain facilities that provide electricity or water to homes, businesses, or agricultural enterprises.

Responsibility

Franchise Tax Board (FTB) staff must recognize that a mutual water company follows the requirements of a homeowners association, and understand what is expected from those organizations.

Action

FTB staff will advise corporate representatives of their filing requirements, as well as the associated penalties for failure to file timely returns.

Reference

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[Form FTB 3500 – Exemption Application](#)

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.1.7.11 Confidential Information For Exempt Entities

Background

The department policy regarding exempt organizations is basically the same as for taxable corporations. The exception is that any information disclosed in an exemption application that has been granted is public information. If the exemption was denied, this information is confidential. If a person requests information and Franchise Tax Board (FTB) staff are not sure of the taxpayer's qualifications to receive such information, a Power of Attorney should be required to verify the individual's authorization to receive the account information. The corporation's representative can send a [form FTB 3516](#), Request for Taxpayer Return Information, to request information from the corporate folder.

Purpose

Defining confidential information ensures that staff are able to quickly identify information that is protected from disclosure. Adherence to the confidentiality requirements alleviates concerns that information may be illegally used against business entities or third parties.

Responsibility

It is the responsibility of FTB staff to:

- Know whether or not accessed information is confidential
- Ensure the confidentiality of business entity information by adhering to the department's privacy and security guidelines. ((***)
- Understand that unauthorized access, inspection, use, modification, or disclosure of confidential information may result in disciplinary, civil and/or criminal action

NOTE: [SB 1386](#) (July 1, 2003) requires FTB to notify the business entity if an unauthorized disclosure occurs.

Action

FTB staff are required to complete the ((***) course and to sign a confidentiality statement ((***) upon being hired and every year thereafter. FTB staff should also be able to advise any individual or business that the information on the exempt application does not become public until the State of California grants exemption.

Reference

[FTB Disclosure Manual Section 1100](#)

[Revenue and Taxation Code Sections 19542 and 19542.1](#)

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NOTE: ((***)) = Indicates confidential and/or proprietary information.

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4.1.7.12 Exempt Corporations Suspension/Revivor

Background

Exempt corporations may go into suspended status whenever they fail to file the appropriate return ([form FTB 199](#), [form FTB 109](#), [form FTB 100](#)) or fail to pay the balance on any fee, penalty, or tax assessment. Occasionally, suspension will occur for failure to meet general corporation requirements that were due and payable prior to the effective date of the entities tax-exempt status granted by the Exempt Audit Unit.

NOTE: It is not necessary for a corporation to revive before applying for an exemption.

Purpose

Suspension forfeits all contracts that an exempt corporation enters into after the suspension or forfeiture date. When a corporation is suspended they have no rights to protect their name, and cannot pursue any legal actions. This aids the Franchise Tax Board (FTB) in assisting the suspended entity in reviving to become compliant, and validating the corporations contracts.

NOTE: Corporations can protect voided contracts by purchasing relief from contract void.

Responsibility

FTB staff must determine if all general and/or exempt corporation requirements have been met prior to the corporation's revivor.

NOTE: If the tax exempt status effective date is after the incorporation date the corporation will have requirements to file as both a general and exempt corporation.

Action

If corporation tax requirements have not been met, FTB staff will obtain the required returns including payment of all tax, penalties and interest due.

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NOTE: ((***)) = Indicates confidential and/or proprietary information.

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4.1.8 General Information and Reference

4.1.8.1 Requesting Documents

Background

Documents, including tax returns and pay documents, are maintained and controlled by various sources:

- Data Services and Storage Section (DSSS) – returns, folders, limited retention files (LIM)
- Image Delivery Application Expansion ((****)) - images of returns, checks, pay documents
- FRED – images of pay documents (e.g., 100ES, 3522)
- Corporation Document Tracking System (CDTS) – Enterprise - Wide network based document tracking system to track corporation and Limited Liability Company (LLC) returns
- Microfiche- purged account information, condensed files

Retention dates have been established to determine the date when returns and other documents are destroyed.

NOTE: The retention date for limited liability company's documents has not been established. Partnership returns are retained according to Personal Income Tax (PIT) retention dates.

Purpose

The purpose of storing documents is to allow Franchise Tax Board (FTB) staff the ability to request copies and validate the accuracy of the entity's records and claims.

Responsibility

It is the responsibility of FTB staff to be familiar with all systems when there is a need to request documentation.

Action

FTB staff will follow unit procedures when requesting documents.

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NOTE: ((***)) = Indicates confidential and/or proprietary information.

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4.1.9 System Use And Interpretation

4.1.9.1 System Conversions

Background

As the Franchise Tax Board (FTB) implements new computer systems to replace obsolete systems, the information from one system is converted onto the new system. The following systems have been converted:

- Collection Account Processing System (CAPS) was the collections system for corporations that were converted into the Accounts Receivable Collection System (ARCS). (CAPS can no longer be viewed)
- Bank and Corporation Master file (BCM) was the accounting system for corporations that were converted into the Business Entities Tax Systems (BETS). (BCM is view only)
- Partnership Master file (WHPAR) was the accounting system for partnerships that was converted into BETS. (WHPAR is view only)
- FOXPRO was the accounting system for Limited Liability Companies (LLC) that was converted into BETS. (FOXPRO is view only)

Purpose

FTB switches to new computer systems to increase productivity, enhance security, and to expand data capacity.

Responsibility

FTB staff must be aware of what information is located on what computer system.

Action

FTB staff should utilize the systems available to locate information needed to assist in achieving account resolution.

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2 PERSONAL INCOME TAX**4.2.1 Account Analysis****4.2.1.1 Manual Process Functional Area****Background**

Collection accounts enter the Manual Process (MP) Functional Area of the Accounts Receivable Collections System (ARCS) once the automated collection process is complete.
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Assessment types are:

- Audit assessments (Head of Household (HOH), Revenue Agent Report (RAR), and Franchise Tax Board (FTB) Audits)
- Self assessed (S/A) returns
- Filing Enforcement (FE) and all other [assessments](#)
- Self employed (SE) FE assessments
- Jeopardy-accounts with one or more J/A

((****)) ((****))

Purpose

The MP functional area allows accounts to be worked by FTB staff to collect delinquent tax liabilities on accounts that have completed the automated process without proper resolution. Therefore, the accounts require manual intervention in order to achieve resolution and/or compliance.

Responsibility

MP accounts are routed to work lists based on regional area and assessment type. Within each functional area there is a series of work states that define the type of work or action that is to be performed within the state. FTB staff will refer assigned MP accounts to their appropriate area and/or assigned representative.

Action

If FTB staff receive a telephone call from a taxpayer on a MP account they must:

- Provide the taxpayer with the responsible staff's direct telephone number
- Place the taxpayer on hold and contact the responsible staff to announce the transferring of the call

- Transfer the call to the responsible staff's direct telephone number

If FTB staff receives information or telephone call from a taxpayer in a MP state and the account is not associated, provide the taxpayer with the appropriate MP Automated Call Distributor (ACD) line and transfer the call to the ACD extension.

Once in the MP functional area, FTB staff will work the accounts to achieve an account resolution. Accounts in the MP area are either assigned to an FTB representative or they are unassigned and worked in a work list environment. ((****))

FTB's response to contacts from taxpayers regarding unassigned accounts should be consistent with the [Statement of Principles of Tax Administration](#) with the following objectives:

- Resolution of the taxpayer's entire account will be attempted during the first taxpayer contact.
- Emphasis will be placed on educating taxpayers regarding their obligations in an effort to encourage compliance.

The following guidelines have been established to implement these objectives:

- Correspondence will be answered within 21 days of the FTB's receipt. If an extensive search for files and/or information required would result in a delayed response, the taxpayer will be sent an acknowledgment of receipt of the inquiry within 21 days.
- Discretionary resources will be redirected when necessary to ensure timeframes are met during peak periods.
- Consideration will be given to taxpayers requesting additional time to pay on accounts by deferring billings or granting Installment Agreements (I/A). ((****))
- Accounts in the MP functional area with large balances ((****)) are routed to the Complex Account Resolution Team (CART) functional area. Only accounts with specific criteria approved by supervisor/lead will be associated to FTB staff.
- Resolution of MP functional area accounts will include an effort to correct underpayment of estimated taxes, under withholding, and to account for missing year tax returns.

NOTE: ((****)) ((****)) ((****)) If a lien was filed in error, it should be released as issued in error. ((****))

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NOTE: ((***)) = Indicates confidential and/or proprietary information.

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4.2.1.2 Scoping An Account

Background

When an account has not reached resolution in the automated system, manual intervention becomes necessary. A scope is the process that Franchise Tax Board (FTB) staff utilizes to identify the details of the account.

Purpose

Scoping an account decreases production time and eliminates repetitive actions by developing a plan of action to resolve the account in the most effective manner.

Responsibility

FTB staff utilizes a scope on accounts with existing liabilities, which will include, however is not limited to:

- Tax years and basis of assessment
- Balance due for each tax year
- Establishment of due process (if and when due process has been served)
- Any duplicate Taxpayer Identification Numbers (TPID)
- Whether or not a liable spouse exists (indicate what years)
- Pending Notice of Proposed Assessment (NPA)
- Previously discharged years
- Employer, or if self employed - Doing Business As (DBA), business type
- Lien(s) filed
- Returns filed
- Missing year(s)
- Third Party Contact ((****))
- Any other information pertinent from the Taxpayer Information (TI) system, or the Integrated Nonfiler Compliance (INC)

Action

Upon completion of the scope, FTB staff must enter the information into the Collector Review section in the Accounts Receivable Collection System (ARCS).

Reference

((***)

NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.1.3 Unauthorized Acquisition Of Confidential Taxpayer Information

Background

Unauthorized acquisition of confidential taxpayer information is the acquisition of computerized information that would compromise the security, confidentiality, or integrity of personal information. This means acquiring personal information that is not required to perform the duties of your job. This includes information on any of the systems you are able to access (e.g., Taxpayer Information (TI) System, Accounts Receivable Collection System (ARCS), Integrated Nonfiler Compliance (INC), Department of Motor Vehicles (DMV), etc.)

Purpose

The purpose of prohibiting unauthorized acquisition of confidential information of taxpayer accounts restricts disclosure of confidential information.

Responsibility

Franchise Tax Board (FTB) staff must adhere to the policy of the “need” and the “right” to know before accessing taxpayer account information. See Section 3.2.1.1 Confidentiality and Security of Data. Effective July 1, 2003, any state agency or business that owns or maintains computerized personal information is required to notify the taxpayer when an unauthorized person acquires certain personal information.

Action

In the event of an unauthorized acquisition of confidential information FTB will notify the taxpayer. Unauthorized browsing, use, or disclosure of confidential taxpayer information may result in disciplinary action. See Section 3.2.1.3 Penalties for Disclosure.

Reference

[Revenue and Taxation Code Sections 19542-19570](#)

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.1.4 Case Hold - Accounts Receivable Collection System (ARCS)

Background

The Accounts Receivable Collection System (ARCS) allows for Franchise Tax Board (FTB) staff to place a hold on the account for payment deferral, taxpayer response time, processing time frames, FTB staff discretion, etc. ((****))

Purpose

The purpose of a case hold is to defer all collection actions and notices from being generated during a specific period of time.

Responsibility

FTB staff must use discretion to recognize when a case may need more time for processing or review. This determination is based on case history, compliance, payments made, etc.

Action

FTB staff should place holds on cases according to their unit procedures.

Reference

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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.2.1.5 Filing Requirements

Background

An individual must file a return if either their [gross income](#) or their [adjusted gross income \(AGI\)](#) was more than the amount defined by law. California residents must consider their total worldwide gross income to determine their filing requirement.

Part-Year residents must file a return if they have any income taxable by California (which includes income from all sources while a resident and California source income while a nonresident), and their income from all sources is more than the filing requirement amounts for residents, or they owe \$1 or more in tax.

Nonresidents must file a return if they have any California source income and their income from all sources is more than the filing requirement amounts for residents, or they owe \$1 or more in tax.

Purpose

[Revenue and Taxation Code Sections 18501-18572](#) ensures that the proper amount of tax revenue is collected when the filing requirement exceeds the minimum filing threshold.

Responsibility

Franchise Tax Board (FTB) is responsible for the enforcement of filing requirements and educating taxpayers on their obligation to comply within California Tax Law.

Action

FTB staff will identify if a filing requirement exists and instruct the taxpayer on how to fulfill their obligation to file a California State Tax Return.

Reference

[Franchise Tax Board Frequently Asked Questions](#)
[Revenue and Taxation Code Sections 18501-18572](#)
[Dependent and Income Definitions](#)

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.1.6 Due Date For Filing Returns And Extension Of Time For Filing

Background

Due dates for filing returns are based on the calendar year or fiscal year. Return due dates based on calendar year shall be filed on or before the fifteenth day of April following the close of the calendar year. Fiscal year returns shall be filed on or before the fifteenth day of the fourth month following the close of the fiscal year.

Individuals who cannot file their returns by the due date will receive an automatic six-month extension. Since the extension is automatic, there is no extension request form. This paperless extension applies to returns required to be filed on or after April 15, 1992. ((****)).

If filed after the extended due date, the return is considered late and penalties be based on the original due date. A [Delinquent Penalty](#) will be assessed if there is a balance due on the return.

NOTE: An extension to file is not an extension to pay. Tax is due on or before the original due date of the return regardless of an extension to file.

Purpose

Taxpayers are automatically allowed additional time to file returns. The taxpayer must file the return by the extended due date to be granted the automatic six month extension. There will be no extension of time if the return is filed after the extended due date.

Responsibility

Franchise Tax Board (FTB) staff will educate the taxpayer on the ability to file returns beyond their original due date as defined in [Revenue and Taxation Code Section 18567](#).

Action

FTB staff will communicate to taxpayers that the automatic extension is not an extension to pay taxes; it is an extension to file returns.

Reference

[Revenue and Taxation Code Section 18566](#)

[Important Due Dates](#)

((***)

NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.1.7 Self Assessed Returns

Background

Individuals must file a California income tax return if their income meets the filing requirements for a certain year. A personal income tax return is a self - assessment of tax prepared by or on behalf of a taxpayer and submitted to the Franchise Tax Board (FTB) on the appropriate form in accordance with the [Revenue and Taxation Code Sections 18501-18572](#). The returns are separated into the following categories:

- Fully Paid Returns - Returns received with payments equaling the self-assessed tax. Payments can be a combination of remittance with the return and estimate payments claimed as a credit.
- Part-Pay Returns - Returns received with an amount insufficient to pay the full amount of tax due.
- No-Pay Returns - Returns received without payments or credits.
- Refund Returns - Returns where credits and/or payments exceed the self-assessed tax and the taxpayer requests a refund of the overpayment.

Purpose

Allows taxpayers the opportunity to openly and honestly report income earned and pay the appropriate tax due.

Responsibility

FTB staff will educate taxpayers of their obligation to file a California State Tax Return per [Revenue and Taxation Code Sections 18501-18572](#).

Action

Once the return is filed, FTB will examine the self-assessed return and verify the correct amount of tax.

Reference

[Filing Requirement Information](#)
[Franchise Tax Board Frequently Asked Questions](#)
[Revenue and Taxation Code Sections 18501-18572](#)
((***)

NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.1.8 Head Of Household (HOH)

Background

Head of Household (HOH) is a filing status available for taxpayers with dependents who meet legal requirements. A taxpayer is entitled to the HOH filing status only if the taxpayer is unmarried or qualifies to be considered unmarried on the last day of the tax year.

Purpose

The HOH filing status provides a lower tax rate and a higher standard deduction than either single or married filing separate status. Additionally, thresholds on the limitation of itemized deductions and the phase-out of the deduction for personal and dependent exemptions are higher than those on the single or married filing separate status.

Responsibility

Franchise Tax Board (FTB) reviews the tax returns of taxpayers who claim HOH filing status to substantiate criteria are met.

Action

FTB staff will educate taxpayers on the [requirements](#) to qualify for HOH status. For tax years 2002 and prior, HOH information may be taken over the telephone from the taxpayer. ((****)) ((****)).

Reference

((****))

[Head of Household Filing Status](#)

[Head of Household Self-Test](#)

((****))

((****))

[FTB Pub 1540 Tax Information for Head of Household Filing Status](#)

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(()) = Indicates confidential and/or proprietary information.

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4.2.1.9 Requesting Returns

Background

Personal Income Tax (PIT) returns can be requested from Data Services and Storage Section (DSSS) in three different ways:

- Through Taxpayer Information (TI) System ((***)
- By using a hardcopy transcript
- In some situations ((***) a supervisor or lead can call DSSS directly

Purpose

The purpose of requesting returns is to allow Franchise Tax Board (FTB) staff the ability to validate the accuracy of the taxpayer's records.

Responsibility

FTB staff are responsible for requesting PIT returns when there is a need to review information. (e.g., HOH issues, taxpayer/asset location, verify filing status)

Action

FTB staff should follow their unit procedures when requesting returns.

Reference

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.1.10 Withhold Master File

Background

Prior to July 31, 1993, the *Withhold Master File* was used to retain taxpayer name and address information, along with certain tax return information for original and amended returns filed in the three most current process years. The file consisted of the entity and tax years. The file could retain up to nine tax years. Information for returns filed prior to the three most current process years was purged and retained on microfiche.

Purpose

When a return has not been filed and a balance is due on an account, W-2 withholding credits must be applied for tax years for which the credits were withheld ([Revenue and Taxation Code Section 19002](#)). In addition, Adjustments should also be made any time unapplied withholding credits are discovered, and any estimate payments currently held in suspense should be released.

Responsibility

Franchise Tax Board (FTB) staff should review the microfiche of prior Filing Enforcement (FE) information for W-2 withholding credits not previously taken into consideration. Only W-2 withholding credits for tax years prior to 1993 must be reviewed. For all subsequent years, the FE Program takes into consideration any W-2 withholding credit information available in determining the amount of the assessment.

Action

FTB staff should review tax years for W-2 withholding credit information for each tax year prior to 1993 that contains a FE assessment and meets either of the following conditions:

- The amount due for the tax period has not been Paid in Full (PIF)
- The amount due for the tax year has been PIF and the effective date of the last payment applied to the tax year is not more than one year prior to the current date

It is not necessary to review department records for W-2 withholding credits when the tax year is PIF **and** it is more than four years after the return was last due **and** more than one year after the effective date of the last payment applied to the tax year. Under these circumstances, any credit balance created by an adjustment for W-2 withholding credits cannot be refunded or credited to another year since the adjustment would not change the current amount due, no adjustment should be made.

Reference

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.1.11 Withhold Purge File - Microfiche Requests

Background

The *Withhold (W/H) Purge File* is a microfiche record of information of what was purged from the *Withhold Master File*. A copy of the *W/H Purge File* may be obtained for returns processed prior to the disuse of the *W/H Master File* (July 31, 1993) and implementation of the Taxpayer Information (TI) System.

The Collection Support Unit (CSU) maintains a microfiche record of purged withhold account information. The information is requested through the Accounts Receivable Collection System (ARCS) ((****)) and includes:

- Filing Enforcement (FE) information
- Purged account information
- Miscellaneous information
- Social Security Number (SSN) information

Purpose

A copy of the W/H Purge File allows Franchise Tax Board (FTB) staff to interpret the following W/H information:

- Verification of tax returns filed
- Selected information from the returns
- Dispositions of refunds
- Codes on a Notice of Tax Change (NTC), which would indicate that the withholding was disallowed or no W-2 was attached. The NTC will have a corresponding paragraph code that will indicate if there is a problem with the withholding.

Responsibility

FTB staff should request a W/H Purge File upon identification of tax years for which withholding credits were not applied and make adjustments accordingly.

Adjustments should be made only when the W-2 withholding credits will change the current amount due or establish a refundable credit balance. DO NOT make adjustments that create credit balances barred by law from refund or from being moved to another tax year.

Action

FTB staff will access the ARCS history text ((****)). FTB staff will allow 24 to 48 hours to allow support staff to satisfy the request.

To request this information, provide the following information:

- Tax year
- Primary taxpayer and spouse
- Taxpayer social security number

FTB staff can also obtain a copy of a W/H Purge File ((****))

NOTE: Check unit procedures for other methods of obtaining W/H purge information.

The manner in which accounts are adjusted to compensate for W-2 withholding credits varies under certain circumstances:

- ((****)) – ((****)), ((****)). ((****))
- ((****)) - For circumstances other than those described above, adjustments should be made only to the extent necessary to correct the amount due and/or to free payments not barred from refund or movement to another tax year. In order to avoid creating a credit balance that is not refundable or allowable as a credit against an amount due for a different tax year, it may be necessary to calculate an adjustment sufficient to close the tax year.

To avoid duplication of actions on accounts transferred between sections or offices, comments should be entered on ARCS history text to note the results of checking for W-2 withholding credits. (For example, the comment could indicate "No W-2 W/H for 82, 83 or 84" or "83 and 84 adjusted for W-2 W/H".)

Reference

((****))

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.2.1.12 Accounts Receivable Converted Accounts

Background

Prior to the implementation of the Taxpayer Information (TI) System, Franchise Tax Board (FTB) used the Withhold Master File and Accounts Receivable (A/R) files to process and maintain taxpayer, return, and tax year information.

Taxpayers only had an A/R file if the taxpayer:

- Made estimated tax payments
- Filed a balance due return
- Had unclaimed payments
- Had a partial interagency intercept
- Were issued a Filing Enforcement (FE) or other type of Notice of Proposed Assessment (NPA)

The A/R File provided both a billable and non-billable portion, and required both paper and video transactions to adjust accounts. It was used to record and store information on liabilities, payments, credits, tax returns, and account credit/debit balances.

On July 31, 1993, the A/R system was placed inactive and is no longer used to process information. However, the A/R file remains today just as it was July 31, 1993. An automatic conversion process was done to convert tax years from A/R to the TI system, which were most likely to have future activity.

Tax years automatically converted to TI had one or more of the following conditions:

- A debit or credit balance
- A debit balance in non-billable status
- A pending Proposed Assessment
- A credit/payment in suspense
- A discharged tax year with a lien

FTB staff can manually convert unconverted tax year information contained on A/R to TI. This generally occurs when adjustments to the tax year are necessary. Accounts that were purged from the A/R file while it was active are available on microfiche from the Information Storage Section.

Purpose

The purpose of having the A/R converted account information available is to assist FTB staff in properly working accounts for years prior to July 31, 1993.

Responsibility

FTB staff should be aware of the A/R file and how to access the information.

Action

FTB staff should utilize the A/R system to locate information needed to assist in achieving account resolution.

To identify converted accounts on TI, you will see the following items on the Tax Year Current Values Display ((****)) and the Tax Year Monetary Display ((****)):

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- ((****))
- ((****))
- ((****))
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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.2.1.13 Proposed Assessments

Background

A Notice of Proposed Assessment (NPA) informs the taxpayer of Franchise Tax Board's (FTB) intent to assess additional tax, penalties, and interest as the result of an audit, adjustment, or income reported. The original notice sent to the taxpayer is called an NPA. However, the assessments stored on the Taxpayer Information (TI) system are referred to as Proposed Assessments (PA).

A PA may be assessed as a result of:

- A desk or field audit conducted by FTB
- FTB's interpretation of the law differs from the taxpayers or their representative
- Errors made by the taxpayer or tax preparer when completing the return
- ((****))
- Internal Revenue Service (IRS) assessments, adjustments or information
- The taxpayer's failure to:
 - File a return
 - Report all income
 - Return questionnaires
 - Provide additional information upon request

Purpose

FTB issues an NPA to notify taxpayers of liabilities while allowing them time to review and respond to the assessment without further actions being taken prior to the "protest by" date shown on the NPA.

Responsibility

FTB staff must ensure the taxpayer has been given due process, communicate how the PA was derived, and instruct the taxpayer of the procedures to respond to the assessment.

Action

FTB staff will explain the basis and type of the PA as well as how to resolve the PA. In the event an individual disagrees with the validity of the departments' assessment, FTB staff will advise the taxpayer of their protest rights and procedures.

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.1.14 Revenue And Filing Enforcement Revenue Codes

Background

Revenue codes used for transactions are the statistical method the Franchise Tax Board (FTB) uses to distinguish where revenue has been generated. When a tax year is created, a revenue code is assigned to the tax year based on what created the tax year (return, proposed assessment, etc.). ((***)

((***)

Purpose

The revenue code is used to monitor assessment activity. All assessment transactions entered into a taxpayer's account are identified by the revenue code.

Responsibility

FTB staff should review and be aware of the revenue code assigned to the tax year when working an account.

Action

Revenue codes are changed when assessing additional tax and/or penalties, abating tax and/or penalties, or making monetary account adjustments. ((***)

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.1.15 Protest Rights

Background

A taxpayer has 60 days from the date the Notice of Proposed Assessment (NPA) is assessed to file a protest. At the end of 60 days, the NPA is final if no protest has been filed. There is no provision for extension of time for filing a protest.

There are two types of protests, docketed and undocketed.

- A docketed protest involves a question of law supporting an NPA.
- An undocketed protest challenges the facts supporting an NPA.

Franchise Tax Board (FTB) Legal Department handles docketed protests, while the unit that issued the NPA or Jeopardy Assessment (J/A) handles the undocketed protests.

The department's action on the protest is final upon the expiration of the 30 days from the date the department mails the Notice Of Action (NOA) to the taxpayer, unless within that 30-day period the taxpayer appeals in writing to the California State Board of Equalization (BOE) in Sacramento. A copy of the appeal must be addressed and mailed at the same time to FTB in Sacramento.

NOTE: This process does not halt the accruals of interest, however, liens are not issued on protested assessments, and liens can be filed on protested J/As.

Purpose

Allowing taxpayers to protest assessments adheres to California tax law and the Taxpayer Bill of Rights that allows taxpayers' time to dispute an assessment.

Responsibility

In addition to collecting taxes, FTB staff are responsible for informing taxpayers of their rights and assuring their rights are protected. When a protest is filed, the department shall reconsider the assessment of the deficiency and, if the taxpayer has so requested in the protest, shall grant the taxpayer or the taxpayer's representative an oral hearing.

Action

FTB staff will educate taxpayers on procedures to file a protest.

Reference

[Revenue and Taxation Code Sections 19081-19093](#)

[Revenue and Taxation Code Sections 19041-19044](#)

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NOTE: ((***)) = Indicates confidential and/or proprietary information.

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4.2.1.16 Appeal Process To The Board Of Equalization (BOE)

Background

If a taxpayer's protest of an assessment has been denied a taxpayer may dispute Franchise Tax Board's (FTB) decision by filing a written appeal to the Board of Equalization (BOE) within 30 days from the date of FTB mailing the Notice of Action (NOA) ((****)).
([Revenue and Taxation Code Sections 19045, and 19046](#))

BOE then holds a formal hearing open to the public. The taxpayer, their representative, and a member of FTB's legal staff attend the hearing. The taxpayer and FTB each presents their positions and is notified by BOE once a determination is made. ([Revenue and Taxation Code Section 19047](#))

Purpose

The appeal process to the BOE allows taxpayers the opportunity to appeal their account to a neutral party in which either their tax will be reduced, withdrawn, or sustained.

Responsibility

FTB is responsible for informing taxpayers of their rights to the appeal process.

Action

FTB staff will advise taxpayers of the appeal procedures.

Reference

[Revenue and Taxation Code Sections 19041, 19042, 19044 and 19045](#)

[Revenue and Taxation Code Sections 19046 and 19047](#)

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NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.2.1.17 Statute Of Limitations (SOL)

Background

Statute of limitations (SOL) tax laws define a period of time in which actions may be taken. For income tax purposes, this limitation is the time allowed for refunds, assessments, movement of credits, and time in which a lien may be filed.

- [Assessments - Revenue and Taxation Code Sections 19057-19061, 19066](#) Refunds
[Revenue and Taxation Code Section 19306](#)
- Liens [Government Code Section 7172](#) and [Revenue and Taxation Code Section 19221](#)

Purpose

SOL allows ample time for taxpayers to claim refunds and file returns against assessments.

Responsibility

FTB staff must be able to:

- Identify accounts that the SOL applies
- Educate the taxpayer on the SOL criteria
- Recommend the appropriate actions for accounts within the statute

Action

FTB staff will educate the taxpayer on the following:

- Normal Statute – A Notice of Proposed Assessment (NPA) must be mailed within four (4) years from the date the return was filed, or four (4) years from the original due date of the return or extended due date of the return, whichever is later.
- Extended Statute – (Omission of 25% of gross Income) – An NPA must be mailed within six (6) years from the date the return was filed, or six (6) years from the due date, whichever is later.
- Fraud or No Return Filed – If any taxpayer fails to file a return, or files a false or fraudulent return with the intent to evade the tax for any taxable year, there is no SOL as to when FTB may issue an NPA.
- Normal Claim For Refund – A claim for refund must be made 4 years from the original or extended due date of the return or one year from the date of payment, whichever is later.

NOTE: For taxable income years beginning on or after January 1, 1992, the due date is determined without regard to any extension of time for filing the returns.

Reference

[Revenue and Taxation Code Sections 19057, 19066](#)

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NOTE: ((***)) = Indicates confidential and/or proprietary information.

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4.2.1.18 Financial Statements

Background

In instances where taxpayers are unable to pay in full (PIF) their liability or make installment payments within Installment Agreement (I/A) criteria, substantiation of their financial situation is merited. A financial statement, [form FTB 3567](#), is utilized for this purpose.

Franchise Tax Board (FTB) will accept any financial statement furnished by the taxpayer or their representative that adequately reflects their **true and complete** financial condition. All statements must be completed, signed, and dated by the taxpayer or their authorized representative.

Financial statements may be mailed, faxed, taken by telephone, or taken in to the local FTB field office. All financial statements taken by telephone must have a note stating it was taken by telephone.

Purpose

Financial statements assist FTB staff in assessing the financial position of the taxpayer within a specified timeframe. It will provide data for determining if there is a partial, temporary, permanent hardship, or facts that justify an I/A.

Responsibility

FTB staff are responsible for the evaluation of financial statements. Based on the findings FTB staff should take the appropriate action and properly add asset information to Accounts Receivable Collection System (ARCS).

Action

FTB staff evaluates and analyzes the taxpayer's financial statements. We offer payment options based on the taxpayers disclosure of their **true and complete** financial condition.

To determine the taxpayer's ability to pay, FTB staff may refer to [IRS expense allowance](#) tables. We may take into consideration the following IRS Collection Financial Standards when reviewing a taxpayer's request for financial hardship:

- [National Standards: Food, Clothing, and Other Items](#)
- [National Standards: Out-of-Pocket Health Care](#)
- [Local Standards: Housing and Utilities](#)
- [Local Standards: Transportation](#)

Analysis of a taxpayer's financial condition provides us a basis to make one or more of the following taxpayer account decisions:

- Allow a time extension to pay in full.
- Require partial payment or payment in full from available assets.
- If taxpayer remains unwilling to convert assets to cash, we recommend or initiate enforcement action, such as asset seizure.
- File a state tax lien ([Government Code Sections 7170-7173](#)).
- Approve an Installment Agreement.

Reference

[FTB 3567-Financial Statement](#)

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NOTE: ((***)) = Indicates confidential and/or proprietary information.

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4.2.2 Account Management
4.2.2.1 PIT Assigned Accounts

Background

Personal Income Tax (PIT) assigned accounts are those accounts assigned by the Accounts Receivable Collection System (ARCS) to Franchise Tax Board (FTB) staff or a specific group. ((***)

Purpose

PIT assigned accounts create a division of labor via a series of work states that allows specialization in each functional area. The functional area defines the type of work or action to be performed. This allows the responsible FTB staff to have the highest level of familiarity with the account; working the account from the time it enters the functional area until resolution.

Responsibility

FTB staff will be able to identify an assigned account ((***)). If the account is assigned, the individual's name will appear in the "user" field. If the account is not assigned to a specific individual, the "user" field will be blank and grayed out. ((***)

Action

Assigned accounts should be processed in accordance with the [Statement of Principles of Tax Administration](#). Exceptions will be made when it is necessary to concentrate collection efforts to address areas of noncompliance.

Collection accounts should be worked as soon as the account becomes assigned. ((***)
Follow-up action should be within 30-45 days from the last action, depending on the nature of the last action. Correspondence and telephone messages should be responded to according to unit procedures.

FTB staff work accounts in the Manual Process (MP) functional area, which includes both pooled and staff assigned work lists. Since the implementation of ARCS, individual unit guidelines work plan goals outline the expectations of FTB staff.

((***)

((***) [See section 4.2.1.2 Scoping An Account.](#)

For PIT assigned accounts FTB staff approach should be:

- Designed to resolve the account at the earliest point and make the best possible use of collection resources.
- Designed to prevent repetitive actions.
- Individually tailored to the facts of the account (account history and the amount and basis of assessment to determine the course of action).
- To identify missing year tax returns. For more information on Missing Years see [section 4.2.1.5 Filing Requirements](#).

FTB staff should use the most expeditious method possible to resolve their accounts. FTB staff should use the telephone as their primary tool in obtaining asset information and in contacting the taxpayer to secure a commitment to resolve the account. The following are critical guidelines for implementing this policy:

- FTB staff should not, as a general rule, repeat actions already taken by ARCS.
- If due process is in question, an attempt must be made to contact the taxpayer prior to taking further collection action.
- If attachable asset information is readily available and due process has been established, assets may be seized. ((****)) Effective interviewing techniques should focus on obtaining asset information and/or information on the current location of the taxpayer. FTB staff should determine the objective of the call and plan pertinent questions that will lead to account resolution. They should also attempt to obtain all information needed from initial contacts, as the first contact may be the last.
- If attempts to contact the taxpayer, employer, or third party are unsuccessful during normal work hours, FTB staff should communicate via mail.

NOTE: Before third party contacts can be made, taxpayers must have received prior notice of such contact within the past 12 months. Taxpayers receive these notices from ARCS automated system notices or manually using form FTB 1140-L Collection Information Notice. FTB staff must allow 10 calendar days after the mailing before contacting third parties. If contact of third parties is via mail form FTB 1131J must be included in the mailing. Verbal contact with third parties must include reprisal language prior to requesting information.

All telephone numbers are potential leads and should be exhausted prior to recommending discharge or field office referral.

Accounts should be referred to the field office as soon as it is determined that all reasonable actions have been taken to resolve the account. For field office referral criteria see Field Office Transfers.

As a general rule, FTB field staff should not repeat actions already taken by a central office collection group. FTB staff should utilize public records, third party contacts, and when warranted, a Subpoena Duces Tecum to identify seizable assets. It is FTB staff responsibility to bring accounts to a final resolution by taking appropriate enforcement actions in the field. Appropriate enforcement actions may vary based on individual circumstances.

Installment Agreements (I/A) for Personal Income Tax (PIT) accounts will be approved in the case of financial hardship if there is evidence the taxpayer can meet the terms of the arrangement. For I/A guidelines refer to section 6.2.3.1 Installment Agreement Information.

Seizure and sale of real property may be considered when such action is anticipated to be the most cost effective way to collect the balance due. Although a lien filed in the county where the real property is located may secure the tax liability, collection of the balance is delayed until the property is transferred or refinanced. As a general rule, a taxpayer's principal residence will not be seized and sold unless the taxpayer is actively evading payment of tax liabilities. The field must approve actions of this nature.

When resolving an account, FTB staff should account for all missing year tax returns that will not be accounted for through the automated system. If FTB staff is unable to get the taxpayer's cooperation in filing returns, income information should be located and an assessment made in accordance with [section 4.2.1.5 Filing Requirements](#).

If the liability resulted from under-withholding or failure to make estimate payments, an effort should be made to ensure that current withholding is correct or that the taxpayer is making estimate payments.

FTB staff may be the first to notice new trends in tax avoidance schemes. To curb abuse, FTB staff should report recurring non-compliant behavior promptly to supervisors.

Reference

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.2.2 Accounts Receivable Collection System (ARCS) Account Documentation

Background

The Accounts Receivable Collection System (ARCS) is an online system that supports the collection of delinquent income tax accounts. With its use, the majority of FTB staff no longer use the Collection Progress Report ((****)) to document activity on an account. ARCS allows Franchise Tax Board (FTB) staff to make permanent documentation of account activity through the use of history text, notes and primary memo. Once the information is saved, ARCS automatically records a permanent history line for all automated or manual actions or events. Having a history record of taxpayer interactions and correspondence will assist all FTB staff that works on an account. In addition, this will ensure there is no duplication of collection efforts.

NOTE: There are certain instances where form FTB 6452 may still be in use. Refer to your unit procedures for specifics on form usage.

Purpose

ARCS account documentation allows FTB staff to document account history and contacts. It also ensures permanent account history to assist with future interactions with or pertaining to the taxpayer.

Responsibility

FTB staff are responsible for ensuring clear and concise account documentation of all account interactions are inputted into ARCS.

Action

FTB staff will input the complete, detailed history pertaining to the account. See unit procedures for specific information to be documented.

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.2.3 Account Review

Background

Periodically leads and supervisors conduct a review of accounts. During the review process, the appropriate staff or unit will focus attention on the quality of work in four areas:

- Effective development of facts
- Correct technical conclusions
- Effective preparation of the account
- Customer service, equitable and considerate treatment to the taxpayer

Purpose

The account review process focuses attention on the quality of work performed on the tax and non-tax, assigned and unassigned accounts processed in the Accounts Receivable Management (ARM) Division. The purpose of this process is to ensure conformity with the department's [Statement of Principles of Tax Administration](#) and the collection program polices and procedures.

Responsibility

The reviewer's role is to verify adherence to state governmental and departmental policies and procedures. Quality control is the responsibility of FTB staff, leads, and the supervisors. The reviewer's role ensures that accounts achieve resolution in the most expeditious method. ((****))

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- Concentration on these areas will measure the:
 - Conformance to standards, policies, and procedures.
 - Consistency with standards, policies, and procedures.
 - Effectiveness of FTB collection techniques.
 - Results of the mandated and discretionary programs in both quality and production.

Action

Supervisors, leads, and other appropriate staff account review will include, and is not limited to:

- Review all accounts ((****)) submitted for discharge.
- Review on a random basis, discharge accounts ((****)) submitted for discharge.
- Review all decreases in account liability, which result in closed accounts.
- Review accounts submitted for transfer to a field office.
- Return accounts to originating units when accounts need additional work, are incomplete or do not meet the criteria for discharge, field transfer or abatement.
- Perform an in-progress review of accounts for conformance with the Collection Program Policies.
- Provide the appropriate bureau directors, section managers, and collection supervisors with feedback on quality of completed accounts.

Accounts closed by payment in full (PIF), fully canceled, or balances resolved as a result of applied credits are reviewed to assure compliance with policies and procedures. This is done by assuring that:

- Taxpayers' rights are not violated. See Section 3.2.3.3 Taxpayers' Bill of Rights.
- Account status shows "closed" on Accounts Receivable Collection System (ARCS).
- All information received from the Internal Revenue Service (IRS) in response to department's request ((****)) is destroyed and records marked accordingly. See Section 3.2.1.9 Destruction of Confidential Information.

- Missing year tax returns are accounted for in the summary in the ARCS history comments.
- All outstanding orders and liens have been released.

Installment Agreements (I/A) - The following items must be completed before a collection account may be considered for an I/A:

- All missing year tax returns are accounted for
- Summary indicates amount and date of payments
- Actions to be taken in the event of a default
- Financial statement, if required, is complete and reflects a financial hardship, not mere inconvenience ([See section 4.2.1.18 Financial Statements](#))

Manual Process Functional Area:

- Taxpayer's rights are not violated
- All reasonable steps have been taken to resolve the account
- Facts indicate good future collection potential
- Lien filed, or the reason for not filing stated
- Actions are proper and timely

Discharge Functional Area:

- All reasonable steps have been taken to resolve the account
- Facts indicate no future collection potential within a reasonable period of time
- Lien filed, or the reason for not filing stated
- Correct discharge reason code

Transfer to Field Office:

- There is no obvious manual or automated action available to resolve the account
- The facts support the necessity for field office transfer
- The correct Field Office code is used

Accounts in process (periodic sampling):

- Accounts are being worked into inventory correctly and timely
- Correspondence and follow-ups are processed on a timely basis
- Collection procedures are applied appropriately
([See section 4.2.2.1 PIT Assigned Accounts](#))

Reference

[Statement of Principles of Tax Administration](#)

NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.2.4 Complex Account Resolution Team (CART)

Background

The Complex Account Resolution Team (CART), within the Field and Complex Account Collection Bureau, resolves the following assigned accounts with open balances due ((****)).

Accounts ((****)) will automatically route to the CART functional area where they are assigned to the team after the taxpayer receives notice, or may be received from other collection groups.

Purpose

CART allows designated Franchise Tax Board (FTB) representatives to work accounts that meet departmental open balance due requirements.

Responsibility

FTB staff should request accounts that meet the open balance due criteria be routed to CART to be worked in their functional area.

Action

When an account meets CART criteria, FTB staff should refer to unit procedures to request an inter-office transfer or work the account once it has been auto routed.

Reference

((****))

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.2.2.5 On Site Referrals

Background

Under certain circumstances accounts may be referred to a field office for an on site referral visit. This allows the account to be maintained by the assigned Franchise Tax Board (FTB) staff or unit while seeking the assistance of the field office. The following specific conditions would warrant assistance from a field office:

- Staff are unable to secure immediate payment in full (PIF)
- Identification of potential field activity
- Identification of possible assets for seizure
- The taxpayer is self-employed and may be actively doing business
- The taxpayer's standard of living is not consistent with stated income
- Staff are unable to gather documents from the county recorder
- Staff requires assistance in filing a lien when time is a factor during a property transaction (e.g.,) refinance or sale of property)

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- ((****))

((****))

Purpose

On site referrals allow FTB to effectively work a collection account to locate information not available from central office.

Responsibility

FTB staff should consider requesting an on site when:

- A taxpayer claims to be unemployed with hardship, yet owns real property
- A taxpayer claims inability to pay, yet the Credit Bureau Report (CBR) shows recent activity and bills are paid timely
- FTB staff are unable to determine employment yet owns real property
- Civil action is pending
- FTB staff suspects the taxpayer is hiding assets

Action

FTB staff should request an on site:

- To evaluate an asset to determine if it is worthy of a warrant action
- If the taxpayer has a large balance due and needs field staff to perform an investigation for assets prior to discharging the account
- If unable to contact the taxpayer
- If the taxpayer is self-employed (to look at the business viability)
- To obtain bankruptcy schedules that list assets

Reference

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NOTE: ((***)) = Indicates confidential and/or proprietary information.

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4.2.2.6 Referring Taxpayers To Field Offices

Background

Franchise Tax Board (FTB) staff should attempt to resolve accounts by telephone, mail or fax whenever possible to avoid requiring taxpayers to travel to a field office. If necessary, or if the taxpayer requests going into a field office, FTB staff will provide field office information and place a comment in Accounts Receivable Collection System (ARCS).

Purpose

Referring taxpayers to a field office allow taxpayers who prefer transferring sensitive Personal Income Tax (PIT) documents, making payments, and responding to correspondence in person to be aided. Additionally, this provides FTB staff the opportunity to have taxpayers make payments, file returns, and respond to correspondence in person when departmental collection procedures have been unsuccessful in achieving resolution.

Responsibility

FTB staff should make every attempt at account resolution with the provided resources prior to a field office referral. When account analysis reveals a history of non-compliance and/or the taxpayer has been unresponsive to telephone contact, correspondence, or fax, it may be merited to require the taxpayer to travel to a field office. See a lead for unit procedures.

Action

In the event a taxpayer requests or has been recommended to visit a field office the staff will provide Field Office information and place a comment in ARCS. Comments should state the purpose for the visit and request actions for field office personnel to perform.

Reference

[Service counter closures](#)
[Franchise Tax Board Field Offices](#)
((***)
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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.2.7 PIT Investigation Referrals

Background

The Investigation Bureau is responsible for the criminal enforcement activities within the department. The bureau's principal mission is to identify, investigate and effect the prosecution of tax evasion, fraud and employee misconduct; to encourage compliance with the California income tax laws; and to maintain the public's trust through publicity.

Purpose

The purpose of the referral is to enable the Investigations Bureau to evaluate the criminal potential of the case and decide whether or not a criminal investigation should be undertaken.

Responsibility

When a firm indication of fraud is discovered, collection activity should be suspended immediately without disclosing the reason to the taxpayer or his/her representative.

13. **Do not** propose adjustments or solicit agreements to any proposed assessments (or portions of proposed assessments).
14. **Do not** imply favored treatment if requested information is furnished.
15. **Do not** place yourself under any obligation to the taxpayer or his/her representative. Never negotiate for the release of taxpayer records.
16. **Do not** advise or counsel the taxpayer or his/her representative of possible defenses or explanations of understatements, acts of concealment, omissions or other possible acts of fraud.
17. Avoid statements, remarks, or the commission of acts that are subject to misrepresentation.
18. Make thorough and precise notes of all contacts and conversations.
19. **Do not** accuse the taxpayer of cheating or failing to comply with the income tax laws.
20. **Do not** suspend collection actions in an abrupt manner that may alarm or embarrass the taxpayer.
21. Document the location of accounting records, if known.
22. **Do not** make any notations or marks on the taxpayer's records.
23. **Do not** mark or write on a tax return.
24. **Do not** contact the taxpayer or his/her representatives after the case has been referred to the Investigations Bureau.

Action

All cases of suspected criminal fraud should be discussed with your lead prior to being referred. **Your lead should call ((916) 845-1069) to discuss the case prior to referral.** Investigations Bureau staff will review the case and notify the lead within one week of the outcome. If accepted, the case file and a completed ([Fraud Case Referral, form FTB 7040](#)) should be sent to the Investigations Bureau as soon as possible.

A separate referral form should be prepared for each person or entity involved, except for a husband and wife who filed a joint return. Separate referrals are not prepared for each different type of violation.

Referral guidelines to assist the collector are stated in general terms below. There is no absolute criterion established as to when to suspend collection activity and refer the case to the Investigations Bureau. Additional referral information can be found in the ([Criminal Tax Fraud Referral Handbook](#)).

Definition of Fraud

Actual fraud is intentional; it consists of deception intentionally practiced to induce another to part with property or surrender some legal right and which accomplishes the end designed. More simply, it is obtaining something of value from someone else through deceit.

Tax fraud sometimes involves false documents, tax returns or statements and includes attempted evasion, conspiracy to defraud, aiding, abetting, counseling fraud and willful failure to file income tax returns.

(())

Preparing the Referral

- **Your lead should call (()) to discuss the case prior to referral**
- File all liens
- Attach INC transcripts for the years to be investigated
- Attach payer information to the file
- Attach a DMV printout to the file
- Suspend automated collection action on the account
- Attempt to obtain current address and spouse information
- Answer all account correspondence and phone calls
- Make any necessary account adjustments
- Apply all known withholding credits
- Complete Fraud Case Referral, form FTB 7040

Information From the Referring Collector

If the referral is accepted, the Investigator may discuss the case with the referring collector. Particular attention will be given to the following:

1. Any explanations offered concerning the alleged offenses,
2. Whether returns were solicited, there were any attempts at civil settlement or if prior actions similar to the alleged offense were condoned by the department; and
3. The referring collector's observations about the age, health (physical and mental) and education of the taxpayer.

After the Referral

After evaluation of a referral the Investigations Bureau Chief, or his designee, will inform the appropriate departmental personnel whether the referral has been declined or accepted for investigation.

Reference

[Revenue and Taxation Code Section 19701](#) - Failure To File Return
[Revenue and Taxation Code Section 19704](#) - Statute Of Limitations
[Revenue and Taxation Code Section 19705](#) - False Return
[Revenue and Taxation Code Section 19706](#) - Failure To File with Intent to Evade
[Revenue and Taxation Code Section 19721](#) - Willfully Generating A False Refund Warrant
[Penal Code Section 67.5](#) - Bribery
[Penal Code Section 118](#) - Perjury
[Penal Code Section 182](#) - Conspiracy (Definition; Punishment; Venue)
[Penal Code Section 186.10](#) - Money Laundering
[Penal Code Section 476\(a\)](#) - Checks, Drafts or Orders on Banks; Insufficient Funds; Intent to Defraud; Punishment; Evidence; Credit Defined; Partial Validity
[Penal Code Section 487](#) - Grand Theft Defined
[Penal Code Section 502](#) - Unauthorized Access To Computer, Computer Systems And Computer Data
[18 United States Code Section 1341](#) - Mail Fraud
[18 United States Code Section 1956](#) - Money Laundering
[31 United States Code Section 5324\(a\)\(3\)](#) - Structuring Transactions

4.2.3 Payments

4.2.3.1 Payment Of Tax

Background

Franchise Tax Board (FTB) allows taxpayers to satisfy their tax obligations through various methods of payment. The effective date of the payment is usually the date FTB received the payment or the date the payment is taken to a field office. Taxpayers may also designate the application of a payment to a specific tax year balance, penalty, or interest. ((****)).

Payments to FTB are received in several different forms:

- Personal, cashier, certified, or foreign check
- Money Order
- Electronic Fund Transfer (EFT)
- [Web Pay](#)
- Western Union Quick Collect (WUQC)
- [Credit card](#)
- Interagency intercept
- Cash bond
- Cash
- Wire transfers

Purpose

Payment of tax allows taxpayers the ability to fulfill their tax obligations through an assortment of methods.

Responsibility

FTB staff will educate taxpayers on the payment methods and policies of FTB while obtaining pertinent account information.

Action

FTB staff will advise taxpayers on the payment options available and instruct them to include the following:

- Social Security Number (SSN)/ Taxpayer Identification Number (TPID)

- Name, address, and telephone number including area code
- The tax years
- Type of payment (e.g., estimate, bill, return, etc.)
- Indicate the account (e.g., personal or business entity)

Reference

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4.2.3.2 Estimated Tax

Background

State income tax is due on income as it is earned. There are two methods of paying tax on income, as it is earned through withholding and estimated tax payments.

Individuals, estates, and trusts that have taxable income not being paid by withholding, pay tax on the income as it is earned by making quarterly payments of the estimated tax.

An estimate penalty will be charged for the underpayment or late payment of any estimate installment. Estimated tax payments do not have to be made if the taxpayer is a new resident, nonresident, or had no California tax liability for the previous tax year.

Purpose

Estimating tax allows individuals to make payments on tax they expect to owe after subtracting expected withholdings and credits.

Responsibility

Franchise Tax Board (FTB) staff are responsible for educating taxpayers of their obligation to make quarterly estimated tax payments when they do not have their taxes withheld directly from California sourced income.

Action

FTB staff must advise taxpayers on how to compute quarterly estimated tax payments and proper [form usage and instructions](#).

Estimate payments must be applied to the tax year for which they are designated. There is no provision in the law that authorizes the application of the estimate payment designated for one tax year to be applied to a liability for a different tax year until a return is filed and the excess credits are available.

Estimate payments designated for a particular year should be applied to the existing Filing Enforcement (FE) assessment for that year, and any adjustments made to reflect the application of such timely credits, prior to taking any collection action.

Any credits that result from the application of estimate payments designated for a particular tax year to a FE assessment for that same year cannot be applied to other year's liabilities, applied to subsequent year estimates, or refunded to the taxpayer until a tax return is filed for that year.

Reference

[540-ES Vouchers](#)
((***)

NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.3.3 Electronic Funds Transfer (EFT) Payments

Background

Electronic Funds Transfer (EFT) is a method used to move money electronically from a taxpayer's account into the state's account, eliminating the use of paper documents. This method is available for taxpayers to make payments using an Installment Agreement (I/A), wire transfer, [credit card](#), Western Union Quick Collect, and [web pay](#).

Purpose

EFT payments reduce paper processing time and the errors associated with them. Additionally, it reduces costs related to postage and decreases response time to inquiries regarding the status of tax payments.

Responsibility

Franchise Tax Board (FTB) staff are responsible to inform taxpayers of the various methods of payment available through the use of EFT payments.

Action

FTB staff will provide taxpayers who meet EFT I/A criteria a [form FTB 3567](#) and instruct them how to follow FTB EFT guidelines to maintain an I/A.

Reference

[What is Electronic Funds Transfer?](#)
[Revenue and Taxation Code Section 19011](#)

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4.2.3.4 Purged Payments

Background

In some cases, taxpayers paid a filing enforcement assessment in full, but we later purged the tax year in accordance with TI data retention policies. Subsequently, the taxpayer files a self-assessed, no pay return for the same tax year and wants to apply the purged payment credit to the balance due.

Purpose

Provide procedures to address purged payment(s) from paid filing enforcement assessments.

Responsibility

FTB staff must identify the missing payment(s), determine if the situation meets the criteria of purged payment(s) from paid filing enforcement assessments, and follow the procedures set forth in the action.

Action

If the situation meets purged payment criteria, then perform the following steps:

STEP 1. Ask the taxpayer for a copy of the cancelled check. The check must be made payable to FTB. **Note: Without a copy of the cancelled check, no credit will be applied.**

STEP 2. Attempt to locate the payment using all resources available.

STEP 3. Submit a copy of the cancelled check and any other available documentation to Fiscal Control if you are unable to locate a payment.

Fiscal Control returns the cancelled check copy to you if they fail to locate a payment.

STEP 4. Using the documentation received from the taxpayer and Fiscal Control, determine if the credit should be applied. If yes, submit memorandum and FTB Form 6350A to Administrator II level for signature approval. (For an example, see the sample memorandum.)



Memorandum for
Purged Payments -

STEP 5. Submit signed memorandum, form FTB 6350A, a copy of the cancelled check, and any other documentation to Fiscal Control.

Fiscal Control creates the fund credit on the taxpayer's case and notifies you upon completion. Fiscal Control keeps the documents for their records.

Reference

Collection Advisory Team (CAT)
Fax: (916) 845-0137
Mail Stop: A340

NOTE: (()) = Indicates confidential and/or proprietary information.

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4.2.4 Interest

4.2.4.1 Interest Rates And Taxpayer Information (TI) System Application

Background

The California [Revenue and Taxation Code Sections 19101-19104, 19112-19114](#) and [19521](#) contain numerous provisions for the assessment of interest in various situations where taxpayers have failed to comply with the law. Among these provisions are interest on penalties and tax. There are also provisions for waiving penalties under certain circumstances.

Purpose

Interest is compensation for the use of money and is assessed pursuant to statutory authority and is utilized as an instrument to deter non-compliance.

Responsibility

Franchise Tax Board (FTB) must ensure interest is applied in accordance with the Revenue and Taxation Code and is assessed within regulations.

Action

Interest rates are determined on a semi-annual basis. The determination may retain or change the [current interest rates](#).

See ((****)) for interest application and computation.

Reference

((****))

NOTE: ((****)) = Indicates confidential and/or proprietary information.

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4.2.4.2 Interest Assessed On Tax

Background

Interest is assessed on unpaid tax from the original due date of the return to the date paid. Interest is charged at an [annual rate](#) compounded daily. The interest rate used for the computation will depend on the period of the underpayment. If the balance due shown on a bill is paid within 15 days of the date of the billing, no additional interest will be assessed.

Purpose

[Revenue and Taxation Code Section 19101](#) mandates that interest be assessed on tax imposed if it is not paid on or prior to the last date established under [Revenue and Taxation Code Section 19521](#).

Responsibility

Franchise Tax Board (FTB) staff must have the ability to communicate the basis of interest (California Tax Law) being assessed and how it is computed. FTB staff must inform taxpayers that interest does not stop accruing because of an Installment Agreement (I/A) or wage garnishment.

Action

FTB staff will explain the basis of interest assessed on tax and provide options on how to resolve the account.

NOTE: The taxpayer may disagree with the assessment and request interest be waived. FTB staff will inform the taxpayer when they should send a written request to have interest waived:

- When the taxpayer is unable to pay solely because of extreme financial hardship resulting from a catastrophic incident or significant disability.
- When the Internal Revenue Service (IRS) has waived interest on an assessment that we have followed.
- When a taxpayer relied on written advice from FTB and failed to make a timely return or payment based on that advice.
- When an unreasonable error or delay is attributed to an FTB employee while performing their duties.

Reference

[Revenue and Taxation Code Section 19101](#)

[Revenue and Taxation Code Section 19521](#)

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[Form FTB 1140-Personal Income Tax Collections Information](#)

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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4.2.4.3 Interest On Penalties

Background

Interest is assessed on penalties from the interest effective date to the date payment is received per [Revenue and Taxation Code 19101](#). Interest is charged at an [annual rate](#) compounded daily.

Purpose

California Tax Law mandates that interest be assessed on penalties.

Responsibility

Franchise Tax Board (FTB) staff must have the ability to communicate how interest and penalties are assessed and on how they are computed.

Action

FTB staff will explain to taxpayers the basis of interest assessed on penalties and provide options on how to resolve their account. In instances where a taxpayer disagrees with the assessment of interest, a written request for waiver may be submitted.

Reference

[Form FTB 1140-Personal Income Tax Collections Information](#)

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4.2.4.4 Interest Allowed On Overpayments

Background

Interest is allowed on an overpayment from the date of overpayment to 13 days prior to the current date. This ensures that the interest is allowed to a date within 30 days of the refund issue date mandated by law ([Revenue and Taxation Code Sections 19301-19368](#)).

Interest must be allowed on overpaid returns if the refund warrant is not dated within 90 days of the return due date or the received date of the return, whichever is later.

Interest is allowed on:

- Payments not claimed on the return (estimates, extensions, misc.)
- Payments received with the return
- Billing payments, including duplicate billing payments for the same amount
- Overpayments of penalties and/or interest
- Tax rate adjustments (e.g., bank tax rate) credit balances created when Franchise Tax Board (FTB) has applied an overpayment to a balance due on another year and the taxpayer also pays the balance due

Purpose

Assessing interest on overpayments adheres with the [Revenue and Taxation Code Sections 19301-19368](#) that mandates timeframes in which interest is allowable on overpayments.

Responsibility

FTB staff must have knowledge of situations in which interest allowed on overpayments is applicable and how to compute it.

Action

FTB staff should perform interest computations via the Automated Interest Program ((****)) in instances where overpayment interest is allowable.

Reference

[Revenue and Taxation Code Sections 19301-19368](#)

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4.2.5 Penalty

4.2.5.1 Penalty Assessments

Background

[Revenue and Taxation Code Sections 19131–19187](#) provide for the assessment of penalties for taxpayers who fail to meet their filing and/or payment requirements. Penalties are assessed manually or automatically on a tax year when a taxpayer fails to comply with California tax law.

Purpose

The assessment of penalties encourages taxpayers to adhere to California tax law and enforces compliance as well as full and truthful disclosure on Personal Income Tax (PIT) returns.

Responsibility

Franchise Tax Board (FTB) staff are responsible for educating taxpayers how various penalty assessments are computed and applied to their account. FTB staff will also identify penalties that need to be assessed and verify existing penalties are accurately assessed. ((****))

Action

FTB's Taxpayer Information (TI) System will automatically assess penalties. In some rare instances FTB staff will manually assess penalties when appropriate and abate penalties that are incorrectly assessed. The following are the types of commonly assessed penalties:

- **Delinquent Penalty** ([Revenue and Taxation Code Section 19131](#)) - late filing of a tax return.
- **Demand Penalty** ([Revenue and Taxation Code Section 19133](#)) - failure to respond to a notice of demand.
- **Accuracy-Related Penalty** ([Revenue and Taxation Code Section 19164](#)) – Placed into effect January 1, 1991 the accuracy-related penalty replaced the negligence penalty. The accuracy-related penalty is imposed if an underpayment is due to any of the following:
 - Negligence or disregard of rules or regulations
 - Substantial understatement of franchise/income tax
 - Substantial valuation overstatement
 - Substantial overstatement of pension liabilities

4.2.6 Fees

4.2.6.1 Cost Recovery Fees

Background

Franchise Tax Board (FTB) assess cost recovery fees on taxpayer accounts who fail to fully pay their taxes, penalties, or interest by the date provided on written notifications or billing statements, and that continued failure to pay results in collection action. This allows FTB to recover the cost of collection action incurred by FTB directly from the taxpayer.

The most common collection fees assessed are:

- **Collection Cost Recovery Fee** ([Revenue and Taxation Code Section 19254](#)): The Collection Cost Recovery Fee is assessed one time on collection accounts where the taxpayer has received due process regarding the assessment of the collection fee. This fee is assessed when FTB must take action to collection delinquent taxes.

The only instances an account may have two Collection Cost Recovery fees is when:

- A Collection Cost Recovery Fee has been assessed and the account was then closed by payment or application of credits and
 - A new liability is incurred and not paid causing FTB to take an action to collect delinquent taxes.
- **Filing Enforcement Fee** ([Revenue and Taxation Code Section 19254](#) and [19209](#)): Beginning October 1994, assessed on taxpayers that do not file tax returns by the date indicated on a written Demand to File notice.
 - **Lien Fee** ([Revenue and Taxation Code Section 19221](#)): The fee is assessed when it becomes necessary for FTB to file a state tax lien to ensure collection of the balance due on an account.
 - **Out of State Collection (OSCAR) Fee** ([Revenue and Taxation Code Section 19376](#)): Assessed to taxpayers with delinquent liabilities when FTB assigns their liability to private out of state collections. See Section 9.2.4.2 Out Of State Collection Account Referral (OSCAR).

NOTE: There are no fees associated with In State Collection Account Referral (ISCAR) collections.

- **Sheriff Fee:** The Sheriff fee is assessed when a warrant has been issued to enforce collection of unpaid tax.

Purpose

Cost Recovery Fees are assessed as a method to reimburse FTB for costs incurred in the process of collection activity.

Responsibility

It is the responsibility of FTB staff to ensure the fees are properly assessed and explained to taxpayers.

Action

FTB staff must assess or cancel fees when appropriate. ((***)

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NOTE: ((***) = Indicates confidential and/or proprietary information.

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