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File 568 K-1s via CD or Diskette. Put up to 300,000+ K-1s on CD or 12,000 K-1s on a diskette.

California

Forms & Instructions

568

2008

Limited Liability Company Tax Booklet

Members of the Franchise Tax Board

John Chiang, Chair
Judy Chu, Ph.D., Member
Michael C. Genest, Member

This booklet contains:

Form 568, Limited Liability Company Return of Income

FTB 3537, Payment for Automatic Extension for LLCs

FTB 3522, LLC Tax Voucher

FTB 3536, Estimated Fee for LLCs

FTB 3832, Limited Liability Company Nonresident Members' Consent

FTB 3885L, Depreciation and Amortization

Schedule D (568), Capital Gain or Loss

Schedule K-1 (568), Member's Share of Income, Deductions, Credits, etc.

California e file

For more information regarding business e-file, see page 2 or go to our website at **ftb.ca.gov** and search for **business e file**.

STATE OF CALIFORNIA
FRANCHISE TAX BOARD

Table of Contents

General Information 3
Instructions for Form 568 12
Instructions for Schedule K (568) and Schedule K-1 (568) 15
Limited Liability Company Income Worksheet 23
Form 568 25
Schedule K-1 (568) 37
Schedule D/FTB 3885L 41
Instructions for Schedule D/FTB 3885L 43
Member's Instructions for Schedule K-1 (568) 45
FTB 3832 and Instructions 53
FTB 3537 and Instructions 55
FTB 3522 and Instructions 57
FTB 3536 and Instructions 59
How to Get California Tax Information 60

Business e-file

Business e-file is available for the following returns:

- **Form 568, Limited Liability Company Return of Income**
- Form 565, Partnership Return of Income
- Form 100, California Corporation Franchise or Income Tax Return, including combined reports
- Form 100W, California Corporation Franchise or Income Tax Return – Water's-Edge Filers, including combined reports
- Form 100S, California S Corporation Franchise or Income Tax Return

For more information, go to our website at **ftb.ca.gov** and search for **business e file**.

2008 Instructions for Form 568, Limited Liability Company Return of Income

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2005,** and to the California Revenue and Taxation Code (R&TC).

What's New

Estimated Fee for LLCs – For taxable years beginning on or after January 1, 2009, the Limited Liability Company (LLC) fee must be estimated and paid by the 15th day of the 6th month of the current taxable year. LLCs will use new form FTB 3536, Estimated Fee for LLCs, to remit the estimated fee. A new penalty in the amount of 10% of the underpayment of estimated fee will apply if the estimated LLC fee is underpaid. However, the estimated fee underpayment penalty will not apply if the amount paid by the due date is equal to or greater than the total amount of the LLC's fee paid in the preceding taxable year. The LLC fee remains due and payable by the due date without extension of the LLC's return. LLCs will also use Form FTB 3536 to pay by the due date of the LLC's return, any amount of LLC fee due which was not paid as an estimated fee payment. If the taxable year of the LLC ends prior to the 15th day of the 6th month of the taxable year, no estimated fee payment is due, and the LLC fee is due on the due date of the LLC's return.

Filing Requirements for Disregarded Entities – The filing requirements for disregarded entities have been revised. See General Information, Check-the-Box Regulations, for more information.

Suspension/Forfeiture – Beginning January 1, 2009, LLCs will be suspended or forfeited for failure to file or failure to pay. See General Information, Suspension/Forfeiture, for more information.

Business Tax Credit Limitation – For taxable years beginning on or after January 1, 2008, and before January 1, 2010, business tax credits can only offset 50% of the net tax, if the corporation's taxable income is $500,000 or more. Corporations with taxable income less than $500,000 are not subject to the credit limitation. For the purpose of this limitation, taxable income means net income for state purposes.

Business tax credits disallowed due to the 50% limitation may be carried over. The carryover period for disallowed credits is extended by the number of taxable years the credits were not allowed.

Withholding Rates – For taxable years beginning on or after January 1, 2009, non-California partnerships will be subject to withholding requirements on a sale of California real property at a rate of 3 1/3% of sales proceeds or 9.3% of gain. The alternative withholding rates for the sale of California real property by non-California S corporations will be increased to 10.8% for S corporations or 12.8% for Financial S corporations.

Installment Sales – For taxable years beginning on or after January 1, 2009, buyers will be required to withhold on each installment sale payment if the sale of California real property is structured as an installment sale.

Group Nonresident Returns (also known as Composite Returns) – For taxable years beginning on or after 01/01/2009:

- Group nonresident returns may include less than two nonresident individuals.
- Nonresident individuals with more than $1,000,000 of California taxable income are eligible to be included in group nonresident returns.
- An additional one percent tax will be assessed on nonresident individuals who would have California taxable income over $1,000,000.

See FTB Pub. 1067, Guidelines for Filing a Group Form 540NR, for more information.

Third-Party Designee – For taxable years beginning on or after January 1, 2008, a partnership can designate a third party to discuss the tax return with the Franchise Tax Board (FTB). For more information, go to the instructions on page 7, see General Information, Signatures.

Conformity – For updates regarding the following federal acts, go to our website at **ftb.ca.gov** and search for **conformity**.

- Economic Stimulus Act of 2008
- Housing and Economic Recovery Act of 2008

Rice Straw Credit – For taxable years beginning on or after January 1, 2008, the Rice Straw Credit has expired. Unused carryover credits are taken on form FTB 3540.

LLC Income Worksheet – The Limited Liability Company Income Worksheet has been revised for 2008. For more information, see the instructions for the LLC Income Worksheet beginning on page 11, and the LLC Income Worksheet on page 23.

General Information

A Important Information

In general, California law conforms to the Internal Revenue Code (IRC) as of January 2005. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to our website at **ftb.ca.gov** and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the tax booklets. Taxpayers should not consider the tax booklets as authoritative law.

Limited Partnership Act of 2008
For taxable years beginning on or after January 1, 2008, domestic limited partnerships whose certificates of limited partnership have been canceled may revive by filing a certificate of revival with the California Secretary of State (SOS). The certificate must include written confirmation by the Franchise Tax Board that all taxes, interest, and penalties have been paid for all tax years through the date of revival. This includes the tax years after the limited partnership canceled.

e-filing
Beginning January 2007, the FTB offers e-filing for limited liability companies filing a Form 568, Limited Liability Company Return of Income, and certain accompanying forms and schedules. Check with the LLC's software provider to see if the limited liability company can e-file.

Revised Schedule K and Schedule K-1
The California Schedule K (568) and Schedule K-1 (568) line items were revised to be in a similar format with the federal Schedule K (1065) and K-1 (1065). Refer to the Schedule K Federal/State Line References chart, in this booklet, and Specific Line Instructions when completing California Schedule K (568) and Schedule K-1 (568).

LLC Fee
Beginning on or after January 1, 2007, the LLC Fee will be based on total California source income rather than on worldwide total income. For more information, see the LLC Income Worksheet Instructions on page 11 of this booklet.

Series LLC
A series LLC is a single LLC that has separate allocations of assets each within its own series. When filing form FTB 3522, LLC Tax Voucher, write "Series LLC # ___" after the name for each series. In addition, write "Series LLC" in red on the top right margin of the voucher. Only the first series to pay tax or file a return may use a California SOS file number. On all other series, enter zeros for the entity identification number on the first voucher and we will assign a number and notify each series. See FTB Pub. 3556, Limited Liability Companies, for more information.

Registered Domestic Partners (RDP)
RDPs under California law must file their California income tax return using either the married/RDP filing jointly or married/RDP filing separately filing status. RDPs have the same legal benefits, protections, and responsibilities as married couples unless otherwise specified.

If you entered into a same sex legal union in another state, other than a marriage, and that union has been determined to be substantially equivalent to a California registered domestic partnership, you are required to file a California income tax return using either the married/RDP filing jointly or married/RDP filing separately filing status. For more information on what states have legal unions that are considered substantially equivalent, go to our website at **ftb.ca.gov** and search for **RDP**.

For purposes of California income tax, references to a spouse, a husband, or a wife also refer to a California registered domestic partner (RDP), unless otherwise specified. When we use the initials RDP they refer to both a California registered domestic "partner" and a California registered domestic "partnership," as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

Round Cents to Dollars – Round cents to the nearest whole dollar. For example, round $50.50 up to $51 or round $25.49 down to $25. If you do not round, the FTB will disregard the cents. This helps process your return quickly and accurately.

Reconciliation of Income
For taxable years beginning on or after January 1, 2006, the Internal Revenue Service (IRS) requires certain LLCs to complete Schedule M-3 (Form 1065), Net Income (Loss) Reconciliation for Certain Partnerships, instead of Schedule M-1, Reconciliation of Income (Loss) per Books With Income per Return. For California purposes, the LLC must complete the California Schedule M-1, and attach either of the following:

- A copy of the Schedule M-3 (Form 1065) and related attachments to the Limited Liability Company Return of Income.
- A complete copy of the federal return.

The FTB will accept the Schedule M-3 (Form 1065) in a spreadsheet format if more convenient.

Business Entity Name and Identification Number
In order to expedite processing, be sure to use the business entity name as it appears with the California SOS and a valid California identification number.

California Use Tax
If the LLC made purchases from out-of-state sellers and owes California use tax, the LLC may report and pay the tax on its Limited Liability Company Return of Income. See page 11, Additional Information, "California Use Tax" for more information.

California Tax Information on the Internet
You can download, view, and print California tax forms and publications from our website at **ftb.ca.gov**.

Federal Tax Information on the Internet
The IRS has federal forms and publications available to download, view, and print. Their website is **irs.gov**.

State Agencies' Websites
Access other state agencies' websites through the State Agencies Directory on California's website at **ca.gov**.

Joint Agency Website
For additional business tax information, go to the California Tax Service Center website, sponsored by the Board of Equalization (BOE), Employment Development Department (EDD), the FTB, and the IRS. The Joint Agency website is located at **taxes.ca.gov**.

Providing California and Federal Returns
The FTB may request a copy of California or federal returns that are subject to or related to a federal examination. Generally, the California statute of limitations is four years from the due date of the return or from the date filed, whichever is later. However, the statute is extended in situations in which an individual or a business entity is under examination by the IRS. For more information concerning the extended statute of limitations, due to a federal examination, see General Information, Amended Return.

The FTB recommends keeping copies of returns and records that verify income, deductions, adjustments, or credits reported, for at least the minimum time required under the statute of limitations. However, some records should be kept much longer. For example, members should keep records substantiating their basis in an LLC and LLCs should keep records to figure the basis of its assets.

Substitute Schedule K-1 (568)
The FTB recommends filing **paperless** substitute Schedules K-1 (568). Since software is most often used to prepare Form 568 and Schedules K-1 (568), you may already have the information needed to prepare paperless Schedules K-1 (568). Once the information is in a database or spreadsheet, it's easy to transfer to the required record layout and then save it to a CD or diskette.

Get approval from the FTB to use substitute Schedules K-1 (568), if any of the following apply:

- The LLC wants to use paperless Schedules K-1 (568).
- The LLC does not use the official California Schedule K-1 (568) prepared by the FTB.
- The LLC does not use a software program with an FTB-approved Schedule K-1 (568).

The FTB does not accept the federal Schedules K-1 (1065) as a substitute schedule.

For more information, see General Information, Substitute Schedules.

Federal/State Differences
For LLCs classified as partnerships, California tax law generally conforms to federal tax law in the area of partnerships (IRC, Subchapter K — Partners and Partnerships). However, there are some differences:

- California does not conform to the additional first-year depreciation of certain qualified property placed in service after 10/03/2008, and the election to claim additional research and minimum tax credits in lieu of claiming the bonus depreciation.
- California does not conform to the energy efficient commercial buildings deduction.
- California does not conform to reduce the compensation deduction for certain employers from $1 million to $500,000; and makes certain parachute payments nondeductible.
- California does not conform to extend of suspension of income limitations on percentage depletion for production from marginal wells. The percentage depletion deduction, which may not exceed 65% of the taxpayer's taxable income, is restricted to 100% of the net income derived from the oil or gas well property.
- An $800 annual tax is generally imposed on limited partnerships (LPs), LLCs, limited liability partnerships (LLPs), and real estate mortgage investment conduits (REMICs) that are partnerships or classified as partnerships for tax purposes.
- Distributions to certain nonresident partners are subject to withholding for California tax.
- Deductions for taxes paid to other states are not allowed.
- California follows federal law by requiring partnerships to use a required taxable year. However, California does not conform to the federal required payment provision.
- California law has specific provisions concerning the distributive share of partnership taxable income allocable to California, with special apportionment formulas for professional partnerships.
- California law modifies the federal definitions for unrealized receivables and substantially appreciated inventory items.
- California does not conform to the electing large partnership provisions.
- Partnerships can electronically file their California partnership returns. Also, partnerships can file Schedules K-1 (568) via CD or diskette – (See General Information, Substitute Schedules, for more information).
- California has not conformed to the provisions relating to the Tax Equity and Fiscal Responsibility Act (TEFRA).
- California has not adopted the federal definition of small partnerships, as defined in IRC Section 6231.

This list is not intended to be all-inclusive of the federal and state differences. For more information, consult California's R&TC.

Conversion to a Limited Liability Company (LLC)
A partnership (or other business entity) that converts to an LLC during the year must file two California returns. Even if the partners/members and the business operations remain the same, the partnership should file Form 565, Partnership Return of Income, (or the appropriate form) for the beginning of the year to the date of change. For the remainder of the year, the newly converted LLC must file Form 568. See General Information, Accounting Periods, for further instructions.

Tax Shelter
If the LLC was involved in a reportable transaction, including a listed transaction, the LLC may have a disclosure requirement. Attach the federal Form 8886, Reportable Transaction Disclosure Statement, to the back of the California return along with any other supporting schedules. If this is the first time the reportable transaction is disclosed on the return, send a duplicate copy of the federal Form 8886 to the address below. The FTB may impose penalties if the LLC fails to file federal Form 8886, federal Form 8918, Material Advisor Disclosure Statement, or any other required information. A material advisor is required to provide a reportable transaction number to all taxpayers and material advisors for whom the material advisor acts as a material advisor.

ATSU 398 MS F385
FRANCHISE TAX BOARD
PO BOX 1673
SACRAMENTO CA 95812-9900

For more information, go to our website at **ftb.ca.gov** and search for **tax shelter**.

Claim of Right
If the LLC had to repay an amount that was included in income in an earlier year, under a claim of right, the LLC may be able to deduct the amount repaid from its income for the year in which it was repaid. Or, if the amount the LLC repaid is more than $3,000, the LLC may be able to take a credit against its tax for the year in which it was repaid. For more information, see the Repayment section of federal Publication 525, Taxable and Nontaxable Income.

B Introduction

The Beverly-Killea Limited Liability Company Act of 1994 (SB 469; Stats.1994, Ch. 1200) authorized the formation of LLCs in California and recognized out-of-state LLCs doing business in California. LLCs combine traditional corporate and partnership characteristics. LLC members are afforded all of the following:

- Limited liability with the extent of a member's liability limited to the member's equity investment.
- Flexible management alternatives.
- Liberal membership qualification requirements.

LLCs classified as partnerships for tax purposes generally will determine their California income, deductions, and credits under the Personal Income Tax Law. They will be subject to an annual tax (due on the 15th day of the 4th month of the LLC's taxable year) as well as the LLC fee based on total California income. See General Information, Limited Liability Company Tax and Fee, and the LLC Income Worksheet Instructions, for more information.

LLCs organized in California are vested with all the rights and powers enjoyed by a natural person in carrying out business affairs. However, California law does not allow the formation or registration of LLCs (foreign or domestic) in California to render any type of professional service for which a license, certification, or registration is required under the Business and Professions Code or the Chiropractic Act, with the exception of insurance agents and insurance brokers.

California law requires LLCs not organized in the state of California to register with the California SOS before entering into any intrastate business in California. The laws of the state or foreign country in which the LLC is organized generally govern the internal affairs of the LLC. The California SOS may not deny recognition of an LLC because the laws of the organization's home state or foreign country differ from California's laws, except in the case of professional service LLCs, which are not allowed to register as LLCs in California.

For more information about organizing and registering an LLC, contact:

BUSINESS ENTITIES SECTION
CALIFORNIA SECRETARY OF STATE
PO BOX 944228
SACRAMENTO CA 94244-2280
Telephone: 916.657.5448

or contact the California SOS on their website at **sos.ca.gov**.

C Purpose

Use Form 568:

- To determine the amount of the LLC fee (including a disregarded entity's fee) based on total California income.
- To pay the LLC fee.
- To report the annual tax.
- To pay any nonconsenting nonresident members' tax.
- To report income, deductions, gains, losses, etc., from the operation of a multiple member LLC that has elected to be classified as a partnership. Form 568 is the return for calendar year 2008 or any fiscal year beginning in 2008.

D Who Must File

An LLC may be classified for tax purposes as a partnership, a corporation, or a disregarded entity. The LLC should file the appropriate California return.

Form 568 must be filed by every LLC if any of the following apply:

- The LLC is doing business in California.
- The LLC is organized in California.
- The LLC is organized in another state or foreign country, but registered with the California SOS.
- The LLC has income from California sources.

Registration
LLCs that are formed in California, are required to file articles of incorporation with the California SOS before doing business in this state.

LLCs organized under the laws of another state or foreign country are required to register with the California SOS before entering into intrastate business in California.

Nonregistered foreign LLCs that are members of an LLC doing business in California or general partners in a limited partnership doing business in California are considered doing business in California.

Regardless of where the trade or business of the LLC is primarily conducted, an LLC is considered to be doing business in California if any of its members, managers, or other agents are conducting business in California on behalf of the LLC. For more information get FTB Pub. 1063, California Corporation Tax Law — A Guide for Corporations.

Exceptions to filing Form 568:

- The LLC elected to be taxed as a corporation for federal tax purposes.
- The LLC is a single member limited liability company (SMLLC) that was treated as an association taxable as a corporation prior to January 1, 1997, for California tax purposes, and did not elect to change that tax treatment in the current taxable year.
- Nonregistered foreign LLCs (excluding disregarded entities/single member LLCs) that are not doing business, but are deriving income from California or filing to report an election on behalf of a California resident, file Form 565.
- LLCs classified as a general corporation file Form 100, California Corporation Franchise or Income Tax Return. LLCs classified as an S corporation file Form 100S, California S Corporation Franchise or Income Tax Return. For LLCs classified as disregarded entities, see General Information, Check-the-Box Regulations.

The LLC is still required to file Form 568 if the LLC is registered in California and both of the following apply:

- The LLC is not doing business in California.
- The LLC does not have California source income.

The LLC's filing requirement will be satisfied by doing all of the following:

1. Completing Form 568 with all supplemental schedules.
2. Completing and attaching California Schedules K-1 (568) for members with California addresses.
3. Writing "SB 1106 Filing" in red at the top of Form 568, Side 1.
4. Entering the total number of members in Question J on Side 2 of the Form 568.

An LLC that is an electing large partnership for federal purposes and uses the federal Form 1065-B, U.S. Return of Income for Electing Large Partnerships, must still use Form 568. California law does not conform to the federal electing large partnership provisions.

Certain publicly traded partnerships treated as corporations under IRC Section 7704 must file Form 100.

A resident member of an out-of-state LLC taxed as a partnership not required to file Form 568, may be required to furnish a copy of federal Form 1065, U.S. Return of Partnership Income, to substantiate the member's share of LLC income or loss.

E When and Where to File

An LLC must file Form 568, pay the LLC fee and any nonconsenting members' tax by the 15th day of the 4th month (fiscal year) or April 15, 2009 (calendar year), following the close of its taxable year.

PAYMENTS

- Mail Form 568 with **payment** to:

  FRANCHISE TAX BOARD
  PO BOX 942857
  SACRAMENTO CA 94257-0601

- E-Filed returns: Mail form FTB 3588, Payment Voucher for LLC e-filed Returns, with **payment** to:

  FRANCHISE TAX BOARD
  PO BOX 942857
  SACRAMENTO CA 94257-0531

Make the check or money order payable to the "Franchise Tax Board." Write the LLC's, SOS file number, federal employer identification number (FEIN), and "2008 Form 568" on the check or money order.

The SOS file number is 12 digits long and must begin with "19" or "20."

Make all checks or money orders payable in U.S. dollars and drawn against a U.S. financial institution.

Do not attach a copy of the return with the balance due payment if the LLC already filed a return for the same taxable year.

REFUNDS

- Mail Form 568 requesting a **refund** to:

  FRANCHISE TAX BOARD
  PO BOX 942857
  SACRAMENTO CA 94257-0602

RETURN WITHOUT PAYMENT or PAID BY EFT

- Mail Form 568 **without a payment or paid by EFT** to:

  FRANCHISE TAX BOARD
  PO BOX 942857
  SACRAMENTO CA 94257-0600

Extensions
California does not require the filing of written applications for extensions. If the LLC cannot file its Form 568 by the return's due date, the LLC is granted an automatic six month extension.

However, the automatic extension does not extend the time to pay the LLC fee or nonconsenting nonresident members' tax.

If the LLC is filing the return under extension, see form FTB 3537, Payment for Automatic Extension for LLCs, included in this booklet, to submit the required payments.

Penalty
To avoid late payment penalties for use tax, the limited liability company must report and pay the use tax with a **timely** filed franchise or income tax return.

Annual Limited Liability Company Tax
If the 2008 annual tax of $800 was not paid on or before the 15th day of the 4th month after the beginning of the taxable year (fiscal year) or April 15, 2008 (calendar year), the tax should be sent using the 2008 form FTB 3522, LLC Tax Voucher. (Do not use the 2009 form FTB 3522 included in this booklet).

Also see General Information, Penalties and Interest, for the additional amount that is now due. To assure proper application of the tax payment to the LLC account, **do not** send the $800 annual tax with Form 568.

The 2009 $800 annual tax is due on or before the 15th day of the 4th month after the **beginning** of the 2009 taxable year (fiscal year) or April 15, 2009 (calendar year). The payment is sent with form FTB 3522. **Do not mail the $800 annual tax with Form 568.** When the due date falls on a weekend or holiday, the deadline to file and pay without penalty is extended to the next business day.

Private Delivery Services
California law conforms to federal law regarding the use of certain designated private delivery services to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. See the instructions for federal Form 1065 for a

list of designated delivery services. If a private delivery service is used, address the return to:

FRANCHISE TAX BOARD
SACRAMENTO CA 95827

Caution: Private delivery services cannot deliver items to PO boxes. If using one of these services to mail any item to the FTB, **DO NOT** use an FTB PO Box.

F Limited Liability Company Tax and Fee

Effective for taxable years beginning on or after January 1, 2003, the definition of "limited liability company" has been revised to exclude certain title holding companies that are tax exempt provided that they are treated as partnerships or disregarded entities for tax purposes. As such they are not liable for the Annual LLC tax and fees.

Enter all payment types (overpayment from prior year, annual tax, fee, etc.) made for the 2008 taxable year on the applicable line of Form 568.

Annual Limited Liability Company Tax
LLCs are subject to an $800 annual tax if they are doing business in California or have articles of organization accepted, or a certificate of registration issued by the California SOS. The annual tax is prepaid for the privilege of doing business in California, and is due and payable on or before the 15th day of the 4th month after the **beginning** of the taxable year. The annual tax must be paid for each taxable year until the appropriate papers are filed. See General Information, Cancelling a Limited Liability Company, for more information.

Use form FTB 3522 to submit the $800 annual tax payment. Make the check or money order payable to the "Franchise Tax Board. "Write the LLC's SOS file number, FEIN, and "2009 FTB 3522" on the check or money order.

If the 15th day of the 4th month of an existing foreign LLC's taxable year has passed before the existing foreign LLC commences business in California or registers with the California SOS, the annual tax should be paid immediately after commencing business or registering with the California SOS.

Limited Liability Company Fee
In addition to the annual tax, every LLC must pay a fee if the total California annual income is equal to or greater than $250,000. For more information see the LLC Income Worksheet instructions on page 11 of this booklet.

For the 2008 taxable year and prior, the LLC fee is due on or before the 15th day of the 4th month after the close of the LLC's taxable year.

For taxable years beginning on or after January 1, 2009, the LLC fee must be estimated and paid by the 15th day of the 6th month of the current taxable year. LLCs will use new form FTB 3536, Estimated Fee for LLCs, to remit the estimated fee. A new penalty in the amount of 10% of the underpayment of estimated fee will apply if the estimated LLC fee is underpaid. However, the estimated fee underpayment penalty will not apply if the amount paid by the due date is equal to or greater than the total amount of the LLC's fee paid in the preceding taxable year. The LLC fee remains due and payable by the due date without extension of the LLC's return. LLCs will also use form FTB 3536 to pay by the due date of the LLC's return, any amount of LLC fee due which was not paid as an estimated fee payment. If the taxable year of the LLC ends prior to the 15th day of the 6th month of the taxable year, no estimated fee payment is due, and the LLC fee is due on the due date of the LLC's return.

For taxable years beginning on or after January 1, 2006, use the following chart to compute the fee:

If total California annual income from Form 568, Side 1, line 1 is: equal to or over –	but not over –	The fee is:
$ 250,000	$ 499,999	$ 900
500,000	999,999	2,500
1,000,000	4,999,999	6,000
5,000,000	and over	11,790

If you have a total California annual income of $250,000 or greater, you must report a fee.

To determine the LLC fee see the Specific Line Instructions for line 1.

If the FTB determines multiple LLCs were formed for the primary purpose of reducing fees, the LLC's total income from all sources that are reportable to California could include the aggregate total income of all commonly controlled LLC members. "Commonly controlled" means control of more than 50% of the capital interests or profit interests of the taxpayer and any other LLC or partnership by the same persons.

Series LLCs
If the laws of the state where the LLC is formed provide for the designation of series of interests (for example, a Delaware Series LLC) and: (1) the holders of the interests in each series are limited to the assets of that series upon redemption, liquidation, or termination, and may share in the income of that series, and (2) under state law, the payment of the expenses, charges, and liabilities is limited to the assets of that series, then each series in a series LLC is considered a separate LLC and must file its own Form 568 and pay its own separate LLC annual tax and fee, if it is registered or doing business in California.

Nonconsenting Nonresident Members' Tax
Every nonresident member must sign a form FTB 3832, Limited Liability Company Nonresident Members' Consent. The LLC returns the signed form with Form 568. If a nonresident member fails to sign form FTB 3832, the LLC is required to pay tax on that member's distributive share of income at the highest marginal rate. Any amount paid by the LLC will be considered a payment made by the nonresident member.

The tax may be reduced by the amount of tax previously withheld and paid by the limited liability company with respect to each nonconsenting, nonresident member.

Reminder: All nonresident members must file a California tax return. The completion of form FTB 3832 does not satisfy the nonresident member's California filing requirement. Corporate members are also considered doing business in California and may have additional filing requirements. For more information, get FTB Pub. 1060, Guide for Corporations Starting Business in California. Nonresident individuals may qualify to file a group Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, and should get FTB Pub. 1067, Guidelines for Filing a Group Form 540NR.

If the LLC's return is being filed on or before the 15th day of the 4th month (fiscal year) or April 15, 2009 (calendar year), the LLC completes the Schedule T, Nonconsenting Nonresident Members' Tax Liability. See Specific Line Instructions for Schedule T in this booklet for more information.

If the LLC owes a tax and/or fee and is unable to complete Form 568 on or before the original due date, it must complete form FTB 3537. The nonconsenting nonresident members' tax along with the voucher must be recieved by:

- Fiscal year: On or before the 15th day of the fourth month following the close of the taxable year
- Calendar year: April 15, 2009. Failure to do so causes penalties and interest to be assessed. See the instructions for form FTB 3537 included in this booklet.

G Penalties and Interest

Failure to Comply with Filing Requirements
A penalty is assessed if the LLC is required to file a Form 568 and either of the following apply:

- The LLC fails to file the return on time, including extensions.
- The LLC files a return, including Schedules K-1 (568), that fails to show all the information required.

The amount of the penalty for each month, or part of a month (for a maximum of five months), that the failure continues, is $10 multiplied by the total number of members in the LLC during any part of the taxable year for which the return is due. Interest will be charged on the penalty from the date the notice of tax due is mailed until the date the return is filed.

For "small partnerships," as defined in IRC Section 6231, the federal exception to the imposition of penalties for failure to file partnership returns does not apply for California purposes. For more information see R&TC Section 19172.

Failure to File a Timely Return
Any LLC that fails to file Form 568 on or before the extended due date is assessed a penalty. The penalty is 5% of the unpaid tax (which includes the LLC fee and nonconsenting nonresident members' tax) for each month, or part of the month, the return remains unfiled from the due date of the return until filed. The penalty may not exceed 25% of the unpaid tax. If an LLC does not file its return by the extended due date, the automatic extension will not apply and the late filing penalty will be assessed from the original due date of the return. See R&TC Section 19131 for more information.

Failure to Pay by the Due Date
The failure-to-pay penalty is imposed from the due date of the return or the due date of the payment. Since the LLC fee and the nonconsenting nonresident members' tax are due with the return, the penalty is calculated from the 15th day of the 4th month after the close of the taxable year. The annual tax payment date is the 15th day of the 4th month during the taxable year, so the penalty is calculated from this date. The penalty for each item is calculated separately.

The failure-to-pay penalty begins at 5%. Every month or fraction thereof the amount is not paid the penalty increases .5%. The penalty continues to increase for 40 months, thereby maximizing at 25%. See R&TC Section 19132 for more information.

If an LLC is subject to both the penalty for failure to file a timely return and the penalty for failure to pay the total tax by the due date, a combination of the two penalties may be assessed, but the total penalty may not exceed 25% of the unpaid tax. However, the penalty for failure to comply with the filing requirements will be assessed in addition to the penalty for failure to file a timely return and

the penalty for failure to pay the total tax by the due date. The late payment penalty may be waived where 90% of the tax shown on the return is paid by the original due date of the return, but not less than the annual tax.

Interest
Interest is due and payable on any tax due if not paid by the original due date. Interest is also due on some penalties. The automatic extension of time to file does not stop interest from accruing. California follows federal rules for the calculation of interest. Get FTB Pub. 1138, Business Entity Refund/Billing Information, for more information.

Other Penalties/Fees
A penalty may also be charged if a payment is returned for insufficient funds. In addition, fees may be charged for the cost of collection.

H Accounting Methods

Compute ordinary income or loss by the accounting method regularly used to maintain the LLC's books and records. This method must clearly reflect the LLC's income or loss.

LLCs given permission to change their accounting method for federal purposes should see IRC Section 481 for information relating to the adjustments required by changes in accounting method.

Generally, an LLC may not use the cash method of accounting if the LLC has a corporate member, averages annual gross receipts of more than $5 million, or is a tax shelter. For exceptions, see IRC Section 448.

The mark-to-market accounting method is required for securities dealers. The IRC Section 481 adjustment is taken into account ratably over five years beginning with the first income year.

I Accounting Periods

LLC returns normally must be filed for an accounting period that includes 12 full months. A short period return must be filed if the LLC is created or terminated within the taxable year. In that case, write "Short Period" in red ink at the top of Form 568, Side 1.

For information on the required taxable year of a partnership that also applies to LLCs, see the instructions for federal Form 1065.

J Amended Return

If, after the LLC files its return, it becomes aware of changes it must make, the LLC should file an amended Form 568 and an amended Schedule K-1 (568) for each member, if applicable. Check the amended return box in Item H(3) Form 568, Side 1. Give a corrected Schedule K-1 (568) with box G(2) checked and label "Amended" to each affected member. If the LLC originally filed a Form 540NR group nonresident member return, the LLC should file an amended Form 540NR.

If the LLC wishes to file amended Schedules K-1 (568) via CD or diskette, see General Information, Substitute Schedules.

If the LLC's federal return is changed for any reason, the federal change may affect the LLC's California return. This would include changes made because of an examination. The LLC must file an amended return within six months of the final federal determination if the LLC fee or tax a member owes has been affected. The LLC should attach a copy of the federal Revenue Agent's Report or other notice of the adjustments to the return. The LLC should inform the members that they may also be required to file amended returns within six months from the date of the final federal determination.

K Required Information Returns

Every LLC must file information returns if, in the course of its trade or business, any of the following occur:

- The LLC makes payments to one person of rents, salaries, wages, annuities, or other fixed or determinable income during one calendar year totaling $600 or more.
- The LLC pays an individual or one payee interest and dividends totaling $10 or more during one calendar year.
- The LLC receives cash payments over $10,000.

Payments of any amount by a broker, dealer, or barter exchange agent must also be reported. Get FTB Pub. 4227A, Guide to Information Returns Filed With California, for more information.

LLCs must report payments made to California residents by providing copies of federal Form 1099 (series). For nonresidents, see the reporting and withholding requirements on Form 592, Quarterly Nonresident Withholding Statement; Form 592-A, Foreign Partner or Member Quarterly Withholding Remittance Statement; Form 592-B, Nonresident Withholding Tax Statement; and Form 592-F, Foreign Partner or Member Annual Return.

LLCs must submit a copy of federal Form 8300, Report of Cash Payments Over $10,000 Received in a Trade or Business, within 15 days after the date of the transaction.

LLCs must report interest paid on municipal bonds that are issued by a state other than California or a municipality other than a California municipality that are held by California taxpayers. Entities paying interest to California taxpayers on these types of bonds are required to report interest payments aggregating $10 or more paid after January 1, 2008. Information returns will be due June 1, 2009. For more information, go to our website at **ftb.ca.gov** and search for **FTB 4800**, Federally Tax Exempt Non-California Bond Interest and Interest-Dividend Payment Information.

LLCs must use form FTB 3834, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts, to report interest due or to be refunded under the look-back method on long-term contracts. If you are filing form FTB 3834 to compute the interest due or to be refunded under the Look-Back method, attach a copy of form FTB 3834 to Form 568.

Any information returns required for federal purposes under IRC Sections 6038, 6038A, and 6038B are also required for California purposes. Attach the information returns to the Form 568 when filed. If the information returns are not provided, penalties may be imposed under R&TC Sections 19141.2 and 19141.5.

All information returns, unless otherwise noted, are mailed separately from the Form 568. Information returns should be sent to:

FRANCHISE TAX BOARD
PO BOX 942857
SACRAMENTO CA 94257-0600

L Special Items

California LLC tax law generally follows federal partnership tax law for LLCs classified as partnerships, in all of the following areas:

- IRC Section 702(a) items
- Elections
- Distributions of unrealized receivables and inventory
- Members' dealings with the LLC
- Contributions to the LLC
- Income of foreign nonresident members subject to withholding, Form 592, Form 592-A, Form 592-B, and Form 592-F
- Basis and at-risk rules
- Passive activity limitations
- Net operating loss deduction by a member of the LLC (an LLC is not allowed the deduction)
- Publicly traded partnerships
- Long-term contracts
- Installment sales
- Vacation pay
- Amortization of past service costs
- Distributions of contributed property by an LLC
- Recognition of precontribution gain in certain LLC distributions to members

See the instructions for federal Form 1065 for specific information about these areas.

M Signatures

Form 568 is not considered a valid return unless it is signed by an authorized member or manager of the LLC. If a receiver, trustee in bankruptcy, or assignee controls the organization's property or business, that individual must sign the return.

Paid Preparer's Information
Anyone who is paid to prepare the LLC return must sign the return and complete the "Paid Preparer's Use Only" area of the return.

All of the following must be completed by the paid preparer:

- Complete the required preparer information.
- Sign in the space provided for the preparer's signature.
- Give the LLC a copy of the return in addition to the copy to be filed with the FTB.

An individual who prepares the return and does not charge the LLC should not sign the LLC return.

Third Party Designee
If the LLC wants to allow the FTB to discuss its 2008 return with the paid preparer who signed it, check the "Yes" box in the signature area of the return. This authorization applies only to the individual whose signature appears in the "Paid Preparer's Use Only" section of the return. It does not apply to the firm, if any, shown in that section.

If the "Yes" box is checked, the LLC is authorizing the FTB to call the paid preparer to answer any questions that may arise during the processing of its return. The LLC is also authorizing the paid preparer to:

- Give the FTB any information that is missing from the return.
- Call the FTB for information about the processing of the return or the status of any related refund or payments.
- Respond to certain FTB notices about math errors, offsets, and return preparation.

The LLC is not authorizing the paid preparer to receive any refund check, bind the LLC to anything (including any additional tax liability), or otherwise represent the LLC before the FTB.

The authorization will automatically end no later than the due date (without regard to extensions) for filing the LLC's 2009 tax return. If the LLC wants to expand the paid preparer's authorization, see form FTB 3520, Power of Attorney Declaration for the Franchise Tax Board. If the LLC wants to revoke the authorization before it ends, notify the FTB in writing or call 800.852.5711.

N Group Returns

Nonresident Group Returns

For taxable years beginning on or after January 1, 2006, a corporation may file a group nonresident return on behalf of certain electing nonresident individuals who receive wages, salaries, fees, or other compensation from that corporation for director services performed in California, including attendance of board of directors' meetings in California.

Nonresident members of an LLC doing business or deriving income from sources in California may elect to file a group nonresident return (R&TC Section 18535).

For taxable years beginning on or after 01/01/2009:

- Group nonresident returns may include less than two nonresident individuals.
- Nonresident individuals with more than $1,000,000 of California taxable income are eligible to be included in group nonresident returns.
- An additional one percent tax will be assessed on nonresident individuals who would have California taxable income over $1,000,000.

See FTB Pub. 1067, Guidelines for Filing a Group Form 540NR, for more information.

O Investment Partnerships

Income of nonresident members, including banks or corporations, derived from "qualifying investment securities" of an LLC that qualifies as an "investment partnership" is considered income from sources other than California, except as noted below. Therefore, nonresident individuals or foreign members generally will not be taxed on this income. The LLC should inform its nonresident individuals or foreign members if all or a portion of their distributive share of income is from "qualifying investment securities" of an "investment partnership" and whether it is sourced to California. See the instructions for Question K on page 13 of this booklet for definitions of "investment partnership" and "qualifying investment securities."

However, for apportioning purposes, income from an LLC that is an investment partnership (LLC investment partnership) is generally considered business income (see Appeal of Estate of Marion Markus, Cal. St. Bd. of Equal., May 6, 1986). LLC investment partnerships that are doing business within and outside California should apportion California source income using California Schedule R, Apportionment and Allocation of Income. LLC investment partnerships that are doing business solely within California should treat all business income of the LLC investment partnership as California source income.

LLC investment partnerships that have California source income should show on Schedule K-1 (568), column (e) each member's distributive share of California source income.

Generally, members who are nonresident individuals would not record this income as California source income. However, there are two exceptions to the general rule when a nonresident individual may have California source income from an LLC investment partnership. Nonresident individual members will be taxed on their distributive shares of income from the "LLC investment partnership" if the income from the qualifying investment securities is interrelated with either of the following:

- Any other business activity of the nonresident member.
- Any other entity in which the nonresident member owns an interest that is separate and distinct from the investment activity of the partnership and that is conducted in California.

Nonresident individual members will be taxed on their distributive share of investment income from an LLC investment partnership if the qualifying securities were purchased with working capital of a trade or business the nonresident owns an interest in and that is conducted in California (R&TC Section 17955).

Corporations that are members in an LLC investment partnership are not generally taxed on their distributive share of LLC income, provided that the income from the LLC is the corporation's only California source income. However, the corporation will be taxed on its distributive share of California source income from the LLC if either of the following apply:

- The corporation participates in the management of the investment activities of the LLC investment partnership.
- The corporation has income derived from or attributable to sources within this state other than income from the LLC investment partnership.

P Nonresident Members

An LLC with multiple members is required to file form FTB 3832 with Form 568 when one or more of its members is a nonresident of California. Form FTB 3832 is signed by the nonresident individuals and foreign entity members to show their consent to California's jurisdiction to tax their distributive share of income attributable to California sources.

File form FTB 3832 for either of the following:

- The first taxable period for which the LLC became subject to tax with nonresident members.
- Any taxable period during which the LLC had a nonresident member who has not signed a form FTB 3832.

Separate forms for an individual (or groups of individuals) are permissible. The LLC must maintain and have available for examination a form FTB 3832 signed by each nonresident member.

The LLC must pay the tax for every nonresident member that did not sign a form FTB 3832. The LLC is responsible for paying the tax on that nonresident member's distributive share of income determined at the highest marginal rate for that member. See General Information, Limited Liability Company Tax and Fee, for more information.

For taxable years beginning on or after January 1, 2005, the tax may be reduced by the amount of tax previously withheld and paid by the limited liability company with respect to each nonconsenting, nonresident member.

If the LLC fails to timely pay the tax of such nonresident member, the LLC shall be subject to penalties and interest (R&TC Sections 19132 and 19101). Any amount paid by the LLC on behalf of a nonresident individual or foreign entity member will be considered a payment made by the member.

An LLC may recover from the nonresident member the tax it paid on behalf of the nonresident member.

To claim credit for the tax, the nonresident member needs to attach a copy of the Schedule K-1 (568) to their California income tax return.

Nonresidents or Part-Year Residents

For taxable years beginning on or after January 1, 2002, California law was changed to clarify the method used to calculate loss carryovers, deferred deductions, and deferred income for nonresident and part-year resident taxpayers. This new law changed the tax computation to recognize those items, and established a new method to determine percentages for computing tax for all nonresidents and part-year residents. The nonresident tax forms (Long and Short Form 540NR) have been revised to more clearly show that nonresidents pay tax to California only on their California taxable income. For more information, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency.

CAUTION: The requirements and procedures discussed above are not related to the nonresident withholding requirements discussed under General Information, Withholding Requirements.

Q Cancelling a Limited Liability Company

In general, LLCs are required to pay the $800 annual tax and file a California return until the appropriate papers are filed. In order to cancel an LLC, the following steps must be taken:

1. File a timely final California return (Form 568) with the FTB and pay the $800 annual tax for the taxable year of the final return.
2. File Form LLC-4/7, Certificate of Cancellation, with the California SOS. The California SOS also requires a domestic LLC to file Form LLC-3, Certificate of Dissolution. Contact the California SOS for more details.

The Form LLC-4/7's effective date will stop the assessment of the $800 annual tax for future taxable years. If Form LLC-4/7 is filed after the taxable year ending date, a subsequent year return and an additional $800 tax may be required.

For taxable years beginning on or after January 1, 2006, the annual tax will not be assessed if the LLC meets all of the following requirements:

- The LLC files a timely **Final** Limited Liability Company Return of Income for the preceding taxable year, including extension.
- The LLC did not do business in California after the final taxable year.
- The LLC files the appropriate documents for cancellation with the California SOS within 12 months of the timely filed **Final** Limited Liability Company Return of Income.

Short Form Cancellation

Beginning January 1, 2005, domestic LLCs organized in California on or after January 1, 2004, can file a Limited Liability Company Short Form Certificate of Cancellation (Form LLC-4/8) if the following requirements are met:

- Form LLC-4/8 is being filed within 12 months from the date the Articles of Organization were filed with the SOS.
- The domestic LLC has no debts or other liabilities (other than tax liability).

- The known assets have been distributed to the persons entitled thereto or no known assets have been acquired.
- The final tax return or a final annual tax return has been or will be filed with the FTB.
- The domestic LLC has not conducted any business from the time of the filing of the Articles of Organization.
- A majority of the managers or members, or if there are no managers or members, the person or a majority of the persons who signed the Articles of Organization, voted to dissolve the domestic LLC.
- If the domestic LLC received payments for interests from investors, those payments have been returned to those investors.

The LLC must file SOS Form LLC-4/8, with the SOS. The LLC must include a statement that all of the items above have been completed before the California SOS will cancel the LLC.

For more information on how to cancel your LLC, contact:

By Mail: BUSINESS ENTITIES SECTION
CALIFORNIA SECRETARY OF STATE
PO BOX 944228
SACRAMENTO CA 94244-2280

In Person: CALIFORNIA SECRETARY OF STATE
1500 11TH STREET 3RD FLOOR
SACRAMENTO CA 95814

By Phone: 916.657.5448

Office hours are Monday through Friday, 8 a.m. to 5 p.m.

Website: **sos.ca.gov**

Email address: **partnerships@sos.ca.gov**

If the LLC is being cancelled to be converted to another type of business entity, be sure to file the appropriate forms with the California SOS.

Short Period Return
If the LLC is filing a short period return for 2009, the 2009 forms are not available. The LLC must use the 2008 Form 568 and change the taxable year.

R Withholding Requirements

Foreign (non U.S.) Nonresident Members
As described in IRC Section 1446 and modified by R&TC Section 18666, if an LLC has any income or gain from a trade or business within California, and if any portion of that income or gain is allocable under IRC Section 704 to a foreign (non U.S.) nonresident member, the LLC is required to withhold tax on the allocable amount.

State and Federal Differences Regarding Foreign (non U.S.) Nonresident Members
California generally conforms to IRC Section 1446 and corresponding federal rulings and procedures. The main differences between California and federal laws in this area are:

a. The California withholding rate is 8.84% for C corporations and 9.3% for individuals, partnerships, LLCs, and fiduciaries.
b. Income attributable to the disposition of California real property is subject to withholding under R&TC Section 18666.

Domestic (U.S.) Nonresident Members
An LLC is required to withhold funds for income or franchise taxes when it makes a distribution of income to a domestic (U.S.) nonresident member (R&TC Section 18662). This includes prior year income that should have been, but was not previously reported as income from California sources on the member's California income tax return. However, withholding is not required if distributions of income from California sources to the member are $1,500 or less during the calendar year or if the FTB directs the payer not to withhold.

Domestic (U.S.) nonresident members include individuals who are nonresidents of California and corporations that are not qualified to do business in California or do not have a permanent place of business in California. Domestic nonresident members also include nonresident estates, trusts, partnerships, and LLCs that do not have a permanent place of business in California. Foreign nonresident members covered under R&TC Section 18666 are not domestic nonresident members.

LLCs with income from both within and outside California must make a reasonable estimate of the ratio, to be applied to the distributions, that approximates the ratio of California source income to total income. The ratio for the prior year will generally be accepted as reasonable in determining the California part of the distribution subject to withholding. LLCs are required to withhold tax at a rate of seven percent of distributions (including property) of income from California sources made to domestic nonresident members. For more information, get Schedule R.

The FTB has administrative authority to allow reduced withholding rates, including waivers, when requested in writing. These authorizations may be one-time, annual, or for a longer period. Waivers or reduced withholding rates will normally be approved when distributions are made by publicly-traded partnerships and on distributions to brokerage firms, tax-exempt organizations, and tiered LLCs.

No withholding of tax is required if the distribution is a return of capital or does not represent taxable income for the current or prior years. Although a waiver is not required in this situation, if upon examination the FTB determines that tax withholding was required on a distribution, the LLC may be liable for the amount that should have been withheld including interest and penalties.

Send waiver requests and inquiries to:

WITHHOLDING SERVICES AND COMPLIANCE
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

Telephone: **888.**792.4900
or 916.845.4900 (not toll-free)

Withholding payments should be submitted with Forms 592, 592-A, Form 592-B, and Form 592-F.

The taxable income of nonresident members is the distributive share of California sourced LLC income, not the distributed amount. For more information, get FTB Pub. 1017, Nonresident Withholding Guidelines.

The nonresident withholding requirements and procedures discussed above are not related to the nonconsenting nonresident members' tax paid by an LLC on behalf of nonresident members as discussed under General Information, Nonresident Members.

S Check-the-Box Regulations

California generally conforms to the federal entity classification regulations (commonly known as "check-the-box" regulations). These regulations allow certain unincorporated entities to choose tax treatment as a partnership, a corporation, or a single member LLC (SMLLC) (SB 1234; Stats. 1997, Ch. 608).

Generally, any elections made for federal purposes under the federal "check-the-box" regulations are treated as California elections. No separate elections are allowed. If federal Form 8832, Entity Classification Election, is filed with the federal return, a copy should be attached to the electing entity's California return for the year in which the election is effective. The entity should file the appropriate California return.

An "eligible entity" may choose its classification. An eligible entity is a business entity that is not a trust, a corporation organized under any federal or state statute, a foreign entity specifically listed as a per se corporation, or other special business entities. Other special business entities under the IRC include publicly traded partnerships, REMICs, financial asset securitization investment trusts (FASITs), or regulated investment companies (RICs). An eligible entity with two or more owners will be a partnership for tax purposes unless it elects to be taxed as a corporation. For tax purposes, an eligible entity with a single owner will be disregarded. If the separate existence of an entity is disregarded, its activities are treated as activities of the owner and reported on the appropriate California return.

Exceptions
The exception to the general rule exists under R&TC Section 23038(b)(2)(C) in the case of an eligible business entity. The exception does not apply to a business entity which, during the 60 month period preceding January 1, 1997, was appropriately classified as an association taxable as a corporation and met all of the following conditions:

- The business entity was not doing business in California.
- The business entity did not derive income from sources within California.
- The business entity had no members who were residents of California.

The eligible business entities are generally:

1) Business trusts that were classified as corporations under California law, but were classified as partnerships for federal tax purposes for taxable years beginning before January 1, 1997.
2) Previously existing foreign SMLLCs that were classified as corporations under California law but claimed to be partnerships for federal tax purposes for taxable years beginning before January 1, 1997.

These business trusts and previously existing foreign SMLLCs will continue to be classified as corporations for California tax purposes and must continue to file Form 100, unless they make an irrevocable election to be classified or disregarded the same as they are for federal tax purposes. See form FTB 3574, Special Election for Business Trusts and Certain Foreign Single Member LLCs, and Cal. Code Regs., tit. 18 sections 23038(a)-(b).

California regulations make the classification of business entities under federal regulations (Treas. Reg. Sections 301.7701 through 301.7701-3) generally applicable to California. If an eligible entity is disregarded for federal tax purposes, it is also disregarded for state tax purposes, except that a SMLLC must still pay a tax and fee, file a return, and limit tax credits.

Filing Requirements for Disregarded Entities
Beginning with the 2008 taxable year, an SMLLC needs to complete Form 568 Side 1, Side 2, the LLC Income Worksheet, and pay the annual tax and LLC fee (if applicable).

Schedule B and Schedule K are required to be filed if any of the following are met:

- The income or loss amount reported on Schedule B, line 1 or line 3 through line 11, is $3,000,000 or more.
- The "Total distributive income/payment items," Schedule K, line 21a, is greater than or equal to $3,000,000 OR less than or equal to $-3,000,000.

If the SMLLC does not meet the $3 million criteria for filing Schedule B (568) and Schedule K (568), the SMLLC is still required to complete Form 568, Side 1, Side 2, the LLC Income Worksheet, and pay the annual tax and LLC fee (if applicable). If Schedule K (568) is required to be filed, disregarded entities should prepare Schedule K (568) by entering the amount of the corresponding Member's share of Income, Deductions, Credits, etc. attributable to the activities of the disregarded entity from the Member's federal Form 1040, including Schedules B, C, D, E, F, and Federal Schedule K, or Federal Form 1120 or 1120S (of the owner). SMLLCs do not complete Schedule K-1 (Form 568). The LLC should have filed by the 15th day of the 4th month of the taxable year. The single owner would include the various items of income, deductions, credits, etc., of the SMLLC on the tax return filed by the owner.

Utilization of credits attributable to the SMLLC is limited to the regular tax liability on the income attributable to the activities of the SMLLC. The limitation on the SMLLC's credits is the difference between: 1) The regular tax liability of the single owner computed with the items of income, deductions, etc., attributable to the SMLLC; and 2) The regular tax liability of the single owner computed without the items of income, deductions, etc., attributable to the SMLLC. It is the responsibility of the single owner to limit the credits on the owner's tax return. The single owner should be prepared to furnish information supporting the use of any credits attributable to the SMLLC.

The owner of the SMLLC should perform the following steps to determine the SMLLC's credit limitation:

- Compute the owner's tax with the SMLLC income, and the owner's tax without the SMLLC income.
- Complete Schedule P (100, 100W, 540, 540NR, or 541), up to the line where the credit is to be taken.
- Determine the credit to be utilized. The amount allowed is the lesser of either of the following:
  1. The total credit or the limitation based on the LLC's business income.
  2. The net tax balance that may be offset by credits on Schedule P (100, 100W, 540, 540NR, or 541) on the line above the line where the credit is to be taken.

The following example shows the credit limit calculation for an SMLLC that is owned by a C corporation. The SMLLC has a Research credit of $4,000. The computation of the C corporation's regular tax liability with the SMLLC income is $5,000. The computation of the C corporation's regular tax liability without the SMLLC income is $3,000. The difference in tax is $2,000, which is the C corporation's credit limitation on all LLC credits. The owner of the SMLLC then performs the following steps:

1. Completes Schedule P (100), Side 2, down to line 4, column (c). The amount is $1,000.
2. Enters the limitation amount from Schedule P (100), Side 2, line 4, column (c) in column (f).
3. Enters the following amounts from the table on this page on the Schedule P (100):
   - $4,000 from column (d) of the table on this page, to Schedule P (100), Side 2, line 5, column (a);
   - $1,000 from column (f) of the table on this page, to Schedule P (100), Side 2, line 5, column (b);
   - $3,000 from column (g) of the table on this page, to Schedule P (100), Side 2, line 5, column (d).

(a) Credit name	(b) Credit amount	(c) Total prior year credit carry-over	(d) Total credit: add col. (b) & col. (c)	(e) Limitation based on LLC business income	(f) Credit used on Sch R, but not greater than col. (d) or col. (e)	(g) Carry col. (d) minus the smaller of col. (e) or col. (f)
Research	$4,000	0	$4,000	$2,000	$1,000	$3,000

T Substitute Schedules

LLCs or their tax professional must get approval from the FTB to use a substitute schedule, if any of the following apply:

- The LLC wants to use **paperless** Schedules K-1 (568).
- The LLC does not use the official California Schedule K-1 (568) prepared by the FTB.
- The LLC does not use a software product with an FTB-approved Schedule K-1 (568).

If computer software is used, read the company's user manual to ensure you have the necessary hardware and printer fonts to produce FTB-approved forms. All printing should be done to the standards specified in FTB Pub. 1098, Annual Requirements and Specifications for the Development and Use of Substitute, Scannable, and Reproduced Tax Forms. For more information, go to our website at **ftb.ca.gov** and search for **FTB Pub. 1095D**, Tax Practitioner Guidelines for Computer-Prepared Returns.

LLCs are subject to penalties for failure to file the appropriate Schedule K-1 (568). See General Information, Penalties and Interest.

To participate in the FTB's substitute forms program, get FTB Pub. 1098, and form FTB 1096, Agreement to Comply with FTB Pub. 1098, Annual Requirements and Specifications.

Paperless Schedule K-1 (568)
For procedures, formatting specifications, and record layouts required to program paperless Schedules K-1 (568) get FTB Pub. 1062, Guide for Filing Paperless Schedules K-1 (565 or 568).

The transmittal form FTB 3604, Transmittal of Paperless Schedules K-1 (565 or 568) on CD or Diskette, must accompany paperless Schedules K-1 (568) submitted on CD or diskette. Form FTB 3604 is included in FTB Pub. 1062 or in a fillable format on our website at **ftb.ca.gov**.

K-1 (565 or 568) TestWare is also available at no charge. K-1 (565 or 568) TestWare helps identify and correct errors during programming and before submitting the paperless schedules.

K-1 (565 or 568) TestWare includes two programs:

- K-1 Verify, edits Schedules K-1 (568) records to ensure the fields are the correct length and position the FTB requires and produces an edit report.
- K-1 Convert, converts spreadsheet formats to standard fixed length formats so you can use them with K-1 Verify.

Once verification is made to ensure paperless Schedules K-1 (568) pass the K-1 Verify program, send the schedules to the FTB using form FTB 3604, which contains mailing instructions. Multiple LLCs can be put on the same CD or diskette. It is not necessary to provide a separate CD or diskette for each LLC. However, provide each LLC name, SOS file number, and the number of K-1's for that LLC in the space provided on form FTB 3604.

If the LLC files paperless Schedules K-1 (568), file all Schedules K-1 (568) for that LLC using the paperless format. **Do not** file paper Schedules K-1 (568) with Form 568 if the LLC has or will file paperless Schedules K-1 (568).

Do not file Schedules K-1 (568) on microfiche or file federal Schedules K-1 (1065) with the Form 568.

To get the publications and K-1 (565 or 568) go to our website at **ftb.ca.gov** and search for **testware**.

Assistance is available from our e-file Help Desk at 916.845.0353 (not toll-free).

U Property Subject to IRC Section 179 Recapture

Effective for taxable years beginning on or after January 1, 2003, California will follow the revised federal instructions (with some exceptions) for reporting the sale, exchange, or disposition of property for which an IRC Section 179 expense deduction was claimed in prior years by a partnership, LLC, or S corporation.

If a gain from the sale, exchange, or disposition for which an IRC Section 179 expense deduction was claimed in a prior year, special rules apply. Members should follow the instructions in federal Form 4797, Sales of Business Property, Part III, line 22.

LLCs should follow the instructions in federal Form 4797 with the exception that the amount of gain on property subject to the IRC Section 179 recapture must be included in the total income for the LLC.

The gain on property subject to the IRC Section 179 Recapture should be reported on the Schedule K and Schedule K-1 as supplemental information as instructed on the federal Form 4797.

The LLC must provide all of the following information with respect to a disposition of business property if an IRC Section 179 expense deduction was claimed in prior years:

1. Description of the property.
2. Date the property was acquired and placed in service.
3. Date the property was sold or other disposition.
4. Gross sales price or amount realized.
5. Cost or other basis plus expense of sale (not including the entity's basis reduction in the property due to IRC Section 179 expense deduction).
6. Depreciation allowed or allowable (not including the IRC Section 179 expense deduction).
7. Amount of IRC Section 179 expense deduction (if any).
8. An indication if the disposition is from a casualty or theft.
9. If this is an installment sale, compute the installment amount by using the method provided in form FTB 3805E, Installment Sale Income. Enter the gain on line 5 of the worksheet.

V Suspension/Forfeiture

If an LLC does not file Form 568 and/or does not pay any tax, penalty, or interest due, its powers, rights, and privileges may be suspended (in the case of a domestic LLC) or forfeited (in the case of a foreign LLC). Also, any contracts entered into during suspension or forfeiture are voidable at the request of any party to the contract other than the suspended or forfeited LLC. Such contracts will remain voidable and unenforceable unless the LLC applies for relief from contract voidability and the FTB grants relief. See R&TC Sections 23301, 23305.1, and 23305.2, for more information.

Additional Information

California Use Tax

General Information

The use tax has been in effect in California since July 1, 1935. It applies to purchases from out-of-state sellers and is similar to the sales tax paid on purchases made in California.

In general, LLCs must pay California use tax on purchases made from out-of-state (for example, by telephone, over the Internet, by mail, or in person) if both of the following apply:

- The seller does not collect California sales or use tax.
- The LLC uses, gives away, stores, or consumes the item in this state.

Example: The LLC purchases a conference table from a company in North Carolina. The company ships the table from North Carolina to the LLC's address in California for the LLC's use and does not charge California sales or use tax. The LLC owes use tax on the purchase.

Complete the Use Tax Worksheet on page 12 to calculate the amount due.

Extensions to file. If the LLC requests an extension to file its tax return, wait until the LLC files its tax return to report the purchases subject to use tax and to make the use tax payment.

Penalty. To avoid late payment penalties for use tax, the LLC must report and pay the use tax with a timely filed income tax return.

Changes in use tax reported. Do not file an Amended LLC Return of Income to revise the use tax previously reported. If the LLC has changes to the amount of use tax previously reported on the original income tax return, contact the State Board of Equalization.

For assistance, go to the State Board of Equalization's website at **boe.ca.gov** or call their Taxpayer Information Section at 800.400.7115 or TTY/TDD 800.735.2929. Income tax information is not available at this number.

Specific Instructions

LLC Income Worksheet Instructions

LLC Income Worksheet Instructions "Total California Income" – Total income from all sources derived from or attributable to this state for the LLC fee means the gross income, plus the cost of goods sold, that are paid or incurred in connection with the trade or business of the taxpayer attributed to California. Total income from all sources derived or attributable to this state is determined using the rules for assigning sales under R&TC Section 25135 and 25136 and the regulations thereunder, as modified by regulations under R&TC Section 25137, if applicable, other than those provisions that exclude receipts from the sales factor. For purposes of this worksheet, "Total income from all sources derived from or attributable to this state" is referred to as "Total California income."

Disregarded entities that do not meet the filing requirements to complete Schedule B or Schedule K should prepare the LLC Income Worksheet by entering the California amounts attributable to the disregarded entity from the Member's Federal Schedule C, E, F, or additional schedules associated with other activities. For more information about California income assignment, see the next paragraph.

Determining Total Income From All Sources Derived From or Attributable to California:

If the LLC business is wholly within California, the total income amount is assigned to California and is entered on the LLC Income Worksheet. If the LLC conducts business within and outside of California, the LLC must assign it's total income, item by item, to California based on the following rules:

Sales of tangible property:

Total income from sales of tangible personal property with a destination in California (except sales to the U. S. Government) are attributable to California if the property is delivered or shipped to a purchaser within California regardless of the freight on board point or other conditions of sale. Total income from sales of tangible personal property (except sales to the U. S. Government) which are shipped from an office, store, warehouse, factory, or other place of storage within California are assigned to California unless the seller is taxable in the state of destination. Any transportation of goods by vehicle is a form of shipment, whether the vehicle is owned by the seller, the purchaser, or a common carrier. If a seller transfers possession of goods to a purchaser at the purchaser's place of business in California, the sale is a California sale. However, if goods are transferred to the purchaser's employee or agent at some other location in California and the purchaser immediately transports the goods to another state, the sale is not a California sale. (See FTB Legal Ruling 95-3).

Total income from sales of tangible personal property to the U.S. Government are attributable to California if the property is shipped from California even if the taxpayer is taxable in the state of destination. Only sales for which the U.S. Government makes direct payment to the seller according to the terms of a contract constitute sales to the U.S. Government. Thus, as a general rule, sales by a subcontractor to the prime contractor, the party to the contract with the U.S. Government, do not constitute sales to the U.S. Government.

Sales of other than sales of tangible personal property:

Total income from sales, other than sales of tangible personal property, are attributable to California if either of the following applies:

1. The income-producing activity related to the sale is performed wholly within California.
2. A portion of the income-producing activity is performed outside of California but a greater portion of this activity is performed within California than in any other state, based on costs of performance.

"Income-producing activity" means the transactions and activity directly engaged in by the LLC in the regular course of its trade or business for the ultimate purpose of earning gains or profits. "Income producing activity" applies to each separate item of income. "Income-producing activity" does not include transactions and activities performed on behalf of an LLC, such as those conducted by an independent contractor.

Example: LLC A conducts its business in California and Nevada. LLC A maintains a bank account located in California that generates interest income. In assigning the interest income for fee purposes, if there is an income producing activity performed by the managing member, the income will be assigned to the state where the managing member is located, regardless of the fact that the bank account is located in California. Accordingly, "income producing activity" includes but is not limited to the following:

(1) The rendering of personal services by employees or the utilization of tangible and intangible property by the taxpayer in performing a service.
(2) The sale, rental, leasing, licensing, or other use of real property.
(3) The rental, leasing, licensing, or other use of tangible property.
(4) The sale, licensing, or other use of intangible personal property.

"Costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with industry practices in the LLC's trade or business.

Special Rules. The following are special rules to determine if receipts from the income-producing activities are attributable to California:

1. Total income from the rendering of personal services by employees or the use of tangible and intangible property by the LLC in performing a personal service are attributable to California to the extent that the personal services are performed within California. See FTB Legal Ruling 2005-1 for the definition of personal services.

When personal services are performed within and outside California, usually the services performed in each state will constitute separate income producing activities. In such cases, the personal service total income is measured by the ratio of time spent within California versus the time spent performing services everywhere.

Example: LLC A is an investment LLC and manages intangible property. LLC A has a managing member in California as well as a managing member in New York. During the year, from their activities of managing the intangible assets, LLC A earns total income of $700,000. The activities of the managers are personal services and the total income earned from these services can be split between New York and California based on the time spent by the two managers in performing their services for the LLC. If the California managing member spent 600 hours and the New York managing partner spent 400 hours, then 600 of the total 1000 hours were performed in California and 60% (600/1000) of the total income, or $420,000 would be includable as total income for purposes of computing the California LLC fee.

Time spent in performing personal services includes the amount of time expended in the performance of a contract or other obligation that gives rise to the total income. Personal services not directly connected with the performance of the contract or other obligation (for example, time expended in negotiating the contract) is excluded from the computations.

2. Total income from the sale, rental, leasing, licensing, or other use of real property are attributable to California if the real property is located within California.

Example: LLC A owns an apartment complex in California. The managing members of LLC A are located in Nevada. The total income derived from the California apartment complex (the rental income) is attributable to California and computing the California LLC fee.

Example: LLC A owns an apartment complex in Nevada. The managing members of LLC A are located in California. The total income derived from the Nevada apartment complex (the rental income) is attributable to Nevada and therefore not includable in the calculation of the LLC fee.

3. Total income from the rental, leasing, licensing, or other use of tangible personal property are attributable to California if the property is located within California.

If tangible personal property is located within and outside of California during the rental, lease, or licensing period, total income attributable to California is measured by the ratio of time the property was physically present or was used within California bears to the total time or use of the property during the period.

Alternative Methods. There are alternative methods to assign total income to California that apply to specific industries. These rules are contained in the regulations adopted pursuant to R&TC Section 25137. If the LLC is in one of these lines of business, the sale assignment methodology employed in the regulation applicable to the LLC's line of business should be used to determine total income derived from or attributable to California.

The rules contained in R&TC Section 25137(c) that serve to remove items from assignment in their totality are not applicable to the determination of income derived from or attributable to California.

The definition of "Total Income" excludes allocations, distributions, or gains to an LLC from another LLC, if that allocation, distribution, or gain was already subject to the LLC fee. Use line 3d to exclude these amounts.

LLCs with ownership interest in a pass-through entity must report their distributive share of the pass-through entity's "Total Income from all sources derived from or attributable to this state." Their distributive share cannot include the matching cost of goods sold and any deductions that are subtracted from gross ordinary income to obtain net ordinary income. Also, the matching cost of goods sold must be entered on line 3b and any deductions on line 3c. Contact the pass-through entity to get the necessary information for lines 3a through 3c.

Lines 1b, 2b, 3b, 3c, 4, 8c, and 17 may not be negative numbers. LLCs that are disregarded entities compute the "Total Income" on the LLC Income Worksheet. Use the applicable lines. Attach a copy of the completed LLC Income Worksheet to the LLC's return.

Form 568

Fill In All Applicable Lines and Schedules
Enter any items specially allocated to the members on the appropriate line of the member's Schedule K-1 (568) and the total amount on the line of Schedule K (568). **Do not** enter these items directly on Form 568, Side 3, or on Schedule A or Schedule D.

Whole numbers should be shown on the return and accompanying schedules.

Name, Address, SOS File Number, and FEIN
Before mailing, make sure entries have been made for all of the following:

- SOS file number is 12 digits and begins with "19" or "20"
- FEIN (9-digits)
- LLC legal or trade name or doing business as (DBA)

Include the Private Mail Box (PMB) in the address field. Write "PMB" first, then the box number. Example: 111 Main Street PMB 123.

Item G – Total Assets at End of Taxable Year
See the instructions for Schedule L – Balance Sheets – before completing this item.

Item I – Principal Business Activity (PBA) Code
California uses the 6-digit federal PBA Code based on the North American Industry Classification System (NAICS).

Common trust funds are required to use the PBA code 525920. Investment clubs are required to use PBA code 523900.

If the LLC is required to complete this item, enter the total assets at the end of the LLC's taxable year. This is determined by the accounting method regularly used to maintain the LLC's books and records. If there are no assets at the end of the taxable year, enter the total assets as of the beginning of the taxable year.

Form 568, Side 1

Line 1 – Total Income from the LLC Income Worksheet
Enter the LLC's "Total California Income" as computed on the LLC Income Worksheet, page 23, line 17. The amount entered on Form 568, line 1, may not be a negative number.

Line 2 – Limited Liability Company Fee
Enter the amount of the LLC fee. The LLC must pay a fee if the total California income is equal to or greater than $250,000. See General Information, Limited Liability Company Tax and Fee.

Line 3 – 2008 Limited Liability Company Tax
Enter the $800 annual tax. This tax was due the 15th day of the 4th month (fiscal year) or April 15, 2008 (calendar year), after the beginning of the LLC's 2008 taxable year and paid with the 2008 form FTB 3522. **When the due date falls on a weekend or holiday, the deadline to file and pay without penalty is extended to the next business day.** If the annual LLC tax was not paid within the prescribed time period, penalties and interest are now due. See General Information, Penalties and Interest, for more details.

Line 4 – Nonconsenting Nonresident Members' Tax Liability
Enter the total tax computed on Schedule T. The LLC is responsible for paying the tax of nonconsenting nonresident members and nonconsenting owners of disregarded entities. Treat a nonconsenting owner of a disregarded entity in the same manner as a nonconsenting nonresident member. See the Specific Line Instructions for Schedule T.

The nonconsenting nonresident members' tax paid by an LLC on behalf of a nonresident is allocated to the nonresident member on Schedule K-1 (568).

Line 8 – Nonresident Withholding Credit
If the LLC was withheld upon by another entity, the LLC can either allocate the entire withholding credit to all its members or claim a portion on line 8 (not to exceed the total tax and fee due) and allocate the remaining portion to all its members. If the LLC claims any of the amount withheld, be sure to attach the Form 592-B or Form 594, Notice to Withhold Tax at Source, showing that the LLC was withheld upon, to the front lower portion of the LLC return. The LLC must file Forms 592 and 592-B to allocate any remaining withholding credit to its members. For additional information, get FTB Pub. 1017.

Line 13 – Use Tax
As explained on page 11, California use tax applies to purchases from out-of-state sellers (for example, purchases made by telephone, over the Internet, by mail, or in person).

LLCs may report use tax on the income tax return instead of filing a use tax return with the State Board of Equalization. To report use tax on the LLC income tax return, complete the Use Tax Worksheet on this page. For questions on whether a purchase is taxable, go to the State Board of Equalization's website at **boe.ca.gov**, or call their Taxpayer Information Section at 800.400.7115 or TTY/TDD 800.735.2929.

If the LLC owes use tax but does not report it on their income tax return, it must report and pay the tax to the State Board of Equalization. To do so, download a copy of Publication 79-B, California Use Tax, from **boe.ca.gov** or request a copy by calling the State Board of Equalization's Taxpayer Information Section.

Use Tax Penalty
Failure to timely report and pay the use tax due may result in the assessment of penalties.

Note: Businesses that have a California seller's permit must continue to report business purchases subject to use tax on their sales and use tax returns. See page 11 for a general explanation of California use tax.

Use Tax Worksheet
Round all amounts to the nearest whole dollar.

1. Enter purchases from out-of-state sellers made without payment of California sales/use tax. See worksheet instructions . . . . .$ _____.00
2. Enter the decimal equivalent of the applicable sales and use tax rate. See worksheet instructions . . . . . _____
3. Multiply line 1 by the tax rate on line 2. Enter result here . . . . $ _____.00
4. Enter any sales or use tax paid to another state for purchases included on line 1. See worksheet instructions . . . . . $ _____.00
5. Total Use Tax Due. Subtract line 4 from line 3. Enter the amount here and on line 13. If the amount is less than zero, enter -0- . . . . . $ _____.00

Worksheet, Line 1, Purchases Subject to Use Tax

- Report items that would have been taxable in a California store, such as office equipment and supplies.
- Include handling charges.
- **Do not** include any other state's sales or use tax paid on the purchases.
- Enter only purchases made during the year that corresponds with the tax return the partnership is filing.

Note: Report and pay any use tax you owe on the following purchases to the State Board of Equalization, not on your income tax return:

- Vehicles, vessels, and trailers that must be registered with the Department of Motor Vehicles.

- Mobile homes or commercial coaches that must be registered annually as required by the Health and Safety Code.
- Vessels documented with the U.S. Coast Guard.
- Aircraft.
- Leases of machinery, equipment, vehicles, and other tangible personal property.

Worksheet, Line 2, Sales and Use Tax Rate

- Enter the decimal equivalent of the sales and use tax rate applicable to the place in California where the property is used, stored, or otherwise consumed. For example, the decimal equivalent of 7.25% is 0.0725, and the decimal equivalent of 7.375% is 0.07375.
- If the LLC does not know the applicable rate, see the table below, "Sales and Use Tax Rates by County." If the LLC has questions regarding the use tax rate in effect in the LLC's area, go to the State Board of Equalization's website at **boe.ca.gov** or call their Taxpayer Information Section at 800.400.7115 or TTY/TDD 800.735.2929.

Worksheet, Line 4, Credit for Tax Paid to Another State

- This is a credit for tax paid to other states. The LLC cannot claim a credit greater than the amount of tax that would have been due if the purchase had been made in California. For example, if the LLC paid $8.00 sales tax to another state for a purchase, and would have paid $6.00 in California, the LLC can claim a credit of only $6.00 for that purchase.

Sales and Use Tax Rates by County
(includes state, local, and district taxes)

January 1, 2008 through December 31, 2008

County	Rate	County	Rate
Alameda	8.75%	Orange[1]	7.75%
Alpine	7.25%	Placer	7.25%
Amador	7.25%	Plumas	7.25%
Butte	7.25%	Riverside	7.75%
Calaveras	7.25%	Sacramento	7.75%
Colusa[1]	7.25%	San Benito[1]	7.25%
Contra Costa[1]	8.25%	San Bernardino[1]	7.75%
Del Norte	7.25%	San Diego[1]	7.75%
El Dorado[1]	7.25%	San Francisco	8.50%
Fresno[1]	7.975%	San Joaquin[1]	7.75%
Glenn	7.25%	San Luis Obispo[1]	7.25%
Humboldt[1]	7.25%	San Mateo	8.25%
Imperial	7.75%	Santa Barbara	7.75%
Inyo	7.75%	Santa Clara	8.25%
Kern[1]	7.25%	Santa Cruz[1]	8.00%
Kings	7.25%	Shasta	7.25%
Lake[1]	7.25%	Sierra	7.25%
Lassen	7.25%	Siskiyou	7.25%
Los Angeles[1]	8.25%	Solano	7.375%
Madera	7.75%	Sonoma[1]	7.75%
Marin[1]	7.75%	Stanislaus[1]	7.375%
Mariposa	7.75%	Sutter	7.25%
Mendocino[1]	7.25%	Tehama	7.25%
Merced[1]	7.25%	Trinity	7.25%
Modoc	7.25%	Tulare[1]	7.75%
Mono[1]	7.25%	Tuolumne[1]	7.25%
Monterey[1]	7.25%	Ventura	7.25%
Napa	7.75%	Yolo[1]	7.25%
Nevada[1]	7.375%	Yuba	7.25%

1. Many cities in California impose a district tax which results in a higher sales and use tax rate than in other parts of the county. If you are reporting an item that was purchased for use in one of these counties, please check the following city list to see if a higher rate applies to your city. The tax rates shown apply within the city limits of the listed community.

County	City	Citywide Rate
Colusa	Williams	7.75%
Contra Costa	El Cerrito (effective 7/1/08)[5]	8.75%
Contra Costa	Pinole	8.75%
Contra Costa	Richmond	8.75%
El Dorado	Placerville	7.50%
El Dorado	South Lake Tahoe	7.75%
Fresno	Clovis (effective 10/1/08)[9]	7.975%
Fresno	Reedley (effective 7/1/08)[6]	8.475%
Fresno	Sanger (effective 7/1/08)[7]	8.725%
Fresno	Selma (effective 4/1/08)[1]	8.475%
Humboldt	Trinidad	8.25%
Kern	Delano (effective 4/1/08)[2]	8.25%
Lake	Clearlake	7.75%
Lake	Lakeport	7.75%
Los Angeles	Avalon	8.75%
Los Angeles	Inglewood	8.75%
Los Angeles	South Gate (effective 10/1/08)[10]	9.25%
Marin	San Rafael	8.25%
Mendocino	Fort Bragg	7.75%
Mendocino	Point Arena	7.75%
Mendocino	Ukiah	7.75%
Mendocino	Willits	7.75%
Merced	Los Banos	7.75%
Merced	Merced	7.75%
Mono	Mammoth Lakes (effective 10/1/08)[11]	7.75%
Monterey	Del Rey Oaks	8.25%
Monterey	Pacific Grove (effective 10/1/08)[12]	8.25%
Monterey	Salinas	7.75%
Monterey	Sand City	7.75%
Monterey	Seaside (effective 7/1/08)[8]	8.25%
Nevada	Nevada City	7.875%
Nevada	Truckee	7.875%
Orange	Laguna Beach	8.25%
San Benito	Hollister (effective 4/1/08)[3]	8.25%
San Benito	San Juan Bautista	8.00%
San Bernardino	Montclair	8.00%
San Bernardino	San Bernardino	8.00%
San Diego	El Cajon	8.25%
San Diego	National City	8.75%
San Diego	Vista	8.25%
San Joaquin	Manteca	8.25%
San Joaquin	Stockton	8.00%
San Luis Obispo	Arroyo Grande	7.75%
San Luis Obispo	Grover Beach	7.75%
San Luis Obispo	Morro Bay	7.75%
San Luis Obispo	Pismo Beach (effective 10/1/08)[13]	7.75%
San Luis Obispo	San Luis Obispo	7.75%
Santa Cruz	Capitola	8.25%
Santa Cruz	Santa Cruz	8.50%
Santa Cruz	Scotts Valley	8.50%
Santa Cruz	Watsonville	8.25%
Sonoma	Sebastopol	8.00%
Sonoma	Santa Rosa	8.00%
Stanislaus	Ceres (effective 4/1/08)[4]	7.875%
Tulare	Dinuba	8.50%
Tulare	Farmersville	8.25%
Tulare	Porterville	8.25%
Tulare	Tulare	8.25%
Tulare	Visalia	8.00%
Tuolumne	Sonora	7.75%
Yolo	Davis	7.75%
Yolo	West Sacramento	7.75%
Yolo	Woodland	7.75%

1. The tax rate in Selma prior to April 1, 2008, was 7.975%.
2. The tax rate in Delano prior to April 1, 2008, was 7.25%.
3. The tax rate in Hollister prior to April 1, 2008, was 7.25%.
4. The tax rate in Ceres prior to April 1, 2008, was 7.375%.
5. The tax rate in El Cerrito prior to July 1, 2008, was 8.25%.
6. The tax rate in Reedley prior to July 1, 2008, was 7.975%.
7. The tax rate in Sanger prior to July 1, 2008, was 7.975%.
8. The tax rate in Seaside prior to July 1, 2008, was 7.25%.
9. The tax rate in Clovis prior to October 1, 2008, was 8.275%.
10. The tax rate in South Gate prior to October 1, 2008, was 8.25%.
11. The tax rate in Mammoth Lakes prior to October 1, 2008, was 7.25%.
12. The tax rate in Pacific Grove prior to October 1, 2008, was 7.25%.
13. The tax rate in Pismo Beach prior to October 1, 2008, was 7.25%.

Line 15 – Penalties and Interest
Enter penalties and interest. See General Information, Penalties and Interest.

Single Member LLC Information and Consent
Complete all requested information. Provide the identification numbers of the entity (FEIN/CA Corp no./SOS File no.) that will report the items of income, deductions, credits, etc., of the disregarded entity and the type of return the owner will file. The owner will be responsible for limiting any credits attributable to the disregarded entity.

The LLC must treat the failure of the sole owner to sign this consent in the same manner as the failure of a nonresident member to sign form FTB 3832. See the Specific Line Instructions for Schedule T.

If the single member of the LLC signs the consent, complete only Form 568, Side 1, Side 2, the LLC Income Worksheet, and pay the amount due.

Schedules B & K are **required** to be filed if any of the following are met:

- The income or loss amount reported on Schedule B, line 1 or line 3 through line 11, is $3,000,000 or more.
- The "Total distributive income/payment items," Schedule K, line 21a, is greater than or equal to $3,000,000 OR less than or equal to $-3,000,000.

Multiple member LLCs will complete the remaining schedules, as appropriate.

Single member LLCs (SMLLC) do not complete form FTB 3832. An SMLLC consents to be taxed under California jurisdiction by signing the Single Member LLC Information and Consent on Form 568. Multiple member LLCs must complete and sign form FTB 3832.

Question J
Enter the maximum number of members in the LLC at any time during the taxable year. The number of Schedules K-1 (568) attached to the Form 568 must equal the number of members entered on Question J. **Do not** use abbreviations or terms such as "**Various**."

Question K through Question Z
Check the "Yes" or "No" box. SMLLCs are excluded from providing a Schedule K-1 (568).

Question K
An "investment partnership" is a partnership that meets both of the following criteria:

1. No less than 90% of the cost of the partnership's total assets consist of the following:
   - Qualifying investment securities.
   - Deposits at banks or other financial institutions.

- Office equipment and office space reasonably necessary to carry on the activities of an investment partnership.

2. No less than 90% of the partnership's gross income is from interest, dividends, and gains from the sale or exchange of "qualifying investment securities."

"Qualifying investment securities," include all of the following:

- Common and preferred stock, as well as debt securities convertible into common stock.
- Bonds, debentures, and other debt securities.
- Foreign and domestic currency deposits or equivalents and securities convertible into foreign securities.
- Mortgage-backed or asset-backed securities secured by governmental agencies.
- Repurchase agreements and loan participations.
- Foreign currency exchange contracts and forward and futures contracts on foreign currencies.
- Stock and bond index securities and futures contracts, and other similar securities.
- Regulated futures contracts.
- Options to purchase or sell any of the preceding qualified investment securities, except regulated futures contracts.

"Qualifying investment securities" do **not** include an interest in a partnership, unless the partnership qualifies as an "investment partnership." See R&TC Sections 17955 and 23040.1 and General Information, Investment Partnerships, for more information.

Question M
If Question M is answered "Yes," see the federal partnership instructions concerning an election to adjust the basis of the LLC's assets under IRC Section 754.

Question O
All LLCs must answer all three questions. If you do not own or lease (as specified below) real property in California, answer "No" to the questions. (Real property includes land, buildings, structures, fixtures – see R&TC Section 104). The questions provide information regarding changes in ownership with regard to real property held by legal entities (R&TC Section 64). If any of the answers are "Yes," a Statement of Change in Control and Ownership of Legal Entities (BOE-100-B) must be filed with the California State Board of Equalization (BOE); failure to do so may result in substantial penalties. Forms and information may be obtained from the BOE website at **boe.ca.gov** and can be accessed through **Property Tax**, and then **Legal Entity Ownership Program**.

There may be a change in ownership or control if, during this year, one of the following occurred with respect to this LLC (or any legal entity in which it holds a controlling or majority interest):

- The percentage of ownership interests transferred to, or owned or controlled by one person or one legal entity cumulatively exceeded 50%.
- The total ownership interests transferred to or held by one irrevocable trust or trust beneficiary cumulatively exceeded 50%.
- This LLC, or any legal entity in which it holds a controlling or majority interest, cumulatively acquired ownership or control of more than 50% of the LLC or other ownership interests in any legal entity.
- As of the end of this year, cumulatively more than 50% of the total ownership interests have been transferred, or the LLC experienced a change in ownership or control, in one or more transactions since March 1, 1975. For purposes of these questions, leased real property is a leasehold interest in taxable real property: (1) leased for a term of 35 years or more (including renewal options), if not leased from a government agency; or (2) leased for any term, if leased from a government agency. R&TC Section 64(e) requires this information for use by the California State BOE.

Question P
California requires taxes to be withheld from certain payments or allocations of income and sent to the FTB (R&TC Sections 18662 and 18666). If the LLC does not withhold and, upon examination, the FTB determines that withholding was required, the LLC may be liable for the tax and penalties. The reference to Forms 592, 592-A, 592-B, and 592-F relates to LLC withholding. If you need additional information concerning LLC withholding, see General Information, Required Information Returns, and Withholding Requirements, in this booklet.

Question U
See General Information, Check-the-Box Regulations, for the filing requirements for disregarded entities.

Question V
Federal Form 8886, Reportable Transaction Disclosure Statement, must be attached to any return on which the LLC has claimed or reported income from, or a deduction, loss, credit, or other tax benefit attributable to, participation in a reportable transaction. If the LLC is required to file this form with the federal return, attach a copy to the LLC's Form 568. Do not attach copies of federal Schedule K-1 (1065).

A material advisor is required to provide a reportable transaction number to all taxpayers and material advisors for whom the material advisor acts as a material advisor.

A Reportable Transaction is any transaction as defined in R&TC Section 18407 and Treas. Reg. 1.6011-4 and includes, but is not limited to:

- A Confidential Transaction, which is offered to a taxpayer under conditions of confidentiality and for which the taxpayer has paid a minimum fee.
- A transaction with contractual protections which provides the taxpayer with the right to a full or partial refund of fees if all or part of the intended tax consequences from the transaction are not sustained.
- A loss transaction is any transaction resulting in the taxpayer claiming a loss under Section 165 of at least $10 million in any single taxable year or $20 million in any combination of taxable years for partnerships that have only corporations as partners (looking through any partners that are themselves partnerships), whether or not any losses flow through to one or more partners. $2 million in any single taxable year or $4 million in any combination of taxable years for all other partnerships.
- A transaction with a significant book-tax difference (entered into prior to August 3, 2007). Beginning January 6, 2006, this transaction was no longer required to be disclosed on Form 8886. See IRS Notice 2006-06.
- A transaction where the taxpayer is claiming a tax credit of greater than $250,000 and held the asset for less than 45 days (entered into prior to August 3, 2007).
- A transaction of interest is a transaction that is the same as or substantially similar to one of the types of transactions that has been identified by the Internal Revenue Service as a transaction of interest (entered into on or after November 2, 2006).
- A Listed Transaction is a specific reportable transaction, or one that is substantially similar, which has been identified by the Internal Revenue Service or the Franchise Tax Board to be a tax avoidance transaction.

Schedule A — Cost of Goods Sold

California's reporting requirements for LLCs are generally the same as the federal reporting requirements for partnerships. Follow the instructions for federal Form 1065, Schedule A.

Schedule B — Income and Deductions

Line 1 through Line 12
California's reporting requirements for LLCs classified as partnerships are generally the same as the federal reporting requirements for partnerships.

Follow the instructions for federal Form 1065 and include only trade or business activity income on line 1 through line 12. However, for California tax purposes, business income of the LLC is defined using the rules set forth in R&TC Section 25120. Therefore, certain income that may be portfolio income for federal purposes may be included as business income for California sourcing purposes. **Do not** include rental activity income or portfolio income on these lines. Rental activity income and portfolio income are separately reported on Schedule K (568) and Schedule K-1 (568). Rental real estate activities are also reported on federal Form 8825, Rental Real Estate Income and Expenses of a Partnership or an S Corporation. Attach a copy of federal Form 8825 to Form 568. **Use California amounts** and attach a statement reconciling any differences between federal and California amounts.

Use worldwide amounts determined under California law when completing these lines.

Form 568, Schedule B, lines 4 through line 11 have been separated to report total gains and total losses. Net amounts are no longer reported. **List total gains and total losses separately, even if listed together on federal forms.**

Line 6 – Total Farm Profit

Line 7 – Total Farm Loss
Enter on line 6 the LLC's total farm profit from federal Schedule F (Form 1040), Profit or Loss From Farming, Line 36, Net farm profit or (loss). Enter on line 7 the LLC's total farm loss from federal Schedule F (Form 1040), Line 36. Attach federal Schedule F to Form 568. If the amount includable for California purposes is different from the amount on federal Schedule F, enter the California amount and attach an explanation of the difference.

Line 8 – Total Gain from Schedule D-1

Line 9 – Total Loss from Schedule D-1
Include only ordinary gains or losses from the sale, exchange, or involuntary conversion of assets used in a trade or business activity. Ordinary gains or losses from the sale, exchange, or involuntary conversion of rental activity assets must be reported separately on Schedule K (568) and Schedule K-1 (568), generally as part of the net income (loss) from the rental activity.

An LLC that is a member in another LLC or partner in a partnership must include on Schedule D-1, Sales of Business Property, its

share of ordinary gains (losses) from sales, exchanges, or involuntary conversions (other than casualties or thefts) of the other LLC's or partnership's trade or business assets.

Line 13 through Line 22
California's reporting requirements for LLCs are generally the same as the federal reporting requirements for partnerships.

Follow the instructions for federal Form 1065 and include only trade or business activity deductions on line 13 through line 21. Line 21 (Other Deductions) includes repairs, rents and taxes. **Do not** include any rental activity expenses or deductions that are allocable to portfolio income on these lines. Rental activity deductions and deductions allocable to portfolio income are separately reported on Schedule K (568) and Schedule K-1 (568).

Use worldwide amounts determined under California law when completing these lines.

Federal reporting requirements for organization and syndication expenses and uniform capitalization rules apply for California.

Claim of Right. To claim the deduction, enter the amount on line 21. If you elect to take the credit instead of the deduction, remember to use the California tax rate, add the credit amount to the total on line 9, Total payments (Form 568, Side 1). To the left of this total, write IRC 1341 and the amount of the credit.

Line 17a – Depreciation and Amortization
Enter on line 17a, only the total depreciation and amortization claimed on assets used in a trade or business activity. Complete and attach form FTB 3885L, Depreciation and Amortization (included in this booklet), to figure depreciation and amortization. Transfer the total from form FTB 3885L, line 6, to Form 568, Side 3, line 17a, or federal Form 8825, as appropriate (use California amounts).

Do not include any expense deduction for depreciable property (IRC Section 179; Enterprise Zones, R&TC Section 17267.2; Targeted Tax Area, R&TC Section 17267.6; or Local Agency Military Base Recovery Area, R&TC Section 17268) on this line. This expense is not deducted by the LLC. Instead, the expense is passed through separately to the members and is reported on line 12 of Schedule K (568) and Schedule K-1 (568).

Schedule L — Balance Sheets

If Question 6a through Question 6c on federal Form 1065, Schedule B, are all answered "Yes" and the LLC has 10 or fewer members, the LLC is not required to complete Schedules L, M-1, M-2, or Item F on Side 1 of Form 568 or Item I on Schedule K-1 (568).

California's reporting requirements for LLCs classified as partnerships, are the same as the federal reporting requirements for partnerships. The amounts reported on the balance sheet should agree with the books and records of the LLC and should include all amounts whether or not subject to taxation. Attach a statement explaining any differences between federal and state amounts or the balance sheet and the LLC's books and records. Follow the instructions for federal Form 1065, Schedule L.

Schedule M-1 — Reconciliation of Income (Loss) per Books With Income (Loss) per Return, and Schedule M-2 — Analysis of Members' Capital Accounts

If the LLC is required to complete Schedule M-1 and Schedule M-2, the amounts shown should agree with the LLC's books and records and the balance sheet amounts. Attach a statement explaining any differences.

Use worldwide amounts determined under California law when completing Schedule M-1. Also, the amounts on Schedule M-2 should equal the total of the amounts reported in Item I, column (c), of all the members' Schedules K-1 (568).

Net Income (Loss) Reconciliation for Certain LLCs. For taxable years beginning on or after January 1, 2006, the IRS requires certain LLCs to complete Schedule M-3 (Form 1065), Net Income (Loss) Reconciliation for Certain LLCs, instead of Schedule M-1. For California purposes, the LLC must complete the California Schedule M-1, and attach either of the following:

- A copy of the Schedule M-3 (Form 1065) and related attachments to the California Franchise or Income Tax Return.
- A complete copy of the federal return.

FTB will accept the Schedule M-3 (Form 1065) in a spreadsheet format if more convenient.

Schedule O — Amounts from Liquidation Used to Capitalize a Limited Liability Company

Complete Schedule O if "initial return" is checked in Question H of Form 568.

Schedule O is a summary of the entities liquidated to capitalize the LLC and the amount of gains recognized in such liquidations.

Include the complete names and identification numbers of all entities liquidated. Check the appropriate box for the type of entity liquidated. Include the amount of liquidation gains recognized in order to capitalize the LLC.

Schedule T — Nonconsenting Nonresident Members' Tax Liability

Use Schedule T to compute the nonconsenting nonresident members' tax liability to be paid by the LLC. List the names and identification numbers of all nonresident members who have not signed a form FTB 3832 and have not consented to be subject to California tax. Also, list the nonresident members' distributive share of income.

To compute the amount of tax that must be paid by the LLC on behalf of a nonconsenting nonresident member, multiply such member's distributive share of income by the following tax rates:

- 8.84% if the member is a C corporation.
- 9.3% if the member is an individual, partnership, LLC, estate, or trust.
- 1.5% if the member is an S corporation.

Each member's Nonconsenting Nonresident Members' Tax may be reduced by the amount of tax previously withheld under R&TC Section 18662 and paid by the limited liability company on behalf of such member.

Multiply column c by column d and put the result in column e for each nonconsenting nonresident member. Reduce column e by the amount in column f and put the net amount in column g for each nonconsenting nonresident member.

The tax being paid by the LLC on behalf of nonconsenting nonresident members is due on the 15th day of the 4th month following the close of the LLC's taxable year.

Reminder: All members must file a California tax return. The completion of Schedule T or form FTB 3832 does not satisfy the member's California filing requirement. Corporate members are also considered doing business in California and may have additional filing requirements. For additional information get FTB Pub. 1060, Guide for Corporations Starting Business in California. Nonresident individuals may qualify to file a group Form 540NR and should get FTB Pub. 1067, Guidelines for Filing a Group Form 540NR.

Schedule K (568) and Schedule K-1 (568) — Member's Share of Income, Deductions, Credits, etc.

Purpose of Schedules
Schedule K (568) is a summary schedule for the LLC's income, deductions, credits, etc. and Schedule K-1 (568) shows each member's distributive share. The line items for both of these schedules are the same unless otherwise noted.

One copy of each Schedule K-1 (568) must be attached to the Form 568 when it is filed unless the LLC wishes to file paperless Schedules K-1 (568), see General Information, Substitute Schedules, for additional information.

Be sure to give each member a copy of their respective Schedule K-1 (568). The LLC should also include a copy of the Member's Instructions for Schedule K-1 (568) or specific instructions for each item reported. These items should be provided to the member on or before the due date of the Form 568.

Schedule K (568) Only
Disregarded entities – Schedule K is only required to be filed if any of the following is met:

- The income or loss amount reported on Schedule B, line 1 or line 3 through line 11, is $3,000,000 or more.
- The "Total distributive income/payment items," Schedule K, line 21a, is greater than or equal to $3,000,000 OR less than or equal to $-3,000,000.

If Schedule K(568) is required to be filed, prepare Schedule K by entering the amount of the corresponding Member's share of Income, Deductions, Credits, etc. attributable to the activities of the disregarded entity from the Member's federal Form 1040 including Schedule B, Interest and Ordinary Dividends, Schedule C, Profit or Loss from Business (Sole Proprietorship), Schedule D, Capital Gains and Losses, Schedule E, Supplemental Income and Loss, and Schedule F, federal Schedule K, or federal Form 1120 or 1120s, of the owner.

In column (b) on Schedule K (568), Members' Shares of Income, Deductions, Credits, etc., enter the amounts from federal Schedule K (1065), Partners' Shares of Income, Credits, Deductions, etc.

In column (c), enter the adjustments resulting from differences between California and federal law (not adjustments related to California source income). In column (d), enter the worldwide income computed under California law.

For members to comply with the requirements of IRC Section 469, trade or business activity income (loss), rental activity income (loss), and portfolio income (loss) must be considered separately by the member. Rental activity income (loss) and portfolio income (loss) are not reported on Form 568, Side 3 so that these amounts are not combined with trade or business activity income (loss). Use Schedule K, lines 2, 3, 5, 6, 7, 8, 9, and 11a to report these amounts.

Compliance with LLC Filing Requirements
To help ensure the accurate and timely processing of the LLC's Form 568, verify the following:

- A Schedule K-1 (568) has been attached to Form 568 for each member included on Form 568, Side 2, Question J. LLCs eligible for the reduced filing program, see General Information, Who Must File.
- The attached Schedule K-1 (568) contains the member's correct name, address, and identifying number.
- Items A through I are completed on Schedule K-1 (568), Side 1.
- The appropriate entity type box on Schedule K-1 (568), Side 1, Question A, is checked for each member.
- All attached Schedules K-1 (568) reconcile to Schedule K.
- The member's percentage, on Schedule K-1 (568), Question C, is expressed in decimal format and carried to four decimal places (i.e., 33.5432). Do not print fractions, percentage symbols (%), or use terms such as "**Various**."
- Substitute computer-generated Schedule K-1 (568) forms **must** be approved by the FTB.

For the highest rate of accuracy and rapid processing, file Schedules K-1 (568) on CD or diskette. See General Information, Substitute Schedules, for more details.

Schedule K-1 (568) Only
The Schedule K-1 (568) details each member's distributive share of the LLC's income, deductions, credits, etc. The LLC completes the entire Schedule K-1 (568) by filling out the member's and LLC's information (name, address, identifying numbers), Questions A through I and the member's distributive share of items.

For members with PMB addresses, include the designation number in the member's address area. Precede the number (or letter) with "PMB."

For each individual member, enter the member's social security number (SSN) or Individual Taxpayer Identification Number (ITIN). For all other members enter their FEIN. However, if a member is an individual retirement arrangement (IRA), enter the identifying number of the custodian of the IRA. **Do not** enter the SSN or ITIN of the person for whom the IRA is maintained.

The LLC files one California Schedule K-1 (568) for each member with the LLC return and gives one copy to the appropriate member. **Do not** attach federal Schedules K-1 (1065). The LLC should also provide each member with a copy of either the Member's Instructions for Schedule K-1 (568) or specific instructions for each item reported.

Determining the Source of the LLC's Income for a Resident Member
A resident member should include the entire distributive share of LLC income in their California income. If the LLC apportions its income, the member may be entitled to a tax credit for taxes paid to other states. The member should be referred to Schedule S, Other State Tax Credit, for more information.

Determining the Source of the LLC's Income for a Nonresident Member

Business Income: Regardless of the classification of income for federal purposes, the LLC's income from California sources is determined in accordance with California law (Cal. Code Regs., tit. 18 section 17951-4). California source business income of a trade or business is determined by apportionment if the LLC conducts any of the following:

- A trade or business wholly within California, then the income from that trade or business is California source income.
- A business within and outside California, but the part within the state is so separate and distinct that it can be separately accounted for, then only that separate income from within the state is California source income.
- A single trade or business within and outside California.

The LLC should apportion business income using the Uniform Division of Income for Tax Purposes Act (R&TC Sections 25120 through 25139). Special rules apply if the LLC has income that is not attributable to the trade or business of the LLC (nonbusiness income).

Nonbusiness Income: Nonbusiness income attributable to real or tangible personal property (such as rents, royalties, or gains or losses) located in California is California source income (Cal. Code Regs., tit. 18 section 17951-3 and R&TC Sections 25124 and 25125). Enter this information on the appropriate line of Schedule K-1 (568). If the LLC believes it may have a unitary member, the information for that member should also be entered in Schedule K-1, Table 2, Part B, for that member.

The source of nonbusiness income attributable to intangible property depends upon the member's state of residence or commercial domicile. Individuals generally source this income to their state of residence and corporations to their commercial domicile, R&TC Sections 17951 through 17955.

Because the determination of the source of intangible nonbusiness income must be made at the member level, this income is not entered on Schedule K-1 (568), column (e). It is only entered in Table 1.

Completing Schedule K-1 (568)

Questions A through I
See the instructions for federal Form 1065, Specific Instructions, Schedule K-1 Only, Part II, Information About the Partner, for more information on completing Question A through Question I.

Question A, Schedule K-1 (568)
Check the appropriate box to indicate the member's entity type. Exempt organizations should check the exempt organization box regardless of legal form.

Question B, Schedule K-1 (568)
Check the appropriate box to indicate whether this member is foreign or not.

Question C, Schedule K-1 (568)
Percentages must be 4 to 7 characters in length and have a decimal point before the final 4 characters. For example, 50% is represented as 50.0000, 5% as 5.0000, 100% as 100.0000. **Do not** enter a fraction, the percentage symbol (%), or the term "**Various**."

Question D, Schedule K-1 (568)
For more information on completing Question D, refer to the instructions for federal Form 1065, Specific Instructions, Schedule K-1 Only, Part II, Information About the Partner.

Question E, Schedule K-1 (568)
Enter the reportable transaction number,and/or the tax shelter registration number if applicable. See instructions for Form 568 Question V, for more information.

Completing Column (b) through Column (e)

- **In column (b),** enter the amounts from federal Schedule K-1 (1065).
- **In column (c),** enter the adjustments resulting from differences between California and federal law for each specific line item.
- **In column (d),** enter the result of combining column (b) and column (c). This is total income under California law.

Column (e) is used to report California source amounts and credits. Include the following items in this column:

1. Income from separate businesses, trades, or professions conducted wholly within California, see Cal. Code Regs., tit. 18 section 17951-4(a).
2. Income from a trade or business conducted within and outside California, when the part of business conducted within California can be separately accounted for, see Cal. Code Regs., tit. 18 section 17951-4(b).
3. Income from a trade or business conducted within and outside California that is apportioned to California. This includes intangible income attributable to the business, trade or profession, see Cal. Code Regs., tit. 18 section 17951-4(c) and R&TC Sections 25128 through 25137. Generally, the LLC should apportion business income using a 4-factor formula consisting of property, payroll, and a double weighted sales factor. Use a 3-factor formula consisting of payroll, property, and a single weighted sales factor if more than 50% of the business receipts of the LLC are from agricultural, extractive, savings and loans, or bank and financial activities. Apportioning LLCs should get and complete Schedule R and attach it to Form 568.
4. Nonbusiness income from real and tangible property located in California. Enter the member's share of nonbusiness income from real and tangible property located in California in column (e). If the LLC believes it may have a unitary member, enter this income in Table 2, Part B.
5. California credits.

Nonbusiness income from intangible property should not be entered in column (e). Enter this income in Table 1. For more information, see Member's Instructions for Schedule K-1 (568).

Column (d) and Column (e): Schedule K-1 (568), column (d), includes the member's distributive share of total LLC income, deductions, gains, or losses under California law. Column (e) includes only income, deductions, gains or losses that are apportioned or sourced to California. The computation of these amounts is a matter of law and regulation. The residency of the member is not a factor in the computation of amounts to be included in column (d) and column (e).

For an LLC that is doing business wholly within California, column (e) will generally be the same as column (d), except for nonbusiness intangible

income (for example, nonbusiness interest, dividends, gain, or loss from sales of securities).

For an LLC that is doing business within and outside California, the amounts in column (d) and column (e) may be different.

If the LLC knows the member is a resident individual, then the LLC answers "No" to Question H on Schedule K-1 (568), and completes column (d), only. Otherwise, the LLC should complete column (e) for all other members.

Completing Table 1
Complete Table 1 only if the LLC has nonbusiness intangible income. If the LLC has nonbusiness intangible income, and knows that the member is a resident individual, then the LLC does not need to complete Table 1 for the member.

Completing Table 2
The LLC does not need to complete Table 2 if the LLC knows that the member is not unitary with its trade or business or any other trade or business.

Special Rules for Members and LLCs in a Single Unitary Business
Special rules apply if the LLC and a member are engaged in a single unitary business. In that case, a unitary member will not use the income information shown in column (e). Instead, the member's distributive share of business income is combined with the member's own business income. The combined business income is apportioned using an apportionment formula that consists of an aggregate of the member's share of the apportionment factors from the LLC and the member's own apportionment factors, Cal. Code Regs., tit. 18 section 25137-1(f). The determination of whether a 3-factor or 4-factor apportionment formula applies to the combined income will be made at the member level. The member's distributive share of business income and property, payroll, and sales factors are entered in Table 2.

If the LLC knows that all of the members are unitary with the LLC, the LLC need not complete column (e) or attach Schedule R. For further information, see Member's Instructions for Schedule K-1 (568).

Special Reporting Requirements for Passive Activities
If items of income (loss), deduction, or credit from more than one activity are reported on Schedule K-1 (568), the LLC must attach a statement to Schedule K-1 (568) for each activity that is a passive activity to the member. Rental activities are passive activities to all members; trade or business activities may be passive activities to some members. The attachment must include all the information explained in the instructions for federal Schedule K-1 (1065).

Specific Line Instructions

The California Schedule K (568) generally follows the federal Schedule K (1065). Where California and federal laws are the same, the instructions for California Schedule K (568) refer to the instructions for federal Schedule K (1065).

When completing the California Schedule K (568) and Schedule K-1 (568), refer to the Federal/State Line References chart (included in this booklet) that shows the specific line references between the federal Schedule K (1065) and Schedule K-1 (1065) and the California Schedule K and Schedule K-1.

Income

Line 1 through Line 11
See the instructions for federal Form 1065, Specific Instructions Schedules K and K-1, and Schedule K-1 (568) Income (Loss), line 1 through line 11.

Energy conservation rebates, vouchers, or other financial incentives are excluded from income.

Line 1, column (c)
An adjustment to increase the business income of a service LLC to reflect the guaranteed payment deduction adjustment required by Cal. Code Regs., tit. 18 section 17951-4(g) should be made here.

Schedule K (568) must include all income and losses from the LLC activities as determined under California laws and regulations. Any differences reported between the federal and California amounts should be related to differences in the tax laws. **Do not** apply the apportionment formula to the income or losses on Schedule K (568).

Line 10a and Line 10b
Enter on line 10a and 10b the amounts shown on Schedule D-1, line 7. **Do not** include specially allocated ordinary gains and losses, or net gains (losses) from involuntary conversions due to casualties or thefts on this line. Instead, report them on line 11b or 11c, along with a schedule and explanation.

If the LLC has more than one activity and the amount on line 10a or line 10b is a passive activity amount to the member, attach a statement to Schedule K-1 (568), or use the space provided on Side 2 of Schedule K-1 (568) that identifies the activity to which IRC Section 1231 gain (loss) relates.

Deductions

Line 12 through Line 13
See the instructions for federal Form 1065, Specific Instructions Schedules K and K-1, and Schedule K-1 (568), Deductions, line 12 and line 13a through line 13e.

IRC Section 179 expense deductions are subject to different rules for California. See instructions for form FTB 3885L.

California has not conformed to the federal Job Creation and Worker Assistance Act of 2002 that allows taxpayers to take an additional first-year depreciation deduction and Alternative Minimum Tax depreciation adjustment for property placed in service after September 10, 2001.

Line 13a – Charitable Contributions
Enter the total amount of charitable contributions made by the LLC during its taxable year on Schedule K (568) and each member's distributive share on Schedule K-1 (568). Attach an itemized list to both schedules that show the amount subject to the 50%, 30%, and 20% limitations.

Members are allowed a deduction for contributions to qualified organizations as provided in IRC Section 170. For taxable years beginning on or after January 1, 2002, California law conforms to the federal law, relating to the denial of the deduction for lobbying activities, club dues, and employee remuneration in excess of one million dollars.

California conforms to IRC Section 170(f)(8) substantiation requirement for charitable contributions.

Line 13b – Investment Interest Expense
This line must be completed whether or not a member is subject to the investment interest rules. Enter the interest paid or accrued to purchase or carry property held for investment. Property held for investment includes property that produces portfolio income (interest, dividends, annuities, royalties, etc.). Therefore, interest expense allocable to portfolio income should be reported on line 13b of Schedule K (568) and Schedule K-1 (568) rather than line 13d of Schedule K (568) and Schedule K-1 (568).

Property held for investment includes a member's interest in a trade or business activity that is not a passive activity to the LLC and in which the member does not materially participate. An example would be the rule concerning a member's working interest in an oil and gas property (i.e., the member's interest is not limited if the member does not materially participate in the oil and gas activity). Investment interest does not include interest expense allocable to a passive activity. For more information get form FTB 3526, Investment Interest Expense Deduction.

Line 14
The information reported on line 14 of the federal Schedule K (1065), and box 14 of the federal Schedule K-1(1065), does not apply to California and therefore there is no line 14.

Credits

Line 15a – Total Withholding
Add the total amounts on all member's Schedule K-1 (568). If taxes were withheld by the LLC or if there is a pass-through withholding credit from another entity, the LLC must provide each affected member (including California residents) a completed Form 592-B. Members must attach Form 592-B to the front of their California tax return to claim the withheld amounts. Schedule K-1 (568) may **not** be used to claim this withholding credit.

Line 15b through Line 15d
These lines relate to rental activities. Use line 15f to report credits related to trade or business activities.

California line numbers are different from federal line numbers in this section.

Line 15b – Low-Income Housing Credit
A credit may be claimed by owners of residential rental projects providing low-income housing (IRC Section 42). Generally, the credit is effective for buildings placed in service after 1986. Get form FTB 3521, Low-Income Housing Credit, for more information.

Line 15c – Credits Other Than Line 15b Related to Rental Real Estate Activities
Report any information that the members need to figure credits related to a rental real estate activity, other than the low-income housing credit. Attach to each member's Schedule K-1 (568) a statement showing the amount to be reported and the applicable form on which the amount should be reported.

Line 15d – Credits Related to Other Rental Activities
Use this line to report information that the members need to figure credits related to a rental activity. Attach to each member's Schedule K-1 (568) a statement showing the amount to be reported and the applicable form on which the amount should be reported.

Line 15e – Nonconsenting Nonresident Member's Tax Paid by LLC, Schedule K-1 (568) only
If income tax was paid by the LLC on behalf of a nonresident member who did not sign form FTB 3832, the amount paid is entered on the

member's Schedule K-1 (568), line 15e. This is not a distributive share item; it is only reported on the specific nonresident member's Schedule K-1. Members must attach a copy of Schedule K-1 (568) to their California income tax return to claim the tax paid by the LLC on their behalf.

If income tax was paid by an LLC on behalf of a member that is an LLC and form FTB 3832 is not signed on behalf of the member LLC, the amount paid by an LLC is entered on the member LLC's Schedule K-1 (568) line 15e. This withholding credit is allocated to all members according to their LLC interest. Individual members must attach a copy of the following to their California tax return to claim their share of the tax paid by the LLC on behalf of the member LLC:

- The Schedule K-1 (568) previously issued to the member LLC by its LLC
- The Schedule K-1 (568) issued by the member LLC, that paid the LLC tax, to its members.

Line 15f – Other Credits
Attach a schedule showing each member's allocable share of any credit or credit information that is related to a trade or business activity.

Credits that may be reported on line 15f (depending on the type of activity they relate to) include:

- Community Development Financial Institution Deposits Credit. Use credit code 209.
- Disabled Access Credit for Eligible Small Businesses. Get form FTB 3548.
- Donated Agricultural Products Transportation Credit. Get form FTB 3547.
- Employer Child Care Program/Contribution Credit. Get form FTB 3501.
- Enhanced Oil Recovery Credit. Get form FTB 3546.
- Enterprise Zone (EZ) Hiring and Sales or Use Tax Credit. Get form FTB 3805Z.
- Environmental Tax Credit. Get form FTB 3511.
- Farmworker Housing Credit-Construction. Use credit code 207.
- Farmworker Housing Credit-Loan. Use credit code 208.
- Local Agency Military Base Recovery Area (LAMBRA) Hiring and Sales or Use Tax Credit. Get form FTB 3807.
- Manufacturing Enhancement Area (MEA) Hiring Credit. Get form FTB 3808.
- Natural Heritage Preservation Credit. Get form FTB 3503.
- Prison Inmate Labor Credit. Get form FTB 3507.
- Research Credit. Get form FTB 3523.
- Targeted Tax Area (TTA) Hiring and Sales or Use Tax Credit. Get form FTB 3809.

The Other Credits line may also include the distributive share of net income taxes paid to other states by the LLC. Subject to limitations of R&TC Sections 18001 and 18006, members may claim a credit against their individual income tax for net income taxes paid by the LLC to another state. The amount of tax paid must be supported by a schedule of payments and evidence of tax liability by the LLC to the other states. Refer the members to Schedule S for more information.

All of the above credit forms and many others are available on our website at **ftb.ca.gov**.

Line 16
The information reported on line 16 of the federal Schedule K (1065) and box 16 of the federal Schedule K-1(1065), Foreign Transactions, do not apply to California and therefore there is no line 16.

Alternative Minimum Tax (AMT) Items

Line 17a through Line 17f
Enter each member's distributive share of income and deductions that are adjustments and tax preference items. Schedule P (100, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations, Water's-Edge Filers, to determine amounts and for other information.

California law conforms to the existing federal law eliminating the deduction for contributions of appreciated property as an item of tax preference. As a result, taxpayers no longer need to include in their computation of Alternative Minimum Taxable Income the amount by which any allowable deduction for contributions of appreciated property exceeds the taxpayer's adjusted basis in the contributed property.

For additional information, see instructions for federal Schedule K (1065), Alternative Minimum Tax (AMT) Items, line 17a through line 17f. For differences between federal and California law for alternative minimum tax (AMT), see R&TC Section 17062.

Tax-Exempt Income and Nondeductible expenses

Line 18a through Line 18c – Tax-exempt Income and Nondeductible Expenses
Enter on Schedule K (568), the amounts of tax-exempt interest income, other tax-exempt income, and nondeductible expenses from federal Schedule K (1065), lines 18a, 18b, and 18c. Enter on Schedule K-1 (568), the amounts of tax-exempt income, other tax-exempt income, and nondeductible expenses, from federal Schedule K-1 (1065), box 18. The LLC should give each member a description and the amount of the member's share for each item applicable to California in this category.

Distributions

Line 19a and Line 19b – Distributions
Enter on Schedule K (568), the amounts of cash and marketable securities, and other property from federal Schedule K (1065), line 19a and line 19b. Enter on Schedule K-1 (568), the amounts of cash and marketable securities, and other property from federal Schedule K-1 (1065), box 19.

Other Information

Line 20a and line 20b – Investment Income and Investment Expenses
These lines must be completed whether or not a partner is subject to the investment interest rules.

Enter on line 20a only the investment income included on line 5, line 6, line 7, and line 11a of Schedule K (568) and Schedule K-1 (568). Enter on line 20b only investment expenses included on line 13d of Schedule K (568) and Schedule K-1 (568).

If items of investment income or expenses are included in the amounts that are required to be passed through separately to the partner on Schedule K-1 (568), items other than the amounts included on line 5 through line 9b, line 11a, and line 13d of Schedule K-1 (568), give each member a statement identifying these amounts.

Investment income includes gross income from property held for investment, gain attributable to the disposition of property held for investment, and other amounts that are gross portfolio income. Investment income and investment expenses generally do not include any income or expenses from a passive activity.

Property subject to a net lease is not treated as investment property because it is subject to the passive loss rules. **Do not** reduce investment income by losses from passive activities.

Investment expenses are deductible expenses (other than interest) directly connected with the production of investment income. Get the instructions for form FTB 3526 for more information.

Line 20c – Other information
See the instructions for the federal Schedule K (1065), line 20c, Other Items and Amounts. For credit recaptures attach a schedule including credit recapture names and amounts.

The gain on property subject to the IRC Section 179 Recapture should be reported on the Schedule K as supplemental information as instructed on the federal Form 4797, Sales of Business Property.

The LLC must provide all of the following information with respect to a disposition of business property if an IRC Section 179 expense deduction was claimed in prior years:

a. Description of the property.
b. Date the property was acquired.
c. Date the property was sold.
d. Gross sales price.
e. Cost or other basis plus expense of sale (not including the LLC's basis reduction in the property due to IRC Section 179 expense deduction).
f. Depreciation allowed or allowable (not including the IRC Section 179 expense deduction).
g. Amount of IRC Section 179 expense deduction (if any) passed through to each member for the property and the LLC's taxable year(s) in which the amount was passed through.
h. An indication if the disposition is from a casualty or theft.
i. If this is an installment sale, any information needed to complete form FTB 3805E.

Supplemental Information
The LLC may need to report supplemental information that is not specifically requested on the Schedule K-1 (568) separately to each member. If the LLC has supplemental information not included in lines 1 through 20b, write "See attached" on line 20c, column (b) and column (d) and provide a schedule with the details.

Members may need to obtain the amount of their proportionate interest of aggregate gross receipts, less returns and allowances, from the LLC.

The gain or loss on property subject to the IRC Section 179 Recapture should be reported on Schedule K-1 as supplemental information as instructed on the federal Form 4797.

The LLC must provide all of the following information with respect to a disposition of business property if an IRC section 179 expense deduction was claimed in prior years:

a. Description of the property.
b. Date the property was acquired.
c. Date the property was sold.
d. The members pro-rata share of the gross sales price.
e. The members pro-rata share of the cost or other basis plus expense of sale (**not** including the entity's basis reduction in the property due to IRC Section 179 expense deduction).
f. The members pro-rata share of the depreciation allowed or allowable (**not** including the IRC Section 179 expense deduction).

g. The members pro-rata share of the amount of IRC 179 expense deduction (if any) passed through to the member for the property and the LLC's taxable year(s) in which the amount was passed through.
h. An indication if the disposition is from a casualty or theft.
i. If this is an installment sale, any information needed to complete form FTB 3805E. The LLC also must separately report the member's pro-rata share of all payments in future taxable years. (Installment payments received for installment sales made in prior taxable years should be reported in the same manner used in prior taxable years).

Alternative minimum taxable income does not include income, positive and negative adjustments, and preference items attributed to any trade or business of a qualified taxpayer who has gross receipts, less returns and allowances, during the taxable year of less than $1,000,000 from all trades or businesses in which the taxpayer is an owner or has an ownership interest. The LLC should provide the member's proportionate interest of aggregate gross receipts on Schedule K-1 (568), line 20c. For purposes of R&TC Section 17062(b)(4), "aggregate gross receipts, less returns and allowances" means the sum of all of the following:

- The gross receipts of the trades or businesses which the taxpayer owns.
- The proportionate interest of the gross receipts of the trades or businesses which the taxpayer owns.
- The proportionate interest of the pass-through entity's gross receipts in which the taxpayer holds an interest.

"Aggregate gross receipts" means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of R&TC Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of R&TC Section 25120. For purposes of this section, "pass-through entity" means a partnership (as defined by R&TC Section 17008), an S corporation, a regulated investment company (RIC), a real estate investment trust (REIT) and a REMIC. See R&TC Section 17062 for more information.

Also show on line 20c a statement noting each of the following:

1. Each member's distributive share of business income apportioned to an EZ, LAMBRA, MEA, or TTA.
2. Each member's distributive share of business capital gain or loss included in 1 above.

Analysis (Schedule K (568) only)

Line 21a and Line 21b
See the federal instructions for Schedule K (1065), Analysis of Net Income (Loss).

Other Member Information (Schedule K-1 (568) only)

Table 1
Enter the member's share of nonbusiness income from intangibles. Because the source of this income must be determined at the member level, do not enter income in this category in column (e). If the income (loss) for an income item is a mixture of income (loss) in different subclasses (for example, short-term and long-term capital gain), attach a supplemental statement providing a breakdown of income (loss) in each subclass.

Enter nonbusiness income from intangibles in Table 1 net of related expenses. **Do not** include expenses offset against nonbusiness income from intangibles in column (e).

Table 2
The final determination of unity is made at the member level. If the LLC and the member are unitary, or if the LLC is uncertain as to whether it is unitary with the member, it should furnish the information in Table 2.

Part A. Enter the member's distributive share of the LLC's business income. The member will then add that income to its own business income and apportion the combined business income.

"Business income" is defined by Cal. Code Regs., tit. 18 section 25120(a) as income arising in the regular course of the taxpayer's trade or business. Business income includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business.

Part B. Enter the member's share of nonbusiness income from real and tangible property that is located in California. Because this income has a California source, this income should also be included on the appropriate line in column (e).

Nonbusiness income is all income other than business income.

Part C. Enter the member's distributive share of the LLC's payroll, property, and sales factors.

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SCHEDULE K FEDERAL/STATE LINE REFERENCES

California Schedule K (568) has been modified to better assist taxpayers to transfer amounts from their federal Schedule K (1065) to their California Schedule K (568). The modifications consist of reordering the line items to be in a similar format to the federal Schedule K (1065). The reference chart shown below will assist the taxpayer in transferring the amounts from one schedule to the other. The chart cross-references the line items on the federal Schedule K to the appropriate line items on the California Schedule K. For detailed instructions, refer to the Specific Line Instructions in this booklet for Schedule K (568) and Schedule K-1 (568) – Member's Share of Income, Deductions, Credits, etc.

Federal Schedule K (1065)		CA Schedule K (568)	
Line	**Items**	**Line**	**Items**
1	Ordinary business income (loss)	**1**	Ordinary income (loss) from trade or business activities
2	Net rental real estate income (loss)	**2**	Net income (loss) from rental real estate activities
3a	Other gross rental income (loss)	**3a**	Gross income (loss) from other rental activities
3b	Expenses from other rental activities	**3b**	Less expenses
3c	Other net rental income (loss)	**3c**	Net income (loss) from other rental activities
4	Guaranteed payments	**4**	Guaranteed payments to members
5	Interest income	**5**	Interest income
6a	Ordinary dividends	**6**	Dividends
6b	Qualified dividends	**–**	Included in line 6 above
7	Royalties	**7**	Royalties
8	Net short-term capital gain (loss)	**8**	Net short-term capital gain (loss). Attach Schedule D (568)
9a	Net long-term capital gain (loss)	**9**	Net long-term capital gain (loss). Attach Schedule D (568)
9b	Collectibles 28% gain (loss)	**–**	Included in line 8 and line 9 above, as applicable
9c	Unrecaptured section 1250 gain	**–**	Included in line 8 and line 9 above, as applicable
10	Net section 1231 gain (loss)	**10a**	Total Gain under IRC Section 1231 (other than due to casualty or theft)
–	Included in line 10 above	**10b**	Total Loss under IRC Section 1231 (other than due to casualty or theft)
	Not applicable	**11a**	Other Portfolio Income (loss)
11	Other income loss	**11b**	Total other income
–	Included in line 11 above	**11c**	Total other loss
12	Section 179 deduction (attach Form 4562)	**12**	Expense deduction for recovery property (IRC Section 179 and R&TC Sections 17267.2, 17267.6, and 17268)
13a	Contributions	**13a**	Charitable contributions
13b	Investment interest expense	**13b**	Investment interest expense
13c	Section 59(e)(2) expenditures: (1) Type	**13c**	1. Total expenditures to which IRC Section 59(e) election may apply 2. Type of expenditures
	Not applicable	**13d**	Deductions related to portfolio income
13d	Other deductions (see instructions) (1) Type	**13e**	Other deductions
14a-c	Self-employment	**14a-c**	*Not applicable*
15a	Low-income housing credit (section 42(j)(5))	**15a**	Withholding on LLC allocated to all members
15b	Low-income housing credit (other)	**15b**	Low-income housing credit
15c	Qualified rehabilitation expenditures (rental real estate) (attach Form 3468)	**15c**	Credits other than the credit shown on line 15b related to rental real estate activities
15d	Other rental real estate credits	**15d**	Credit(s) related to other rental activities
15e	Other rental credits	**15e**	Nonconsenting nonresident members' tax paid by LLC
15f	Other credits	**15f**	Other credits
16a-n	Foreign Transactions	**16a-n**	*Not applicable*
17a	Post-1986 depreciation adjustment	**17a**	Depreciation adjustment on property placed in service after 1986
17b	Adjusted gain or loss	**17b**	Adjusted gain or loss
17c	Depletion (other than oil and gas)	**17c**	Depletion (other than oil and gas)
17d	Oil, gas, and geothermal properties – gross income	**17d**	Gross income from oil, gas, and geothermal properties
17e	Oil, gas, and geothermal properties – deductions	**17e**	Deductions allocable to oil, gas, and geothermal properties
17f	Other AMT items	**17f**	Other alternative minimum tax items
18a	Tax-exempt interest income	**18a**	Tax-exempt interest income
18b	Other tax-exempt income	**18b**	Other tax-exempt income
18c	Nondeductible expenses	**18c**	Nondeductible expenses
19a	Distributions of cash and marketable securities	**19a**	Distributions of cash and marketable securities
19b	Distributions of other property	**19b**	Distributions of property other than money
20a	Investment income	**20a**	Investment income
20b	Investment expenses	**20b**	Investment expenses
20c	Other items and amounts	**20c**	Other information

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Instructions for Schedule D (568)

Capital Gain or Loss

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2005**, and to the California Revenue and Taxation Code (R&TC).

General Information

In general, California law conforms to the Internal Revenue Code (IRC) as of January 2005. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to our website at **ftb.ca.gov** and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the tax booklets. Taxpayers should not consider the tax booklets as authoritative law.

Internet Access

You can download, view, and print California tax forms and publications from our website at **ftb.ca.gov**.

Access other state agencies' websites through the State Agencies Directory on California's website at **ca.gov**.

Purpose

Use Schedule D (568), Capital Gain or Loss, to report the sale or exchange of capital assets, except capital gains (losses) that are specially allocated to any members. Do not use this form to report the sale of business property. For sales of business properties, use California Schedule D-1, Sale of Business Property.

Enter specially allocated capital gains (losses) received from limited liability companies (LLCs) classified as partnerships, partnerships, S corporations, and fiduciaries on Schedule D (568), line 3. Enter capital gains (losses) that are specially allocated to members on Schedule K-1 (568), Member's Share of Income, Deductions, Credits, etc. Do not include these amounts on Schedule D (568). See the instructions for Schedule K (568), Members' Shares of Income, Deductions, Credits, etc., and Schedule K-1 (568) for more information. Also, refer to the instructions for federal Schedule D (1065), Capital Gains and Losses.

Nonresident and Part-Year Resident Members, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency. With the enactment of AB 1115 (Stats. 2001, Ch 920) capital loss carryover and capital loss limitations for nonresident members and part-year resident members, for the portion of the year they were nonresidents, are determined based upon California source income and loss items only for the computation of their California taxable income. Moreover, the character of their gains and losses on the sale or exchange of property used in trade or business or certain involuntary conversions (IRC Section 1231) are determined for purposes of calculating their California taxable income by netting California sources Section 1231 gains and losses only.

California law conforms to federal law for the recognition of gain on a constructive sale of property in which the LLC held an appreciated interest.

Qualified Small Business Stock

R&TC Section 18152.5 is similiar to IRC Section 1202 regarding the exclusion of 50% of the gain on the sale of qualifying small business stock originally issued after August 10, 1993, that was held for more than five years. However, for California purposes, at least 80% of the issuing corporation's payroll must be attributable to employment located within California, and at least 80% of the value of the corporation's assets must be used by the corporation to actively conduct one or more qualified trades or businesses in California.

R&TC Section 18038.5 also provides for the deferral of gain from the sale of small business stock that has been held for six months or more, if qualified replacement stock is purchased within 60 days after the sale giving rise to the gain. Report gain deferred from the sale of qualified small business stock in accordance with the instructions contained in Revenue Procedure 98-48.

The LLC also must separately state the amount of the gain that qualifies for the 50% exclusion under R&TC Section 18152.5 on Schedule K, line 11. Each member must determine if he or she qualifies for the gain at the member level.

Instructions for Form FTB 3885L

Depreciation and Amortization

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2005**, and to the California Revenue and Taxation Code (R&TC).

A Purpose

Use form FTB 3885L, Depreciation and Amortization, to compute depreciation and amortization allowed as a deduction on Form 568, Limited Liability Company Return of Income. Attach form FTB 3885L to Form 568.

Depreciation is the annual deduction allowed to recover the cost or other basis of business or income producing property with a determinable useful life of more than one year. Land is not depreciable.

Amortization is an amount deducted to recover the cost of certain capital expenses over a fixed period.

In general, California conforms to federal law for assets placed in service on or after January 1, 1987. See California Revenue and Taxation Code (R&TC) Section 17250.

B Federal/State Calculation Differences

California law has not always conformed to federal law with regard to depreciation methods, special credits, or accelerated write-offs. Consequently, the recovery periods and the basis on which the depreciation is calculated may be different from the amounts used for federal purposes. Reportable differences may occur if all or part of your assets were placed in service:

- **Before January 1, 1987:** California disallowed depreciation under the federal Accelerated Cost Recovery System (ACRS). Continue to calculate California depreciation in the same manner as in prior years for those assets.
- **On or after January 1, 1987:** California provides special credits and accelerated write-offs that affect the California basis for qualifying assets. California does not conform to all the changes to federal law enacted in 1993. Therefore, the California basis or recovery periods may be different for some assets.

California law does not conform to the federal law for the:

- Additional first-year depreciation of certain qualified property placed in service after October 3, 2008, and the election to claim additional research and minimum tax credits in lieu of claiming the bonus depreciation.
- Accelerated recovery period for depreciation of smart meters and smart grid systems.

Additional differences may occur for the following:

- **Luxury Automobile Depreciation:** California generally conforms to the federal 2003 increase (IRC Section 280F) for the limitation on luxury automobile depreciation. However, California does not conform to IRC Section 168(k) provisions (30% and 50% additional first year depreciation). In addition, SUVs and minivans built on a truck chassis are included in the definition of trucks and vans when applying the 6,000 pound gross weight limit.
- **Amortization of Certain Intangibles** (IRC Section 197): Property classified as Section 197 property under federal law is also Section 197 property for California purposes. There is no separate California election required or allowed. However, for Section 197 property acquired before January 1, 1994, the California adjusted basis as of January 1, 1994, must be amortized over the remaining federal amortization period.
- **Qualified Indian Reservation Property:** California has not conformed to the accelerated recovery periods available under the Alternative Depreciation System (ADS) for such property.
- **Grapevines subject to Phylloxera or Pierce's Disease:** For California purposes, replacement grapevines may be depreciated using a recovery period of five years instead of ten years.

This list is not intended to be all-inclusive of the federal and state differences. For additional information, please refer to California's R&TC.

Specific Line Instructions

Line 1 – California depreciation for assets placed in service after December 31, 2007, and amortization for intangibles placed in service after December 31, 2007

Complete column (a) through column (i) for each asset or group of assets or property placed in service after December 31, 2007. Enter the column (f) totals on line 1(f). Enter the column (i) totals on line 1(i).

Line 2 – California depreciation for assets placed in service before January 1, 2008

Enter total California depreciation for assets placed in service prior to January 1, 2008, taking into account any differences in asset basis or differences in California and federal tax law.

Line 4 – California amortization for intangibles placed in service before January 1, 2008

Enter total California amortization for intangibles placed in service prior to January 1, 2008, taking into account any differences in asset basis or differences in California and federal tax law.

Assets with a Federal Basis Different from California Basis
Some assets placed in service on or after January 1, 1987, will have a different adjusted basis for California purposes due to the credits claimed or accelerated write-offs of the assets. Review the list of depreciation and amortization items in the instructions for Schedule CA (540), California Adjustments — Residents, and Schedule CA (540NR), California Adjustments — Nonresidents or Part-Year Residents. If the LLC has any other adjustments to make, get FTB Pub. 1001, Supplemental Guidelines to California Adjustments, for more information.

Line 6 – Total Depreciation and Amortization

Add line 3 and line 5. Enter the total on line 6 and on Form 568, Schedule B, line 17a.

If depreciation or amortization is from more than one trade or business activity, or from more than one rental real estate activity, the LLC should separately compute depreciation for each activity. Use the depreciation computed on this form to identify the net income for each activity. Report the net income from each activity on an attachment to Schedule K-1 (568), Member's Share of Income, Deductions, Credits, etc., for purposes of passive activity reporting requirements. Use California amounts to determine the depreciation amount to enter on line 14 of federal Form 8825, Rental Real Estate Income and Expenses of Partnership or an S Corporation.

Line 7

Enter the Internal Revenue Code (IRC) Section 179 expense election amount from line 12 of the following worksheet.

These limitations apply to the LLC and each member.

Election to Expense Certain Tangible Property (IRC Section 179) Worksheet

Follow the instructions on federal Form 4562, Depreciation and Amortization, for listed property.

1	Maximum dollar limitation	1	$ 25,000
2	Total cost of IRC Section 179 property placed in service during the taxable year	2	
3	Threshold cost of IRC Section 179 property placed in service during the taxable year	3	$200,000
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for taxable year. Subtract line 4 from line 1. If zero or less, enter -0-	5	

	(a) Description of property	(b) Cost	(c) Elected cost
6			

7	Listed property. Use federal Form 4562, Part V, line 29. Make any adjustments for California law and basis differences	7	
8	Total elected cost of IRC Section 179 property. Add amounts in column (c), line 6 and line 7	8	
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	
10	Carryover of disallowed deduction from 2007. See instructions for line 10 through line 13 on federal Form 4562	10	
11	Income limitation. Enter the smaller of line 5 or the aggregate of the LLC's items of income and expense described in IRC Section 702(a) from any business actively conducted by the LLC, other than credits, tax-exempt IRC Section 179 expense deduction, and guaranteed payments under IRC Section 707(c)	11	
12	IRC Section 179 expense deduction. Add line 9 and line 10, but do not enter more than line 11. Enter on Schedule K (568), line 12 and on form FTB 3885L, line 7	12	
13	Carryover of disallowed deduction to 2009. Add line 9 and line 10 and subtract line 12. Enter here and on line 8 of form FTB 3885L	13	

Member's Instructions for Schedule K-1 (568)

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2005**, and to the California Revenue and Taxation Code (R&TC).

General Information

In general, California law conforms to the Internal Revenue Code (IRC) as of January 2005. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to our website at **ftb.ca.gov** and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the tax booklets. Taxpayers should not consider the tax booklets as authoritative law.

For taxable years beginning on or after January 1, 2003, California will follow the revised federal instructions (with some exceptions) for reporting the sale, exchange or disposition of an asset for which an IRC Section 179 expense was claimed in a prior year by a partnership, limited liability company (LLC), or S corporation.

Members should follow federal reporting requirements as detailed in federal Form 1065, U.S. Return of Partnership Income, and federal Form 4797, Sale of Business Property, instructions.

Revised Schedule K-1 – The California Schedule K-1 (568), Member's Share of Income, Deductions, Credits, etc., line items were revised to be in a similar format with the federal Schedule K-1 (1065), Partner's Share of Income, Deductions, Credits, etc. For more information, get the Schedule K Federal/State Line References chart, inside the Form 568, Limited Liability Company Tax Booklet.

Registered Domestic Partners (RDP) – RDPs under California law must file their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. RDPs have the same legal benefits, protections, and responsibilities as married couples unless otherwise specified.

If you entered into in a same sex legal union in another state, other than a marriage, and that union has been determined to be substantially equivalent to a California registered domestic partnership, you are required to file a California income tax return using either the married/RDP filing jointly or married/RDP filing separately filing status. For more information on what states have legal unions that are considered substantially equivalent, go to our website at **ftb.ca.gov** and search for **RDP**.

For purposes of California Income tax, references to a spouse, a husband, or a wife also refer to a California registered domestic partner (RDP), unless otherwise specified. When we use the initials RDP they refer to both a California registered domestic "partner" and a California registered domestic "partnership," as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

Round Cents To Dollars – Round cents to the nearest whole dollar. For example, round $50.50 up to $51 or round $25.49 down to $25.

A Purpose

A limited liability company (LLC) that has elected to be treated as a partnership for tax purposes, uses Schedule K-1 (568) to report your distributive share of the LLC's income, deductions, credits, etc. Keep Schedule K-1 (568) for your records. Information from the Schedule K-1 (568) should be used to complete your California return. However, do not file the schedule with your California return. The LLC has filed a copy with the Franchise Tax Board (FTB).

As a member of the LLC, you are subject to tax on your distributive share of the LLC income, whether or not distributed.
The amount of loss and deduction you are allowed to claim on your California return may be less than the amount reported on Schedule K-1 (568). Generally, the amount of loss and deduction you are allowed to claim is limited to your basis in the LLC and the amount for which you are considered at-risk. If you have losses, deductions, or credits from a passive activity, you also must apply the passive activity loss and credit rules. It is the member's responsibility to consider and apply any applicable limitations. See Specific Instructions, Loss Limitations.

You should also read the federal Schedule K-1 (1065) instructions before completing your California return with this Schedule K-1 (568) information.

For additional information on the treatment of LLC income, deductions, credits, etc., get the following federal publications:

— Publication 541, Partnerships
— Publication 535, Business Expenses

Any information returns required for federal purposes under IRC Sections 6038, 6038A, and 6038B are also required for California purposes. Attach the information returns to your California return when filed. If the information returns are not provided, penalties may be imposed under R&TC Sections 19141.2 and 19141.5.

Internet Access
You can download, view, and print California tax forms and publications from our website at **ftb.ca.gov**.

Access other state agencies' websites through the State Agencies Directory on California's website at **ca.gov**.

B Definitions

Member
An individual or entity owning an interest in the LLC whose potential personal liability for LLC debts is limited to the amount of money or other property that the member contributed or is required to contribute to the LLC.

Federal and California law allows spouses that are the sole owners of an eligible business entity (including an LLC) to be treated as two owners or one owner, for purposes of applying rules to determine the classification of that entity for tax purposes. If the spouses elect to be a single owner, the LLC could be disregarded as a separate entity but may not be classified as a partnership. Similarly, if the spouses elect to be two owners, the entity may be classified as a partnership but cannot be disregarded as a separate entity. This election is not available to RDPs. More information for RDPs may be found in FTB Pub. 737.

Nonrecourse Loans
Liabilities of the LLC for which none of the members have assumed any personal liability.

Qualified Nonrecourse Financing
Any financing for which no one is personally liable for repayment that is borrowed for use in an activity of holding real property and that is loaned or guaranteed by a federal, state, or local government, or borrowed from a "qualified person."

California Business Situs
The place at which intangible personal property is employed as capital in California; or the place where the property is located if possession and control of the property is localized in connection with the taxpayer's business that is within this state so that substantial use or value attaches to the property.

Apportionment
The process by which business income from a trade or business is conducted in two or more states (an apportioning trade or business) is

divided between taxing jurisdictions. The apportionment percentage is determined by reference to the property (including rent), payroll, and sales factors of the apportioning trade or business.

Unitary
A method of taxation by which all of the activities comprising a single trade or business are viewed as a single unit, regardless of whether those activities are conducted by divisions of a single entity or by commonly owned or controlled entities. For more information about unitary business principles, get FTB Pub. 1061, Guidelines for Corporations Filing a Combined Report.

Election
The ability to choose a particular accounting method for tax reporting purposes. Generally, the LLC decides how to compute taxable income from its operations. For example, it chooses the accounting method and depreciation methods it will use.

However, certain elections are made separately on your California return and not by the LLC. These elections are made under the following IRC Sections, to which the R&TC conforms:

- IRC Section 108(b)(5) (income from discharge of indebtedness).
- IRC Section 617 (deduction and recapture of certain mining exploration expenditures, paid or incurred).

C Reporting Information from Columns (d) and (e)

If the LLC derives income from activities conducted both within and outside California, the LLC will complete Schedule R, Apportionment and Allocation of Income, to determine the LLC income from California sources. Resident members will use only the information in column (c) and column (d) to report their share of the LLC's income or loss.

Nonresident, corporate, and other entity members must report their share of income apportioned or allocated to California as indicated on Schedule K-1 (568). Special rules apply if a member and the LLC are engaged in a unitary business. See Cal. Code Regs., tit. 18 sections 17951 and 25137-1 for more information. Also see General Information, Unitary Members.

Nonresident, corporate, and other entity members (other than members that are unitary with the LLC) will use the information in columns (c), (d), and (e) to report their distributive share of income (losses) or credits. Residents, part-year residents, and some nonresidents may qualify for a credit for taxes paid to other states on income that is apportioned or allocated to a state other than California. For more information get Schedule S, Other State Tax Credit.

Nonapportioning LLCs do not need to fill out column (e) on Schedule K-1 (568) if the member is a resident and the "No" box is checked on Question H. However, the final determination of residency is made at the member level. If the LLC is uncertain as to the residency status of the member, it should fill out column (e) for that member.

Inconsistent Treatment of Items
Generally, members must report tax items shown on their Schedule K-1s and any attached schedules, the same way the LLC treated the items on its tax return. If the treatment on a member's original or amended tax return is inconsistent with the LLC's treatment, or if the LLC has not filed a tax return, the member must attach a statement with its original or amended tax return to identify and explain any inconsistency or to note that a LLC tax return has not been filed. If a member is required to attach this statement but fails to do so, the member may be subject to an accuracy related penalty.

D Income Not from a Trade Or Business of the LLC (Nonbusiness Income)

If the LLC has income that is not from a trade or business (nonbusiness income), the source of that nonbusiness intangible income will be determined at the member level. However, nonbusiness income from real or tangible personal property located in California, such as rents, royalties, gains, or losses is California source income (Cal. Code Regs., tit. 18 section 17951-3 and R&TC Sections 23040, 25124, and 25125). This information should be included on the appropriate line of column (e), as well as in Table 2, Part B, if the LLC believes it is unitary with the member or if the LLC is uncertain whether it is unitary with the member. Non-unitary members should ignore the information in Table 2 and use column (e).

The source of income from all nonbusiness intangibles will depend on whether the member is required to apportion its income and whether the member is a corporation. In most cases, income from nonbusiness intangible property is sourced at the residence or commercial domicile of the member. If the member is a non-apportioning corporation the intangible income is from California sources unless it has acquired a business situs outside of this State (R&TC Section 23040).

However, for individuals, estates, and trusts that are not required to apportion income, income from nonbusiness intangibles will have a California source if the intangible has acquired a California business situs. For example, a nonresident pledges stocks, bonds, or other intangible personal property in California. This pledge is security for the payment of debt, taxes, or other liabilities incurred for a business in this state. The pledged property will acquire a business situs in California. Another example is a nonresident who maintains an office and bank account in California for the business activities in this state. The bank account will acquire a business situs in California. See Cal. Code Regs., tit. 18 section 17951-2 and R&TC Section 17952. If the intangible income is determined to have a business situs by the LLC, the intangible income will be included in column (e).

If the member is an apportioning taxpayer or is a corporation, Cal. Code Regs., tit. 18 sections 17951-4 and 25137-1 require that nonbusiness income from intangibles be allocated in accordance with the rules of R&TC Sections 25126 and 25127.

Because the source of intangible nonbusiness income is dependent upon the status of the individual member, that income is not included in column (e) and is entered only in Table 1. The member must determine the source of such income by applying the rules described above.

E Unitary Members

The rules discussed below apply to corporations, individuals, and other entities that conduct a trade or business that is unitary with the LLC's trade or business (see Cal. Code Regs., tit. 18 section 17951, incorporating the provisions of R&TC Section 25137 and regulations thereunder).

Unitary members cannot use the California source information reflected in column (e). Such members must use the information in Table 1 and Table 2 as described in the instructions that follow, and in the Specific Line Instructions.

The member's distributive share of LLC items is determined by applying the LLC rules in R&TC Sections 17851 through 17858. The determination of the portion of the distributive share of business and nonbusiness income that has its source in California or that is includible in the member's business income subject to apportionment is made in accordance with Cal. Code Regs., tit. 18 section 25137-1 if the member, or the LLC, or both, have income from sources within and outside this state. The member, in computing net income for its tax accounting period, must include its distributive share of LLC items referred to above for any LLC taxable year ending within or with the member's tax accounting period.

Distributive Items of Business Income

Apportionment of Business Income – Unitary Business
If the LLC's activities and the member's activities constitute a unitary business under established standards (other than ownership requirements), the combined business income of this single trade or business apportioned to California is determined by combining the member's distributive share of the LLC's apportionment factors with the factors of the member for any LLC year ending within the member's tax accounting period. Combined business income is then apportioned by using a 3- or 4-factor formula consisting of the combined property,

payroll, and a single or double-weighted sales factor. Use of a 3-factor formula depends upon whether combined gross business receipts (member's share of the LLC's gross business receipts plus the member's own gross business receipts) are more than 50% from agricultural, extractive, savings and loans, banking, or financial business activities.

If you are a member that is unitary with the LLC, use Table 2 to compute your factors, applying the rules shown below (see Cal. Code Regs., tit. 18 section 25137-1 for examples). Members that are unitary with the LLC should perform the following steps:

1. Combine your distributive share of the LLC's business income with your own business income to determine total business income.
2. Compute property, payroll, and sales factors by combining your distributive share of the LLC's factors from Table 2, Part C, with your own factors as explained below.
3. Apply the apportionment factor determined in Step 2 to the total business income determined in Step 1 to arrive at business income apportioned to this state.

1. Unitary Member's Computation of Property Factor
Use Schedule R to compute the numerator and the denominator of the property factor. Adjust factors in accordance with Cal. Code Regs., tit. 18 sections 25130 and 25131. Also apply the following special rules:

A. Include in the denominator of your property factor your distributive share of the LLC's beginning and ending balances of real and tangible personal property owned (if rented, multiply rent by 8) and used during the tax accounting period in the regular course of business. See Table 2, Part C.
B. Include in the numerator of the member's property factor the value of such property that is described in 1A (above) that is located in California. See Table 2, Part C.
C. See Cal. Code Regs., tit. 18 section 25137-1(f)(1)(B) for examples of how to avoid duplication of the value of property that is rented by the member to the LLC or vice versa.

2. Unitary Member's Computation of Payroll Factor
Use Schedule R to compute the numerator and the denominator of the payroll factor in accordance with Cal. Code Regs., tit. 18 sections 25132 and 25133. Apply all of the following special rules:

A. Include in the denominator of your payroll factor your distributive share of the LLC's payroll used to produce business income. See Table 2, Part C.
B. Include in the numerator any such payroll described in 2A that is applicable to California. See Table 2, Part C.

3. Unitary Member's Computation of the Sales Factor
Compute the numerator and denominator of the sales factor in accordance with Cal. Code Regs., tit. 18 sections 25134 to 25136. Apply all of the following special rules:

A. Include in the denominator of the sales factor your distributive share of the LLC's sales that give rise to business income. See Table 2, Part C.
B. Include in the numerator of your sales factor the amount of such sales described in 3A attributable to California.
C. Eliminate intercompany sales as one of the following:
   - Sales by the member to the LLC to the extent of the member's interest in the LLC.
   - Sales by the LLC to the member not to exceed the member's interest in all LLC sales. See Cal. Code Regs., tit. 18 section 25137-1(f)(3).

Distributive Items of Nonbusiness Income for a Unitary Member
Income in Table 2, Part B, is from a California source under R&TC Sections 25124 and 25125. Schedule K-1 (568), column (e) data is not used by a unitary member, unitary members must make certain to separately include such items as California source income.

Specific Instructions

Questions and Items

The LLC completes the questions and items on each Schedule K-1 (568) for all its members. For more information, see the instructions for federal Schedule K-1 (1065).

Schedule K-1 (568)

If your Schedule K-1 (568) reports losses and/or deductions, you must first apply the basis, at-risk, and passive activity limitations before such losses/deductions can be deducted on your California return. See Specific Instructions, Loss Limitations. Also, see IRC Section 705(a) for information on how to compute basis.

If your return is ever examined, you may be required to provide your computations and the supporting documents for your membership interest.

If you are an individual member, the amounts in column (c), Adjustments, and column (d), Total amounts using California law, that are from nonpassive activities must be reported on the appropriate California form or schedule; such as, Schedule D (540), California Capital Gain or Loss Adjustment, Schedule D-1, Sales of Business Property, Schedule CA (540), California Adjustments – Residents, or Schedule CA (540NR), California Adjustments – Nonresidents or Part-Year Residents.

Amounts in column (e), California source amounts and credits, that are from passive activities must be reported on form FTB 3801, Passive Activity Loss Limitations, form FTB 3801-CR, Passive Activity Credit Limitations, or form FTB 3802, Corporate Passive Activity Loss and Credit Limitations. Use the related worksheets to figure any passive loss limitations. If the LLC knows that you are a California resident, it may leave column (e) blank. California residents are subject to tax on their entire taxable income shown in column (d) (R&TC Section 17041).

If you are not an individual member, report the amounts as instructed on your California return.

If you have losses, deductions, credits, etc., from a prior year that were not deductible or usable because of certain limitations they may be taken into account in determining your net income, loss, etc., for this year. However, do not combine the prior-year amounts with any amounts shown on this Schedule K-1 (568) to get a net figure. Instead, report the amounts on an attached schedule, statement, or form on a year-by-year basis. See the instructions for federal Schedule K-1 (1065) for more information.

Loss Limitations

The amounts shown on line 1 through line 3 of your Schedule K-1 (568) reflect your distributive share of income or loss from the LLC's business or rental operations. If you have losses from the LLC, there are three potential limitations imposed on losses before you may deduct them on your return. These limitations and the order in which they must be applied are:

- Basis limitations (IRC Section 704)
- At-risk limitations (IRC Section 465)
- Passive activity loss and credit limitations (IRC Section 469)

Each of these limitations is discussed separately in the following instructions.

Other limitations may apply to specific deductions such as the investment interest expense deduction. These limitations on specific deductions generally apply before the basis, at-risk, and passive loss limitations.

Basis Rules
Generally, California tax law conforms to federal tax law concerning basis limitation. You may not claim your share of an LLC loss (including a capital loss) that is greater than the adjusted basis of your LLC interest at the end of the LLC's taxable year.

The LLC is not responsible for keeping the information needed to compute the basis of your LLC interest. Although the LLC does provide you with an analysis of the changes to your capital account on your Schedule K-1 (568), Item I, that information is based on the LLC's books and records and should not be used to compute your basis.

You can compute the basis of your LLC interest by adding items that increase your basis and then subtracting items that decrease your basis.

Items that increase your basis may include the following:

- Money and the adjusted basis of property you contributed to the LLC.
- Your distributive share of the LLC's income.
- Your distributive share of the increase in the liabilities of the LLC (and/or your individual liabilities caused by your assumption of LLC liabilities).

Items that decrease your basis, but not below zero, may include the following:

- Money and the adjusted basis of property distributed to you.
- Your share of the LLC's losses.
- Your share of the decrease in the liabilities of the LLC (and/or your individual liabilities assumed by the LLC).

This is not a complete list of items and factors that determine basis. Get federal Publication 541, for a complete discussion of how to determine the basis of your LLC interest.

At-Risk Rules

The at-risk rules limit the amount of loss (including loss on disposition of assets) and other deductions (such as IRC Section 179, R&TC Sections 17267.2, 17267.6, and 17268) that you can claim to the amount you could actually lose in the activity.

If you have: (1) a loss or other deduction from an activity carried on as a trade or business or for the production of income by the LLC; and (2) amounts in the activity for which you are not at-risk, you will have to complete federal Form 6198, At-Risk Limitations, to figure the allowable loss to report on your return. Complete federal Form 6198 using California amounts.

See the instructions for federal Schedule K-1 (1065), At-Risk Limitations, and federal Publication 925, Passive Activity and At-Risk Rules, for more information.

Passive Activity Loss and Credit Rules

IRC Section 469 limits the deduction of certain losses and credits. California law generally conforms to this federal provision. These rules apply to members who have a passive activity loss or credit for the taxable year.

For California purposes, passive loss limitations apply to individuals, estates, trusts (other than grantor trusts), closely held corporations, and S corporations.

Even though the passive loss rules do not apply to grantor trusts, partnerships, and LLCs, they do apply to the owners of these entities.

A passive activity is generally a trade or business activity in which the member does not materially participate or a rental real estate activity in which the member does not actively participate. An LLC may have more than one activity. Each member must apply the passive activity loss and credit limitations on an activity-by-activity basis.

Individuals, estates, trusts, and S corporations must complete form FTB 3801 to calculate the allowable passive losses and form FTB 3801-CR to calculate the allowable passive credits. Corporations must complete form FTB 3802.

The amounts reported on Schedule K-1 (568), line 1 and line 15f, are normally passive activity income (loss) or credits from the trade or business of the LLC if you are a member who did not materially participate in the trade or business activities of the LLC. The amounts reported on Schedule K-1 (568), line 2, line 3, and line 15b are from rental activities of the LLC and are passive activity income (loss) or credits to all members. There is an exception to this rule for losses incurred by qualified investors in qualified low-income housing projects. The LLC will identify any of these qualified amounts on an attachment for line 2.

The passive loss rules apply to the items attributable to each publicly traded partnership (PTP) that is not treated as a corporation under IRC Section 7704. Thus, members who do not materially participate in the operations of a PTP are allowed to deduct their share of the PTP's losses only to the extent of passive income from the same PTP or when the entire interest is sold, IRC Section 469(k). See the instructions for form FTB 3801 and form FTB 3802 for rules to calculate and report income, gains, and losses from passive activities that you held through each PTP you owned during the taxable year.

See the instructions for federal Schedule K-1 (1065), Passive Activity Limitations, and federal Publication 925, for more information.

Investment Partnership Income

If you are a nonresident individual, the amounts in column (e) will generally not be taxable by California (R&TC Section 17955). However, nonresident individuals will be taxed on their distributive share of California source income from an LLC that is an investment partnership if the income from the qualifying investment securities is interrelated with:

- Any other business activity of the nonresident member.
- Any other entity in which the nonresident member owns an interest that is separate and distinct from the investment activity of the LLC and that is conducted in California.

If you are a corporate member, the amounts in column (e) will generally not be taxable in California provided the income from the LLC is the corporation's only California source income. However, if the corporation does either of the following:

- Participates in the management of the investment activities of the LLC or is engaged in a unitary business with another corporation or partnership that participates in the management of the investment activities of the LLC.
- Has income attributable to sources within California other than income from the investment partnership.

Then the corporation will be taxable on its distributive share of California source income of the LLC. See R&TC Section 23040.1 for more information.

Specific Line Instructions

Enter the difference between federal and California amounts from column (c) on Schedule CA (540) if you are a resident or on Schedule CA (540NR) if you are a nonresident or part-year resident. Also, if you are a nonresident or part-year resident, enter California source amounts from the Schedule K-1 (568), column (e), on your Schedule CA (540NR), column E.

F(1) – If this box is checked, the LLC is a PTP as defined in IRC Section 469(k)(2). Follow the instructions for form FTB 3801 or form FTB 3802 for reporting income, gains, and losses from PTPs.

F(2) – If this box is checked, the LLC qualifies as an investment partnership as defined in R&TC Sections 17955 and 23040.1. If you are a nonresident individual, the amounts in column (e) will generally not be taxable in California. See Specific Line Instructions for more information.

Nonresident and Part-Year Resident Members, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency. Part-year resident members must consider their period of residency and nonresidency in the computation of total California income.

The specific line instructions below that instruct you to enter information from Schedule K-1 (568), column (d), on other forms, apply to resident members. When the instructions make reference to column (d), nonresident members should take information from columns (c), (d), and (e) and apply the information to the appropriate line relating to computation of total income and income from California sources.

Income (Loss)

Line 1 – Ordinary Income (Loss) from Trade or Business Activities

The amount reported on line 1, column (d), is your share of the ordinary income (loss) from the trade or business activities of the LLC. For individual members, where this amount is reported depends on whether or not this amount is a passive activity.

If, in addition to this passive activity income, you have a passive activity loss from this LLC or from any other source, report the income on form FTB 3801 or form FTB 3802. If a loss is reported on line 1, column (d), report the loss on the applicable line of form FTB 3801 or form FTB 3802 to determine how much of the loss is allowable.

If the LLC income is from activities both within and outside California, the amount nonresidents or corporate members must report on their California return is a function of the LLC's apportionment percentage and allocation of income. Reporting instructions are included in the information provided by the LLC. See Cal. Code Regs., tit. 18 sections 17951-4 and 25137-1 for more information. In addition, see General Information, Unitary Partners.

Line 2 – Net Income (Loss) from Rental Real Estate Activities

Generally, the income (loss) reported on line 2, column (d), is a passive activity amount to all members. However, the loss limitations of IRC Section 469 do not apply to qualified investors in qualified low-income housing projects. If applicable, the LLC will attach a schedule for line 2 to identify such amounts. If you have an amount on Schedule K-1 (568), line 2, column (c), report this amount on Schedule CA (540 or 540NR), line 17, column B or column C, whichever is applicable.

Use the following instructions to determine where to enter the line 2 amount.

- If you have a loss on line 2, column (d) (other than a qualified low-income housing project loss), enter the loss on the applicable line of form FTB 3801 or form FTB 3802 to determine how much of the loss is allowable. Your share of the loss may be eligible for the special $25,000 allowance for rental real estate losses. Get the instructions for form FTB 3801 or form FTB 3802 for more information.

See the federal Schedule K-1 (1065) Specific Instructions for box 2, item 1 and item 2, for more information.

Report any California adjustment amount from column (c) on Schedule CA (540 or 540NR) if you are a qualified investor reporting a qualified low-income housing project loss.

- If you have only income on line 2, column (d), and no other passive losses, enter any California adjustment amount from column (c) on Schedule CA (540 or 540NR). However, if in addition to this passive activity income, you have a passive activity loss from this LLC or from any other source, report the line 2, column (d), income on the applicable line of form FTB 3801 or form FTB 3802.

Line 3 – Net Income (Loss) from Other Rental Activities

The amount on line 3, column (d) is a passive activity amount for all members.

- If line 3, column (d) is a loss, report the loss on the applicable line of form FTB 3801 or form FTB 3802.
- If only income is reported on line 3, column (d), and you have no other passive losses, report the California adjustment from column (c) on Schedule CA (540 or 540NR). However, if in addition to this passive activity income, you have a passive activity loss from this LLC or from any other source, report the line 3 income on the applicable line of form FTB 3801 or form FTB 3802.

Line 4 – Guaranteed Payments to Members

Amounts on this line are not normally part of a passive activity. If there is an amount on Schedule K-1 (568), line 4, column (c), enter this amount on Schedule CA (540 or 540NR), line 21f, column B or column C, whichever is applicable. If this is a passive activity for the member, then the member must also complete the passive activity form. Use federal Form 8582, Passive Activity Loss Limitations, for federal purposes and form FTB 3801 for California purposes.

Portfolio Income – Line 5 through Line 11a

Portfolio income (loss), referred to as "portfolio" in these instructions, is generally not subject to the passive activity limitations of IRC Section 469. Portfolio income includes interest, dividend, royalty income and gain or loss on the sale of property held for investment. Generally, amounts reported on line 8, line 9, and line 11a, are gains or losses attributable to the disposition of property held for investment and are, therefore, classified as portfolio income (loss). However, if an amount reported on line 8, line 9, or line 11a, column (d), is a passive activity amount, the LLC should identify the amount.

Line 5 – Interest Income

If you have an amount on Schedule K-1 (568) line 5, column (c), report this amount on Schedule CA (540 or 540NR), line 8, column B or column C, whichever is applicable.

Line 6 – Dividends

If you have an amount on Schedule K-1 (568) line 6, column (c), report this amount on Schedule CA (540 or 540NR), line 9, column B or column C, whichever is applicable.

Line 7 – Royalties

If you have an amount reported on Schedule K-1 (568) line 7, column (c), report this amount on Schedule CA (540 or 540NR), line 17, column B or column C, whichever is applicable.

Line 8 and Line 9 – Net Short-term and Net Long-term Capital Gains (Loss)

If you have an amount on Schedule K-1 (568), line 8 or line 9, column (d), report this amount on Schedule D (540 or 540NR), line 2.

Line 10a and Line 10b – Total Gain and Total Loss Under IRC Section 1231 (Other Than Due to Casualty or Theft)

If the amounts on line 10a and line 10b relate to rental activity, the IRC Section 1231 gain (loss) is a passive activity amount. If the amounts on line 10a and line 10b relate to a trade or business activity and you are a limited partner, the IRC Section 1231 gain (loss) is a passive activity amount.

- If the amount is not a passive activity amount report it on Schedule D-1, line 2, column (g).
- If a gain is reported on line 10a, column (d), and it is a passive activity amount report the gain on Schedule D-1, line 2, column (g).
- If a loss is reported on line 10b, column (d), and it is a passive activity amount, get form FTB 3801 to determine if your loss is limited.

Line 11a – Other Portfolio Income (Loss)

The LLC uses line 11a, column (d), to report portfolio income other than interest, dividend, royalty, and capital gain (loss) income. The LLC should attach a schedule to Schedule K-1 (568) to tell you what kind of portfolio income is reported on line 11a, column (d). An example of portfolio income that could be reported on line 11a, column (d), is from a real estate mortgage investment conduit (REMIC) in which the LLC is a residual interest holder.

If the LLC has a residual interest in a REMIC, it will report your share of REMIC taxable income (net loss) on the schedule. Report the adjustment amount from column (c) on Schedule CA (540 or 540NR). The LLC will also report your share of "excess inclusion" and your share of IRC Section 212 expenses. If you itemize your deductions on federal Schedule A (1040), Itemized Deductions, you may deduct these IRC Section 212 expenses as a miscellaneous deduction.

Line 11b and Line 11c – Total Other Income and Total Other Loss

Amounts reported on these lines are other items of income (loss) not included on line 1 through line 11a. The LLC should give you a description for each of these items.

Use the following instructions to:

- Report income or gain (not losses) from passive activities.
- Report income, gain, or losses from all other passive activities.

If you have losses from passive activities, or a combination of income, gains, and losses from passive activities, you must first complete form FTB 3801 or form FTB 3802 to determine if any of your losses are limited by the passive loss rules. Use the instructions below to report passive income and losses after the passive loss limitations have been computed.

Line 11b and line 11c items may include:

- LLC gains from disposition of farm recapture property (get Schedule D-1) and other items to which IRC Section 1252 applies.
- Recoveries of bad debts, prior taxes, and delinquency amounts (IRC Section 111). Report the amounts from line 11b and line 11c, column (c), on Schedule CA (540 or 540NR), line 21f, column B or column C, whichever is applicable.
- Gains and losses from wagering (IRC Section 165(d)). Report the amounts from line 11b and line 11c, column (c), on Schedule CA (540 or 540NR), line 21f, column B or column C, whichever is applicable.
- Any income, gain, or loss to the LLC under IRC Section 751. Report this amount on Schedule D-1, line 10.
- Specially allocated ordinary gain or loss. Report this amount on Schedule D-1, line 10.
- Net gain or loss from involuntary conversions due to casualty or theft. The LLC will provide a schedule that shows the California amounts to be entered on federal Form 4684, Casualties and Thefts, Section B, Part II, line 34, column (b)(i), column (b)(ii), and column (c).
- Eligible gain from the sale or exchange of qualified small business stock (as defined in R&TC Section 18152.5, and issued after August 10, 1993). Also, the name of the corporation that issued the stock and the adjusted basis of that stock should be reported on the attachment to Schedule K (568) and Schedule K-1 (568). Any differences between IRC Section 1202 and R&TC Section 18152.5 should be included on line 11b and line 11c, column (c).
- Other income (loss) including involuntary conversions, IRC Section 1256 contracts & straddles, and Mining exploration costs.

Deductions

Line 12 – Expense Deduction for Recovery Property

For California the maximum amount of expense deduction for recovery property (IRC Section 179 deduction) that you can claim for all sources is $25,000. The $25,000 limit is reduced if the total cost of IRC Section 179 property placed in service during the year exceeds $200,000.

Federal limitation amounts are different than California limitation amounts.

The LLC will provide information on your share of the IRC Section 179 deduction and of the cost of the LLC's IRC Section 179 property so that you can compute this limitation. Your IRC Section 179 deduction is also limited to your taxable income from all of your trades or businesses. Get form FTB 3885A, Depreciation and Amortization Adjustments, and get federal Publication 534, Depreciating Property Placed In Service Before 1987, for more information.

If the IRC Section 179 deduction is a passive activity amount, report it on the applicable line of form FTB 3801. If it is not a passive activity amount and there is an amount on Schedule K-1 (568), line 12, column (c), enter this amount on Schedule CA (540 or 540NR), line 21f, column B or column C, whichever is applicable.

Refer to R&TC Sections 17267.2, 17267.6, and 17268 on how to figure the expense deduction for recovery property in an economic development area.

Line 13a – Charitable Contributions

The LLC will provide a schedule that shows which contributions were subject to the 50%, 30%, and 20% limitations. See the instructions for federal Form 1040, U.S. Individual Income Tax Return, and federal Publication 526, Charitable Contributions, for more information.

California has not conformed to any of the provisions of the Katrina Emergency Relief Act of 2005.

If there is an amount on Schedule K-1 (568), line 13a, column (c), enter this amount on Schedule CA (540 or 540NR), line 41.

Line 13b – Investment Interest Expense

If the LLC paid or accrued interest debts it incurred to buy or hold investment property, the amount of interest you can deduct may be limited. For more information and the special provisions that apply to investment interest expense, get form FTB 3526, Investment Interest Expense Deduction, and federal Publication 550, Investment Income and Expenses.

Enter the amount from column (d) on form FTB 3526 along with your investment interest expense from any other sources. Form FTB 3526 will help you determine how much of your total investment interest is deductible.

Line 13c – IRC Section 59(e) Expenditures

If you have an amount on Schedule K-1 (568) line 13c, see the instructions for the federal Schedule K-1 (1065), box 13. The LLC should give you a description and the amount of your share for each item applicable to California in this category.

Line 13d – Deductions Related to Portfolio Income

Amounts entered on this line are the deductions that are clearly and directly allocable to portfolio income (other than investment interest expense and expenses from a REMIC). If you have an amount on Schedule K-1 (568), line 13d, column (c), enter this amount on Schedule CA (540 or 540NR), line 41. If any of the line 13d amounts should not be reported on Schedule CA (540 or 540NR), the LLC should identify these amounts.

Line 13e – Other Deductions

Amounts on this line are deductions not included on lines 12, 13a, and 13d. If there is an amount on Schedule K-1 (568), line 13e, column (c), enter this amount on the applicable line of Schedule CA (540 or 540NR).

See the instructions for federal Schedule K-1 (1065), box 13, for examples of other deductions. Also get FTB Pub. 1001, for differences between federal and state tax law for certain deductions.

Line 14

The information reported in box 14 of the federal Schedule K-1 (1065), does not apply to California and therefore there is no line 14.

Credits

If you have credits that are passive activity credits, complete form FTB 3801-CR (corporations use form FTB 3802), in addition to the credit forms referenced. Get the instructions for form FTB 3801-CR (or form FTB 3802) for more information.

Line 15a – Total Withholding

Total Withholding is the sum of your distributive share of withholding on payments to the LLC by another entity, (allocated to all members according to their respective LLC interests), plus withholding on you as a domestic or foreign nonresident member. If there is a pass-through withholding credit from another entity or taxes were withheld on you by the LLC, the LLC must provide a completed Form 592-B, Nonresident Withholding Tax Statement. Attach Form 592-B to the front of your California return to claim the amount withheld. Schedule K-1 (568) may not be used to claim the withholding credit. If the LLC is not on a calendar year, the amount on line 15a may not match the amount on Form 592-B because of the difference in accounting periods. The amount shown on Form 592-B should be claimed on one of the following:

- Form 540, California Resident Income Tax Return, line 38.
- Form 540NR, California Nonresident or Part-Year Resident Income Tax Return (Long Form), line 44.
- Form 541, California Fiduciary Income Tax Return, line 31.
- Form 109, California Exempt Organization Business Income Tax Return, line 17.

- Form 100, California Corporation Franchise or Income Tax Return, line 34.
- Form 100S, California S Corporation Franchise or Income Tax Return, line 33.

Get FTB Pub. 1017, Nonresident Withholding Guidelines, for more information.

Line 15b – Low-Income Housing Credit

Any allowable credit is entered on form FTB 3521, Low-Income Housing Credit. However, the passive activity credit limitations of IRC Section 469 may limit the amount of credit. Credits from passive activities are generally limited to tax attributable to passive activities.

You cannot claim the low-income housing credit on any qualified low-income housing project for which any person was allowed any benefit under Section 502 of the Tax Reform Act of 1986.

Line 15c – Other Credits Related to Rental Real Estate Activities

The information you need to compute credits related to rental real estate activities other than the low-income housing credit is provided with an attached schedule. These credits may be limited due to passive activity limitation rules.

Line 15d – Credits Related to Other Rental Activities

Any information you need to compute credits related to rental activities other than rental real estate activities is provided on this line with an attached schedule. These credits may be limited due to passive activity limitation rules.

Line 15e – Nonconsenting Nonresident Member's Tax Paid by LLC

This line shows any income tax paid on your behalf by the LLC if, as a nonresident member, you did not sign form FTB 3832, Limited Liability Company's Nonresident Members' Consent, consenting to California's jurisdiction to tax your distributive share of the LLC income attributable to California sources.

This line also shows any income tax paid on behalf of your LLC by another LLC of which your LLC is a member. This applies if form FTB 3832, is not signed on behalf of your LLC. This means that your LLC is not consenting to California's jurisdiction to tax your LLC's distributive share of another LLC's income attributable to California sources.

You must attach a copy of Schedule K-1 (568) to your California tax return to claim the tax paid by the LLC on your behalf.

For taxable years beginning on or after January 1, 2005, the tax may be reduced by the amount of tax previously withheld and paid by the LLC with respect to each nonconsenting, nonresident member.

If there was income tax paid on behalf of your LLC, you must attach a copy of the following to your California return to claim your share of the tax paid by another LLC on behalf of your LLC:

- The Schedule K-1 (568) issued to your LLC by another LLC.
- The Schedule K-1 (568) issued by your LLC.

Line 15f – Other Credits

This line is used to report information you need to compute pass-through credits and other items that are not includable on line 15a through line 15d but are related to the trade or business activity. The LLC should provide a schedule and/or statement explaining any items.

Credits that may be reported on line 15f (depending on the type of activity they relate to) include:

- Community Development Financial Institution Deposits Credit. Use credit code 209.
- Disabled Access Credit for Eligible Small Businesses. Get form FTB 3548.
- Donated Agricultural Products Transportation Credit. Get form FTB 3547.
- Employer Child Care Program/Contribution Credit. Get form FTB 3501.
- Enhanced Oil Recovery Credit. Get form FTB 3546.
- Enterprise Zone (EZ) Hiring and Sales or Use Tax Credit. Get form FTB 3805Z.
- Environmental Tax Credit. Get form FTB 3511.
- Farmworker Housing Credit-Construction. Use credit code 207.
- Farmworker Housing Credit - Loan. Use credit code 208.
- Local Agency Military Base Recovery Area (LAMBRA) Hiring and Sales or Use Tax Credit. Get form FTB 3807.
- Manufacturing Enhancement Area (MEA) Hiring Credit. Get form FTB 3808.
- Natural Heritage Preservation Tax Credit. Get form FTB 3503.
- Prison Inmate Labor Credit. Get form FTB 3507.
- Research Credit. Get form FTB 3523.
- Targeted Tax Area (TTA) Hiring and Sales or Use Tax Credit. Get form FTB 3809.

The passive activity limitations of IRC Section 469 may limit the amount of credits on line 15b, line 15c, line 15d, and line 15f. Line 15b, line 15c, and line 15d credits are related to the rental activities of the LLC. Line 15f credits are related to the trade or business activities of the LLC. In general, passive activity credits from passive activities are limited to tax attributable to passive activities for California purposes (R&TC Section 17561). Credits that may be limited under the passive activity credit rules include the following:

- Research credit
- Low-income housing credit

You may be able to use the low-income housing credit, and other credits generated from rental activities, against tax on other income. See form FTB 3801-CR for more information.

The LLC can include on line 15f your distributive share of net income taxes paid to other states by the LLC. Subject to the limitations of R&TC Section 18006, members may claim a credit against their individual tax for net income taxes paid by the LLC to another state. The amount of tax paid is required to be supported by a copy of the return filed with the other state and evidence of the payment of the tax. Get Schedule S for more information.

Alternative Minimum Tax (AMT) Items

Line 16

The information reported in box 16 of the federal Schedule K-1 (1065), does not apply to California and therefore there is no line 16.

Line 17a through Line 17f, column (d)

Use the information reported on line 17a through line 17f, column (d) as well as your adjustments and tax preference items from other sources to complete Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations. For more information, see the instructions for federal Schedule K-1 (1065), Alternative minimum tax (AMT) items box 17.

Tax-Exempt Income and Nondeductible expenses

Line 18a through Line 18c – Tax-exempt income and Nondeductible Expenses

See the instructions for federal Schedule K-1 (1065), box 18. The LLC should give you a description and the amount of your share for each item applicable to California in this category.

Distributions

Line 19a and Line 19b – Distributions

See the instructions for federal Schedule K-1 (1065), box 19.

Other Information

Line 20a and Line 20b – Investment Income and Investment Expenses

If the LLC paid or accrued interest on debts it incurred to buy or hold investment property, the amount of interest you can deduct may be limited.

For more information and the special provisions that apply to investment interest expense, get form FTB 3526, and federal Publication 550.

Use the column (d) amounts to determine the amount to enter on form FTB 3526, line 1.

The amounts shown include only investment income and expenses included on lines 5, 6, 7, 11a, and 13d of this Schedule K-1 (568). The LLC should attach a schedule that shows the amount of any investment income and expenses included in any other lines of this Schedule K-1 (568). Use these amounts, if any, to adjust line 20a and line 20b to determine your total investment income and total investment expenses from this LLC.

Combine these totals with investment income and expenses from all other sources to determine the amount to enter on form FTB 3526, line 1.

Line 20c – Other Information

For credit recaptures attach a schedule including credit recapture names and amounts.

The LLC will provide supplemental information required to be reported to you on this line. If the LLC is claiming tax benefits from an EZ, LARZ, LAMBRA, MEA, or TTA, it will give you the business income, and business capital gains and losses, apportioned to the EZ, LARZ, LAMBRA, MEA, or TTA, on this line. Get form FTB 3805Z, FTB 3806, FTB 3807, FTB 3808, or FTB 3809 to claim any applicable credit.

The LLC may have provided a schedule with amounts showing your proportionate interest in the LLC's aggregate gross receipts, less returns and allowances. A qualified taxpayer may exclude income, positive and negative adjustments, and preference items attributable to any trade or business from alternative minimum taxable income. A "qualified taxpayer" is defined as an individual, estate, or trust that meets both of the following:

- Is the owner of, or has an ownership interest in a trade or business.
- Has aggregate gross receipts, less returns and allowances, of less than $1,000,000 during the taxable year from all trades or businesses in which the taxpayer is an owner or has an ownership interest. In the case of an ownership interest, you should include only your proportional share of aggregate gross receipts of any trade or business from a partnership, LLC, S corporation, regulated investment company (RIC), real estate investment trust (REIT), or real estate mortgage investment conduit (REMIC).

You need to add your share of the aggregate gross receipts from this LLC to your aggregate gross receipts from all other trades or businesses in which you hold an interest to determine if you are a qualified taxpayer.

For purposes of R&TC Section 17062(b)(4), "aggregate gross receipts, less returns and allowances" means the sum of the following:

- The gross receipts of the trades or businesses which the taxpayer owns.
- The proportionate interest of the gross receipts of the trades or businesses which the taxpayer owns.
- The proportionate interest of pass-through entities gross receipts in which the taxpayer holds an interest.

"Gross receipts" means the sum of the gross receipts from the production of business income, as defined in subdivision (a) of R&TC Section 25120, and the gross receipts from the production of nonbusiness income, as defined in subdivision (d) of R&TC Section 25120.

For purposes of this section "pass-through entity" means a partnership (as defined by R&TC Section 17008), an S corporation, a RIC, a REIT, and a REMIC. See R&TC Section 17062 for more information.

Get FTB Pub. 1001, for a listing of items of nonconformity for individuals.

The pro-rata share of gain or loss on property subject to the IRC Section 179 expense deduction recapture should be reported on Schedule K-1(565) as other information. Follow the instructions on the federal Form 4797 and federal Schedule K-1 (1065) for the reporting requirements.

Other Member Information

Table 1 – Member's Share of Nonbusiness Income from Intangibles (source of income is dependent on residence or commercial domicile of the member)

Generally, nonbusiness interest and dividends are sourced to the state of residence for nonapportioning individuals. Nonapportioning means doing business entirely within California. For more information regarding the sourcing of intangibles, see R&TC Section 17952.

For apportioning members, nonbusiness interest and dividends generally are allocable to California if the taxpayer's commercial domicile is California. For information regarding sourcing of intangibles for apportioning taxpayers, see R&TC Sections 25126 and 25127.

The income data contained in Table 1 is not reflected in column (e) of Schedule K-1 (568). For more information, see General Information, Income Not from a Trade or Business of the LLC (Nonbusiness Income), and General Information, Unitary Members.

Table 2 – Member's Share of Distributive Items

The final determination of unity is made at the member level.

If the member and the LLC are engaged in a single unitary business, or if the LLC is uncertain as to whether it is unitary with the member, the LLC will furnish the information on Table 2.

The member's share of the LLC's business income is entered on Table 2, item A. The member then adds that income to its own business income and apportions the combined business income using the revised factor described below.

Table 2, item B, reflects the member's share of nonbusiness income from real and tangible property wholly sourced or allocable to California. This is added to apportioned business income and nonbusiness intangible income allocated to California and becomes a part of California taxable income. For more information on sourcing intangibles, see R&TC Sections 25124 and 25125, and Cal. Code Regs., tit. 18 sections 17951-1, 17951-2, and 17951-3.

The member's share of the LLC's property, payroll, and sales factors is in Table 2, item C. The member combines its apportionment factors with the apportionment factors of the LLC and uses the revised factor to compute its business income apportioned to California. For more information, see General Information, Income Not From a Trade or Business of the LLC (Nonbusiness Income), and General Information, Unitary Members.

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How to Get California Tax Information

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Use our automated toll-free phone service to get recorded answers to many of your questions about California taxes and to order current year California business entity tax forms and publications. This service is available in English and Spanish to callers with touch-tone telephones. Have paper and pencil ready to take notes.

Call from within the United States 800.338.0505

Call from outside the United States . . . . . 916.845.6600 (not toll-free)

If you need an answer to any of the following questions, call 800.338.0505, select "Business Entity Information," then "Frequently Asked Questions." Follow the recorded instructions, and enter the three digit code when you are instructed to do so.

750 How do I organize or register a limited liability company (LLC)?
752 What tax forms do I use to file as an LLC?
753 When is the annual tax payment due?

General Toll-Free Phone Service

Telephone assistance is available year-round from 7 a.m. until 6 p.m. Monday through Friday, except holidays.

From within the United States, call 800.852.5711
From outside the United States, call . . . . . 916.845.6500 (not toll-free)

For federal tax questions
Call the IRS at 800.829.1040

Assistance for persons with disabilities
The Franchise Tax Board complies with the Americans with Disabilities Act. For persons with hearing or speech impairment call:

TTY/TDD 800.822.6268

Asistencia bilingüe en español
Asistencia telefónica esta disponible todo el año durante las 7 a.m. y las 6 p.m. lunes a viernes, excepto días festivos.

Dentro de los Estados Unidos, llame al 800.852.5711
Fuera de los Estados Unidos, llame al . . . . . 916.845.6500 (cargos aplican)

Para preguntas sobre impuestos federales
llame el IRS al. 800.829.1040

Sitio web: **ftb.ca.gov**

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Nosotros estamos en conformidad con el Acta de Americanos Discapacitados. Personas con problemas auditivos o de habla, pueden llamar al 800.822.6268 con un aparato de telecomunicación TTY/TDD.

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If you write to us, be sure your letter includes your Secretary of State (SOS) file number, your federal employer identification number (FEIN), your daytime and evening telephone numbers, and a copy of the notice. Send your letter to:

FRANCHISE TAX BOARD
PO BOX 942857
SACRAMENTO CA 94257-0040

We will respond to your letter within ten weeks. In some cases, we may need to call you for additional information. Do not attach your letter to your California return.

Where to Get Tax Forms and Publications

By Internet – You can download, view, and print California tax forms and publications from our website at **ftb.ca.gov.**

Our Joint Agency website offers California business tax information and forms for the BOE, EDD, FTB, and IRS at **taxes.ca.gov**.

You can also download, view, and print federal forms and publications from the IRS website at **irs.gov.**

By phone – Call our automated toll-free phone service at the number listed above and follow the recorded instructions.

By mail – Allow two weeks to receive your order. If you live outside California, allow three weeks to receive your order. Write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

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The FTB's goals include making certain that your rights are protected so that you have the highest confidence in the integrity, efficiency, and fairness of our state tax system. FTB Pub. 4058, California Taxpayers' Bill of Rights, includes information on your rights as a California taxpayer, the Taxpayers' Rights Advocate Program, and how you request written advice from the FTB on whether a particular transaction is taxable. See "Where To Get Income Tax Forms and Publications," on this page.

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