



# FTB 1140

## Personal Income Tax Collections Information

### Rights as a Taxpayer

Our goal at the Franchise Tax Board (FTB) is to make certain we protect your rights. We want you to have confidence in the integrity, efficiency, and fairness of our state tax system. The California Taxpayers' Bill of Rights (FTB 4058) includes information on state taxpayers' rights and how to request written tax advice from FTB. Get FTB 4058 at [ftb.ca.gov](http://ftb.ca.gov) or by phone or mail:

Website: [ftb.ca.gov](http://ftb.ca.gov)  
Telephone: 800.338.0505  
(Select Personal Income Tax)  
Mail: FRANCHISE TAX BOARD  
PO BOX 942840  
SACRAMENTO CA 94240-0040

### Bill of Rights Highlights

The California Taxpayers' Bill of Rights ensures that we adequately protect the rights, privacy, and property of all California taxpayers during the process of assessing and collecting taxes. The following information may be helpful if we begin collection actions on your tax liability.

#### Alternatives to Collection Actions

You can prevent collection actions if you:

- Pay your tax liability in full.
- Enter into an installment agreement.
- File required tax returns or provide proof that you have no filing requirement.
- Make an Offer in Compromise that we accept.
- Establish that a financial hardship prevents you from paying your liability.

#### Laws Regarding Collection Actions

##### Third Party Contacts

We may contact third parties to determine or collect your tax liabilities. Subject to privacy laws and your rights as a taxpayer, you may obtain a list of those contacts within the 12-month period following the date of the enclosed notice. We must receive your request no later than 60 days after the 12-month period has ended. For more information,

please write to: DISCLOSURE OFFICE, **FRANCHISE TAX BOARD**, PO BOX 1468, SACRAMENTO, CA 95812-1468. (Revenue & Taxation Code (R&TC) Section 19504.7)

#### Installment Agreement Cancellation or Denials

If we cancel your formal installment agreement or deny your request for an installment agreement, we will notify you in writing 30 days prior to the cancellation or denial of our intent. We will include an explanation for the cancellation or denial. If we cancel or deny your installment agreement, you have a right to an administrative review. To stop collection actions, you must send us your written request for an administrative review within 30 days from the date of your cancellation or denial notice. Collection actions will resume after a determination of the administrative review has been made. If you would like to request an administrative review, send your request, along with any supporting documents to: **FRANCHISE TAX BOARD**, PO BOX 942857, SACRAMENTO, CA 94257-9954.

#### Tax Liens

If we record a notice of state tax lien, you can get it released by paying the total tax liability (including any penalties and accrued interest) for the tax years represented by the lien. We will record a certificate of release in the office of the county recorder where we filed the tax lien and/or with the California Secretary of State no later than 40 days after you pay the liability. If you pay by check, the 40-day period does not begin until your financial institution honors the check. (Government Code Sections 7174(c)(1) and 174(e)(1))

Unfortunately, we sometimes record a notice of state tax lien in error. If this happens to you, please write to us and explain why the notice of state tax lien was recorded in error. If we agree with you, we will send a notice to the applicable county recorder's office and to credit reporting companies stating that we filed the tax lien in error. (R&TC Section 21019)

#### Bank, Wage, or Other Levies

If we take your property and you believe our action is improper, you have the right to a hearing. To request a hearing, you must contact the Taxpayer Advocate within 30 days after we seize your property. At the hearing, you should provide information that demonstrates the need to change or withdraw our levy or stop the sale of your property. If we seize your bank account in error, and you did not contribute to that error, we may reimburse you for related bank charges. You must file your reimbursement claim within 90 days of the levy. (R&TC Section 21018) The California Code of Civil Procedure Sections 700.010 through 704.995, and R&TC Sections 18670 and 18671 governs the seizure and sale of real and personal property. The California Code of Civil Procedure Sections 706.020 through 706.154 governs wage garnishment.

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## Claim for Refund – Time Limit

There is a time limit to request a refund from us. Generally, you can file a refund claim until the later of four years from the due date of your return, or one year from the date of overpayment. (R&TC Section 19306) Generally, you may only request a refund when you have paid the full amount due. For claims filed on or after January 1, 2002, even if you have not yet paid the amount due in full, you can file an informal refund claim within the time frames indicated above. An informal claim will protect your right to file an appeal with the California State Board of Equalization or to file suit against us in court for partial payments until the amount is paid in full. However, amounts paid more than seven years ago cannot be refunded. (R&TC Section 19322.1)

## Internet and Telephone Assistance

Website: [ftb.ca.gov](http://ftb.ca.gov)  
Telephone: 800.852.5711  
from within the United States  
916.845.6500  
from outside the United States  
TTY/TDD: 800.822.6268 for persons with hearing or speech impairments

## Fees

### Cost Recovery Fees

We charge you cost recovery fees if we must take collection action to resolve your filing and payment delinquencies. Cost recovery fees may include a filing enforcement fee, a collection fee, a lien fee, federal treasury offset fee, and fees to cover the cost of seizing and selling property. (Government Code Section 16583.1 and R&TC Sections 19254, 19209, 19221, 19233, and 19234)

## Tax Liens

If you do not pay your entire California income tax liability by the time it becomes due and payable, the unpaid amount is subject to a state tax lien. (Government Code Section 7162 and R&TC Section 19221) We may record a notice of state tax lien in the county recorder's office of the county in which you live or own real property. We may also file a state tax lien with the California Secretary of State. (Government Code Sections 7171 and 7220)

## Interception

If you do not pay your entire California income tax liability by the time it becomes due and payable, the unpaid amount could be satisfied by interception of any funds due to you from another state agency. If you do not believe you owe this debt, you must contact us within 30 days from when you first receive a Return Information Notice or Statement of Tax Due to prevent possible interception. (Government Code Section 12419)

## Penalties

### Accuracy and Fraud Penalty

Under certain circumstances, if you understate your tax liability, we may impose a penalty equal to 20 percent of the related underpayment. We may also impose a fraud penalty equal to 75 percent of the related underpayment. For tax years that were eligible for tax amnesty, we may impose an accuracy-related penalty if you have understated your liability. The penalty is equal to 40 percent of the related underpayment. (R&TC Section 19164)

### Dishonored Payment Penalty

We impose a penalty if your financial institution does not honor a payment you make to us by your check, money order, or electronic funds transfer. For a payment of \$750 or more, the penalty is 2 percent of the payment amount. For a payment less than \$750, the penalty is \$15 or the payment amount, whichever is less. (R&TC Section 19134)

### Demand to File Penalty

If we send you a demand to file your income tax return or to provide us with information, and you do not comply, we impose a penalty of 25 percent of the tax on our assessment before applying any payments or credits. **Therefore, you may owe penalties and interest even if your tax return shows that a refund is due.** This penalty is in addition to the 25 percent late return penalty. (R&TC Section 19133)

### Estimated Tax Penalty

We impose a penalty if you do not pay, pay late, or underpay an estimated tax installment. We calculate the penalty on the unpaid amount from the due date of the estimated tax installment to the date we receive your payment or to the due date of the return, whichever is earlier. See the interest rate listed on PAGE 3. (R&TC Section 19136)

### Late Return Penalty

If you do not file your income tax return by the extended due date, we impose a penalty of 5 percent of the tax due, after applying any payments and credits made on or before the original due date, for each month or part of a month the return is late. The maximum penalty is 25 percent. We impose the penalty from the original due date of the return. For a return that shows a balance due, the minimum penalty for filing a return more than 60 days late is \$100 or 100 percent of the tax due after applying timely payments and credits, whichever is less. (R&TC Section 19131)

### Underpayment and Monthly Penalty

We impose a penalty if you do not pay the total amount due shown on your tax return by the original due date. The penalty is 5 percent of the unpaid tax, plus 0.5 percent of the unpaid tax for each month or part of a month it remains unpaid. The maximum penalty is 25 percent of the unpaid tax. (R&TC Section 19132)

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## 50 Percent Interest-Based Penalty

We imposed a penalty because you had a past-due tax liability that qualified for tax amnesty, but you did not resolve your tax obligations. Check the web at [ftb.ca.gov](http://ftb.ca.gov) for more information. The penalty is equal to 50 percent of the interest that accrued on your balance from the original due date of the tax to March 31, 2005. You can file a claim for refund of this penalty only on the grounds that the amount of the penalty was not properly computed by the Franchise Tax Board. (R&TC Section 19777.5(a)(1))

## Post-Amnesty Penalty

We impose a penalty when you owe new or additional tax on a tax year that qualified for tax amnesty. The penalty is equal to 50 percent of the interest that accrued on the tax assessment from the original due date of the tax to March 31, 2005. The penalty is not part of the deficiency amount and will be recomputed and assessed only if and when the proposed deficiency assessment becomes a final assessment and the final deficiency amount exceeds any prepayments made before March 31, 2005. You can file a claim for refund of this penalty only on the grounds that the amount of the penalty was not properly computed by the Franchise Tax Board. (R&TC Section 19777.5(a)(2))

## Interest Rates

Interest accrues on unpaid taxes from the original due date of the return until the date we receive payment. We also charge interest on penalties, overpayments, and underpaid estimated tax. (R&TC Section 19101) The interest rate for January 1, 2010, and later is 4 percent. Go to [ftb.ca.gov](http://ftb.ca.gov) and search for **interest rates**.

## Taxpayers' Rights Advocate Review

The California Taxpayers' Bill of Rights requires us to have a **Taxpayers' Rights Advocate** coordinate the review of a levy or lien when the taxpayer makes a timely request. You have the right to an independent review if we levy your income or assets or file a tax lien. You must submit your request for review within 30 days of the date of the levy notice or within 30 days of the date of the tax lien notice. (R&TC Section 21015.5 & 21019)

You can contact the **Taxpayers' Rights Advocate** by:

Website: [ftb.ca.gov](http://ftb.ca.gov)  
Telephone: 800.883.5910  
Fax: 916.843.6022.  
Mail: EXECUTIVE LIAISON SECTION MS A381  
**FRANCHISE TAX BOARD**  
PO BOX 157  
RANCHO CORDOVA CA 95741