

California Income Tax Return for Qualified Funeral Trusts

1998

541-QFT

For calendar year 1998 or short year beginning month _____ day _____ year 1998, and ending month _____ day _____ 1998.

Name of estate or trust		Federal employer identification no.		Do Not Write In These Spaces
Name and title of fiduciary				
Address of fiduciary (number and street or PO box)		Suite number		
City	State	ZIP Code		

Check applicable boxes:

- Initial return
 Amended return
 Final return
 Change in fiduciary's name or address

I N C O M E	1 Interest income	1		
	2 Dividends	2		
	3 Capital gain or (loss). Attach Schedule D (541)	3		
	4 Other income. See instructions. State nature of income _____	4		
	5 Total income. Combine line 1 through line 4	5		
D E D U C T I O N S	6 Taxes	6		
	7 Trustee fees	7		
	8 Attorney, accountant, and return preparer fees	8		
	9 Other deductions NOT subject to the 2% floor _____	9		
	10 Allowable miscellaneous itemized deductions subject to the 2% floor	10		
	11 Total deductions. Add line 6 through line 10	11		
T A X A N D	12 Taxable income. Subtract line 11 from line 5	12		
	13 Tax from: <input type="checkbox"/> Tax Rate Schedule (see instructions) <input type="checkbox"/> Composite Return Number of QFTs included on this return _____	13		
	14 Credits. Attach worksheet. If one credit, enter code. <input type="text"/> If more than one credit, attach a detailed list	14		
	27 Tax liability. Subtract line 14 from line 13. See instructions	27		
	28 California income tax withheld	28		
	29 California income tax previously paid _____	29		
	30 1998 CA estimated tax, amount applied from 1997 return and payment with form FTB 3563	30		
	31 Total Payments. Add line 28, line 29 and line 30	31		
	32 Tax due. If line 27 is larger than line 31, subtract line 31 from line 27 and enter the amount owed	32		
	33 Overpaid tax. If line 27 is less than line 31, subtract line 27 from line 31 and enter the amount overpaid	33		
34 Amount of line 33 to be credited to 1999 estimated tax	34			
35 Amount of line 33 to be refunded	35			
39 Underpayment of estimated tax. If form FTB 5805 is attached, check box at right	39			

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of trustee or officer representing fiduciary _____ Date _____

Preparer's signature _____ Date _____ Check if self-employed

Paid Preparer's Use Only

Firm's name (or yours, if self-employed) and address _____ Telephone () _____

Preparer's social security no. _____

FEIN _____

1998 Instructions for Form 541-QFT

California Income Tax Return for Qualified Funeral Trusts

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 1998**, and to the California Revenue and Taxation Code (R&TC).

General Information

In general, California tax law conforms to the Internal Revenue Code (IRC) as of January 1, 1998. However, there are continuing differences between California and federal tax law. California has not conformed to the changes made to the IRC by the federal Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (Public Law 105-206) and the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277).

An election to file as a QFT for federal purposes is considered to be an election for California purposes, a separate election is not allowed.

California Tax Forms on Internet! Do you need a California income tax form or publication? Do you have Internet access? If so, you may download, view and print 1994 through 1998 California tax forms and publications. The FTB website address is <http://www.ftb.ca.gov> on the Internet.

A Purpose

The trustee of a trust that has elected to be taxed as a qualified funeral trust (QFT) can use this form to file for a single QFT or for multiple QFTs having the same trustee, following the rules discussed under Composite Return on this page.

Trustees must use Form 541-QFT to:

- Report income received by a QFT;
- Report income that is either accumulated or distributed currently to the beneficiaries;
- Report any applicable tax liability of the fiduciary; or
- File an amended return for the QFT.

For taxation purposes, a trust will generally be regarded as a separate entity. However, if there is an unlawful shifting of income from the individual who has earned that income to a trust, the trust will no longer be treated as a separate entity and the income will be taxed to the individual who earned the income. If the individual who established the trust has a substantial ability to control the assets, all of the income will be taxed to that individual. Unless specifically allowed by the California R&TC and the IRC, deduction of personal living expenses by an individual or trust is not allowed.

Pre-need funeral trusts that do not qualify as QFTs should get the instructions for Form 541, California Fiduciary Income Tax Return, for their filing requirements.

B Qualified Funeral Trust

A QFT is a domestic trust that meets all of the following requirements:

- It arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property to provide such services;
- The sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use those funds solely to pay for funeral or burial services or property to provide such services for the benefit of the beneficiaries of the trust;

- The only beneficiaries are individuals for whom such services or property are to be provided at their death under the contracts described above;
- The aggregate contributions to the trust on behalf of any single beneficiary do not exceed \$7,000 (see Contribution Limit in the 1998 Instructions for federal Form 1041-QFT, U.S. Income Tax Return for Qualified Funeral Trusts, for more details) and are made by or for the benefit of such beneficiaries;
- The trustee makes the election to treat the trust as a QFT; and
- If the QFT election had not been made, the trust would have been treated as owned by the purchasers of the contracts under the grantor trust provisions of the IRC.

If a QFT has multiple beneficiaries, each beneficiary's separate interest under a contract is treated as a separate QFT for the purpose of figuring the tax and filing this return. Each beneficiary's share of the trust's income is determined in accordance with the beneficiary's interest in the trust. A beneficiary's interest in a trust may be determined under any reasonable method.

Whenever these instructions refer to a trust or QFT, it includes such separate interests that are treated as separate QFTs.

C Composite Return

A trustee may file a single, composite Form 541-QFT for all QFTs of which he or she is the trustee. Generally, a QFT included on a composite return must have a calendar year as its tax year. However, if a QFT terminated during the year resulting in a short tax year, the trustee may still include the QFT on the composite return if it is filed no later than the due date of the short tax year. Get federal Form 1041-QFT for more information.

D When to File

File Form 541-QFT by the 15th day of the 4th month following the close of the taxable year of the QFT. For calendar year estates and trusts, file Form 541-QFT by April 15, 1999. If Form 541-QFT cannot be filed by the 15th day of the 4th month (fiscal year filers) or April 15, 1999 (calendar year filers), the QFT has an additional 6 months to file without filing a written request for extension. However, to avoid late payment penalties, 100% of the tax liability must be paid by the original due date of the return.

If an extension of time to file is needed but an unpaid tax liability is owed, get and use form FTB 3563, Payment Voucher for Automatic Extension for Fiduciaries.

If the return is not filed by the extended due date, delinquent filing penalties and interest will be imposed on any tax due from the original due date of the return.

E Where to File

Mail Form 541 to the appropriate address listed below.

If an **amount is due** with the return, mail the return and payment to:

FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0001

Be sure to include your federal employer identification number (FEIN) on all payments. Do not mail cash.

If there is a **refund or no amount is due**, mail the return to:

FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0000

F Private Delivery Services

California 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 federal Form 1041-QFT, 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.

G Who Must Sign

Trustee

The trustee or an authorized representative must sign Form 541-QFT.

Paid Preparer

Generally, anyone who is paid to prepare a tax return must sign the return and fill in the other blanks in the Paid Preparer's Use Only area of the return. The person required to sign the return must:

- Complete the required paid preparer information,
- Sign it in the space provided for the preparer's signature, and
- Give the trustee or authorized representative a copy of the return in addition to the copy to be filed with the FTB.

H Accounting Period

All QFTs must adopt a calendar year, even if the trust was on a fiscal year when it was a grantor trust.

I Estimated Tax Payments

Generally, QFTs must make quarterly estimated tax payments. If they expect to owe more than \$200, get the 1999 Instructions for Form 541-ES, Estimated Tax for Fiduciaries. Use form 541-ES to figure and pay estimated tax for the trust. Estimated tax is the amount of tax the trustee expects to owe for the year after subtracting the amount of any tax withheld and the amount of any credits.

Estimated tax liability is figured for the individual QFT, and not for a composite return taken as a whole.

J Interest and Penalties

Interest. Interest will be charged on tax not paid by the due date, even if the return is filed by the extended due date.

Late filing of return. A penalty is charged if the return is filed after the due date (including extensions), unless there was reasonable cause for filing late. The penalty is 25% if the return is filed after the extended due date. If the return is filed more than 60 days after the extended due date, the minimum penalty is \$100 or 100% of tax due on the return, whichever is less.

Late payment of tax. A penalty is charged for not paying tax by the due date unless there was reasonable cause for not paying on time. The penalty is 5% of the unpaid tax plus one-half of 1% for each month, or part of a month, that the tax is late, up to a maximum of 25%.

Note: If a QFT 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 will not exceed 25% of the unpaid tax.

Note: If the QFT includes interest or any of these penalties with the payment, identify and enter these amounts in the bottom margin of Form 541, Side 1. Do not include the interest or penalty in the tax due on line 32 or reduce the overpaid tax on line 33.

Other penalties. Other penalties may be imposed for a check returned by your bank for insufficient funds, accuracy related matters or fraud.

K Attachments

If the QFT needs more space on the form or schedules, attach separate sheets showing the information in the same order as on the printed form.

Enter the QFT's FEIN on each sheet. Also, use sheets that are the same size as the forms and schedules and indicate clearly the line of the printed form to which the information relates. Show the totals on the printed forms.

L Rounding to Whole-Dollar Amounts

Show the money items on the return and accompanying schedules as whole-dollar amounts.

M Miscellaneous Items

California law follows federal law in the area of accounting methods.

Liability for tax. The fiduciary is liable for payment of the tax. Failure to pay the tax may result in the fiduciary being held personally liable. See R&TC Section 19071 and Section 19516.

Tax-exempt income. California does not tax:

- **Interest on governmental obligations.** Interest derived from bonds issued by California or its political subdivisions, the federal government, the District of Columbia (issued before December 24, 1973) or territories of the United States is not taxable by California.
- **Proceeds of insurance policies.** In general, a lump sum payable at the death of the insured under a life insurance policy is excludable from gross income of the recipient.

- **Miscellaneous items wholly exempt from tax.** (1) Gifts (not received as a consideration for services rendered) and money or property acquired by bequest, devise or inheritance (but the income derived therefrom is taxable); and, (2) income, other than rent, derived by a lessor of real property upon the termination of a lease, representing the value of such property attributable to buildings erected or other improvements made by the lessee.

N General Summary of Treatment for Sourcing Income Items

Nonbusiness

- Interest and dividends generally have a source at the taxpayer's state of residence.
- Gains and losses from sale/exchange of real property and tangible personal property generally have a source where the property is located.
- Income from intangible personal property generally has a source at the taxpayer's state of residence.
- Rents and royalties generally have a source where the property is located.

Business

Generally, income from a business, trade or profession is sourced as follows:

- If it is conducted wholly within this state, it is California source income.
- If the operations within California are so separate and distinct from the operations outside of California that taxable income can be separately accounted for, only the income from within California must be included in California source income.
- If the trade or business carried on within California is an integral part of a unitary business carried on outside of California, the entire net income must be reported and apportioned or allocated in accordance with the provisions of the Uniform Division of Income for Tax Purposes Act as contained in Sections 25120 through 25139.

Partnership, LLC and S corporation income/loss is apportioned or allocated the same as any other business. If the trust is a partner, member, or shareholder of a partnership, LLC, or S corporation, income sourced to California is generally included in column (e) of the Schedule K-1 (565), K-1 (568), or K-1 (100S). For more detailed information, review Title 18 California Code of Regulations Section 17951-4 and related tax code.

Income retained by a trust is taxable to the trust. Income from California sources is taxable regardless of the residence of the fiduciaries and beneficiaries. R&TC Sections 17742 through 17745 provide that the taxability of non-California source income retained by a trust and allocated to principal depends on the residence of the fiduciaries and noncontingent beneficiaries, not the person who established the trust. Contingent beneficiaries are not relevant in determining the taxability of a trust. For QFT purposes all beneficiaries are considered noncontingent beneficiaries.

There are three different situations that can occur when determining the taxability of a QFT. The situation and treatment follow:

1. If the trustee (or all the trustees, if more than one) is a California resident, the trust is taxable on all income from all sources (R&TC Section 17742).

2. If the noncontingent beneficiary (or all the noncontingent beneficiaries, if more than one) is a California resident, the trust is taxable on all income from all sources (R&TC Section 17742).
3. If the trustee is a nonresident and at least one noncontingent beneficiary is a California resident and at least one noncontingent beneficiary is a nonresident, the trust is taxable on all California source income plus the proportion of all other income that the number of California resident noncontingent beneficiaries bear to the total number of noncontingent beneficiaries (R&TC Section 17744).

Note: The residence of a corporate fiduciary (trustee) of a trust means the place where the corporation transacts the major portion of its administration of the trust (R&TC Section 17742(b)).

Specific Line Instructions

Identification Area

Complete the identification area with the same information used on federal Form 1041-QFT. California law is generally the same as federal law in the areas of:

- Simplified filing requirements;
- Method of reporting;
- Amended returns; and
- Final returns.

Note: If the trust is filing an amended Form 541-QFT, check the box labeled "Amended return." Complete the entire return, correct the appropriate line(s) with the new information and recompute the tax liability. On an attached sheet, explain the reason for the amendment(s) and identify the line(s) and amount(s) being changed on the amended return. Include the fiduciary's name and FEIN on each attachment.

Tax Computation

Line 13 – Regular tax

Determine the tax on the taxable income (line 12) using the Tax Rate Schedule on page 3 and enter the tax on line 13.

Line 14 – Credits

The following California tax credits are available to reduce the tax. For most credits, a separate schedule or statement must be attached to Form 541-QFT.

Credit Name

- Community Development Financial Institution Deposits — obtain certification from: California Organized Investment Network (COIN), Department of Insurance, 300 Capitol Mall, Suite 1460, Sacramento CA 95814
- Disabled Access for Eligible Small Businesses – FTB 3548
- Donated Agricultural Products Transportation – FTB 3547
- Employer Child Care Contribution – FTB 3501
- Employer Child Care Program – FTB 3501
- Enhanced Oil Recovery – FTB 3546
- Enterprise Zone Hiring & Sales or Use Tax – FTB 3805Z
- Farmworker Housing – obtain certification from: Farmworker Housing Assistance Program, California Tax Credit Allocation Committee, 915 Capitol Mall, Room 485, Sacramento CA 95814

- Local Agency Military Base Recovery Area (LAMBRA) Hiring & Sales or Use Tax – FTB 3807
- Low-Income Housing – FTB 3521
- Manufacturers' Investment – FTB 3535
- Manufacturers' Enhancement Area (MEA) Hiring – FTB 3808
- Other State Tax – Schedule S
- Prior Year Alternative Minimum Tax – FTB 3510
- Prison Inmate Labor – FTB 3507
- Research – FTB 3523
- Rice Straw – obtain certification from: Rice Straw Tax Credit Program, Department of Food and Agriculture, 1220 N Street, Room 409, Sacramento CA 95814
- Salmon & Steelhead Trout Habitat Restoration – obtain certification from: Department of Fish and Game, c/o FISH-Timber Tax Credits Program, PO Box 944209, Sacramento CA 95244-2090
- Targeted Tax Area (TTA) Hiring & Sales or Use Tax – FTB 3809

Repealed Credit

The Los Angeles Revitalization Zone (LARZ) Hiring & Sales or Use Tax credit has expired. However, the credit had carryover features. You may claim the credit only if there is a carryover available from 1997. If you are not required to complete Schedule P (541), get form FTB 3540, Credit Carryover Summary, to figure your credit carryover to future years.

Tax and Payments

Line 28 – California income tax withheld

Include any California income tax withheld (e.g., back-up withholding).

Line 29 – California income tax previously paid

Use this line only if you are filing an amended return. Enter payments made with the original

return plus additional tax paid after the original return was filed. Enter the serial numbers that the FTB stamped on the face of the cancelled check(s) (for each previous payment if available), in the space provided at line 29. If you did not receive a cancelled check or if you made any payment(s) with a credit card, attach a statement showing the check number, the amount of the check or charge, the date posted to your account and the name of the payee (FTB).

Line 30 – 1998 CA estimated tax, amount applied from 1997 return and payment with form FTB 3563

Enter the amount of any California estimated tax payment the estate or trust made on Form 541-ES, Estimated Tax for Fiduciaries, for 1998. Also, enter the amount of any overpayment from the 1997 return that was applied to the 1998 estimated tax. Include payments made with form FTB 3563, Payment Voucher for Automatic Extension For Fiduciaries.

Line 31 – Total payments

Enter the total amount of all tax payments.

Line 32 and Line 33 – Tax Due/Overpaid Tax

If the amount on line 27 is larger than the amount on line 31, your tax is larger than your payments and credits. Subtract line 31 from line 27. This is the amount of tax due with the return.

If the amount on line 27 is less than the amount on line 31, your payments and credits are larger than your tax. Subtract line 27 from line 31. This is the amount of your overpaid tax.

If the trust completed the credit recapture portion of:

- Form FTB 3501, Employer Child Care Program/Contribution Credit;

- Form FTB 3535, Manufacturers' Investment Credit;
- Form FTB 3805Z, Enterprise Zone Deduction and Credit Summary;
- Form FTB 3806, Los Angeles Revitalization Zone Deduction and Credit Summary; or
- Form FTB 3807, Local Agency Military Base Recovery Area (LAMBRA), Deduction and Credit Summary;

include the recapture amount on line 32. Write the applicable form number and the recaptured amount to the left of line 32.

Line 34 – Credit to your 1999 estimated tax

Enter the amount from line 33 that you want applied to your 1999 estimated tax.

Line 35 – Refund or no amount due

If no amount is entered on line 34, enter the amount from line 33 on line 35. This is the amount that will be refunded. If this amount is less than \$1, attach a written request to the return to request the refund.

Line 39 – Underpayment of estimated tax penalty

If line 32 is \$200 or more and more than 20% of the sum of the tax on line 27, or if the QFT underpaid its 1998 estimated tax liability for any payment period, it may owe a penalty. The FTB will figure the penalty for the estate or trust and send a bill. Or, the QFT may get form FTB 5805, Underpayment of Estimated Tax by Individuals and Fiduciaries, to see if it owes a penalty and to figure the amount of the penalty. If the QFT completes form FTB 5805, be sure to attach the form to the front of Form 541-QFT. Enter the amount of the penalty and check the box on line 39. Complete and attach form FTB 5805 if claiming a waiver or using the annualized income installment method.

Tax Rate Schedule

Use this schedule to figure the tax on the QFT's taxable income (Form 541-QFT, line 12). Enter the tax on Form 541-QFT, line 13.

IF THE TAXABLE INCOME IS . . .		COMPUTED TAX IS . . .		of the amount over—	
over—	but not over—				
\$ 0	\$ 5,131	\$ 0	+ 1.0%	\$ 0	
5,131	12,161	51.31	+ 2.0%	5,131	
12,161	19,193	191.91	+ 4.0%	12,161	
19,193	26,644	473.19	+ 6.0%	19,193	
26,644	33,673	920.25	+ 8.0%	26,644	
33,673	and over	1,482.57	+ 9.3%	33,673	