

What's New and Other Important Information for 2011

Differences between California and Federal Law

In general, for taxable years beginning on or after January 1, 2010, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2009. 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 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.

Conformity – For updates regarding federal acts, go to ftb.ca.gov and search for **conformity**.

2011 Tax Law Changes/What's New

Tax Decrease – Beginning on January 1, 2011, the tax rate decreased by 0.25%.

Dependent Exemptions Credits – Beginning on January 1, 2011, the dependent exemption credit increased from \$99 to \$315 per dependent.

Child and Dependent Care Expenses Credit – For taxable years beginning on or after January 1, 2011, the child and dependent care expense credit is nonrefundable.

Voluntary Contributions – For taxable years beginning on or after January 1, 2011, you may contribute to the following new funds:

- Municipal Shelter Spay-Neuter Fund
- ALS/Lou Gehrig's Disease Research Fund
- Child Victims of Human Trafficking Fund

Community Development Financial Institutions Investment Credit – The Community Development Financial Institutions Investment Credit has been extended for taxable years beginning on or after January 1, 2012, and before January 1, 2017.

Other Important Information

Real Estate Tax Deduction

California law conforms to federal law regarding real estate tax deductions. You should use the same real estate tax deduction amount on both federal and state tax returns. Individuals who itemize deductions can claim deductions for real estate tax on Schedule A of their federal individual income tax return. You are allowed to deduct only the amount of real estate tax paid during the year that is based on the assessed value of your property (ad valorem taxes). You cannot deduct amounts shown on your property tax bill that are not computed based on the assessed value of your property, including special assessments, special taxes, Mello-Roos, fees, or charges, regardless of their purpose, with limited exceptions.

For information about the allowable real estate tax deduction, go to ftb.ca.gov and search for **real estate tax** or see the federal instructions for Schedule A (Form 1040), line 6, Real Estate Taxes. Also see federal Publication 17, Your Federal Income Tax – Individuals and Publication 530, Tax Information for Homeowners.

Beginning with your 2012 tax return, the California tax return will add reporting requirements related to real estate tax deductions taken on your return. This will include the property parcel number, deductible and non-deductible amounts. You will need to retain a copy of your property tax bill(s) to complete this information.

Net Operating Loss – For taxable years in 2010 and 2011, California suspended the net operating loss (NOL) carryover deduction. Taxpayers may continue to compute and carryover NOLs during the suspension period. However, taxpayers with modified adjusted gross income of less than \$300,000 or with disaster loss carryovers are not affected by the NOL suspension rules.

Also, California modified the NOL carryback provision. For more information, see form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations — Individuals, Estates, and Trusts.

Tsunami Waves 2011 – For tax information for victims of the March 2011 tsunami in Del Norte, Mendocino, and Santa Cruz Counties get Pub. 1034, Disaster Loss How to Claim a State Tax Deduction.

Mandatory Electronic Payments – You are required to remit all your payments electronically once you make an estimate or extension payment exceeding \$20,000 or you file an original tax return with a total tax liability over \$80,000 for any taxable year that begins on or after January 1, 2009. Once you meet this threshold, all subsequent payments regardless of amount, tax type, or taxable year must be remitted electronically. The first payment that would trigger the mandatory e-pay requirement does not have to be made electronically. Individuals who do not send the payment electronically may be subject to a one percent noncompliance penalty.

You can request a waiver from mandatory e-pay if one or more of the following is true:

- You have not made an estimated tax or extension payment in excess of \$20,000 during the current or previous taxable year.
- Your total tax liability reported for the previous taxable year did not exceed \$80,000.
- The amount you paid is not representative of your total tax liability.

Electronic payments can be made using Web Pay on FTB's website, electronic funds withdrawal (EFW) as part of the e-file tax return, or your credit card. For more information or to obtain the waiver form, go to ftb.ca.gov and search for **mandatory e-pay**.

Estimated Tax Payments – Installments due for each taxable year beginning on or after January 1, 2010, shall be 30% of the required annual payment for the 1st required installment, 40% of the required annual payment for the 2nd required installment, no installment is due for the 3rd required installment, and 30% of the required annual payment for the 4th required installment.

Taxpayers with a tax liability less than \$500 (\$250 for married/RDP filing separately) do not need to make estimated tax payments.

Mortgage Forgiveness Debt Relief Extended – California law conforms, with modifications, to federal mortgage forgiveness debt relief for discharges occurring January 1, 2009 thru 2012. Federal law limits the amount of qualified principal residence indebtedness to \$2,000,000 (\$1,000,000 for married filing separate). See federal Publication 544, Sales and Other Disposition of Assets, and Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonments, for more information. California law limits the amount of qualified principal residence indebtedness to \$800,000 (\$400,000 for married/RDP filing separate) and debt relief to \$500,000 (\$250,000 for married/RDP filing separate).

New Home/First-Time Buyer Credit – To claim the New Home/First-Time Buyer Credit of 2010 you must have received a Certificate of Allocation from the FTB. The credits were available if you purchased a qualified principal residence on or after May 1, 2010, and on or before December 31, 2010. Additionally, the New Home Credit is available if you purchase a qualified principal residence on or after January 1, 2011, and before August 1, 2011, pursuant to an enforceable contract executed on or before December 31, 2010. For more information, go to ftb.ca.gov and search for **home credit** or get FTB Pub. 3549, New Home/First-Time Buyer Credit.

Backup Withholding – Beginning on or after January 1, 2010, with certain limited exceptions, payers that are required to withhold and remit backup withholding to the Internal Revenue Service (IRS) are also required to withhold and remit to the Franchise Tax Board (FTB). The California backup withholding rate is 7% of the payment. For California purposes, dividends, interests, and any financial institutions' release of loan funds made in the normal course of business are exempt from backup withholding.

If the payee has backup withholding, the payee must contact the FTB to provide a valid Taxpayer Identification Number, which is either the social security number (SSN) or the individual taxpayer identification number (ITIN), before filing the tax return. Failure to provide the SSN or ITIN may result in a denial of the backup withholding credit. For more information, go to ftb.ca.gov and search for **backup withholding**.

Registered Domestic Partners (RDP) – Under California law, RDPs 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 purposes of California income tax, references to a spouse, husband, or wife also refer to a California 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.

Same-Sex Married Couples – Married couples must file their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. Same-sex couple marriages performed in California after 5:00 pm on June 16, 2008, and before November 5, 2008, are valid marriages for California purposes.

Beginning in taxable year 2010, persons who have entered into a same-sex marriage outside the State of California that is valid according to the laws of the jurisdiction in which the marriage was contracted must file their California income tax return using either the joint or separate filing status. For more information, get FTB Pub 776, Tax Information for Same-Sex Married Couples, or go to ftb.ca.gov and search for **same sex married couples**.

Direct Deposit Refund – You can request a direct deposit refund on your tax return whether you e-file or file a paper tax return. Please be sure to fill in the routing and account numbers carefully and double-check the numbers for accuracy to avoid it being rejected by your bank.

Group Nonresident Returns (also known as Composite Returns) – For taxable years beginning on or after January 1, 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 1% tax will be assessed on their entire California taxable income if they elect to be part of the group return.

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

Withholding on California Real Estate – For transactions occurring on or after January 1, 2007, that require withholding, a seller of California real estate may elect an alternative to withholding 3 1/3 % (.0333) of the total sales price. The seller may elect an alternative withholding amount based on the maximum tax rate for individuals, corporations, or banks and financial corporations, as applied to the gain on the sale. The seller is required to certify under penalty of perjury the alternative withholding amount to the FTB. For installment sales occurring on or after January 1, 2009, the buyer is required to withhold on each installment sale payment if the sale of California real property is structured as an installment sale.

Tax Shelter – If the individual was involved in a reportable transaction, including a listed transaction, the individual may have a disclosure requirement. Attach federal Form 8886, Reportable Transaction Disclosure Statement, to the back of the California tax return along with any other supporting schedules. If this is the first time the reportable transaction is disclosed on the tax return, send a duplicate copy of the federal Form 8886 to the address below. The FTB may impose penalties if the individual fails to file federal Form 8886 or fails to provide 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.

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For more information, go to ftb.ca.gov and search for **tax shelters**.