



# Tax News

## April 2011

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## **Live Chat**

In March, we launched our new Live Chat web-based communication application available to all taxpayers. Taxpayers and practitioners can use Live Chat to ask our representatives general questions regarding personal income tax or get help with our website. You access Live Chat through our website, and communicate with us online through a popup window on your computer screen. The use of pop-up windows means you may need to disable pop-up window blocking in order to use it.

While it has only been a few weeks since we began, Live Chat has already made a big impact with many taxpayers and practitioners during the busy filing season. Designed quick communication, finding a form or publication, and getting help with a website issue has never been easier. You can also get answers to individual (not business) general tax questions, however, remember: **do not include personal information** such as social security and bank account numbers in your live chat conversation.

Live Chat is available from 8 a.m. to 5 p.m. weekdays, except state holidays. For specific account questions or general questions about business entities, practitioners should still call the practitioner hotline at 916.845.7057, and taxpayers should use 800.852.5711, or refer to the [contact us](#) page.

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## **State Tax Relief for California Winter Storm Victims**

California taxpayers affected by the recent winter storms in California qualify for special tax relief.

The December 17, 2010, through January 4, 2011, storms were declared a Federal disaster in 12 counties on January 26, 2011. Affected taxpayers are able to claim disaster losses in the current or the prior tax year. Claiming the loss on a previously-filed tax return allows us to issue refunds quickly.

Counties declared a major disaster area are: Inyo, Kern, Kings, Madera, Mariposa, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Tulare counties.

For clients claiming the disaster loss, write “**California Winter Storms 2010**” in red ink at the top of their tax return to alert us to expedite the refund. If clients are e-filing, follow the software instructions to enter the disaster information. Go to [ftb.ca.gov](http://ftb.ca.gov) to get Form

[540X](#), Amended Individual Income Tax Return or [540NR](#), California Resident Income Tax Return.

Clients needing copies of lost or damaged state returns should complete [FTB 3516](#), Request for Copy of Tax Return, available online. Disaster victims can receive copies of tax returns for free. Print “**California Winter Storms 2010**” in red ink at the top of the request.

To learn more about disaster losses, refer to publications [FTB 1034](#), Disaster Loss, at [ftb.ca.gov](http://ftb.ca.gov) or the [IRS 547](#), Casualties, Disasters, and Thefts, at [irs.gov](http://irs.gov).

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## Use Tax Requirements

The new law, which is included in Section 6225 of the Revenue and Taxation Code, requires businesses that meet the definition of a "qualified purchaser" to register with the Board of Equalization (BOE) and to file returns by April 15 (April 18 in 2011) of each year, reporting all purchases subject to use tax from the previous calendar year.

Use tax, which has been the law since 1935, is owed when individuals or businesses in California use, consume, give away, or store tangible personal property (things you can see, weigh, feel, or touch) that they purchase from out-of-state sellers including purchases from retailers, through the mail, over the telephone, or online.

BOE offers information on its website at [boe.ca.gov](http://boe.ca.gov) to help educate taxpayers on their tax obligations so that they may voluntarily comply and possibly avoid unnecessary filing delays and penalties. In addition, to simplify the registration process, we automatically registered new applicants to e-file their returns for 2008, 2009 and 2010. And finally, if the taxpayer is not a retailer or service business currently required to register with the BOE, the easiest way to report and pay use tax is on the California state income tax return. You may also register with the BOE as a consumer to pay use tax.

For more information about use tax, see FTB 988, California Use Tax & Your Filing Requirements. Go to [ftb.ca.gov](http://ftb.ca.gov) and search for **988** for a copy.

## **Returns and Payments Due on April 18**

This is a reminder, that due to the Emancipation Day holiday, both federal and state returns and payments normally due on April 15, will be due on Monday, April 18. The chart below shows how the Emancipation Day observance affects the filing deadline for the current and the next year.

<b>Tax Year</b>	<b>Emancipation Day (4.16) Falls on</b>	<b>Observed on</b>	<b>Filing and Payment Deadline</b>
2010	Saturday	Friday, April 15, 2011	Monday, April 18, 2011
2011	Monday	Monday, April 16, 2012	Tuesday, April 17, 2012

The most common due dates affected by the April 18 deadline are:

- Payment for balance due returns.
- Extension payments.
- First quarter estimated tax payment for calendar year individual and corporate taxpayers.
- Returns are due for the following taxpayers:
  - Individuals.
  - Calendar year partnerships and limited liability companies.
  - Fiscal corporations with a January 31, 2011 year-end (original due date).
  - Fiscal corporations with a June 30, 2010 year-end (extended due date).

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## **Have Questions About Estate, Inheritance, or Gift Taxes?**

Contact the State Controller's Office. The Tax Administration Section, of the State Controller's office administers the Estate Tax, Inheritance Tax, and Gift Tax programs for the State of California.

Information is available on the controller's website at:  
[http://www.sco.ca.gov/ardtax\\_estate\\_tax.html](http://www.sco.ca.gov/ardtax_estate_tax.html).

## **New Federal Tax Treatment of Community Property for Registered Domestic Partners and Same-Sex Marriages**

The federal tax treatment of the community income of California registered domestic partners (RDP) and same-sex married couples (SSMC) has changed. These couples are now required to each report one-half of community property income on their separate federal tax returns.

RDPs and SSMCs must report whether earned income, deductions, payments, and credits are community or separate property and report. The same rules used by California opposite-sex married couples when filing California separate returns are followed for determining RDP and SSMC community and separate income.

**Example:** In the current year, RDPs Chris and Pat are residents of and domiciled in California. Chris earns \$15,000 in wages and Pat earns \$30,000. In addition to wages, Pat inherited stock and receives \$5,000 in dividends. The stock is in Pat's name only, and the stock and dividend income is kept separate from community funds.

	<b>California Joint Return</b>	<b>Federal Separate Returns</b>	
		Chris	Pat
Chris			
<b>Wages</b>	\$15,000	\$7,500	\$7,500
Pat			
<b>Wages</b>	\$30,000	\$15,000	\$15,000
<b>Dividends</b>	<u>5,000</u>	<u>-0-</u>	<u>5,000</u>
	<u>\$50,000</u>	<u>\$22,500</u>	<u>\$27,500</u>

General rules for determining community and separate income, including an allocation worksheet are provided in IRS [Publication 555](#), Community Property.

Guidance for how to file joint or separate returns is provided in FTB [Publication 737](#), Tax Information for Registered Domestic Partners, and in FTB [Publication 776](#), Tax Information for Same-sex Married Couples.

For more information, go to [irs.gov](http://irs.gov) and [ftb.ca.gov](http://ftb.ca.gov).

## **State Reports on Median Income for 2009**

The statewide median income for all personal income tax returns decreased to \$34,079 (5.1 percent below 2008), while the median income listed on joint returns decreased to \$65,025 (5.7 percent below 2008) according to our statistics.

The four Bay Area counties of Contra Costa, Marin, San Mateo, and Santa Clara have led California for 38 years in reported highest median incomes.

California taxpayers filed 15.3 million 2009 state income tax returns reporting \$1.08 trillion in adjusted gross income, a 2.9 percent decrease from 2008 figures. Adjusted gross income is total income increased or reduced by specific adjustments, before taking the standard or itemized deduction.

Marin County had the highest median income for joint returns at \$108,465, a decrease of 8.6 percent from 2008. San Mateo County ranked second with \$95,176, Santa Clara County ranked third with \$94,209, Contra Costa County ranked fourth with \$85,942, and Alameda County ranked fifth with \$83,886.

Los Angeles County taxpayers filed 25.5 percent of all 2009 income tax returns in California. They reported median incomes of \$30,112 for all returns, and \$56,438 for joint returns, ranking 34<sup>th</sup> and 27<sup>th</sup>, respectively for all counties. The largest percentage gain in median income for all counties was 7.5 percent, reported in Alpine County.

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## **Subscription Service Updates**

Our [Subscription Services](#) allow you to receive email messages about topics and services important to you. We continually add new areas of interest, our current list includes:

### **Announcements and Press Releases**

- FTB Homepage Updates
- Newsroom
- Public Service Bulletins

### **Career Information**

- Audit and Taxation
- Information Technology
- Legal
- Law School Student Internships

### **Non Tax Information**

- Court-Ordered Debt

### **Tax Information**

- Information Returns
- Registered Domestic Partners
- Same-Sex Married Couples
- Schedule M-3 for Large and Mid-Size Businesses
- Voluntary Contribution Funds

Collections  
Contact Center  
Bilingual

**Data Sharing**

City Business Tax Program (CBT)  
Financial Institution Data Match (FIDM)

**Law and Legislation**

Legislation Information  
Notices and Legal Rulings  
Regulation Information

**Meetings**

Franchise Tax Board Meetings  
Regulation Hearings and Interested  
Parties Meetings

**Tax Professionals**

e-Programs News  
Tax News

**Taxpayer Services**

Estimated Tax Payment Reminders

**Withholding Information**

Backup Withholding  
Nonresident  
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## **Small Business**

### **California Group Nonresident Return**

Recently, we have received questions asking if a business entity can file a group return, also called composite return, on behalf of its nonresident individual shareholders/partners/members rather than each individual shareholder/partner/member having to file a Form 540NR, California Nonresident or Part-Year Resident Income Tax Return.

A business entity (S corporation, partnership, or limited liability company (LLC)) can file a group nonresident return and pay the tax on behalf of the **electing** nonresident individuals for their convenience. A corporation can also report the **electing** nonresident directors' wages, salaries, fees, or other compensation from that corporation for directors' services performed in California. Each year the business entity/corporation makes an annual election to file a nonresident group return on behalf of its electing

nonresident individuals. Once made, the election is irrevocable for the taxable year. The business entity/corporation makes the election by attaching a completed and signed form [FTB 3864](#), Group Nonresident Return Election to a group 540NR.

When filing an individual return, a nonresident must include all income from all sources in addition to their California source income. On the group nonresident return, only the California source pass-through income or director's compensation is reported and taxed. A qualified nonresident individual who elects to be included in a group nonresident return does not file a separate personal income tax return.

Each nonresident individual must decide whether to be included in the group nonresident return prior to its filing. Once the group nonresident return is filed, the election to be included in the group nonresident return is irrevocable for the taxable year. A qualified nonresident individual must be a full-year nonresident of California. In addition, the income from the business entity/corporation must be the only California source income of the individual, unless the other California source income is being reported on another group nonresident return. Individuals that are not qualified to be in the group nonresident return must file their own Form 540NR and pay their own tax. Having other sources of California **losses** will not disqualify the individual from being included in a group nonresident return.

The group nonresident return and any estimated payments are due on a calendar year basis, even if the business entity/corporation has a fiscal year end. The due date for a 2010 group nonresident return is April 18, 2011.

For instruction and more information go to [Publication 1067](#), Guidelines for Filing a Group Form 540NR.

## **Ask the Advocate**



### **NASSCO Guidance**

In our February issue of Tax News, I wrote about the Appeal of NASSCO Holdings, Inc 2010-SBE-001, November 17, 2010, which held that a corporate taxpayer may use Enterprise Zone credits and/or the Manufacturing Investment Credit (MIC) to reduce corporate alternative minimum tax (AMT). In my previous article, I said that we would be soon issuing additional guidance to help answer those frequent questions I received such as “Can I file an amended return?” and “How will this affect my credit carryover”. On March 18, 2011, we issued Notice 2011-2, addressing these questions and others.

The Notice clears up certain questions about limiting the application of the decision to corporate taxpayers only, and that it applies only to EZ and MIC credits, and not any other credits listed in subdivision (d)(1) of RTC section 23036. Additionally, the Notice states that the BOE opinion applies for taxable years beginning on or after January 1, 1994. Since this decision is retroactive, you may have clients who would be entitled to refunds if they filed an amended return. It is important however to note, that this decision would also require the credit carryover to be recalculated to determine the correct amount of the carryover as allowed or allowable in previous years.

For full details and guidance, please see [Notice 2011-02](#).

**Steve Sims, EA**  
**Taxpayers' Rights Advocate**

Follow me on Twitter at [twitter.com/FTBAdvocate](https://twitter.com/FTBAdvocate).

## Event Calendar

As part of education and outreach to our tax professional community, we participate in many different presentations and fairs. We provided this calendar to show the events we are attending.

<b>Education and Outreach</b>			
<b>Speaking Engagements and Small Business Fairs</b>			
<b>April 2011</b>			
<b>Date</b>	<b>Event Association</b>	<b>Subject Matter</b>	<b>Location</b>
April 12	Board of Equalization	Small Business Fair - Forms of Ownership	Torrance
April 15	Board of Equalization	Small Business Fair - Forms of Ownership	Glendale
April 19	Board of Equalization	Restaurant Seminar	Fontana
April 20	Jewish Vocational Service of Los Angeles	LA County-Wide Lay-Off Aversion Conference	Cerritos
April 20	Board of Equalization	Small Business Fair - Forms of Ownership	Anaheim
<b>May 2011</b>			
<b>Date</b>	<b>Event Association</b>	<b>Subject Matter</b>	<b>Location</b>
May 5	Sierra Economic Development Corporation	Forms of Ownership	Placerville
May 10	CA Society of Enrolled Agents	Collection Overview	San Diego
May 12	CA National association of Tax Professionals	CA Tax Update	Palm Springs
May 24	CA Society of Accounting & Tax Professionals	Nonresident Foreign Scholar	Oakland
May 25	CA Society of Certified Public Accountants	CA Tax Update	Los Angeles
May 25	SCORE	Small Business Fair	Oxnard
May 26	Small Business Administration	Small Business Resource Summit	Sacramento

<b>June 2011</b>			
<b>Date</b>	<b>Event Association</b>	<b>Subject Matter</b>	<b>Location</b>
June 15	Central Coast Chapter of CA Society of Enrolled Agents	Taxpayers' Rights Advocate	Pismo Beach
June 23	CA Certified Public Accountants	Taxpayers' Rights Advocate	Sacramento
June 24	CA Society of Accounting & Tax Professionals	Nonresident Tax Issue	Oakland

## **Criminal Corner**

### **Hollywood Businessman Pays for Phony Medical Billing Scheme**

A Hollywood businessman paid \$95,000 in restitution to us after pleading guilty to felony counts of grand theft, false billing, identity theft, money laundering, and filing a fraudulent state income tax return.

Hakob C. Arutunyan, aka Jack Arutunian, 26, was sentenced to 7.5 years in state prison, suspended, placed on 5 years felony probation, ordered to complete 180 hours of CalTrans community service and ordered to pay additional restitution of \$110,000 to Medicare. Arutunyan's restitution to us represented the unpaid tax, penalties, interest, and cost of the investigation.

According to court documents, Arutunyan misappropriated the physician/practitioner identification number of two Los Angeles County physicians. He then opened a medical billing business and fraudulently billed the Centers for Medicaid and Medicaid Services for medical services that were never performed. He also failed to report the more than \$470,000 in income from this scheme on his 2006 state income tax return resulting in unpaid tax of more than \$41,600.

Underreporting income is part of California's tax gap, which is defined as the difference between the tax that is owed and the tax that is paid.

Los Angeles County Superior Court Judge David Horowitz handed down the sentence Wednesday, March 2, in Department 50 of the Clara Shortridge Folz Criminal Justice Center. Los Angeles County Deputy District Attorney Amy Suehiro prosecuted the case. This case stemmed from an investigation by the federal Department of Health and Human Services, Office of the Inspector General. This was a joint investigation between the Los Angeles County District Attorney's Office and us.