



Tax News

June 2011

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Summary of Federal Income Tax Changes 2010

Do you ever wonder how new federal tax laws or changes to existing federal tax laws affect California? Does California conform? Well, if you answered yes, here is the answer.

Our staff prepared a report that we provide annually to the Legislature. Our 2010 Summary of Federal Income Tax Changes report explains new federal laws along with the effective dates, the corresponding California law, if any, includes an explanation of any changes made in response to the new federal law, and the impact on California revenue if California conforms to the federal changes.

The report also contains citations to the section numbers of federal Public Laws, the Internal Revenue Code (IRC), and how the federal changes affect California Revenue and Taxation Code (R&TC).

View the [report](#) on our website.

2011 IRS Tax Forums

Join your colleagues for three days of informative education sessions, training, and networking. The 2011 Tax Forums feature a full agenda of the latest tax law information, hands-on workshops, networking opportunities, and exhibits of the latest products and services for your business needs.

In 2011, the Nationwide Tax Forum sites include Atlanta, GA; Dallas, TX; Las Vegas, NV; Orlando, FL; San Jose, CA; and Washington DC.

Hear the latest on key federal and state tax issues from top Internal Revenue Service (IRS) executives and leading industry experts. Earn valuable continuing professional education and certified financial planner credits. Select from more than 40 valuable and relevant tax topics.

The 2011 IRS Nationwide Tax Forums are now open for registration. Go to www.irstaxforum.com for information or to register.

Treasury Offset Program in Full Swing

On June 20, 2011, we will fully participate in the Federal Treasury Offset Program (FTOP), a debt collection program, where we intercept federal refunds for payment of past-due California income tax debts. In a limited study, we collected more than \$22 million since September 2008. When fully implemented, we project the number of offsets to dramatically increase.

Before we intercept a federal refund for state income tax debts, we issue a notice to taxpayers by certified mail. The notice allows 60 days for the taxpayer to resolve their debt or expect to have their federal refund intercepted. Taxpayers already in payment plans with us will still be subject to a federal refund intercept until their debt is resolved.

New: Reduced Withholding for Foreign Partners

Effective January 1, 2011, we apply Federal Treasury Regulation 1.1446-6 procedures, which allow foreign partners to request reduced or no withholding of California tax on effectively connected taxable income from California sources allocable to a foreign partner. The foreign partner certifies to the partnership, and to us, that no or reduced California tax will be due. If we approve the request, we notify the foreign partner and the partnership.

Foreign partners can request reduced withholding from us annually before the first installment period using FTB Form 589, [Nonresident Reduced Withholding Request](#). See FTB Form 589 instructions for details.

A foreign partner must submit a completed and signed IRS Form 8804-C, Certificate of Partner-Level Items to Reduce Section 1446 Withholding, with FTB Form 589. On line 10 of the Form 589, enter the total of California amounts from 8a through 8f of Form 8804-C.

The chart below summarizes how to request and report foreign partner reduced withholding.

If you are a partnership who allocates California source income to a foreign	And...	Then...
	All of the following are true: <ul style="list-style-type: none">• The foreign	The partnership: <ul style="list-style-type: none">• Withholds the amount approved by us.

<p>partner...</p>	<p>partner submits to the partnership a completed and signed IRS Form 8804-C.</p> <ul style="list-style-type: none"> • The foreign partner submits to us FTB Form 589 with a signed copy of IRS Form 8804-C attached, allowing us at least 21 business days before the first installment period. • We send the foreign partner and the partnership a Request for Reduced Withholding - Approved letter. 	<ul style="list-style-type: none"> • Sends us the withheld amounts using FTB Form 592-A, Payment Voucher for Foreign Partner or Member Withholding. See Form 592-A for payment due dates. • At the close of the taxable year, completes and sends to us FTB Form 592-F, Foreign Partner or Member Annual Return. Form 592-F allows reporting of total withholding for the year and allocates to foreign partners the income or gain and related withholding. • Provides the foreign partner with a statement showing the total income allocated and the total amount withheld. The partnership can use a printed or electronic FTB Form 592-B, Resident and Nonresident Withholding Tax Statement, for this purpose. See FTB Form 592-B instructions for due dates and details. • Keeps the approved letter, and FTB Forms 592-A, 592-F, and 592-B for a minimum of four years. <p>In general, we conform to IRC 1446 and the 10-day notification of withholding for foreign payees.</p>
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The foreign partner claims credit for the withholding by attaching a copy of the FTB Form 592-B when filing a California tax return. The FTB Form 592-B is proof of California source income and withholding.

New in September 2011: Request reduced withholding online

Starting in September 2011, our website will have information, forms, and details on how foreign partners can request reduced withholding online.

Need our forms or more information?

- Go to ftb.ca.gov - search for **withholding**.
 - Email us at wscs.gen@ftb.ca.gov - on subject line put: **Nonresident Withholding**. Do not send confidential information as this is not a secure email address.
 - Call us at:
 - 888.792.4900
 - 916.845.4900
-

Free Withholding Forms and Processing Changes Webinars

Resident and Nonresident Withholding Forms and Processing Changes

We designed this webinar for those who must withhold and submit resident, nonresident, and back up withholding on California source income. We will discuss:

- What you need to know about forms and processing changes due to our new, automated withholding system.
- Resident, nonresident, and back up withholding errors that delay document processing and payment allocation and how to avoid them.
- Withholding resources and contact information you can use any time.

Date/Time: [Thursday, June 16, 2011, 10 a.m. PDT](#)

Duration: This webinar is approximately 20 minutes.

Real Estate Withholding Forms and Processing Changes

We designed this webinar for those who must withhold and submit real estate withholding. We will discuss:

- What you need to know about forms and processing changes due to our new, automated withholding system.
- Real estate withholding errors that delay document processing and payment allocation and how to avoid them.
- Withholding resources and contact information you can use any time.

Date/Time: [Thursday, June 16, 2011, 2 p.m. PDT](#)

Duration: This webinar is approximately 20 minutes.

Registration takes only a few minutes. Space is limited.

Common Fees

We compiled a chart of the common fees we apply and the descriptions for your convenience.

Fee Name	Description	Amount
Collection Cost Recovery	We charge a collection cost recovery fee when we must take action to collect delinquent taxes.	<p>Individuals, general partnerships, limited partnerships and limited liability partnerships (LLPs), and limited liability companies (LLCs) (treated as partnerships):</p> <p>07.01.10-current, \$170 07.01.09-06.30.10, \$217 07.01.08-06.30.09, \$187</p> <p>Corporations and LLCs (treated as corporations):</p> <p>07.01.10-current, \$291 07.01.09-06.30.10, \$413 07.01.08-06.30.09, \$352</p>
Lien	We charge a lien fee to place a lien on a taxpayer's name and social security number, or a business entity's name and California identification number. This fee covers the costs of filing and releasing the lien with the applicable County Recorder or the Secretary of State.	<p>In-state liens:</p> <p>Varies from county to county</p> <p>Out-of-state liens:</p> <p>\$14 to \$18</p>
Filing Enforcement Cost Recovery	We charge a filing enforcement cost recovery fee on any individual or business entity who fails to file a required income tax return in response to a legal demand to file.	Individuals, general partnerships, limited partnerships and LLPs, and LLCs (treated as partnerships):

		<p>07.01.10-current , \$100 07.01.09-06.30.10, \$113 07.01.08-06.30.09, \$119</p> <p>Corporations and LLCs (treated as corporations):</p> <p>07.01.10-current, \$113 07.01.09-06.30.10, \$188 07.01.08-06.30.09, \$203</p>
Installment Agreement	We add an installment agreement fee to the most recent tax year with a balance due. The fee also applies to cases that defaulted and are being reset.	<p>Individuals:</p> <p>01.01.05-current, \$20</p> <p>Business entities:</p> <p>04.26.06-current, \$35 09.06.05-04.25.06, \$20</p>
Copy of Return	We charge a fee to cover the cost we incur to copy income tax returns.	We charge \$20 for each tax year. There is no charge if you are a victim of a designated California or federal disaster.
Out of state collection (OSCAR)	We charge an OSCAR fee to cover costs we incur when we use a debt collection agency to collect delinquent liabilities from out-of-state residents.	A percentage of the amount collected. The percentage depends on the contract we have with the debt collection agency.
Federal TOP	We impose an FTOP fee on individual or business entity taxpayers to cover costs we incur when we must act to collect their delinquent taxes from the FTOP.	<p>Individuals, corporations, and LLCs (treated as corporations):</p> <p>10.01.10-current , \$22 03.15.10-09.30.10, \$21 Before 03.15.10, Not assessed</p>

Head of Household Audit Questionnaires Coming in July

The 2010 head of household (HOH) season is just around the corner. In July, we begin the first mailings of HOH Audit letters for the 2010 tax year. We expect to mail approximately 110,000 of these letters. If you have clients who receive an audit letter,

advise them to respond by the letter's due date to avoid a failure to furnish information penalty.

The HOH Audit letters include a questionnaire to be completed by taxpayers to determine if they qualify for HOH filing status. Taxpayers who receive a 2010 HOH Audit Letter can complete the questionnaire in any of the following ways:

- Go to ftb.ca.gov and search **hoh web response** to find the HOH Audit Letter Web Response page. They will need their social security number and the FTB ID listed at the top of the questionnaire letter. Using this method of responding to the HOH Audit Letter will expedite the processing of the questionnaire.
- Fax the completed questionnaire, and any supporting information to 866 223.8195.
- Mail it with the enclosed pre-addressed envelope.

HOH audit staff review completed questionnaires to determine if taxpayers qualify for HOH filing status. If the questionnaire is incomplete, or provides conflicting information, we contact the taxpayer to resolve the issue. Once HOH filing status is confirmed, we mail an acceptance letter to qualified taxpayers. Acceptance letters only apply to the specific tax year examined and will not qualify the taxpayer for any other tax year.

Taxpayers who fail to respond to the questionnaire, or whose responses indicate they do not qualify for HOH, can expect a Notice of Proposed Assessment that disallows their HOH filing status.

You and your clients can get more information about the HOH filing status, and can access the HOH Web Response Application by visiting our [HOH Webpage](#).

Ask the Advocate



What State Is that Income Sourced to Again?

As the Advocate, taxpayers often bring me issues that cannot be resolved through normal channels. Sometimes these issues occur because people and businesses are continually adapting to a constant environment while our laws can be slow to follow. An issue that seems to be gaining steam recently is how states are sourcing income and taxing residents and nonresidents. As the Advocate, my concern is that this

can create double taxed income for California residents where current law provides no relief.

You may be thinking what about the Other State Tax Credit (OSTC)? It does not always cover every situation. In some instances, a taxpayer will be taxed by both California and a different state on the same income. To prevent the income from being taxed twice, either California or the other state will generally allow an OSTC to offset the taxes paid to the other state. However, if the taxpayer is a resident of California, the income must be sourced in the other state to be allowed the credit.

The problem I am finding is that some states are taking more aggressive positions in determining what is or is not income sourced in their state. Most of the time it involves sourcing income where services provided is not clearly defined. For example, a case that recently came to my office involved a California resident who was at home during the off-season but still receiving a paycheck from his out-of-state employer. Even though services were not provided anywhere and he was physically located in California, the employer sourced those wages paid to the other state because he was considered "on-call." He filed a California resident return, reported all his income, and claimed the OSTC for the taxes paid to the other state. He was surprised when we denied the OSTC and sent him a bill because the credit was based on California sourced income. His only option was to go back to the other state and try to seek relief from double taxed income there because California did not allow any other remedy.

As many states, including California, struggle with how to close massive budget gaps, I suspect that this trend toward broader enforcement of source of income will continue. If you have clients who receive income within and outside of California, the following is a California income source table. It may not happen until some of these current cases are litigated that we will see clearer rules for all states on sourcing income in some of the gray areas.

TYPES OF INCOME	SOURCE
Wages, salaries, tips, and other compensation from personal services.	Where the services were performed.
Interest and dividend income.	State of residence.
Business income.	Where the business activity is being conducted.
Rental Income.	Where the rental property is located.
Sale of tangible property such as a boat, car, personal residence, rental property, business property, or land.	Where the property is located.
Sales of intangible property such as stocks or bonds.	State of residence.

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Steve Sims, EA
Taxpayers' Rights Advocate
Follow me on Twitter at 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.

Education and Outreach			
Speaking Engagements and Small Business Fairs			
June 2011			
Date	Event Association	Subject Matter	Location
June 6	CA Small Business Day 2011	Small Business Fair	Sacramento
June 9	CA National Association of Tax Professionals	Correspondence Audit / Garnishments / Tax Liens	Bay Area
June 10	Board of Equalization	Small Business Seminar	Moorpark
June 15	Central Coast Chapter of California Society of Enrolled Agents	Taxpayers' Rights Advocate	Pismo Beach
June 23	CA Certified Public Accountants	CA Tax Update	Sacramento
June 28	CA Society of Accounting and Tax Professionals	Nonresident Tax Issues	Oakland
July 2011			
Date	Event Association	Subject Matter	Location
No events scheduled for July.			
August 2011			
Date	Event Association	Subject Matter	Location
Aug 11	Internal Revenue Services	CA Tax Update	San Jose
Aug 25	Ventura CPA Discussion Group	CA Tax Update	Ventura

Inside FTB

Carol D. Williams Appointed Chief of the Accounts Receivable Management Division



As Chief, Carol manages the collection program policy and operations for delinquent business and personal income tax. The division collects various non-tax debts referred from other departments including certain court-ordered fines, fees, restitution orders, and delinquent vehicle registration.

Carol started her career in 1992, as a tax auditor. Since that time she has held a variety of positions in the Audit, Filing, and Accounts Receivable Management Divisions. Carol led and managed large projects including the court ordered debt statewide expansion project and our very successful tax amnesty project generating over \$700 million in 2005.

Carol earned her Bachelor of Science degree in business administration with a concentration in accounting from San Francisco State University.

Carol works closely with the Taxpayers' Rights Advocate to resolve issues related to collections matters.

Criminal Corner

Placer County Couple Arrested on State Income Tax Evasion Charges

Our special agents arrested a Roseville couple on four felony counts of state income tax evasion.

According to our special agents, Dino Puma, 48, a real estate broker, and his wife, Jennifer Puma, 43, allegedly failed to file their 2004 – 2007 state income tax returns and to report more than \$700,000 of income. The couple owes the state more than \$44,000 in unpaid tax. Interest, penalties, and the cost of the investigation will be added to the total amount sought as restitution.

The case resulted from the Puma's failure to respond to numerous requests that they file their delinquent returns. Each year we contact nearly one million people who may have a filing requirement, but have not filed a tax return. Most individuals resolve their cases in the civil process. Taxpayers who do not respond are assessed tax using income records to estimate the amount of state tax due. Some individuals are referred to criminal investigations for prosecution.

Income tax evasion is a felony with a maximum term of up to three years in state prison per count.

The California Attorney General's Office is prosecuting this case.

Big Business

Offshore Tax Avoidance – What's All the Buzz?

Federal criminal tax prosecution hit a ten-year high in 2010 largely due to a continuing crackdown on offshore tax evasion. IRS data shows a 25 percent increase from 2001 regarding cases referred for prosecution (USA Today, 4/17/2011). The IRS website lists the names of 25 individuals who have collectively paid more than \$37 million in penalties relating to hidden offshore accounts. Large, well-known companies are making headlines associated with offshore profit shifting and other foreign tax schemes aimed at lowering their tax. Identification and enforcement is on the rise. Those with unreported offshore income certainly have cause for concern.

IRS is nearing the end of its Offshore Disclosure Initiative, which allows taxpayers to file amended returns to report offshore income, pay tax, interest, and a 20 percent penalty to avoid criminal prosecution. Some different types of entities and arrangements being used in Abusive Offshore Tax Schemes include:

- Foreign trusts.
- Foreign corporations.
- Foreign (offshore) partnerships, LLCs, and LLPs.
- International Business Companies (IBCs).
- Offshore private annuities.
- Private banking (U.S. and offshore).
- Personal investment companies.
- Captive insurance companies.
- Offshore bank accounts and credit cards.
- Related-party loans.

Those taxpayers who have filing requirements in California and participate in IRS's Offshore Disclosure Initiative must also file amended returns for California. Now with California's Voluntary Compliance Initiative 2 (VCI 2), taxpayers can file these amended returns without a 20 percent penalty. Under VCI 2, taxpayers who underreport income from offshore financial arrangements or from abusive tax avoidance transactions can file amended returns with us between August 1, 2011, and October 31, 2011, pay tax and interest, and avoid most penalties and criminal prosecution. We cannot waive the Large Corporate Understatement Penalty and the Amnesty Penalty.

After October 31, 2011, a variety of penalties will be added to any amended return or assessment made by us relating to offshore financial arrangements or abusive tax avoidance transactions. To assist in the identification of reporting differences, the IRS shares information with us.