



Tax News

November 2011

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Form 3500 Exemption Application and Booklet Revamped

In August 2011, we announced the redesign of Form 3500 Exempt Application and Booklet. Thank you for your comments provided. We reviewed your comments and used your suggestions to enhance the application and booklet and are now available in [draft form](#).

The final application and booklet will be available for use for 2011 filing season.

Schedule EO and Table 3

In August 2011, we announced that we proposed to add Table 3 Schedule K-1 (565), Partner's Share of Cost of Goods Sold, Deductions, and Rental Income, and Pass-Through Entity Ownership EO (565), and Pass-Through Entity Ownership EO (568), to be completed by partnerships and limited liability companies beginning in taxable year 2011.

Based on comments received, we have clarified entity ownership information. The Schedules EO and Table 3 are now available as draft forms and can be viewed at the links below.

- [Table 3 Schedule K-1 \(565\), Partner's Share of Cost of Goods Sold, Deductions, and Rental Income](#)
- [Pass-Through Entity Ownership EO \(565\)](#)
- [Pass-Through Entity Ownership EO \(568\)](#)

The forms will be ready for next year's filing season.

Thank you for all the comments provided. We have reviewed all of the comments and used the suggestions to enhance the products.

From IRS: What Employers Need to Know About Claiming the Small Business Health Care Tax Credit

Many small business employers that pay at least one-half of the premiums for employee health insurance coverage under a qualifying arrangement may be eligible for the small business health care tax credit. This credit can enable small businesses and small tax-exempt organizations to offer health insurance coverage for the first time. It also helps those already offering health insurance coverage to maintain the coverage they already have. The credit is specifically targeted to help small businesses and tax-exempt organizations that primarily employ 25 or fewer workers with an average income of \$50,000 or less.

Here is what small employers need to know so they don't miss out on the credit for tax year 2010:

- Tax-exempt organizations that file on a calendar year basis and requested an extension to file to November 15 can use Form 8941 and then claim the credit on Form 990-T, Line 44f.
- Businesses who have already filed can still claim the credit. For small businesses that have already filed and later determine they are eligible for the credit, they can always file an amended 2010 tax return. Corporations use Form 1120X and individual sole proprietors use Form 1040X.
- Businesses that couldn't use the credit in 2010 may be eligible to claim it in future years. Some businesses that already locked into health insurance plan structures and contributions for 2010 may not have had the opportunity to make any needed adjustments to qualify for the credit for 2010. So these businesses may be eligible to claim the credit on 2011 returns or in years beyond. Small employers can claim the credit for 2010 through 2013 and for two additional years beginning in 2014.

For tax years 2010 to 2013, the maximum credit for eligible small business employers is 35 percent of premiums paid and for eligible tax-exempt employers the maximum credit is 25 percent of premiums paid. Beginning in 2014, the maximum tax credit will go up to 50 percent of premiums paid by eligible small business employers and 35 percent of premiums paid by eligible tax-exempt organizations.

Additional information about eligibility requirements and calculating the credit can be found on the Small Business Health Care Tax Credit for Small Employers page of IRS.gov.

Links:

- [Form 8941](#), Credit for Small Employer Health Insurance Premiums
- [Form 3800](#), General Business Credit
- [Small Business Health Care Tax Credit for Small Employers](#)

Private Debt Collection

To assist our Collection Program, we contract with private collection agencies (PCA) to collect delinquent [California tax debts](#) that are not economical for our collectors to pursue. These agencies collect tax debts from individuals inside California.

Various provisions ensure this collection program is fair. To collect on our tax accounts, private collection agencies must first bid against other firms to get contracts with us. Then we award our contracts to the most technically qualified contractors who will provide the highest net return to our state. These contracts last one year, and can be extended twice (one year each time). After that, various private collection agencies compete for the contracts again.

We require all PCAs to adhere to the Fair Debt Collection Practices Act, our Taxpayers' Bill of Rights, California Revenue and Taxation Code, and all other applicable our policies.

PCAs and their employees are required to sign our confidentiality and disclosure agreements acknowledging the confidentiality of tax information and the penalties for unauthorized disclosure.

We conduct physical onsite Safeguard Reviews of each PCA to ensure compliance with security and confidentiality provisions regarding our data.

We may withhold or reduce account placements, deny an increase in commission, and/or terminate the contract for any breach of the agreement's security and confidentiality provisions.

We may require all PCAs and their employees to complete a background check and be fingerprinted.

We ensure PCAs meet our high standards for customer service by requiring our Taxpayer Advocate phone number be included on all outgoing notices, conducting site visits of the PCAs premises during the term of the contract, and analyzing every taxpayer complaint.

We conduct a quarterly performance evaluation of all PCAs to ensure our customer service requirements are met. Results of the evaluations are available on our [public website](#).

Tax News Flashes

We flashed the following article on October 11:

FTB's Specialized Tax Service Fees Change on October 26, 2011

On Wednesday, October 26, our specialized tax service fees change. These fees affect our installment agreement program and expedited services. We assess the fees for cost recovery.

The new fees for specialized services are:

Specialized Services	Old Fee Amount	New Fee Amount
Installment Payment Programs		
PIT installment agreements	\$20	\$34
BE installment agreements	\$35	\$50
Expedited Services		
Walk-through corporation revivor requests	\$100	\$56
Walk-through tax-exempt status requests	\$50	\$40
Limited partnership revival confirmation letter requests	N/A	\$56

We flashed the following article on October 11:

e-file to Remain Open for Taxpayers Affected by Recent Disasters

California follows the IRS in extending e-file availability to October 31, 2011, for taxpayers affected by recent disasters. The extension grants added time to e-file for those taxpayers affected by Hurricane Irene, Tropical Storm Irene, Tropical Storm Lee, and the Texas wildfires. See the [IRS news article](#) for specific details.

Taxpayers or their representatives should check with their software provider to see if they are allowing e-file during the extension period.

We flashed the following article on October 18:

Our Website Changes November 1!

We asked you and you told us, through our website survey and usability testing. We are making big changes to the website, in addition to integrating the new California standard design. This design will bring the most sought after content and features to the homepage and top level category pages.

What's changing?

- Homepage content, layout, and navigation.
- Top-level page content and layout. Customized categories of information will make it easier to find what you need:
 - **Individuals** - When you are ready to file, make a payment, or find out what's new for the current year, this page provides everything you need.
 - **Businesses** - If you are thinking of starting a business or need to know what, when, and how to file, this page provides the answers.
 - **Tax Professionals** - Access to your clients' account information and other services to help you and your client.
 - **News & Events** - Stay informed about what's going on.

Want to see a preview?

[Show me](#)

We flashed the following article on October 24:

California's Voluntary Compliance Initiative 2 (VCI 2) Ends Monday, October 31

Taxpayers can still benefit from penalty waiver and protection from criminal prosecution on underreported tax liabilities from abusive tax avoidance transactions and offshore financial arrangements. You must provide amended returns, participation agreements, and payments to FTB by the VCI 2 deadline. Extensions cannot be given. Mail postmarked and faxes received on or before October 31 will be accepted. For more information, visit [FTB's website](#) or call the VCI 2 hotline at 888-825-9868.

Ask the Advocate



CSEA Liasion Meeting

The California Society of Enrolled Agents (CSEA) held its annual liaison meeting with us on September 23, 2011. Many interesting topics were discussed including changes to the forms for the upcoming filing season and pending federal and state legislation. CSEA members also submitted a number of interesting questions, a few follow.

Question: Our members report that in spite of the difficult economy, FTB Collection activity seems more severe than a couple of years ago, and the number of Advocate cases being opened has increased as a result. Can you comment?

Answer: Advocate staff has verified that the number of Advocate contacts as a result of Accounts Receivable Management collection staff actions has not increased notably in the last 12 months. However, as a result of the economy, more taxpayers are in the collection system than ever before. Taxpayers who previously paid their taxes as they became due are now opting for installment payment agreements, or entering into the collection cycle. As a result, installment agreement inventories and the length of the collection process have increased in recent years.

Question: Due to the difficulty in easily reaching FTB by phone, our members report requesting information by fax. These requests for transcripts, payments made on an account, and other questions receive no response. What is your normal turnaround time

for a faxed request for information? If information requested is not timely received, what recommendations do you have as to next point of contact?

Answer: Fax requests for “information” are treated in the same manner as paper correspondence based on date received. This provides consistent and equitable treatment for all taxpayers. Processing time frames for correspondence can vary based on the time of year and range from two to four months.

As an alternative to faxing us for client information, we recommend that practitioners use the self-service options available on our website. MyFTB Account provides tax professionals immediate access to their clients’ information for both individuals and business entities. By taking advantage of these self-service options, practitioners enable us to improve our turnaround time for those specific items of correspondence that cannot be handled through our self service channels. We appreciate the practitioners support in helping us provide all taxpayers better service. In fact, in the last four months, the use of MyFTB Account for client information has already enabled us to redirect approximately 2,000 hours toward our other correspondence workloads. Thank you for your support!

Question: We applaud FTB for recent improvements to the Practitioner Hotline, which include the ability to discuss a maximum of three cases. In spite of these improvements, our Members report that FTB Hotline staff will not stay on the phone, while a POA is faxed, but rather request the practitioner fax the POA and call them back. Please confirm that this is your procedure, and whether the procedure could be streamlined in a manner similar to IRS staff, who will retrieve a faxed document while on an active call?

Answer: Yes, the Practitioner Hotline has a similar process to the IRS, however there is a slight delay because faxes are received at a centralized fax location and distributed to agents several times a day. Once the practitioner faxes the complete POA, our turnaround timeframe is two hours and we advise the practitioner to call back. When we receive the POA, the information will be updated on their client’s file. Upon the return call from the practitioner, any agent can handle the call to resolution. We value practitioner input and will evaluate our current process and procedure to look for opportunities for us to streamline our process.

In the meantime, we have two recommendations for practitioners, which will expedite service. First, we recommend that you use the self-service options available on our website using MyFTB Account. MyFTB Account provides practitioners immediate access to their clients’ information for both individuals and business entities. Second, practitioners should immediately fax the POA for your new clients to the POA Unit prior to calling the Hotline. By doing this ahead of time, the information would be on file and Hotline staff would be able to assist you during your first contact.

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			
November 2011			
Date	Event Association	Subject Matter	Location
3	Hispanic Association of Professional Services	CA Tax Update	San Diego
3 & 4	Northern CSEA	Taxpayers' Rights Advocate	Redding
4	CA State Bar	Domestic Partners	San Jose
7	Board of Equalization	Forms of Ownership	Alvaro
7	Calexico County Enterprise Zone	Enterprise Zone Credit	El Centro
8	State Controller/CAEZ	Enterprise Zone Credit	Coachella
9	San Diego EZ	Enterprise Zone Credit	San Diego
10	Golden Gate Chapter - CSEA	CA Tax Update	Burlingame
10	CA NATP	CA Tax Update	Castro Valley
16	CA Society of CPAs	CA Tax Update	San Diego
16 & 18	CAEZ	Credit Claim	Rancho Cordova
21	CalCPA	CA Tax Update	San Francisco
22	CalCPA	CA Tax Update	Universal City
December 2011			
Date	Event Association	Subject Matter	Location
8	SBA Small Business Forum	Forms of Ownership	Sacramento
15	CA NATP	CA Tax Update	Modesto
January 2012			
3	San Fernando Valley Discussion Group	CA Tax Update	Van Nuys

5	IRS Seminar	CA Tax Update	Escondido
6	IRS Seminar	CA Tax Update	San Bernardino
7	IRS Seminar	CA Tax Update	Santa Barbara
10	IRS Seminar	CA Tax Update	Torrance
12	IRS Seminar	CA Tax Update	Irvine
13	IRS Seminar	CA Tax Update	Burbank
14	Philippine Institute of CPAs Seminar	CA Tax Update	San Francisco
24	CA Society of Enrolled Agents	CA Tax Update	Fairfield
24	CA Society of Accountants and Tax Preparers	CA Tax Update	Oakland
25	Society of CA Accountants	CA Tax Update	Arcadia



Enterprise. Data. Revenue!

EDR in the News

We began our Tax System Modernization effort with the EDR Project. The project is a five-year information technology project that will modernize our processes and systems. The EDR project will result in a 7:1 CBR that will generate \$4.7 billion in revenue for the state over the life of the project.

EDR Update:

First Project Deliverable Goes into Production in September

On September 13, the EDR Project reached another milestone with the implementation of the first project deliverable: Leveraging Additional Sources for Levy. This deliverable addresses our business problem regarding the availability of data. We will automate access to many data sources that we currently access through manual processes. This initiative will result in an additional 80,000 levies issued in fiscal year 2011/2012.

Inside FTB

Tax Professionals Needed for Website Usability Testing

FTB is looking for tax professionals to help improve our website to make our website better for you and your clients. We are asking for help from tax professionals to test webpages and online applications (such as MyFTB Account) and provide feedback to us. Your feedback will help make our website easier and more convenient for you to use. If you elect to help us, here's what to expect:

- Testing generally takes 15 to 30 minutes.
- Sessions vary based on what we test.
- We contact you by email or phone and provide you information about the test.
- We plan to contact you only once or twice a year.
- We will not contact you during April or October.

If you would like to participate or have additional questions, respond to Donna Freeman with the following information at Donna.Freeman@ftb.ca.gov:

- Your name.
- Your email address.
- Your daytime phone.
- Your city.

We appreciate your help!

Criminal Corner

Filing Fraudulent State Income Returns, Identity Theft Lead to Prison

A Chula Vista woman was sentenced to four years in state prison and ordered to pay more than \$70,000 restitution to her victims.

Rosemary Annos, aka Rosemarie Annos, 52, was sentenced September 15 after previously pleading guilty to state income tax fraud, identity theft, embezzlement, and network intrusion.

Annos was arrested in March at her residence after Chula Vista Police officers conducted a probation search. During the search, officers found methamphetamines and 15 credit cards in different names. An investigation by San Diego County District Attorney investigators revealed Annos, who was employed as a bookkeeper at two San Diego businesses, embezzled funds from both of her former employers.

Annos also abused her position of trust to access employment applications and steal applicants' names, social security numbers, and birth dates. She used this information to create fraudulent email accounts and pre-paid credit cards. Annos then filed 15 fraudulent state income tax returns with the refunds being directly deposited to the pre-paid credit cards.

The restitution represents payment to her two former employers and payment to us of the fraudulent refunds, penalties, and the cost of the investigation.

San Diego Superior Court Judge Theodore M. Weathers handed down the sentence in Department 30 of the San Diego Main Courthouse. San Diego County Deputy District Attorney Brendan McHugh of the Catch Team prosecuted the case. This was a joint investigation between the San Diego District Attorney's Office and us.

Big Business

Clarification of Net Operating Loss Suspended Carryover Periods

On September 23, 2011, [Legal Ruling 2011-04](#) was issued to clarify the calculation of the remaining carryover periods when the deduction of a net operating loss (NOL) was suspended under California law for the 2002, 2003, and 2008 through 2011 taxable years.

Under the California NOL suspension provisions, the carryover period for each year's NOL is extended only where a NOL deduction is denied, in whole or in part, because of the application of the suspension provision to that year's NOL.

For tax years 2010 and 2011, there is an exception to the suspension provision for taxpayers with pre-apportioned income (CORP) or modified adjusted gross income (PIT) of less than \$300,000. There is also an exception for tax years 2008 and 2009 for taxpayers with taxable income (CORP) or net business income (PIT) of less than \$500,000. Accordingly, a NOL or NOL carryover will not have an extended carryover period if the exception is met, and no portion of the NOL deduction was denied by operation of the suspension provisions.

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This legal ruling also includes three detailed examples that illustrate the ordering of the NOL carryovers, and the effects of the suspension and extension periods.

The following table provides a brief summary of NOL limitations:

Taxable Years	Carryover Period Allowed	Carryover Rate	Extension if Denied in 2002 or 2003	Extension if Denied in 2008 through 2011	Two Preceding Year Carryback Rate
January 1, 1987 - December 31, 1999	5 Years	50%	2 Years	Expired	N/A
January 1, 2000 - December 31, 2001	10 Years	55%	2 Years	4 Years	N/A
January 1, 2002 - December 31, 2002	10 Years	60%	1 Year	4 Years	N/A
January 1, 2003 - December 31, 2003	10 Years	60%	N/A	4 Years	N/A
January 1, 2004 - December 31, 2007	10 Years	100%	N/A	4 Years	N/A
January 1, 2008 - December 31, 2008	20 Years	100%	N/A	3 Years	N/A
January 1, 2009 - December 31, 2009	20 Years	100%	N/A	2 Years	N/A
January 1, 2010 - December 31, 2010	20 Years	100%	N/A	1 Year	N/A
January 1, 2011 - December 31, 2011	20 Years	100%	N/A	N/A	N/A
January 1, 2012 - December 31, 2012	20 Years	100%	N/A	N/A	N/A
January 1, 2013 - December 31, 2013	20 Years	100%	N/A	N/A	50%
January 1, 2014 - December 31, 2014	20 Years	100%	N/A	N/A	75%
January 1, 2015 -	20 Years	100%	N/A	N/A	100%