



Tax News

March 2012

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MyFTB Account for Businesses

After a one-time registration process, you can use MyFTB Account for Businesses to view your client's estimated income tax payments before filing your client's return.

Claiming the wrong amount of estimated tax payments causes processing delays which delays your client's refund.

You can also verify the exact entity name to use when filing a return to avoid another common error that causes processing delays. Go to **ftb.ca.gov** and search for **MyFTB Account**.

Access MyFTB Account for Businesses Webinar

Join us for a Webinar on March 12, 2012 from 10 a.m. to 11 a.m. [Register Now](#)

Tired of waiting on hold to get your estimated tax payment information? Now you can avoid the wait by accessing MyFTB Account for Businesses online.

This Webinar will help you avoid common errors that can delay your refund or results in unintended bills after you file your return.

We will show you how to:

- Register.
- View and cancel payments.
- Make a payment online.

Space is limited. [Reserve](#) your webinar space now.

Upcoming Webinars:

03.14.12 – Power of Attorney “10 reasons we return your POA in 10 minutes”
04.09.12 – MyFTB Account for Individuals

Go to **ftb.ca.gov** and search for **Webinars**.

Charitable Contribution Substantiation

The federal Pension Protection Act of 2006 changed what was required of taxpayers to substantiate the charitable contribution deduction on their tax returns. California conformed to these increased substantiation requirements in the Conformity Act of 2010 for tax years beginning on or after January 1, 2010.

Your clients must keep adequate records to prove the amount taken as itemized deductions. The kind of records required depends on the amount of the contributions and whether they are:

- Cash contributions.
- Noncash contributions.
- Out-of-pocket expenses when donating services.

All cash contributions, regardless of amount, require either a bank statement, receipt from the charity, or a payroll deduction record. For cash donations of \$250 or more, a written acknowledgment from the charitable organization is also required. Noncash contributions require additional documentation that varies depending on the value of the donation.

Noncash Donation	Documents to Substantiate
Less than \$250	Receipt from charity with name, date, and description of donation
Greater than \$250 but less than \$500	Contemporaneous written acknowledgment from charity
Greater than \$500 but less than \$5,000	Written acknowledgment (as above) plus file IRS Form 8283 , Noncash Charitable Contributions
Greater than \$5,000 (not including stock, art, and autos)	Qualified appraisal and IRS Form 8283

For clients who donate clothing and household items and receive only a receipt from the charity with a date, it is important that they keep detailed descriptions of items donated as well as the condition of the items in order to substantiate the value of the donation. It is up to the taxpayer to prove “good used condition or better,” so taxpayers may also want to consider taking pictures.

Specialty items including stocks, certain works of art, automobiles, boats and airplanes also have specific documentation requirements to substantiate the contribution amount. For more information on charitable contributions and documents needed to substantiate deductions, see the IRS [Publication 526](#), *Charitable Contributions*.

Interest Rates Decrease in July

The adjusted interest rate has been determined for the period July 1, 2012, through December 31, 2012. ¹ Currently, interest rates are four percent, but will decrease to three percent in July. This rate is compounded daily and accrues with respect to various state taxes including: personal income, corporate income, and franchise. The rate for corporation tax overpayments for the period will remain zero percent.

To find both current and past [adjusted interest rates](#), go to ftb.ca.gov and search for **interest rates**.

¹ Pursuant to Revenue and Taxation Code Section 19521.

Do You Have a Small Business?

Are you considering starting a small business?
Do you work for someone who owns a small business?

If you answered “**yes**” to any of these questions, this is the event for you...and **it’s free!**

Event: 2012 Small Business Tax Assistance Day

Date: Wednesday, March 7

Time: 3 p.m. to 8 p.m.

Location: Scottish Rite Center
2455 Masonic Drive
San Jose, CA 95125

Join us for: Education, Small Business Resources, Networking, and Tax Consultation.

Get your tough questions answered by: the Internal Revenue Service, us, State Board of Equalization (BOE), and Employment Development Department about:

- Forms of business ownership.
- How to run your business if you are a sole proprietorship or S-corporation.
- Recordkeeping.
- What to do if you hire workers.
- What tax you are responsible for if you sell goods.

- Valuable business resources from the Business Owner Space partners including federal, state, and city government agencies and local small business organizations.

Reserve your seat for workshops and consultation sessions with tax professionals.

Space is limited, so register early!

For more information and to register: Visit [2012 Small Business Tax Assistance Day](#).

Tips for Filing

Where to send clients' copy of the "state copy" of an Information Return?

You may be asked by your client where they need to send the "state copy" of an information return. If they filed paper returns with IRS, they **do not need to send a paper copy to us**. IRS will forward the information to us, whether you are located in or out of the state of California.

Any person, including a corporation, partnership, individual, estate, or trust that makes reportable transactions during a calendar year, must file the appropriate information returns (such as a Form W-2, Wage and Tax Statement or a Form 1099) to report those transactions with IRS and us. They are required to furnish each employee a completed Form W-2, and each other payee a completed Form 1099 by January 31. The due date to file electronically with us is March 31.

Generally, our reporting requirements are the same as IRS reporting requirements. See [A Guide to Information Returns](#) on the IRS website for a list of all the required returns and what to report.

Your client can use the IRS Combined Federal/State Filing Program, and they will only have to file once. IRS will forward the California returns to us. Only the following forms may be filed under this program:

- 1099-DIV
- 1099-G
- 1099-INT
- 1099-MISC
- 1099-OID
- 1099-PATR
- 1099-R
- 5498

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To request approval to participate in the IRS Combined Federal/State Filing Program, see [IRS Publication 1220](#), Specifications for Filing Forms 1098, 1099, 5498, and W-2G Electronically, or call IRS Information Reporting at **866.455.7438**.

We accept the IRS extended due date of March 31 for electronically-filed Forms 1099, 1098, and W-2G. IRS has not extended the due date for filing Form 5498 electronically.

If your client has an exception that requires them to report something different for federal and state purposes, such as a different dollar amount, they will need to file separate returns with IRS and us.

While we encourage them to file electronically, they may file up to 249 paper returns. If they file 250 or more returns, they must file electronically. Mail paper returns to:

FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO, CA 94240-6090

Email IRPhelp@ftb.ca.gov if you have questions or comments.

April 17 Filing Date

Due to the Emancipation Day holiday on Monday, April 16, tax returns filed and payments mailed or submitted on Tuesday, April 17, will be considered timely.

What are the common errors taxpayers should avoid?

The top three common tax errors:

1. Claiming incorrect estimated tax payments.
2. Deducting the wrong amount for the standard or itemized deductions.
3. Selecting the wrong amount of tax from the tax table on paper tax returns.

To avoid these errors, we suggest taxpayers:

- Go to ftb.ca.gov and access their account to verify the amounts we have on record for their estimated tax payments, wage and withholding information, and current balance due.
- Accurately add and transfer their total deductions to the correct line of the tax return.
- Double-check that they transferred the correct amount of tax from the tax table.

What should your clients do if they cannot file by April 17?

No problem. All taxpayers get an automatic six-month filing extension to October 15. The extension is only for filing tax returns and not for payment of any taxes that may be due. Be sure to pay the total tax due by April 17 to avoid penalties and interest.

What if your client owes and cannot pay?

First, your clients should always file on time and pay as much as they can with their tax returns. This saves them money in penalties and interest. We realize that unforeseen events occur that prevent your clients from paying their taxes on time.

Your clients, with a financial hardship who cannot pay their taxes in full, can generally arrange to make monthly installment payments if they owe \$25,000 or less, and can repay within five years.

Your clients can apply for installment agreements online or by mail. Taxpayers can go to ftb.ca.gov and search for **installment agreement**. We can approve most requests within a few days. For more information, call 800.689.4776.

Your clients may pay taxes by credit card. We accept Visa, MasterCard, Discover/NOVUS, and American Express.

Website: Official Payments Corporation: www.officialpayments.com.

Telephone: 888.2PAY.TAX or 888.272.9829.

Service providers charge a convenience fee for this service based on the amount charged.

What is use tax and how do you know if your clients owe it?

California law requires residents to pay use tax on purchases made from out-of-state sellers, such as by telephone, Internet, mail, or in person if:

- The seller does not collect California sales or use tax.
- You use, give away, store, or consume the item in California.

New this year, taxpayers can use a “look-up” table to report their use tax obligations on their state return. The estimated amount of use tax due is based on the person’s adjusted gross income. Taxpayers can go to boe.ca.gov for more details.

We advise you to check your clients county property tax bill when deducting real estate taxes as an itemized deduction

We provide guidance to property owners in understanding how to correctly deduct real estate taxes as an itemized deduction on their tax return. Many property owners deduct the entire amount paid from their property tax bills on their state and federal tax returns. This is incorrect as most counties impose special assessments, parcel taxes, fees, and charges that are usually nondeductible.

We advise taxpayers to examine their county property tax bill to determine the deductible and nondeductible portions. Our [website](#) provides guidance, including a

sample copy of each county's property tax bill that highlights what amounts are generally deductible and nondeductible. Taxpayers should not rely on the federal Form 1098, Mortgage Interest Statement, which may include information on the total amount of taxes and insurance paid from an impound account.

Beginning in 2012, we plan to add reporting requirements related to real estate tax deductions taken on your return. This may include the property parcel number, deductible, and nondeductible amounts. For more information about the real estate tax deduction, visit ftb.ca.gov and search for **real estate tax**.

Your clients concerns after filing their tax returns

As the end of filing season approaches, taxpayers contact us with questions or concerns they have after filing their tax return. The following information can help you answer those questions or concerns.

When can my client expect their refund?

e-file - Refunds from e-file returns are usually issued within seven to ten business days from the date the return is accepted. Your client can also request to have the refund directly deposited into a bank account usually within five to seven business days.

Paper returns - Direct deposit of refunds for paper returns are deposited in six to eight weeks about the same time it takes to issue a paper warrant.

How can my client check their refund status?

Your client can check the [status of their current year refunds](#) online or calling 800.852.5711. This service is also available in Spanish.

My client sent the check without the payment voucher.

We will cross reference and accept the check, but if this is the first time the taxpayer is filing the tax return, we might need to contact the taxpayer.

My client cannot pay what is owed on the tax return.

If your client is unable to pay the tax owed in full, the taxpayer can make a request for monthly payments. However, interest accrues and an underpayment penalty may be charged on the tax not paid by April 17, 2012, even if the request for monthly payments is approved. To make monthly payments, complete form [FTB 3567](#), Installment Agreement Request, online or mail it to the address on the form.

My client is due a refund for this year, but has a balance due from a prior year or a nontax debt being collected by us; will my client get the refund?

No. All refunds are subject to intercept. Refunds from joint returns may be applied to the debts of either the taxpayer or spouse.

New Use Tax Lookup Table

Since 1935, California law requires individuals and corporations to pay Use Tax on purchases made from out-of-state sellers, such as by telephone, Internet, mail, or in person if:

- The seller does not collect California sales or Use Tax.
- The item is used, given away, stored, or consumed in California.

Beginning in 2003, corporate and individual taxpayers have been able report Use Tax on their California income tax returns.

New this year is a lookup table in the instructions for [Form 540/540A](#), California Resident Income Tax Return. Individuals may use this table to estimate Use Tax obligations on non-business purchases of less than \$1,000. The estimated amount of Use Tax due is based on the taxpayers' adjusted gross income. Use of the look-up table to calculate the Use Tax liability is optional. However, if the individual taxpayer properly uses the table, the BOE is not allowed to assess a liability against the taxpayer for additional Use Tax. Taxpayers can go to boe.ca.gov for more details.

Unfortunately, on occasion, corporate and individual taxpayers may make errors while preparing their income tax returns, or file late and incur penalty and interest charges. Presently, the law requires us to first apply payments to amounts owed for outstanding personal or corporate income taxes even when the taxpayer designates a portion of payments as Use Tax on their income tax return. Should this occur, we notify the BOE of the shortage of the Use Tax amount, and the BOE then sends correspondence to the taxpayer to explain the issue.

If additional income tax, penalty, or interest resulting from the error is greater than the designated Use Tax amount plus the income tax payments, the taxpayer is sent a Return Information Notice (RIN). The RIN explains:

- The error.
- That the Use Tax was used to pay the income tax owed.
- Directions for how to now pay the Use Tax directly to the BOE.
- How to pay any additional income tax, interest, or penalties to us.

Ask the Advocate

Responses to Hearing Questions



On December 1, 2011, the Franchise Tax Board held its annual Taxpayers' Bill of Rights Hearing along with a regularly scheduled Board meeting. Practitioners and taxpayers were invited to submit issues in writing and could also request time to address the Board during the meeting to present their issue.

As the Taxpayers' Rights Advocate, my goal is to review and address each issue as well as all of the issues I received in writing. Below I provided some of the issues along with my responses:

Power of Attorney (POA) Notification on all Taxpayer Correspondence

As we mentioned in last year's response, our present POA system does not allow us to automate the noticing process and it would be cost prohibitive in most cases to provide duplicate notices to the taxpayer and their representative. When the Enterprise Data to Revenue (EDR) - Taxpayer Folder becomes available, representatives will have the ability to view their client's account including account status, FTB actions, an online view of notices issued electronic images of tax returns and associated correspondence.

It is very important for us to maintain a cooperative working relationship with the tax professional community. We understand your concerns and to that extent, we are sending your comments to the EDR Project, so that these concerns can be considered during the requirement development process.

Implementation of Virtual Hold Technology (VHT) Service on Practitioner Hotline

Virtual Hold (VH) systems are designed for call centers with high call volumes and large staffing levels. Risks are involved when implementing VH into a small call center; therefore, the vendor recommended that the Practitioner Hotline not offer this tool.

The Practitioner Hotline consists of 20 customer service representatives (CSRs). Staffing levels regularly fluctuate between 12 to 17 CSRs due to start and end of shifts, breaks, lunch, planned vacation, and absenteeism. Low staffing levels in call centers utilizing VH may result in:

- Inaccurate Estimated Wait Times for customers electing to hold or receive a call back.

- The VH system uses an algorithm which includes the number of available staff and estimated wait time for the last 70 calls. In a small call center, the calculation does not work well due to the lower volume of calls and staffing fluctuations throughout the day.
- Callbacks being returned outside return call parameters (10 percent before and 20percent after estimated call back time).
- Unexpected, additional wait times for customers in the “waiting queue,” after the callback is made.
- Difficulties managing level of access/service, due to large VH call back queues, resulting in higher deflection rates and possible system purges.

In addition to the technical aspects, the following issues exist:

- We currently use VH on toll-free numbers. The Hotline is a toll number, and therefore we would be incurring toll charges for the callbacks. We are not budgeted for these outgoing calls.
- When a callback is made to a tax professional, it may travel through a company switchboard or a secretary. This could result in CSRs having to hold until the switchboard/secretary can connect the appropriate party, which would increase the call time and impact other practitioners trying to get to a CSR.

We tried VH on a small toll-free call center and has found it extremely difficult, if not impossible, to manage effectively.

We value our relationship with the practitioner community. Although VH is not feasible for the Hotline, FTB is committed to providing excellent service to tax practitioners.

Update Requested on Increase to Lien Filing Threshold

We continue to evaluate and review the effectiveness of the lien program including the impact of our current dollar threshold for filing liens. During our ongoing review, we identified improvements to current lien practices and procedures, and the need for taxpayer-focused education. We expect to enhance lien information available on our public website in March 2012, and also plan for future enhancements to our Interactive Voice Response (IVR) and collection notices to better educate taxpayers on the impacts of a lien.

Disability Waiver of Mandatory e-Payment Requirement

Initially, we looked at the legislative process to create a permanent disability mandatory e-pay waiver. We have since determined that we could handle these permanent waiver requests administratively. This administrative remedy is in the process of being developed and requires changes to existing forms, publications, processing procedures, website content, and our IT systems. We are working as quickly as possible and expect that the mandatory e-pay permanent disability waiver will be available to taxpayers prior to the April 17 filing deadline. Once the process becomes final, we will update our external website and publish a Tax News article.

Property Tax Deduction on Schedule CA

We understand the importance of educating taxpayers and tax practitioners to improve self-reporting of property taxes as an itemized deduction. While some taxpayers and practitioners correctly report this deduction, we realize that many taxpayers are not aware of guidance provided by us and the IRS on how to correctly report this deduction. Our goal is to provide information and tools needed to accurately report this deduction.

After exhaustive research, we believe and have announced that federal law is clear in that an itemized deduction for real property tax is not allowed for a Mello-Roos assessment, to the extent it is not based by the value of the property assessed. However, our chief counsel formally requested clarification from the chief counsel of the IRS in Washington DC regarding the validity of a memorandum authored in 2003 by a local IRS attorney indicating that a Mello-Roos assessment may be deductible even though it is not assessed on an ad valorem basis.

We also contacted each county with information about our Real Estate Tax Deduction Education Campaign. This includes our education efforts for the current filing season, as well as additional reporting requirements beginning with the 2012 tax return.

We will continue to enhance our webpage with guidance and links to county information to assist taxpayers in understanding their tax bills so that they can accurately determine the legally allowable deduction for real estate taxes.

All of the issues and my responses will be posted on our [website](#).

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 now provide a [combined-calendar](#) to show the events we are attending as well as other events happening with us such as interested party and board meetings.



Enterprise. Data. Revenue!

EDR in the News

New Software Implementation

EDR will implement the Image Cash Letter (ICL) software to conform to Check 21.

Check 21 refers to the Check Clearing for the 21st Century Act (Check 21) that was signed into law on October 28, 2003, and became effective on October 28, 2004.

In October 2012, we plan to implement ICL as part of our EDR solution. We will use ICL software to make bank deposits electronically multiple times throughout the day. Using our new scanners, we will scan all paper checks received and submit the image electronically to our banks for deposit. This will allow us to begin earning interest on checks that we currently retain until the next day's deposit when we miss the once a day deposit cut-off. Overall, we will streamline deposit preparation and expedite the availability of funds.

With ICL, we will also reduce the time, cost, and risk involved with processing paper checks.

For instance:

- Paper checks will be scanned and converted to electronic images.
- Bank deposits will be made electronically, eliminating the need for a courier to deliver paper checks to various banks.
- We will earn more interest by making more deposits throughout the day.

Other state agencies including the Department of Child Support Services and the BOE are also implementing the ICL software this year.

Criminal Corner

Orange County Auto Fleet Salesman Pleads Guilty to State Income Tax Evasion

An auto fleet salesperson, who worked for several Orange County auto dealerships, pleaded guilty to one count of state income tax evasion.

Paul R. Whitehead, 52, with a last known address in Irvine, worked as a fleet auto salesperson from 2004 to 2007, and 2009. Our investigation revealed Whitehead failed to file state income tax returns for these years and report the more than \$1.4 million he earned.

Whitehead was ordered to pay restitution to the state of more than \$173,000 representing the unpaid tax, penalties, interest, and the cost of the investigation. He must pay \$50,000 within 30 days and the balance within five years or face up to three years in state prison. Interest continues to accrue on this outstanding balance.

Our criminal investigation program identifies and investigates cases of tax evasion and tax fraud to encourage compliance with California income tax laws and maintain the public trust.

The charges and allegations contained in the criminal complaint are merely allegations, and the defendant is presumed innocent unless and until proven guilty.

Inside FTB

Major Changes in Our Guidelines to Obtain Entity Status Letters

An Entity Status Letter discloses whether or not a business entity is in good standing with us and provides certification to use for:

- Legal status in court proceedings.
- An outstanding liability that could have an effect on an entity's credit rating such as the closing of escrow.
- Verification of an exempt status.
- Registering a corporation or LLC to transact business in another state.

The Entity Status Letter we issue only contains public information and does not reflect the entity's status with any other agency.

Fees

With the implementation of our new web-based Entity Status Letter request system, effective February 16, 2012, we eliminated the fee charged for obtaining an Entity Status Letter.

Eligibility guidelines

Any interested party can request an entity status letter for the following types of entities:

- Corporations.
- Exempt organizations.
- Banks.
- Financial institutions.
- Limited liability companies (taxed as corporations, partnerships, or disregarded entities).

We do not issue Entity Status Letters for:

- General partnerships.
- Limited partnerships.
- Limited liability partnerships.

However, any of these entities registered with the Secretary of State can send a written request for a Certificate of Good Standing to:

Secretary of State
(Limited Partnership, Limited Liability Partnership, or General Partnership)
Section
PO Box 944225
Sacramento CA 94244-2250

How to obtain Entity Status Letters

Requests for Entity Status Letters can be made using our [Self-Serve Entity Status Letter online application](#).

If you have any questions about obtaining an Entity Status Letter, contact us at GSL@ftb.ca.gov

Big Business

Avoid an Estimate Penalty

As we near the end of the first quarter of the year, it might be a good time to remind your clients about their estimated tax payment requirements to avoid an estimate penalty. If your client fails to make the required estimate payments, pays an installment after the date it is due, or underpays any installment, they may be assessed a penalty on the portion of estimated tax that was underpaid from the due date of the installment to the date of payment or the due date of their tax return, whichever is earlier.

When figuring their required estimated tax payments, generally taxpayers must pay the lesser of 100 percent of last year's tax or 90 percent of your current year's tax (with some exceptions). However, there is a limit on the use of prior year's tax for high income individuals. They must base their estimate tax payments on the following applicable percentages.

If their adjusted gross income is more than \$150,000 (\$75,000 if married filing a separate return) in the prior tax year:

- The required payment is the lesser of 90 percent of their tax for 2012 (current year) or 110 percent of their tax for 2011 (prior year).

If their adjusted gross income is \$1 million or more (\$500,000 if married filing a separate return) in the current tax year:

- The required payment is 90 percent of their tax for 2012 (use current year only).

Different estimate payment rules apply to farmers or fishermen.

To avoid an estimate penalty, taxpayers must pay at least 30 percent in the first quarter, 40 percent in the second quarter, 0 percent in the third quarter, and 30 percent in the fourth quarter.

Installments payments are due by:

First payment (30 percent). . . . April 17, 2012
Second payment (40 percent). . . . June 15, 2012
Third payment (0 percent). . . . September 17, 2012
Fourth payment (30 percent). . . . January 15, 2013

Taxpayers should use the California Estimated Tax Worksheet in the Instructions for Form 540-ES, Estimated Tax for Individuals ([540ES Form Instructions](#)) to figure their estimated tax payments.

To make the estimated tax installment payment, they must use [Form 540-ES](#).