

## Governor signs tax bill for tsunami donations

Taxpayers who made tsunami-relief contributions in January of this year can now claim a deduction on their 2004 state income tax returns.

“This is welcome news for the thousands of Californians who opened their hearts, and their wallets, to aid the victims of this terrible tragedy,” said State Controller and FTB Chair Steve Westly.

Senate Bill 50 (Stats 2005, Ch. 5) (John Campbell R-Irvine; Abel Maldonado R-Santa Maria) conforms state law to federal law (Tsunami Relief Bill H.R. 241; P.L. 109-1) that allows both individual and business taxpayers to deduct January tsunami-relief contributions made to qualified charities from their 2004 federal income taxes. Absent this legislation, charitable contributions made in January 2005 would normally be deducted on the 2005 tax return due next year. Taxpayers now have the option to deduct their contributions on either their 2004 or 2005 California returns.

The new law only applies to cash contributions. The contributions must be made specifically for the relief of victims in areas affected by the Dec. 26, 2004, tsunami in the Indian Ocean. To get other information about this year’s state tax rules, visit our Website at [www.ftb.ca.gov](http://www.ftb.ca.gov).

## Special tax relief for storm victims

Taxpayers who live in the federally declared disaster areas affected by the recent Southern California storms can receive special tax relief as a result of existing federal and state laws.

The California storms caused a variety of problems including flooding, debris flows, and mudslides from Dec. 27, 2004, through Jan. 11, 2005.

The counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura are designated as federal disaster areas. Special tax rules apply to disaster losses.

Taxpayers can claim a disaster loss in the tax year the disaster occurred (for example, on the 2004 tax return that most taxpayers will file this spring) or in the tax year before the disaster occurred (if the disaster loss was incurred in 2004, taxpayers can immediately amend the 2003 tax return filed last year).

If your clients incurred their disaster losses in 2005, pay extra attention to deducting their losses on the previous year’s return as you prepare to file their 2004 returns over the next few months. The advantage of claiming the disaster loss in the prior year is that we can quickly issue refunds to your clients.

To claim the disaster loss, write **California Severe Storms** in red ink at the top of the tax return to alert us to expedite the refund. **Note:** If you are using e-file, follow the software instructions to enter the disaster information. If any of your clients need copies of lost or damaged state tax returns, complete and submit Form FTB 3516, *Request for Copy of Tax Return*. Disaster victims receive copies of tax returns for free. Be sure to print **California Severe Storms** in red at the top of the request. For more detailed information, refer to our publication, *Disaster Losses*, FTB Pub. 1034 and IRS Pub. 547, *Casualties, Disaster, and Thefts (Business and Nonbusiness)*.

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# Tax News

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**Tax News** is a bimonthly publication of the Communications Services Bureau of the California Franchise Tax Board. Our primary objective is to provide information to income tax practitioners about state income tax laws, regulations, policies and procedures.

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### Tax Practitioner Services

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## Taxpayers to pay handling fee for installment payment agreements

### Taxpayers will also pay for certain expedited services

Effective January 1, 2005, taxpayers who are granted an installment agreement will pay us a \$20 handling fee for the service. We will also charge a fee to provide the following expedited services:

- Walk-through estate income tax clearance certificate requests - \$100
- Walk-through corporation revivor requests - \$100
- Walk-through tax clearance certificate requests - \$100
- Walk-through tax-exemption requests - \$50

California Revenue and Taxation Code Section 19591 require us to recoup our costs for certain specialized tax services. According to the law, the fees must be reasonably related to the actual costs we incur to provide these specialized services. The fee amounts are effective from January 1, 2005, through December 31, 2005. Advise your clients that the fee is payable when they (or their representatives) make their request.

### Installment payment agreements

If your clients are seeking an installment agreement, they can apply online on our Website at [www.ftb.ca.gov](http://www.ftb.ca.gov) (keywords: *payment options*), or by submitting Form FTB 3567, *Installment Agreement Request*. If we approve the installment agreement, we will add a \$20 fee to the balance due on the account.

**Note:** Taxpayers do not have to submit a separate payment for the installment agreement fee at the time they apply.

### Walk-through Estate Income Tax Clearance Certificate

Fiduciaries or their authorized representatives requesting an expedited *Estate Income Tax Clearance Certificate* must submit FTB 3571, *Request For Estate Income Tax Clearance Certificate*, along with all necessary documentation and payment with certified funds (Write *specialized tax service fee* on the payment) via private mail carrier (FedEx, UPS, or DHL) to:  
Estate Income Tax Clearance Unit MS D-7  
Franchise Tax Board  
Sacramento CA 95827

**Note:** Taxpayers must pay the appropriate fees for walk-through services with certified funds. Certified funds include cashiers checks or money orders. Write *specialized tax service fees* on your payment.

### Walk-through corporation revivor requests

To request an expedited corporation revivor, bring Form FTB 3557A, *Application for Certificate of Revivor – Walk-Through*, along with the necessary returns, certified payments, and a separate certified payment for the \$100 fee, to any of the following Franchise Tax Board field offices:

- Los Angeles
- Oakland
- Sacramento
- San Francisco
- Santa Ana
- San Diego

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# Ask the Advocate



**Debbie Newcomb**  
Taxpayer Advocate

Dear readers:

Tax practitioners frequently ask us how long their clients should keep tax returns and related documents. Taxpayers should keep their tax returns, along with receipts (canceled checks or other proof of payment) and statements for income, deductions, adjustments, or credits claimed on their return, for at least four years after the income, deduction, loss, adjustment, or credit was claimed on their return. Use the due date of the return or the date the return was filed to determine when the four-year period begins.

There are some circumstances when your clients should keep records indefinitely. Here are some of the most common situations:

- **Property:** Keep any contracts, installment agreements, and escrow statements (purchase/sale), loan documents, receipts for property improvements, insurance proceeds, appraisals (inheritance), or other documents that support their basis in the property and any gain or loss upon disposition.

- **Deferred Gains/Losses:** Keep any records, such as those described above, to support the gain or loss they reported upon disposition of the replacement property. Here's an example,

Jeff and Kim purchased their first home in 1991 for \$200,000, including certain settlement and closing costs. Having twins, Jeff and Kim decided in 1995 to add-on to their home. The remodel project cost \$150,000. They sold their home in 2004 for \$975,000, less \$50,000 in selling expenses. Jeff and Kim's adjusted basis in their home is \$350,000 (\$200,000 + \$150,000) and their gain is \$575,000 (\$975,000 - \$50,000 - \$350,000).

When Jeff and Kim became homeowners, they read federal Pub. 523, *Tax Information on Selling Your Home*. As a result, they maintained copies of their 1991 purchase contract and escrow statement, the 1995 remodeling contract and receipts, their 2004 sales contract and closing statement, and worksheets for the calculation of their excluded gain (if applicable). If asked to support the gain reported on their 2004 tax return, they are prepared to do so.

- **Carryovers, such as capital losses, net operating losses, and disaster losses:** Keep all records that substantiate the losses and amounts carried forward, as well as how they were calculated.
- **Distributions, such as pensions and individual retirement arrangement (IRA) accounts:** Keep all account statements and tax returns that substantiate the contribution, distribution, and basis (difference between the amounts deducted for federal and state tax purposes) as distributions are received.

## Taxpayers will now pay fee for certain expedited services

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### Walk-through Tax Clearance Certificate requests

Requesting an expedited tax clearance certificate involves two steps. First, submit a **copy** of FTB 3555, *Request for Tax Clearance Certificate*, along with all necessary documentation to:

Document Filing Support Unit  
Secretary of State – Business Filings  
1500 11th Street  
Sacramento CA 95814-5701

Next, send the **original Form** FTB 3555, along with a separate certified payment for the \$100 fee, via private mail service to:

Tax Clearance Unit MS C-4  
Franchise Tax Board  
Sacramento CA 95827

### Walk-through tax exemption requests

To request an expedited tax exemption for a qualified entity, bring Form FTB 3500, *Exemption Application*, along with the necessary documentation, application fee, and a \$50 payment for the expedited service, to either the Sacramento or Los Angeles field office.

**Note:** You can pay the application fee and the \$50 walk-through fee with one certified check.



**Updates  
available Online**  
[www.ftb.ca.gov](http://www.ftb.ca.gov)

**Tax Forms**

# FTB issues 2004 Forms 1099-G and 1099-INT

Each year, as required by federal law, we mail Form 1099-G, *Report of State Income Tax Refund, Credit, or Offset* and Form 1099-INT, *Statement of Interest Income* information statements to taxpayers we issued a refund or interest payment of \$10 or more.

In January 2005 we mailed 101,474 Form 1099-INTs and 4,695,430 Form 1099-Gs for tax returns we processed in 2004.

We issue Form 1099-Gs by tax year. For example, taxpayers who received refunds in 2004 for overpayments on tax years

2003 and 2002 will receive two 1099-Gs, one for each tax year. In contrast, we issue taxpayers only one Form 1099-INT for all interest paid during the reporting year, regardless of the year for which the interest was paid.

If any of your clients receive either of these forms from us, please note that the overpayments reported on Form 1099-G, or the interest income reported on Form 1099-INT, are considered to have been refunded, whether they are:

- Paid to the taxpayer by check or deposited directly into a bank account.

- Offset for other liabilities such as tax, penalties, or interest.
- Credited toward estimated tax payments.
- Intercepted by (offset to) a state, city, county agency, or the Internal Revenue Service.
- Elected as use tax payment.

The reported refund amount also includes any voluntary contributions taxpayers designated on their tax returns, but does not include amounts refunded because the taxpayers claimed the *Child and Dependent Care Expense Credit* on their return.

## Reduce paper consumption and minimize waste

Processing tax returns containing unnecessary federal tax returns is a costly procedure, and so is processing those returns that lack the required federal tax return attached. In many instances we have to contact taxpayers and request that they send us their federal income tax return.

Both problems are significant because of their extremely high volumes. Most of you already instruct your clients on what to send us when they file. Please also explain to them how important it is to follow your instructions when they file, and to attach only what we require from them.

As a general reminder, here are some guidelines for when to attach federal returns to California personal income tax returns (for filing purposes):

When filing: Return?	Attach Federal
540 2 EZ	No
540 with Schedules And B only	No
540 NR (Short)	No
540A	No
540 with any other schedules other than A and B	Yes
540 NR (Long)	Yes

If special circumstances exist and you are not sure of what documentation your client needs to provide us, please check the filing instructions on the tax form. You can find all our forms and related instructions on our Website at [www.ftb.ca.gov](http://www.ftb.ca.gov).

For a fail-proof way to ensure your clients are filing their returns properly, use e-file.

## Federal/state tax package distribution program ends

As part of its efforts to increase the public's use of electronic filing and its Internet Website for federal forms, the Internal Revenue Service has discontinued its Federal/State Program – Joint Tax Package Distribution Agreement Program. The program provided taxpayers with a one-stop service for obtaining paper versions of federal and state tax packages with a single telephone call.

## Use e-file for your clients' corporate tax returns in 2006

Beginning January 2006 you will be able to e-file your client's corporate tax return for tax year 2005. We will start with the Form 100, *California Corporation Franchise or Income Tax Return*. We will also include approximately 10 other accompanying forms and schedules. Other business forms and additional schedules will be added in subsequent years. Contact your software provider to ensure they are planning to add an e-file option for California business returns to their products for next year.

## WebPay makes it easy to pay tax bills

Your clients can use our Website to pay their tax bills or make estimate tax payments. The process is similar to arranging an online bill payment. Your client enter their account information, the kind of payment they're making, the amount of the payment, and the date they want the payment made. We will deduct the specified amount on the date they indicate.

Later on, you and your clients can go to our Website and check that we received the payment. Try it today. Go to our Website at [www.ftb.ca.gov](http://www.ftb.ca.gov) and click on the *Payment options* link.

# Tax problems are resolved quickly with our Automated Case Resolution Process Webpage

Between now and June we will mail more than 700,000 nonfiler notices. If any of your clients receives a *Demand or Request for Tax Return* notice from us, you can help them resolve it quickly and easily by directing them to use our *Automated Case Resolution Process* Webpage, located at:

[www.ftb.ca.gov/INC](http://www.ftb.ca.gov/INC).

Try it out yourself, with your client's permission. From this single Webpage, you or your clients can:

- Find answers to questions relating to a notice.
- Request additional time to reply to a notice.
- Reply to the notice they received.
- Obtain tax forms.

To access these features, you must enter the notice number from the correspondence your client received. This step ensures that only individuals who received a notice or their authorized representative can enter information into the system for that particular account.

Once you access the *Automated Case Resolution* system you can respond to your client's specific notice. If you are not sure of your client's filing requirement, you can complete a

questionnaire that may allow you to actually resolve the account online. If you supply the appropriate information that allows the system to resolve the account, you will be notified at that time.

If the account cannot be resolved at that time, the questionnaire is forwarded to one of our customer service representatives for further review. We are able to resolve the majority of these accounts without requesting further information. We will notify your clients by email or by written correspondence if their account is closed or if we need more information.

We also have the ability to address real property cases (1099S). If the account consists of only one 1099S income record, you may be able to resolve the account online. From the *Information & Action Guide* screen, select either *I do not have a filing requirement* or *I am not sure if I need to file*, whichever is applicable. From there you are taken to the *Real Property Question* screen.

If the property sold was not located in California, you will be informed that the case cannot be closed online, and you will be instructed to contact us for further assistance.

If the property sold was in California you will be led through a series of questions. Depending on the information entered, you will be informed that either:

- The information will be reviewed.
- The taxpayer has a filing requirement.
- The case is closed.

If the account has multiple 1099S records, you will not be able to resolve the case online.

By using our online services, your clients can resolve their accounts in a much shorter timeframe than if they sent us paper correspondence. In some cases they can resolve the account online and receive an immediate confirmation that the account is closed.

The *Automated Case Resolution* system is not available to business entity taxpayers, but those taxpayers do have a number of other online services available to them. They can:

- Request a delay.
- View answers to frequently asked questions.
- Download tax forms.
- Send us an email.

To access these services, refer to the Webpage address provided in the notice.

## FTB launches *ReadyReturn* pilot program

More than 1,800 taxpayers have taken advantage of our *ReadyReturn* pilot program since its mid-February launch.

The program provides selected taxpayers with an already completed tax return. We contacted taxpayers to participate in the pilot based on their filing history.

Taxpayers whose filing status is single, have no dependents, take the standard deduction, have only one employer, and whose only source of income is wages, were sent an invitation letter and a completed *ReadyReturn* by mail.

We designed the program to ease the filing burden on taxpayers who file the simplest returns, such as those whose only source of income and tax payments are from wages and

withholding. *ReadyReturn* uses information already provided to us by employers, such as W-2 data. Taxpayers will review the return for accuracy before submitting it.

The letter provides instructions on how to file the return as well as how to view and e-file the return via our *ReadyReturn* Website at [www.ftb.ca.gov](http://www.ftb.ca.gov).

Taxpayers may choose to accept the return as presented or make modifications and mail it back. Or, taxpayers can go to the *FTB ReadyReturn* Website to either e-file it as is or modify the return and e-file it.

Taxpayers can also choose to ignore our invitation and file the conventional way.

# We process business entity payments faster when preparers follow these voucher guidelines

Incomplete or inaccurate payment vouchers slow down processing of your business entity clients' estimate and extension payments. They can also increase the risk of your clients' payments being applied to the wrong accounts, erroneous or delayed refunds, and erroneous billings.

Here are some general guidelines for producing complete and accurate payment vouchers:

- Include the complete business entity name on the voucher as shown on the Secretary of State's records.
- Obtain a corporation or file number from the Secretary of State before payment is due.
- Include the correct corporation or file number and federal employee identification number (FEIN) on the voucher.
- Include the month, day, and year of the period to which the payment should be applied at the top of the voucher if filing on a fiscal year basis.
- There are several vouchers to choose from. Be sure to use the correct one:

FTB 100ES, *Corporation Estimated Tax*

FTB 3522, *Limited Liability Company Tax Voucher*

FTB 3538, *Payment Voucher for Automatic,*

*Extension for Limited Partnerships, LLPs, and REMICs*

FTB 3539, *Payment Voucher for Automatic Extension for Corporations and Exempt Organizations*

FTB 3537, *Payment Voucher for Automatic Extension for LLCs*

## Follow these four steps when assembling scannable Form 540

Follow these steps when assembling your clients' scannable Form 540. You will help us work more efficiently and speed up our processing of the tax returns.

1. If your clients have Forms W-2, use our new Schedule W, *California W-2 Attachment*, to help us keep track of them. To use it, attach paper copies of the Form(s) W-2s, W-2Gs, 1099, 592-B, 594, and 597 to the Schedule W instead of attaching them to the face of the tax return.
2. Leave the first page of the return loose. Do not attach anything to it.
3. Place any payments inside the envelope. Do not attach payments to the return.
4. Staple together the rest of the return; page 2, followed by Schedule W, then all other schedules and attachments in the usual order.

## Tax preparers can use signature alternatives with state returns

Franchise Tax Board conforms to Internal Revenue Service Notice 2004-54, which authorizes the IRS to accept certain alternative return signature methods from income tax return preparers.

Preparers may sign original or amended California returns (e-file or paper), requests for filing extensions, and e-file signature authorizations using a rubber stamp, mechanical device, or computer software program. (For example: a computer-generated, digital facsimile of the tax preparer's signature, inserted on the form by the computer software program.) IRS Notice 2004-54, dated Aug. 6, 2004, provides that the IRS

will permit income tax return preparers to sign original returns, amended returns, requests for filing extensions, or e-file signature authorizations using certain alternative signature methods.

By conforming to the notice, we avoid a situation where preparers faced different signature requirements for federal and state returns. **Note:** IRS Notice 2004-54 does not apply to any other documents that currently require a manual signature, such as elections, applications for change in accounting method, or power of attorney.

Income tax return preparers who use alternative signature methods must:

- Affix either a facsimile of the

individual preparer's signature or the individual preparer's printed name to returns or requests for extension.

- Provide all the other preparer information required on returns and extensions, such as:

Name

Address

Relevant employer identification number

Preparer's individual identification number (social security number or preparer tax identification number)

Phone number

This change only applies to income tax preparers and does not change the taxpayer's signature requirements.

# Follow these rules to end tax liability for limited partnerships

Limited partnerships often file a final return when they stop doing business in California. However, if a limited partnership has registered with the California Secretary of State, filing a final return is not enough to end their tax liability.

Registered limited partnerships are required to file returns and pay the \$800 annual tax even after they stop doing business in California.

Revenue and Taxation Code Section 17935(b)(1) requires every limited partnership that has filed a certificate of limited partnership and every foreign limited partnership that has registered with the Secretary of State to pay an \$800 annual tax.

This is in addition to limited partnerships that are subject to the \$800 annual tax, under Revenue and Taxation Code Section 17935(a), because they are doing business in California.

So how does a limited partnership end its registration with the Secretary of State? Domestic limited partnerships must do both of the following:

1. File Form LP-3, *Certificate of Dissolution* with the Secretary of State.
2. File Form LP-4/7, *Certificate of Cancellation*, also with the Secretary of State.

Foreign limited partnerships need only file Form LP-4/7 to end their registration with Secretary of State.

For more information on how to end limited partnership registration, contact the Secretary of State.

## Qualified property allows some to take sales and use tax credit

Generally, a qualified taxpayer, which is defined as one engaged in a trade or business within a designated enterprise zone, can take a credit for California sales or use tax paid or incurred in connection with the purchase of qualified property.

In any tax year, individuals, may claim a credit on the sales or use tax paid or incurred to purchase up to \$1 million and for corporations, on the first \$20 million of qualified property (special rules apply for pass-through entities).

In general, qualified property is defined as machinery and machinery parts used for fabricating, processing, assembling, and manufacturing. (Qualified property may also include machinery and machinery parts used for renewable energy resources, and air or water pollution control mechanisms). For taxable years beginning on or after January 1, 1998, qualified property was expanded to include certain data processing, communications, and motion picture equipment. Qualified property must be used exclusively within the enterprise zone and purchased and placed in service prior to the expiration of an enterprise zone. The amount of sales or use tax paid may not increase the depreciable basis of the qualified property.

By mail:

Business Entity  
California Secretary of State  
PO Box 944225  
Sacramento CA 94244-2250

In person:

California Secretary of State  
1500 11th Street Suite 345  
Sacramento CA 95814

Telephone Number: (916) 653-3365

Office hours are Monday through Friday, 8 a.m. to 5 p.m.

Website: [www.ss.ca.gov](http://www.ss.ca.gov).

Email address: [Partnership@ss.ca.gov](mailto:Partnership@ss.ca.gov).

It is important that these Secretary of State forms are filed before the next taxable year begins. The law requires that limited partnerships pay the annual tax for each taxable year in which they are registered even if it is a short taxable year. One exception to this rule is provided in Revenue and Taxation Code Section 17936. This law allows a limited partnership to have a short period of 15 days or less without assessment of the \$800 annual tax if no business was done in California.

To help limited partnerships become aware of the above information, we are required to send written notice informing a limited partnership of its requirement to cancel its registration with the Secretary of State, after we receive a return marked as final.

Here are two questions we frequently receive about this credit:

1. Is the credit allowed for items that are generally expensed rather than capitalized?

Statutory authority indicates that if costs are expensed, rather than capitalized and depreciated, no credit is allowed.

This also applies to the *Targeted Tax Area* and the *Local Agency Military Base Recovery Area (LAMBRA)* sales or use tax credits.

For example, qualified machinery parts include those parts that are necessary for the operation of the machinery and are capitalized and subject to depreciation. However, machinery parts used to complete a certain job are generally expensed to cost of goods sold or general expense accounts.

2. In regards to older tax years where the claim for refund statute is open, could taxpayers have claimed both the enterprise zone sales or use tax credit, and the Manufacturer's Investment Credit. (The Manufacturer's Investment Credit was repealed Jan. 1, 2004).

The answer is yes, taxpayers can claim both credits if the property qualifies under both statutes.

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# Amnesty ends March 31, 2005

California's 2005 tax amnesty program offers a window of opportunity for business entities and individuals to pay their past-due income or franchise taxes and interest, and they will not have to pay most penalties and fees or fear prosecution. Tax amnesty ends March 31, 2005. If they choose to take advantage of this limited-time program, they can correct tax records and save money. We will waive most penalties and fees applicable to taxable years beginning before Jan. 1, 2003. Log onto our Website at [www.ftb.ca.gov](http://www.ftb.ca.gov) for the most current and comprehensive information about this opportunity. Keyword: *Amnesty*.

## Download your own tax amnesty posters

Help spread the word about California's tax amnesty program and possibly generate new business at the same time. Go to our Website at [www.ftb.ca.gov](http://www.ftb.ca.gov) and click on the amnesty logo to find out how you can download, for free, full-color amnesty images and posters for use in your office or Website. Keywords: *Amnesty posters*.



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