



STATE OF CALIFORNIA
Franchise Tax Board

Limited Liability Company, Limited Liability Partnership, and Limited Partnership First Year Annual Tax Exemption

Economic and Statistical Research Bureau

Purpose

This report is intended to fulfill the Franchise Tax Board's obligation under Assembly Bill 85 (Chapter 8, Statutes of 2020) which amended Revenue & Taxation Code sections 17935, 17941, and 17948 and included language requiring the Franchise Tax Board to annually report by January 1, to the Legislature, for the most recent fiscal year, the total number of first-year Limited Liability Companies (LLCs), Limited Partnerships (LPs), and Limited Liability Partnerships (LLPs) that were affected by the act.

Prepared by the Staff of the
Franchise Tax Board
STATE OF CALIFORNIA

Members of the Board:
Betty T. Yee, Chair
Joe Stephenshaw, Member
Malia M. Cohen, Member

Executive Officer: Selvi Stanislaus

Background

Under existing law, every LLC not classified as a corporation, LLP, and LP that is doing business in California, is registered with the Secretary of State (SOS), or is organized in California, is required to pay an annual tax in an amount equal to the minimum franchise tax of eight hundred dollars (\$800). For taxable years beginning on or after January 1, 2021, and before January 1, 2024, Chapter 8 of the Statutes of 2020 (AB 85), created a first-year exemption from the annual tax for every LLC, LLP, and LP as defined above.

In addition to the first-year annual tax exemption discussed in this report, an LLC that is a small business solely owned by a deployed member of the United States Armed Forces is not subject to the annual tax for any taxable year that the owner is deployed, and the LLC operates at a loss or ceases operation. This exemption is operative for taxable years beginning on or after January 1, 2020, and before January 1, 2030.

The Legislative goal declared for the annual tax exemption is to help reduce costs for first-year California small business, as it may be difficult for them to afford the annual tax during their first year. In addition, the Legislature stated that these taxes may stifle economic growth and job creation and may inhibit the formation of many small businesses.

Franchise Tax Board Statutory Reporting Requirements

In accordance with Section 41 of the Revenue and Taxation Code, the Franchise Tax Board (FTB) is required to provide a report, to the Legislature that includes the number of first-year LLC, LPs, and LLPs that are exempted from the eight hundred dollars (\$800) annual tax.

The FTB is required to produce this report on or before January 1, 2023, and each year thereafter through, January 1, 2024. This report is intended to fulfill the January 1, 2023, reporting requirement.

Data

Using first time registration data from the Secretary of State for the 2021 taxable year, a total of 293,794 taxpayers would qualify as first-year LLCs, LPs, and LLPs. The table below includes the number of qualified taxpayers by entity type.

Table: Number of First-Year Corporations

Limited Liability Companies (LLCs)	289,196
Limited Partnerships (LPs)	4,200
Limited Liability Partnerships (LLPs)	398
Total	293,794

It is important to note, an LLC can elect to file as a corporation (FTB form 100), rather than an LLC (FTB form 568). Should an LLC elect to do so, they would qualify for the first-year minimum tax exemption under corporation tax law.