



Tax News

April 2018

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Filing compliance informational letters

Your client may receive a reminder, information, or educational letter if they appear to have a filing requirement, but did not file.

We receive and process millions of tax returns each year. In certain circumstances, we proactively contact taxpayers who appear to have a filing requirement, but have not filed a tax return. As mentioned in the Tax News articles for December 2017 and March 2018 “Information Letters” and “Informational Letters Continue,” we issued information letters as a part of a campaign to bring certain taxpayers into compliance. Your client may receive a reminder, information, or educational letter if they appear to have a filing requirement but did not file. The letters will offer assistance to help them understand their filing obligations and provide information on where to go to file.

In early March and April 2018, **California—How You Can Help** contact letters will be sent to certain taxpayers, who have not filed a return, but may have a filing requirement based on economic indicators.

In mid-April 2018, **2017 Information Returns** informational letter and **California Filing Requirements** educational letter will be sent.

- **2017 Information Returns** -- Entities who may not have filed required information returns with us.
- **California Filing Requirements**-- Nonfiling entities, who may not be aware of California law changes.

These efforts will be implemented on a pilot basis to study for effectiveness while considering the use of state resources.

Each of the letters have a dedicated phone number for taxpayers to call for assistance.

If you have a client that received a letter, we encourage you or your client to contact the number provided on the letter for assistance.

Taxpayers can visit ftb.ca.gov for additional information or to verify the validity of the letter they received.

Featured publication - California Taxpayers' Bill of Rights

We recently revised our publication FTB 4058C, California Taxpayers' Bill of Rights, an Overview. If you or your clients need a quick reference about taxpayer rights this is the publication for you. The publication provides an overview of taxpayers' rights.

To view or print the publication, go to ftb.ca.gov and search for **4058C**.

A reminder about the new Schedule X

Beginning in January 2018, individual filers must use the new Schedule X, California Explanation of Amended Return Changes to amend many Forms 540 for tax years 2017 and later. We will only process the Form 540X, Amended Individual Income Tax Return for tax years 2016 and prior. We discussed this new form and how to file it in the January Tax News.

You might wonder why we are bringing it up again so soon. Even though we haven't reached the first (April 17) filing deadline for most 2017 Forms 540, we have already received a significant number of Schedule Xs amending 2017 returns.

The majority of these have been filed properly, with all of the required attachments and for 2017 tax year returns. However, we have received several paper-filed Schedules X that are either incomplete or incorrectly filed for tax years 2016 and prior. For tax years **2016 and prior**, amended returns can only be paper-filed using **Form 540X**, Amended Individual Income Tax Return for the respective year.

For tax year 2017 and forward, Schedule X is an attachment to the 540 series. On the 540 series, check the amended box at the top right of the form to indicate that this is the amended return. Then attached Schedule X and any other required attachments. Finally sign the amended 540 series form. Please note that the 540 series form is the amended return not Schedule X.

For tax years 2016 and prior, Form 540X is the amended return. Attached a revised 540 series return and any other required attachments. Finally, sign Form 540X.

Regardless of the tax year being amended, it is important to remember to include all required attachments in order to have a complete return with either the new Schedule X or Form 540X. The new Schedule X is not a standalone form and cannot be filed as such.

Required attachments generally include:

- Federal schedules if you made a change to your federal tax return.
- Documents supporting each change, such as corrected form(s) W-2 or 1099, schedule(s) K-1, escrow statements, court documents, contracts, etc.

A refund may be denied or delayed if the changes made are not explained in sufficient detail or the required supporting documents and revised forms are not attached. Attach additional pages if needed to provide a clear, detailed explanation. Be sure to include your name and SSN or ITIN on each attachment.

Taxpayers' Bill of Rights Hearing issues

On December 7, 2017, the Advocate Office participates the annual Taxpayers' Bill of Rights Hearing.

One of the Advocates responsibilities is to prepare written responses to issues raised at the hearing by taxpayers and tax professionals. These responses are made available to the public for both current and prior years on the Taxpayers' Rights Advocate page, Taxpayers' Bill of Rights Hearing Responses. This month, the Advocate wanted to highlight a few of the 2017 issues and responses that may be of interest to you.

For Power of Attorney (POA) representatives, copies of certain notices are not displayed in their MyFTB Folder

When a notice is sent from our collection system such as the Intent to Levy or a Final Notice Before Levy, the POA representative is not getting a copy of the notice in their MyFTB folder and therefore not getting an email that correspondence has been added to their clients' account. This is due to system limitations, and we are working to identify viable solutions. It should be noted that wage garnishments and levies are not a notice to the taxpayer and do not appear in the MyFTB folder. The recipient of the garnishment or levy provides notification to

their employee, taxpayer, and any other person listed on the account(s) that the recipient is withholding funds according to the order.

Form 1099-G

Every year, for a variety of reasons, a very small number of taxpayers will file a return with a refund in one year but the actual refund isn't issued until the following year (e.g., a 2015 refund isn't issued until 2017) which may complicate reporting the refund for federal income tax purposes. The volume of refunds filed in one year, but issued in the next is very small, with the percentage normally being less than 0.5 percent. However, for the 2015 process year it rose to 0.3 percent and in the 2016 process year it slightly declined to 0.2 percent. The temporary increase was attributable to the normal training and adoption of the new EDR system and the increase in potential identity theft.

We continuously improves our processes to reduce inadvertent impacts on taxpayers. As a result, for the 2017 process year, the percentage of refunds that potentially will be issued the following year is back to normal. To provide some context, we processed over 11.7 million 2016 tax year refund returns of which approximately only 6000 will be issued in 2018. This issue was also discussed in the March 2017 Tax News.

Correct notices to accurately reflect the required payment method

We are clarifying the payment instructions on our notices to help taxpayers who are subject to the electronic funds transfer (EFT) requirements avoid mistakenly paying by check and being assessed a 1 percent penalty. We will be implementing these changes as soon as possible.

Additional issues and responses on our public website cover the new Office of Tax Appeals, Partnership Audit Changes, *Swart Enterprises v. FTB*, Filing Enforcement, the Voluntary Disclosure Program, Unclaimed Real Estate Withholding Credits and many more. I encourage you to visit our website and review the Taxpayers' Bill of Rights issues raised and our responses to learn more about what we are doing to improve both our processes and our services to taxpayers and tax professionals.

IRS updated withholding calculator, Form W-4 released

IRS released an updated Withholding Calculator and a new version of Form W-4 to help taxpayers check their 2018 tax withholding following passage of the [Tax Cuts and Jobs Act](#) in December.

The IRS urges taxpayers to use these tools to make sure they have the right amount of tax withholding taken out of their paychecks.

The Tax Cuts and Jobs Act made changes to the tax law, including increasing the standard deduction, removing personal exemptions, increasing the child tax credit, limiting or discontinuing certain deductions, and changing the tax rates and brackets. If changes to withholding should be made, the [Withholding Calculator](#) gives your clients the information they need to fill out a new [Form W-4](#), Employee's Withholding Allowance Certificate. Your client will submit the completed W-4 to their employer.

As a first step to reflect the tax law changes, the IRS released new [withholding tables](#) in January. These tables were designed to produce the correct amount of tax withholding, avoiding under and over withholding of tax, for those with simple tax situations. This means that people with simple situations might not need to make any changes. Simple situations include singles and married couples with only one job, who have no dependents, and who have not claimed itemized deductions, adjustments to income, or tax credits.

People with more complicated financial situations might need to revise their W-4. With the new tax law changes, it's especially important for these people to use the Withholding Calculator to make sure they have the right amount of withholding.

Among the groups who should check their withholding are:

- Two-income families.
- People with two or more jobs at the same time or who only work for part of the year.
- People with children who claim credits such as the Child Tax Credit.
- People who itemized deductions in 2017.
- People with high incomes and more complex tax returns.

More information

This spring and throughout the year, IRS will be working closely with businesses as well as the tax and payroll communities to help educate the public about the new withholding guidelines and the Withholding Calculator.

More information is available in the special [Withholding Calculator Frequently Asked Questions](#).

Ask the Advocate

Last minute tips for the season



Susan Maples, CPA
Taxpayers' Rights Advocate
Follow me on Twitter at
twitter.com/FTBAdvocate

As I'm writing this, the initial filing deadline of April 17 is only weeks away. I'm always surprised at how quickly the time passes each year from January to now and I appreciate the time and effort you put in to get so much done in such a short period. Tax season is a busy time for many of us at FTB too. We add staff and extend working hours to get the returns you file processed quickly and accurately, and to get your clients' refunds out to them as soon as possible.

Traditionally, our April issue of Tax News has a bit less content and this year is no exception. We know you are very busy right now and we don't publish the normal complement of articles since you may not have time to go through everything right now. The one exception would be our **MyFTB Corner**, where every month (even April!) we try to get relevant timely information out to you about MyFTB that you need in order to best utilize our online portal.

One thing worth mentioning again is our "know our wait times" feature accessed from our homepage. I know that we have discussed this several times in previous issues of Tax News, but frequently when I am out speaking to groups, I find that many tax professionals are not aware of this useful tool. This page provides estimated time frames for processing returns/refunds, payments, and contact wait times for various channels. Knowing whether it's better to contact us via the Practitioner Hotline, Secure Chat, or General Chat may help you make the best use of the limited time you have available.

In closing, I hope the remaining weeks of tax season go smoothly for you and that after the last return is filed on April 17 you are able to take a few well-deserved days away from the office.

Chief Counsel Corner

New defective credit assignment regulations



Jozel Brunett
Chief Counsel

As part of my ongoing effort to provide an overview of the types of legal guidance available to the public, one I wanted to highlight in particular is the Chief Counsel Ruling. In appropriate situations, private Chief Counsel Rulings can be a very useful tool in helping taxpayers and their representatives report and file properly when they are confronted with novel or unusual issues.

An FTB Chief Counsel Ruling is a written statement issued to a taxpayer by our Chief Counsel that interprets California income or franchise tax law and applies it to a taxpayer's specific set of facts. It corresponds in most ways to an IRS private letter ruling. As explained in FTB Notice 2009-08, we generally follow federal letter ruling procedures as outlined in the first federal Revenue Procedure of each year.

California has some additional restrictions on the types of private rulings we can issue. For example, where state and federal law are the same, and the application of federal law is dispositive of the issue, or when a state-only issue depends primarily on the weighing of multiple factors involving specific facts such as the components of a unitary business or whether a taxpayer is a resident of California for a particular year, we will not issue a Chief Counsel Ruling. We will also not issue a ruling where the tax return has already been filed or the same issue is currently the subject of an audit, protest, appeal, or litigation for a different tax year.

Chief Counsel Ruling requests must identify the taxpayer, provide a complete statement of facts, and when the requestor is a professional preparer or paid representative, must contain the requestor's legal analysis and conclusion. As workload permits, our staff will draft and issue the Chief Counsel Ruling directly to the requestor.

It is important to note that only the named taxpayer who requested it can rely on a particular Chief Counsel Ruling under Revenue and Taxation Code section 21012—it cannot be relied upon by any other taxpayer as precedent or guidance from the FTB applicable to their own unique situation. Copies of CCRs are posted on our website for general information purposes, but they are redacted—sometimes heavily—to preserve taxpayer confidentiality and proprietary information regarding business processes or trade secrets. Thus, taxpayers and/or their representatives who believe that requesting their own CCR could help them file properly should contact the designated author of the posted CCR to informally discuss the possible tax consequences of their particular contemplated action and whether it might be beneficial to secure a CCR of their own. To request a Chief Counsel Ruling, taxpayers or representatives should follow the steps outlined in FTB Notice 2009-08 and mail a written request to:

FRANCHISE TAX BOARD
LEGAL DIVISION (ATTN: CHIEF COUNSEL RULING REQUEST)
PO BOX 1720
RANCHO CORDOVA, CA 95741-1720

MyFTB Corner

[Enter your PTIN in MyFTB for faster POA and TIA processing](#)

We can process your Power of Attorney (POA) declaration and Tax Information Authorization (TIA) relationship requests faster when you've added your Preparer Tax Identification Number (PTIN) in MyFTB.

Haven't registered for a MyFTB tax professional account?

Use your PTIN when registering for a MyFTB Tax Professional account.

Already registered?

If you didn't use your PTIN when you registered for your Tax Professional account, you can add it anytime by updating your profile.

To add your PTIN on MyFTB:

- Select **Update Contact Information** from the **Profile** drop down menu located on your **Tax Professional Overview** page
- Select **Edit ID numbers** located on the ID Numbers section
- Enter your 9 digit PTIN

MyFTB Corner

Tax information authorization (TIA) renewal requests – You must have your client's permission

MyFTB allows you to renew your Tax Information Authorization (TIA) relationships online before they expire, thereby avoiding service interruptions. Prior to renewing your TIA relationships, you **must** obtain your client's permission.

All relationship renewals are subject to FTB review and approval. We will notify your client once your renewal request is approved. Inform your client to expect this information.

Unauthorized access to account information is unlawful. If you do not obtain your client's permission to renew a TIA relationship and subsequently access their account online, this is considered an unauthorized access. We will notify the taxpayer of any unauthorized accesses.

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 calendar that shows the events we attend, as well as other events happening with us, such as interested party and board meetings.