



Tax News

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Update your browser for FTB services

In June of 2018, we took additional steps to further protect customer information. Due to an outdated security layer in some older browsers, we are preventing customers using these browsers from accessing any of our online services. As a result, customers must upgrade their browser to access MyFTB or other online services.

Description of the vulnerability

Transport Layer Security (TLS) is an authentication and security protocol used in browsers and web servers. TLS 1.0 is outdated and subject to attack. We are moving to support only TLS 1.1 and 1.2 on our servers.

Problem

Some of our customers' browsers are using TLS 1.0.

What's happening?

Effective July 1, 2018, we decommissioned support for TLS 1.0 for online services (Check Your Refund, Web Pay, MyFTB, etc.) only. The rest of our website will continue to support TLS 1.0 (in order to provide messaging) until November 1, 2018.

Why?

TLS 1.0 is outdated and subject to attack. Many financial institutions are doing this.

TLS 1.0 allows attackers to silently decrypt data that's passing between a webserver and an end-user browser.

The National Institute of Standards and Technology (NIST) recommended we remove support of TLS 1.0 to protect a potential attack.

Customer Impact

Removing TLS 1.0 will affect some browsers currently in use.

What will customers experience?

Customers will get "Unable to load page" error.

What will customers need to do?

Upgrade their browser.

2018 filing season update – II

In July's issue of Tax News, 2018 Filing Season Update, we provided you with some of the highlights for returns, payments, and refunds as of the end of May. This month, we are providing you with some of our 2018 Filing Season Customer Service numbers.

- We had 10.5 million website visits (www.ftb.ca.gov) including 3.4 million visits to our Check Your Refund webpage. For those who preferred using their mobile phone, we have an FTB Mobile App. This App was downloaded 7,500 times, with new and existing users accessing this App 60,000 times to check on a refund. Our Mobile App can also be used to make a payment through Web Pay.
- Our general customer service and Tax Practitioner Hotline customer service representatives together answered nearly 500,000 phone calls. We also had 56,000 combined General (FTB website) and Secure (MyFTB) Chats.
- Speaking of MyFTB, we now have nearly 350,000 MyFTB registered users, both individuals and tax professionals.
- We had 127,000 CalFile returns filed through the end of May, with users reporting a 96 percent satisfaction rate with this no-cost method of filing.
- For those who needed assistance with filing their federal and California returns, VITA Volunteers from FTB and the Capital Region Coalition helped prepare and file 19,000 California and federal returns, with many of the VITA prepared returns claiming the Federal and California Earned Income Tax Credit (CalEITC).
- CalEITC continues to be a popular credit. We received 1.3 million CalEITC claims and have allowed \$292 million in CalEITC refunds, helping California's working families and individuals.

So there you have it, our first Filing Season update for the 2018 Filing Season. We will have a complete update later this year for you, so stay tuned!

Third quarter estimated tax due

The third quarter estimated tax payment is due September 17. While the amount due for the third quarter is zero, this is a good opportunity for your clients to get current, if they are not already. You may want to remind your clients that the percent per quarter for California differs from federal. To avoid an estimate penalty they must pay at least:

- 30 percent first quarter (April 17, 2018)
- 40 percent second quarter (June 15, 2018)

- 0 percent third quarter (September 17, 2018)
- 30 percent fourth quarter (January 15, 2019)

Your clients can use the California Estimated Tax Worksheet in the Instructions for Form 540-ES, Estimated Tax for Individuals to figure their estimated tax payments and use Form 540-ES to pay their estimated tax installments. Generally, taxpayers must make estimated tax payments if they expect to owe at least \$500 (\$250 if married/RDP filing separately) in tax for 2018 (after subtracting withholding and credits) and they expect their withholding and credits to be less than the smaller of:

- 90 percent of the tax shown on their 2018 tax return.
- 100 percent of the tax shown on their 2017 tax return including Alternative Minimum Tax (AMT).

Limit on the use of prior year's tax

Individuals who are required to make estimated tax payments, and whose 2017 California adjusted gross income is more than \$150,000 (or \$75,000 if married/RDP filing separately), must figure estimated tax based on the lesser of 90 percent of their tax for 2018 or 110 percent of their tax for 2017 including AMT. This rule does not apply to farmers or fishermen.

Taxpayers with 2018 California adjusted gross income equal to or greater than \$1,000,000 (or \$500,000 if married/RDP filing separately), must figure estimated tax based on their tax for 2018.

Ensuring a smooth POA process: a few reminders

Over the past few years, our submission and approval process for Power of Attorney (POA) Declarations has changed, in part to enhance the security of taxpayers' confidential information. We know there have been some challenges moving forward with this, so we want to give you a few reminders to help ensure a smooth process for the POA Declarations you submit.

Electronic Signatures

We do not accept electronic or stamped signatures, including signature style fonts available in Word or Adobe as electronic/digital signature on paper or uploaded POA Declarations. This is one of the more frequent reasons for a POA being rejected. Please be sure to have wet signatures on all POA Declarations you submit.

Mismatched Names (POA vs. POA Wizard)

Another common occurrence where we see POA Declarations rejected is when the number of representative names on the uploaded copy of the POA Declaration does not match with what was entered on the POA Wizard in MyFTB. An example of this would be; an uploaded POA Declaration lists three representatives but only one representative is entered (or vice versa).

Uploading Multiple POA Declarations to One Client's Account on MyFTB

When multiple POA Declarations for different clients are uploaded at one time, to one taxpayer's account, it creates an issue. We are unable to process the additional POA Declarations as they are associated to an incorrect taxpayer's account. We are unsure whether you intended to submit all the POA Declarations so we do not process them. Only upload the POA Declaration for client entered in MyFTB. For more information on how to submit a POA declaration on MyFTB see Submit Form FTB 3520 PIT or BE, Power of Attorney Declaration.

We are always looking for ways to improve our POA and other processes in order to better serve you. With your help, we will continue to do this.

California Competes Tax Credit

The California Competes Tax Credit (CCTC) is an income or franchise tax credit available to businesses that want to come or stay and grow in California. Tax credit agreements are negotiated by the Governor's Office of Business and Economic Development (GO-Biz) and approved by a statutorily-created CCTC Committee.

The Committee consists of:

- Director of GO-Biz (Chair).
- State Treasurer.

- Director of the Department of Finance.
- One appointee each by the Speaker of the Assembly and Senate Committee on Rules.

For Fiscal Year 2018/2019, the CCTC is available for allocation for three separate application periods:

1. July 30 through August 20, 2018.
2. January 2, 2019 through January 21, 2019.
3. March 4, through March 25, 2019.

For the first application period, \$70 million is available for allocation. Applications for the credit will be accepted at calcompetes.ca.gov from **July 30, 2018, until August 20, 2018**. For more information, go to GO-Biz's Program webpage on the [California Competes Tax Credit](#).

San Francisco field office closure

On November 14, 2017, a water main burst in our San Francisco Public Service Field Office on Spear Street. The office was flooded, rendering it uninhabitable. As a result of the damage to our suite, we subsequently terminated the lease and relocated all San Francisco Field Office staff to the Oakland Field Office at 1515 Clay Street, Oakland, California. The San Francisco Field Office is now permanently closed.

We anticipate minimal impacts to our San Francisco customers, as the Oakland Field Office is just 10 miles away, and there are more staff available at the Oakland counter to provide excellent customer service. In addition, we have many self-service options available on our website.

Ask the Advocate

The importance of communication



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

From time to time, I go back and re-read prior issues of Tax News, including my monthly columns. This helps determine which topics should be introduced or updated each month and also helps avoid repetition. With that being said, there is one topic I tend to write about frequently: communication.

Whether it's through Tax News, speaking at an engagement, or presenting at a small business seminar, these are just some of the ways we communicate with you. You can even follow me on Twitter at @FTBAdvocate. However, communication isn't just from us to you. It's important (and very helpful) that you also communicate with us. This is one of the reasons why I attend several large events each year. These give me the opportunity to meet with you and hear firsthand any issues you've encountered when dealing with the Franchise Tax Board.

A good example of this is the recent California Society of Enrolled Agents (CSEA) Super Seminar, where I was able to meet with many of you. From our conversations, I learned what is working for you with our new Power of Attorney (POA)/Tax Information Authorization (TIA) processes and where we can improve. We also know better now where to focus our education and outreach efforts.

I understand that not everyone is able to attend an event where I am speaking. For this reason, we have dedicated email inboxes for specific issues. For specific taxpayer account issues, you can reach our Executive and Advocate Services online. For non-specific Taxpayers' Rights issues, you can reach me and my staff at [FTB Advocate@ftb.ca.gov](mailto:FTB_Advocate@ftb.ca.gov).

For comments about MyFTB, you can reach us at myftbfeedback@ftb.ca.gov. Our MyFTB staff regularly monitor this inbox and welcome hearing from you.

For issues that affect multiple taxpayers, you may want to use our Systemic Issues Management System.

Finally, we also receive contacts from our valued trade media partners and the professional organizations you belong to.

However you decide to get in touch with us, your input is valuable! We do our best to take your concerns into consideration whenever possible and if practical. Please keep in touch with us, and as always, if I'm out at an event and you are there please take a moment to say hello.

Chief Counsel Corner

Guidelines to implement Resolution 2017-01



Jozel Brunett
Chief Counsel

In June 2018, we posted "Guidelines to Implement Resolution 2017-01" on our website. This article is meant to explain both FTB Board Resolution 2017-01 and the guidelines that interpret it.

Resolution 2017-01 provides, in part, "there shall be no communication, direct or indirect, regarding any substantive issue related to the petition, to or from any Board member or his/her staff/representatives to or from:

- (1) The petitioner or an employee/representative of the petitioner, or
- (2) Franchise Tax Board staff, without notice and opportunity for all parties to participate in the communication." The Resolution goes on to

state "[f]or the purposes of this section, a petition is pending from the date of the filing of the petition with the Franchise Tax Board pursuant to Revenue and Taxation Code section 25137."

Resolution 2017-01 does not apply during the pendency of the initial Section 25137 petition process with FTB Staff or to situations where staff proposes a 25137 alternative apportionment variance. However, beginning on or after January 1, 2018, Resolution 2017-01 applies to the Section 25137 appeal process with the three-member FTB. In essence, under Resolution 2017-01, prohibited ex-parte communications are those communications outside a formal hearing between a Board member, on the one hand, and one of the 25137 appeal parties, on the other, without notice and a reasonable opportunity given to all parties to participate in that

communication. (It is important to note that the Resolution does not prohibit any communications during the pendency of a 25137 appeal between FTB staff and the taxpayer and/or its representatives, nor is it intended to in any way.) For instance, where one of the 25137 petition appeal parties and/or its representatives seeks to contact one of the Board members, or a Board member seeks to contact one of the 25137 petition appeal parties and/or its representatives regarding a substantive matter at issue in the appeal, this contact is deemed an ex-parte communication and Resolution 2017-01 applies. If, however, contact is desired between the parties, and all the parties work together to schedule a mutually agreeable time to meet, this is not a prohibited ex-parte communication. A detailed record of the meeting and any documents provided must be made and provided at the next regularly scheduled FTB open meeting to be made part of the public record.

Currently, our staff are drafting proposed amendments to California Code of Regulations section 25137(d) to provide instructions, at a minimum, on the 25137 petition process, as well as how to appeal an adverse staff decision on a 25137 petition or imposition of a staff-initiated 25137 alternative apportionment variance with the three-member FTB, and the procedures applicable to such appeals. These amendments will also include proposed rules reflecting the Board's guidance in Resolution 2017-01 regarding ex-parte communications. The second Interested Parties Meeting for this project is scheduled to be held on September 24, 2018, and public input is both welcomed and encouraged.

MyFTB Corner

Secure Chat available for limited and full online account access

Secure Chat can be used when you have **either** limited or full online account access to your client's account information. You can ask the same types of questions that you do over the phone and in person.

How can you chat about your client's confidential tax matters using Secure Chat?

- From your **Client List**, select your client's last name (for additional information, see [How To Search for a Client on My Client List](#)).
- Select the **Secure Chat** button.

Taxpayer Overview Page – Secure Chat Button

What types of questions can I ask if I initiate a Secure Chat from my Tax Professional MyFTB account?

When you initiate a **Secure Chat** from your Tax Professional MyFTB account you can **only** ask **general questions** regarding personal and business income tax or using MyFTB.

When you contact us, you can ask about things such as:

- Help With Your Client List
- Request Forms
- Using Your MyFTB Account
- Processing Timeframes

Tax Professional Overview Page – Secure Chat Button

Note: The **Secure Chat** button is displayed in the **Left Hand Navigation** on all pages in MyFTB.

MyFTB Corner

Limited online account access in MyFTB does not limit active power of attorney or tax information authorization privileges

Once we approve a power of attorney (POA) or tax information authorization (TIA) the relationship between you and your client is active and all authorized privileges are in effect. You can immediately contact us by phone, chat, or in person to receive the information you need to resolve your client's tax matters. The only access to information that is limited is the access available using MyFTB.

With an approved POA or TIA you can view limited tax information for your client online using MyFTB. However, to receive Full Online Account Access to your client's information, you must request it and your client must authorize your request.

For additional information on what information is available with both Limited and Full Online Account Access or how to request Full Online Account Access to your client's information, see *MyFTB Tax Professional Online Account Access* and *How to Request Full Online Account Access (Opt-In)*.

All About Business

Reminder - S corporations no longer have an additional month after filing their federal return to file their California return

Corporations or limited liability companies treated as corporations that have a valid federal election to be an S corporation and have a California filing requirement are deemed to have made an election to be an S Corporation in California on the same date as the federal election.¹ Terminating its federal S corporation election simultaneously terminates its California S corporation election.

S corporations that are incorporated in California, registered to do business in California with the Secretary of State, doing business in California, or receive California source income must file FTB Form 100S, California Franchise or Income Tax Return, and generally must pay the minimum franchise tax of \$800. (Form 100S; S Corporation Tax Booklet.) The original due date of the return is the 15th day of the 3rd month after the close of the taxable year (March 15, 2018 for 2017 calendar year filers), and, for taxable years beginning after December 31, 2015, the extended due date is the 15th day of the 9th month after the close of the taxable year without filing a written request for an extension (September 17, 2018 for 2017 calendar year filers).² (See FTB Notice 2016-04.) Extension of time to file the return is not an extension of time to pay. The full amount of tax must be paid by the original due date of Form 100S. When the due date falls on a weekend or holiday, the deadline to file and pay without penalty is extended to the next business day.

¹ Form 100S Booklet, pg. 7, Section C. R&TC Section 23801(a).

² The extended due date only applies to S Corporations in good standing. Visit the [Secretary of State](#) to see if the S Corporation is in good standing.

If an S Corporation fails to file a return by the extended due date (original due date if the S Corporation is not in good standing) then a Per Shareholder Late Filing Penalty will be imposed under Revenue and Taxation Code (R&TC) Section 19172.5. The penalty is imposed even if the S Corporation does not have a tax liability because it is computed as \$18 per shareholder, for each month or a fraction of the month the return is late or incomplete from the original due date, to a maximum of 12 months (\$18 x Shareholders x Months).³ The Per Shareholder Late Filing Penalty is imposed in addition to the delinquent filing penalty imposed under R&TC Section 19131. Both these penalties may only be abated for reasonable cause.⁴

For more information about due dates for business entities, refer to the Business Due Date Chart.

For more information about penalties, refer to this Penalty Reference Chart.

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.

³ A new month begins on the 16th day of each month.

⁴ To establish reasonable cause, a taxpayer must show that the failure to timely file the return occurred despite the exercise of ordinary business care and prudence. Unlike the Internal Revenue Service, we do not have first-time penalty abatement authority.