



Tax News

December 2019

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Standard deductions, exemption amounts, tax rates, and doing business thresholds updated for 2019

Annually, we update for inflation the California:¹

- Standard deduction
- Personal/senior exemption amounts
- Tax rate schedules

The inflation rate, as measured by the CCPI for all urban consumers from June 2018 to June 2019, was 3.1%.

Standard deductions

Filing status	Standard deduction for tax year 2019
Single or separate taxpayers	Increase from \$4,401 to \$4,537
Joint, surviving spouse, head of household	Increase from \$8,802 to \$9,074

Exemptions

Filing status	Personal and senior exemption credit for tax year 2019
Single or separate taxpayers	Increase from \$118 to \$122
Joint, surviving spouse	Increase from \$236 to \$244
Dependent	Increase from \$367 per dependent claimed in 2018 year to \$378 each

2019 Tax Rates Table

Schedule X

Use if your filing status is Single or Married/RDP Filing Separately

If the amount on Form 540, line 19 is		
Over -	But not over -	Enter on Form 540, line 31
\$0	\$8,809	\$0.00 + 1.00% of the amount over \$0

¹ Based on the California Consumer Price Index (CCPI) as prescribed in the revenue and taxation code.

If the amount on Form 540, line 19 is

Over -	But not over -	Enter on Form 540, line 31
8,809	20,883	88.09 + 2.00% of the amount over 8,809
20,883	32,960	329.57 + 4.00% of the amount over 20,883
32,960	45,753	812.65 + 6.00% of the amount over 32,960
45,753	57,824	1,580.23 + 8.00% of the amount over 45,753
57,824	295,373	2,545.91 + 9.30% of the amount over 57,824
295,373	354,445	24,637.97 + 10.30% of the amount over 295,373
354,445	590,742	30,722.39 + 11.30% of the amount over 354,445
590,742	AND OVER	57,423.95 + 12.30% of the amount over 590,742

Schedule Y

Use if your filing status is Married/RDP Filing Jointly or Qualifying Widow(er)

If the amount on Form 540, line 19 is

Over -	But not over -	Enter on Form 540, line 31
\$0	17,618	\$0.00 + 1.00% of the amount over \$0
17,618	41,766	176.18 + 2.00% of the amount over 17,618
41,766	65,920	659.14 + 4.00% of the amount over 41,766
65,920	91,506	1,625.30 + 6.00% of the amount over 65,920

If the amount on Form 540, line 19 is

Over -	But not over -	Enter on Form 540, line 31
91,506	115,648	3,160.46 + 8.00% of the amount over 91,506
115,648	590,746	5,091.82 + 9.30% of the amount over 115,648
590,746	708,890	49,275.93 + 10.30% of the amount over 590,746
708,890	1,181,484	61,444.76 + 11.30% of the amount over 708,890
1,181,484	AND OVER	114,847.88 + 12.30% of the amount over 1,181,484

Schedule Z

Use if your filing status is Head of Household

If the amount on Form 540, line 19 is

Over -	But not over -	Enter on Form 540, line 31
\$0	17,629	\$0.00 + 1.00% of the amount over \$0
17,629	41,768	176.29 + 2.00% of the amount over 17,629
41,768	53,843	659.07 + 4.00% of the amount over 41,768
53,843	66,636	1,142.07 + 6.00% of the amount over 53,843
66,636	78,710	1,909.65 + 8.00% of the amount over 66,636
78,710	401,705	2,875.57 + 9.30% of the amount over 78,710
401,705	482,047	32,914.11 + 10.30% of the amount over 401,705

If the amount on Form 540, line 19 is

Over -	But not over -	Enter on Form 540, line 31
482,047	803,410	41,189.34 + 11.30% of the amount over 482,047
803,410	AND OVER	77,503.36 + 12.30% of the amount over 803,410

Doing business in California threshold amounts

"Doing business" means actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. When determining if a taxpayer is doing business we look to their:

- Sales
- Property
- Payroll

For taxable years beginning on or after January 1, 2011, a taxpayer is also doing business in this state for a taxable year if any of the following conditions has been satisfied:

- The taxpayer is organized or commercially domiciled in this state.
- Sales of the taxpayer in California exceed the lesser of \$500,000 or 25% of the taxpayer's total sales.
- The real property and tangible personal property of the taxpayer in this state exceed the lesser of \$50,000 or 25% of the taxpayer's total real property and tangible personal property.
- The amount paid in this state by the taxpayer for compensation exceeds the lesser \$50,000 or 25% of the total compensation paid by the taxpayer.

The indexed threshold values for the 2019 tax year are as follows:

- Sales: \$601,967
- Property: \$60,197
- Payroll: \$60,197

New Employment Credit - Changes beginning in January 2020

The New Employment Credit (NEC) is a California tax credit that encourages hiring and employment in parts of the state. To claim the credit, businesses must have employees working in an eligible area, known as a Designated Geographic Area (DGA). The DGA includes census tracts in the state with higher unemployment and poverty rates, and excludes tracts with lower

rates. The census tracts were identified by the Department of Finance when the NEC began in 2014.

Recently, the Department of Finance re-designated the census tracts which altered the DGA. Some census tracts that were previously eligible are no longer in the DGA. Other census tracts that were previously not within the DGA have been added and are now eligible. This new designation will be effective on January 1, 2020.

Taxpayers wanting to claim the credit should check the map to see if the area where they are doing business is within the newly defined DGA. This map enables users to view the new DGA, as well as the previous DGA. Users can enter an address to see if it's within the DGA during a particular time period. View the [updated map](#) showing the eligible areas or on our [NEC webpage](#) at ftb.ca.gov.

For questions regarding the NEC, including other requirements for the credit, see our [NEC webpage](#). You may also email NEC questions to GEDI@ftb.ca.gov.

Partnership Level Tax? Only after Centralized Federal Partnership Audit

The Partnership Level Tax (PLT) line on forms FTB 565 or FTB 568 allows partnerships and LLCs to report to the FTB changes or corrections made by the IRS under the centralized partnership audit regime. We first added the line on our 2018 tax forms.

During the 2019 filing season, we reached out to over 800 Partnerships and LLCs that populated the PLT line. If we found that the PLT line was improperly populated, we made corrections before we completely processed the returns to ensure incorrect bills or overpayments would not be sent.

Beginning with the 2020 filing season, we will no longer reach out to these entities when they populate the PLT line. Instead, we will process these returns through our normal channels and, if applicable, we will issue bills for any underpayment of the self-assessed PLT.

Refer to our Partnership Tax Booklet ([FTB 565](#)) or Limited Liability Company Tax Booklet ([FTB 568](#)) for more information on how to report the results of a centralized federal partnership audit to California.

We plan to hold an interested party meeting in 2020 for the purpose of determining appropriate de minimis partner reporting and payment requirements.

Administrative Dissolution Program

We established the Administrative Dissolution Program on January 1, 2019. Within this Program, there are two Administrative Dissolution pathways to dissolve or cancel a business entity. The first, allows a qualified domestic Corporation or qualified domestic Limited Liability

Company (LLC) the ability to request the Voluntary Administrative Dissolution/Cancelation of the business entity. The second pathway allows us to initiate the Administrative Dissolution/Cancelation process for those business entities that have been suspended by us for 60 or more consecutive months. In prior Tax News Articles, published in [November 2018](#) and [July 2019](#), we provided information on the Voluntary Administrative Dissolution/Cancelation process.

Beginning on January 1, 2020, we will initiate the Administrative Dissolution/Cancelation of qualified entities that have been suspended by us for 60 or more consecutive months. If a qualified entity is still engaging in a business activity or has assets in the business name and receives the Intent Notice (reference notices below), the qualified entity has 60 days to provide us with a written objection to the pending Administrative Dissolution/Cancelation.

Prior to Administratively Dissolving/Canceling a qualified business entity, the following steps are required:

- We will mail notification of the pending Administrative Dissolution/Cancelation to the entity's last known address. The notices below provide instructions on how to submit the written objection to us.
 - Administrative Dissolution - Intent Notice for Corporations (FTB 5125 C)
 - Administrative Cancelation - Intent Notice for LLC's (FTB 5126 C)
- We will provide a list to the Secretary of State (SOS) of the business entities that are pending Administrative Dissolution/Cancelation.
- SOS will post on their website the list of business entities pending the Administrative Dissolution/Cancelation for 60 days in order to allow ample time for objection. This includes the legal name and SOS file number of the business entity.

If a timely written objection is received within 60 days, the entity has 90 days from receipt of the objection to revive their business entity. The entity is required to:

- File all tax returns
- Pay all taxes, fee, penalties, and interest
- File a current Statement of Information with the SOS
- Fulfill any other requirement with the SOS
- File a Request for revivor

If the entity is revived by complying with the above requirements, the Administrative Dissolution/Cancelation will be withdrawn, and the entity will be restored to good standing with us.

If the entity does not revive within the time frame, nor provides a written objection within 60 days, the entity will be Administratively Dissolved/Canceled.

Go to our [Voluntary administrative dissolution/cancelation](#) webpage for additional information.

Updated withholding regulations and new forms

Updates were made to the withholding regulations that may affect your tax preparation for any nonresident withholding and real estate.

Nonwage withholding regulation updates

To make it easier to comply with the requirements, real estate withholding stakeholders have provided consistent feedback on:

- Various forms
- Filing due dates

Changes were made to the California Code of Regulations, Title 18, Sections 18662-0 through 18662-6, and Section 18662-8, in an effort to:

- Address their concerns
- Simplify our process

These regulation changes required us to update, consolidate, and create new forms which impact the nonresident and real estate withholding communities.

Form 593, Real Estate Withholding Statement (Update and Consolidated)

We consolidated the following forms into one [Real Estate Withholding Statement \(Form 593\)](#):

- Real Estate Withholding Tax Statement (Form 593)
- Real Estate Withholding Certificate (Form 593-C)
- Real Estate Withholding-Computation of Estimated Gain or Loss (Form 593-E)
- Real Estate Withholding Installment Sales Acknowledgement (Form 593-I)

For real estate transactions that close beginning January 1, 2020, the remitter (real estate escrow person, qualified intermediary, buyer/transferee, or other) must complete, sign, and submit Form 593 to us whenever a sale of real property occurs. The form is due to both the seller and us by the 20th day of the following month in which the transaction closed. We now have one form, one due date, and consistency when filing the form. ([Payment Voucher for Form \(Form 593-V\)](#) must still be included with any payment sent to us.)

Two new forms for Pass-through Entity (PTE) Withholding

Regulation changes requires us to create the following two new forms specifically for PTE withholding:

- Pass-Through Entity Annual Withholding Return (Form 592-PTE)
- Payment Voucher for Pass-Through Entity Withholding (Form 592-Q)

For taxable years beginning January 1, 2020, use Form 592-PTE if for a pass-through entity that has either:

- Paid withholding on behalf of a nonresident owner
- Been withheld upon

This form will allow us to allocate the withholding payments to the payee upon receipt of the completed form. Form 592-PTE is due annually, however, payments are still due quarterly. Form 592-Q is the voucher included with any PTE withholding payment sent to us.

Sign up for our [subscription services](#) at ftb.ca.gov to stay current with the latest nonwage withholding information.

Demand letters for FTB 3840, California Like-Kind Exchanges, going out in December

In February of 2019, we mailed letters to taxpayers who either failed to file, or filed an incomplete California Like-Kind Exchanges form (FTB 3840) for the 2016 tax year. In June, follow-up letters were mailed to those who did not respond to our first request.

In December 2019, we will mail a Demand for California Like-Kind Exchange Information to taxpayers who did not respond to the two prior letters for the 2016 tax year.

If taxpayers do not respond within 30 days to the demand letter, we may open an audit for the tax year. If the audit results in a notice of proposed assessment for the California like-kind exchange, a 25 percent penalty of the computed tax for the failure to provide information upon legal demand may be imposed (R&TC Section 19133).

California requires taxpayers who exchange real property located in California for like-kind property located outside of California to file a form FTB 3840. FTB 3840 must be filed in the year that the like-kind exchange occurs and every year thereafter, as long as the gain or loss has not been recognized. The reporting requirement generally continues until one of the following occurs:

- The deferred California sourced gain or loss is recognized on a California return.
- The replacement property is transferred through inheritance, eliminating the deferred California sourced gain or loss.
- The replacement property is donated to a non-profit organization.

Common errors that we find on FTB 3840 include:

- Side 2 is transmitted blank and contains no data
- A box on Question B has not been checked indicating whether the FTB 3840 is an initial, amended, annual, or final form

- Vague, incomplete, or omitted property descriptions
- Missing ownership percentages
- Omitted California source deferred gain (Schedule A, Part I, Line 8)

You may search our website for [FTB 3840](#) for additional information.

What is the 15-day rule?

When deciding to form a corporation or LLC, it is important to keep the 15-day rule in mind.

The 15-day rule only applies to short tax years that are 15 days or less.

The 15-day rule states that inactive business entities (Limited Partnerships, Limited Liability Partnerships, Limited Liability Companies and Corporations) with a tax year of 15 days or less are not required to file a tax return or pay the \$800 annual/minimum tax, if they meet both of the following:

- They did no business in California during the tax year
- Their tax year is 15 days or less

For example, if an entity filing on a calendar year basis is formed on December 17th or after and does no business for the remainder of the year, then it may not have to file a tax return and pay the \$800 annual/minimum tax for that short year.

Since an entity that meets the 15-day rule is not required to file a tax return, this time period is not considered the first tax year. The following tax year will be considered the first tax year and the entity will not have to pay the franchise tax until the 15th day of the 3rd month after the close of the tax year.

For example, if a corporation filing on a calendar year basis incorporates on December 20, 2019 and does not conduct business from December 20, 2019 to December 31, 2019, then it meets the 15-day rule and does not need to file a 2019 tax return. The corporation's first tax year will start on January 1, 2020.

For more information on the 15-day rule for LLCs and corporations, please see our [LLC Guide](#) and [Corporations Guide](#).

Update on the new Minimum Essential Coverage Individual Mandate

The Franchise Tax Board and Covered California are working together to administer the new Minimum Essential Coverage Individual Mandate (Senate Bill 78, Ch. 38, Stats. 2019), otherwise known as the health care mandate, which takes effect January 1, 2020.

On November 14, 2019, FTB and Covered California co-hosted a stakeholder meeting at FTB's central office. The purpose of the meeting was to provide an overview of the health care mandate and solicit input from:

- Employers
- Tax professionals
- Software services providers
 - Tax
 - Payroll
 - Other
- Payroll companies
- Insurers
- Others

The meeting included more than 30 guests representing the above groups and other state agencies. The industry representatives provided meaningful input as we and Covered California prepare to implement the health care mandate.

The health care mandate, patterned after the federal Patient Protection and Affordable Care Act, requires Californians to obtain and maintain qualifying health insurance coverage. Those that choose to go without coverage could face a financial penalty unless they qualify for an exemption.

Covered California is administering the program by connecting Californians to the health insurance they will need along with financial assistance options.

We are responsible for administering the penalty and validating the reconciliation of the financial assistance subsidies received through Covered California. To not be subject to a penalty when they file their 2020 state income tax returns, Californians will need to verify that they either:

- Have minimum essential coverage
- Qualify for an exemption

We are getting information out to the public about the new mandate. Communication efforts include:

- We updated our health care mandate webpage to include more information about the penalty and exemptions. The page also provides links to Covered California.
- Covered California is placing digital social media advertising on behalf of us using their existing resources.
- We are launching a social media campaign including tax tip videos.
- We collaborated with Covered California for a November open enrollment kickoff.

- News releases are planned for December.
- A joint media teleconference is planned for January.
- We will coordinate with the Volunteer Income Tax Assistance (VITA) Program to include training and materials for volunteer preparers to share with taxpayers during the tax season.

Draft tax forms should start becoming available by June 2020.

We plan to update our [Health care mandate](#) webpage in January with more details. If you have questions or would like to provide input, please write us at FTBHealthcare@ftb.ca.gov.

Ghost tax preparers

Our California Tax Education Council (CTEC) Enforcement Team within the Filing Compliance Bureau is conducting a pilot program focused on ghost tax preparers.

California State Legislature created CTEC to promote competent tax preparation and to protect California taxpayers. Since 2005, CTEC has partnered with us to identify unregistered tax preparers. Through our ongoing partnership, the Ghost Preparer pilot program was born. Ghost preparers are tax preparers who fail to provide their PTIN (Preparer Tax Identification Number) or otherwise failed to identify themselves on tax returns they prepared for compensation.

The Ghost Preparer pilot program includes two new letters, FTB 906A – Tax Preparer Verification, and FTB 906B - Request for Tax Preparer Information. Both letters were created to help identify ghost preparers by requesting the tax preparer’s identifying information.

We mailed the FTB 906A letters to tax preparers during the week of November 18, 2019. The response or lack of response received from the tax preparer after 30 days will allow staff to determine who will receive the FTB 906B letter. FTB 906B letters will be mailed to the taxpayer in December 2019 and January 2020.

Go to the [CTEC website](#) to report unregistered tax preparers and ghost preparers. All complaints go directly to our CTEC staff. It’s important that we receive as much information about the unregistered tax preparer and ghost preparer to review and understand the complaint. We will not share your identity and also cannot provide updates about the case due to privacy and disclosure laws.

Website content retention

Here’s a list of items we provide on our website, how long they're available, and how often they are updated.

List of content

Item	Web retention period	How often updated
Assembly/Senate Bills analysis	Current plus one year	Ongoing
Chief Counsel Rulings	All years	When published
Exempt Organizations list	Current exempt organizations; list replaced when updated	Monthly
Final regulations	One year after effective date	As regulations are finalized
Franchise Tax Board Meetings	Current plus one year	Before and after each board meeting
FTB Notices	All years	When published
Interested Parties	Current plus one year	When published
Legal Guidance	All years	When published
Legal Rulings	All years	When published
Litigation roster	Active cases and cases closed within the last 2 years	When published
News Releases	Current plus one year	When published
Public Service Bulletins	Current plus one year	When published
Regulatory activity (active)	All proposed regulations currently in the regulatory process; list replaced when updated	When there is new regulatory activity
Revoked Exempt Organizations list	List replaced when updated	Monthly
Tax News	Current plus four years	Monthly
Technical Advice Memoranda	All years	When published
Top 500 Delinquent Taxpayers list	List replaced when updated	Ongoing, with major updates twice a year

Send us a request

If you need something that is not on our website, you can [send us a request](#).

[Request content](#)

Background

Every year, we review the number of visits our files receive on our website. We evaluate items that don't meet a certain threshold. Unless legally required to be posted, infrequently visited files may be removed from the website to make sure our website remains relevant, accessible, and easy to search.

Free legal assistance for your clients

As a tax professional, you may have filed an appeal or are preparing to file an appeal with the Office of Tax Appeals on behalf of your clients. As the end of the year approaches, we know how busy many of you are, so we wanted to remind you that the Tax Appeals Assistance Program (TAAP) is a valuable program that you may refer your clients to.

What the TAAP offers

The TAAP offers free legal assistance to eligible taxpayers who have filed an appeal with the Office of Tax Appeals on an action taken by the Franchise Tax Board. Under the supervision of a highly experienced attorney, law students represent your clients in matters related to their appeal. The TAAP can assist in cases where the amount being disputed or the amount of refund being claimed is less than \$30,000 and involves certain tax issues. Please visit our website for more details.

Please contact us at ftbtaap@ftb.ca.gov or call 916-845-6227 if you have questions or feel as though this may be a viable option for your client.

Ask the Advocate

Closing out 2019 and looking ahead to 2020



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We are almost to the end of 2019. Looking back on this past year, it was definitely a year of change. Everyone acknowledges this was a challenging year for tax professionals, in large part due to the many changes brought about by the Tax Cuts and Jobs Act (TCJA) and California's non-conformity to many of these new provisions.

In looking ahead to 2020, I can already see there will be many more changes this coming year. FTB is currently preparing for the new California Individual Healthcare Mandate and recently met with Covered California and several external stakeholders here in Sacramento, gaining valuable insights that will help everyone going forward. In addition to the new healthcare mandate, changes will also take effect soon in the way that Gig or Sharing Economy workers will be now classified for California tax purposes under Assembly Bill (AB) 5 (2019). Finally, the landscape

surrounding legal Cannabis continues to change as well.

As we have in the past, my staff and I will work closely with FTB, practitioner groups and our media partners to get the important information out to you that you need. You can look forward to updated information in Tax News during 2020 on these and other topics and we will discuss these changes whenever we are out speaking to you. I have said this several times before, but it always bears repeating: I truly value and appreciate the collaborative relationships we have with our external partners. Without these relationships, much of what we do to keep you informed and up to date would not be possible.

Looking back a bit further than just 2019, it seems to me that changes in the laws we administer come more often now than in the past. Whether or not this is the new normal remains to be seen. Perhaps high on the holiday wish list will be a year where we can all settle in and adjust to the many changes that have already occurred before we see new ones.

I want to wish each of you a very happy and joyous 2019 Holiday Season and I hope that you are able to enjoy some time away from work with family and friends before the 2020 Filing Season gets underway.

All About Business

Public Law 86-272: How does this Federal law affect your requirement to file in California?

Over the years, California has made several law changes that affects your business clients that do business both in California and elsewhere, an apportioning trade or business.

Public Law 86-272 (15 USC Section 381) prevents States from asserting their right to impose a tax based on net income, such as the corporate income tax or franchise tax. Public Law 86-272 protection is available to out-of-state business entities that:

- Sell tangible personal property in this state
- Who's in-state activities are limited to the solicitation of orders for their goods

As a result, if a taxpayer is protected by Public Law 86-272, they will not be required to pay the franchise tax or the corporate income tax, as both are measured by net income.

However, even if protected by Public Law 86-272, an out-of-state entity that is doing business (R&TC Section 23101) in California is still obligated to file a tax return and pay taxes that are not measured upon net income, unless certain exceptions apply, such as:

- The minimum franchise tax
- Annual limited liability company tax
- The limited liability company fee

You are probably asking, "What does this mean, how does this work?"

First of all, protection under Public Law 86-272 does not apply to businesses that derive in-state income from the solicitation or sale of:

- Intangible property
- Services
- Any combination of goods and services

[Technical Advice Memorandum: 2018-03](#) addresses the application and interpretation of Public Law 86-272 in the context of delivering goods by company owned delivery vehicles. This memorandum concluded the delivery via a private delivery truck is protected activity under Public Law 86-272. However, any activity that goes beyond the scope of delivery, such as backhauling, is not protected activity.

For example: Corporation C, an out-of-state corporation that does not file a combined return, sells tangible goods over the internet and qualifies for protection under Public Law 86-272. For the 2019 taxable year, Corporation C has \$1,000,000 of California sales but no property or payroll in California. Corporation C, though considered doing business in California because it has \$1,000,000 in California sales, will not be subject to California's franchise tax as it is protected under Public Law 86-272. This is true even if the tangible goods are delivered using

Corporation C's vehicles. However, Corporation C must still file a California return and pay the minimum franchise tax of \$800. If Corporation C's vehicles are used for any other business activity along with the delivery, such as backhaul of goods (like hauling off the customer's old items), this activity would go beyond the solicitation of orders and would no longer be protected.

Another example: LLC Z, an out-of-state LLC that engaged in activities that are protected under Public Law 86-272 and considered to be doing business in California for the tax year 2019. LLC Z's total income from sources derived from or attributable to the state of California was \$300,000. Therefore, LLC Z must file a California tax return, pay the annual LLC tax of \$800, and pay the LLC fee of \$900.² Public Law 86-272 does not protect qualified out-of-state business entities from the annual LLC tax or the LLC fee.

For further details regarding which activities are protected by Public Law 86-272, see FTB 1050, Application and Interpretation of Public Law 86-272. In addition, for more information on the minimum franchise tax, annual LLC tax, and LLC fee, as well as their exceptions, please reference Revenue and Tax Code Sections 23151, 17941, and 17942, respectively.

[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.

² The LLC fee amount can be determined from the LLC fee table. Go to ftb.ca.gov and search FTB 3556.