



# Tax News

February 2020

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## What's new for filing 2019 tax returns?

### Health Care Mandate

Effective January 1, 2020, the Minimum Essential Coverage Individual Mandate requires Californians to:

- Obtain and maintain qualifying health insurance coverage.
- Qualify for an exemption if they choose to go without coverage.
- Face a financial penalty if they do not qualify for an exemption.

For information about health coverage options and financial help, visit [coveredca.com](http://coveredca.com).

For information about the penalty, visit [ftb.ca.gov/healthmandate](http://ftb.ca.gov/healthmandate).

### Voluntary Contributions

For taxable years beginning on or after January 1, 2019, you may contribute to the Suicide Prevention Voluntary Tax Contribution Fund.

### Loophole Closure and Small Business and Working Families Tax Relief Act of 2019

The Tax Cuts and Jobs Act (TCJA) signed into law on December 22, 2017, made changes to the Internal Revenue Code (IRC). California Revenue and Taxation Code (R&TC) does not conform to all of the changes. In general, for taxable years beginning on or after January 1, 2019, California conforms, with modifications, to the following TCJA provisions:

- California Achieving a Better Life Experience (ABLE) Program
- Federal Deposit Insurance Corporation (FDIC) Premiums
- Excess employee compensation
- Student loan discharged on account of death or disability
- Excess business loss

### Young Child Tax Credit

For taxable years beginning on or after January 1, 2019, the refundable Young Child Tax Credit (YCTC) is available to taxpayers who:

- Qualify for the California Earned Income Tax Credit (EITC)
- Have at least one qualifying child who is younger than six years old as of the last day of the taxable year

The maximum amount of credit allowable for a qualified taxpayer is \$1,000. The credit amount phases out as earned income exceeds the "threshold amount" of \$25,000, and completely phases out at \$30,000.

For more information, visit the instructions for line 76 of Form 540, California Resident Income Tax Return and get form FTB 3514, California Earned Income Tax Credit.

### [Alimony](#)

California law does not conform to changes made by the TCJA to federal law regarding alimony and separate maintenance payments made under any divorce or separation agreement executed after December 31, 2018, or executed on or before December 31, 2018, and modified after that date (If the modification expressly provides that the amendments apply).

Visit Schedule CA (540) specific line instructions for more information.

### [Like-Kind Exchanges](#)

The TCJA amended IRC Section 1031 limiting the nonrecognition of gain or loss on like-kind exchanges to real property held for productive use or investment. California conforms, with modifications, to this change under the TCJA for exchanges completed after January 10, 2019.

However, for California purposes, with regard to individuals, this limitation only applies to:

- A taxpayer who is a head of household, a surviving spouse, or spouse filing a joint return with adjusted gross income (AGI) of \$500,000 or more for the taxable year in which the exchange begins.
- Any other taxpayer filing an individual return with AGI of \$250,000 or more for the taxable year in which the exchange begins. Get Schedule D-1, Sales of Business Property, for more information.

### [Student Loan Discharged Due to Closure of a For-Profit School](#)

California law allows an income exclusion for an eligible individual who is granted a discharge of a student loan under specified conditions. California law now also allows an exclusion from income for a discharge of student loans occurring on or after January 1, 2019, and before January 1, 2024, for individuals who attended a:

- Brightwood College school
- Location of The Art Institute of California

Visit the California Schedule CA (540) instructions for additional information.

### [Charitable Contribution and Business Expense Deduction Disallowance](#)

For taxable years beginning on or after January 1, 2014, California law disallows a:

Charitable contribution deduction to an educational organization that is:

- a postsecondary institution
- to the Key Worldwide Foundation

Deduction for a business expense related to a payment to:

- The Edge College and Career Network, LLC

- a taxpayer who meets specific conditions, including that they are named in any of several specified criminal complaints

For taxable years 2014 through 2018, file an amended Form 540 and Schedule X to report the correct amount of charitable contribution and business expense deductions.

Visit the California Schedule CA (540) instructions for additional information.

### Net Operating Loss (NOL) Carrybacks

For taxable years beginning on or after January 1, 2019, with limited exceptions, net operating loss carrybacks are not allowed.

### Deployed Military Exemption

For taxable years beginning on or after January 1, 2020, and before January 1, 2030 a corporation or LLC shall not be subject to the minimum franchise tax or annual tax if all of the following apply:

- The corporation or LLC is a small business
- Solely a deployed member of the United States Armed Forces owns the corporation or LLC
- The owner is deployed during the taxable year
- The corporation or LLC operates at a loss or ceases operation

### Extension Due Date Change

For taxable years beginning on or after January 1, 2019, the extension period for filing a C corporation tax return has changed from six months to seven months. Get FTB Notice 2019-07 for more information.

### IRC Section 338 Election

For taxable years beginning on or after July 1, 2019, California requires taxpayers to use their federal IRC Section 338 election treatment for certain stock purchases treated as asset acquisitions. If the taxpayer made, or has not made an election under IRC Section 338, the taxpayer shall make the same election, or not make the election for California tax purposes.

### Small Business Method of Accounting Election

For taxable years beginning on or after January 1, 2019, California conforms to certain provisions of the TCJA relating to changes to accounting methods for small businesses.

A small business may elect to apply one or more of the California Small Business Method of Accounting provisions to taxable years beginning on or after January 1, 2018, and before January 1, 2019. Taxpayers make the election by providing the following information to us:

1. Include a statement with their original or amended California tax return stating the taxpayers' intent to make a Small Business Method of Accounting election(s).

2. On the top of the first page of the original or amended tax return, print “AB 91 - Small Business Method of Accounting Election” in black or blue ink.
3. Mail returns to:  
FRANCHISE TAX BOARD  
PO BOX 942857  
SACRAMENTO, CA 94257-0500

### Technical Termination of a Partnership

For taxable years beginning on or after January 1, 2019, California conforms to the TCJA repeal of the termination of a partnership by the sale or exchange of 50 percent or more of the total interest in a partnership within a 12 month period.

A partnership may elect to have the repeal of the technical termination apply for taxable years beginning after December 31, 2017, and before January 1, 2019. Taxpayers make the R&TC Section 17859(d)(1) election by providing the following information to us:

1. Include a statement with their original or amended California tax return stating the taxpayers’ intent to make an election under R&TC Section 17859(d)(1).
2. On the top of the first page of the original or amended tax return, print “AB 91 – R&TC Section 17859(d)(1) Election” in black or blue ink.
3. Mail returns to:  
FRANCHISE TAX BOARD  
PO BOX 1570  
RANCHO CORDOVA, CA 95741-1570

### Pass-Through Entity Annual Withholding Return

For taxable years beginning on or after January 1, 2020, a pass-through entity that has:

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

Must use Form 592-PTE, Pass-Through Entity Annual Withholding Return, to report the total withholding. For more information, get [Form 592-PTE](#).

### Payment Voucher for Pass-Through Entity Withholding

For taxable years beginning on or after January 1, 2020, a pass-through entity must use Form 592-Q, Payment Voucher for Pass-Through Entity Withholding, to remit the withholding payments. For more information, get [Form 592-Q](#).

### Real Estate Withholding Statement

Effective January 1, 2020, the real estate withholding forms and instructions have been consolidated into one new Form 593, Real Estate Withholding Statement. For more information, get [Form 593](#).

## Assignment of Credit

For taxable years beginning on or after January 1, 2019, the following forms and instructions have been consolidated into one form FTB 3544, Assignment of Credit:

- FTB 3544, Election to Assign Credit within Combined Reporting Group
- FTB 3544A, List of Assigned Credit Received and/or Claimed by Assignee

## No Form 540NR Short

For the 2019 taxable year we:

- No longer have the Form 540NR Short, California Nonresident or Part-Year Resident Income Tax Return.
- Renamed the Form 540NR Long to Form 540NR, California Nonresident or Part-Year Resident Income Tax Return.

Taxpayers who previously filed Form 540NR Short will need to use Form 540NR to file their 2019 tax returns.

Visit our October 2019 Tax News article, [Form 540NR short eliminated for 2019 taxable year](#), for more information.

## Business Entity Estimate Payment Notification letters

In late January/early February 2020, we began mailing FTB 3713 Summary of Account Payments, Transfers, and Credits to business entities who made an Estimated Tax Payment(s) or Estimated LLC Fee payment during the 2019 tax year.

This account summary will provide:

- Payment
- Transfer
- Credit information
- Payment amounts and effective dates

Our notification letter provides the same data available internally to FTB call center agents and proactively addresses the most common reason tax professionals contact the Tax Practitioner Hotline: calling to verify payments.

For 2020, we have added “This is Not a Bill” to the top of the letter for added clarity and to discourage recipients from remitting payment with the notice. Finally, payment information is also available online to businesses and their tax representatives who register for a MyFTB account.

## Avoid a problem by using Web Pay

Many things are worth repeating, and we believe this is one of them. Using Web Pay is a safe and simple way to avoid problems and the extra work that comes when someone mails a payment to us and that payment isn't timely credited to their account. Mail delays, incorrect or missing information on a check (tax year, tax ID number), and human error are just some of the reasons a payment may not be timely credited or applied.

An easy way to avoid this problem is to make payments using FTB's [Web Pay](#) portal. Web Pay is available for a variety of personal and business entity payments. Web Pay is free when you use a bank account and you don't need to register to use it.<sup>1</sup> But, if you do register for MyFTB and then access Web Pay while logged in to MyFTB, you can:

- View the status of payments made in Web Pay.
- Cancel pending payments online.
- Save your bank account information for future payments.
- Save your spouse/RDP information, if applicable.

With Web Pay you can schedule payments now for a future date and you can avoid a potential penalty for paying by check if you are subject to [mandatory e-pay](#). Web Pay Help is available in the [Web Pay](#) portal and you can find answers there to many of your questions about Web Pay, including the different types of personal and business payments that can be made.

Using Web Pay is quick and easy and you receive immediate confirmation that we received your payment request. You can even make a payment for someone else, if you have their tax ID number.

## Small business tax seminars sponsored by CDTFA: Register now

The California Department of Tax and Fee Administration ([CDTFA](#)) began sponsoring Small Business Tax Seminars that are held throughout the state. These informative, half-day seminars feature representatives and experts from many of California's State Agencies, such as the CDTFA, Employment Development Department ([EDD](#)), the Franchise Tax Board (FTB), and the Governor's Office of Business and Economic Development ([GO-Biz](#)). Representatives from the Internal Revenue Service ([IRS](#)), the Small Business Administration ([SBA](#)), and Small Business Development Centers ([SBDC](#)) may also attend depending on availability.

At these education and outreach events, small business owners and tax professionals can get up-to-date information about compliance issues, filing requirements, and changes in tax laws. Questions about specific tax related issues are also answered and contacts can be made with

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<sup>1</sup> Credit card payments may also be made, but there is a 2.3% service fee if you pay by credit card.

these agencies for future issues or concerns. Presentations may include avoiding common sales and use tax problems, employee versus independent contractor, common forms of business ownership, better business through keeping better records, and more.

These seminars are free to attend and are an important part of the State of California's Education and Outreach efforts. The CDTFA has made it easy to register and find a small business seminar that is near you. For a list of upcoming events and its location, please visit the [CDTFA seminar webpage](#). Here you can find a seminar that interests you, find important information about the event, and then, conveniently, register online for it. There is also an [Events Calendar](#) tab which puts all scheduled events in an easy-to-read calendar format with the same access to information and ability to register. Please take advantage of this great resource.

## New interest rates for the New Year

The adjusted interest rate for the period January 1, 2020 through June 30, 2020 decreased to 5%. This is the rate compounded daily that accrues with respect to various state taxes including: personal income, corporate income and franchise. The rate for corporation tax overpayments remains the same at 2%. Visit our [Interest and estimated penalty rates](#) webpage for more information.

## Ask the Advocate

### 2020 filing season begins



Susan Maples, CPA.  
Taxpayers' Rights Advocate.  
Follow me on Twitter at  
[twitter.com/FTBAdvocate](https://twitter.com/FTBAdvocate)

The 2020 filing season is now officially underway. FTB began accepting returns at the beginning of the year, with the IRS having a start date closer to the end of January. There is a lot to be done in the next few months and I hope your experience this filing season is positive, with everything going smoothly between now and the initial filing deadlines.

I am frequently asked if my staff and I are busier during filing season, the assumption being that we too are dealing with the processing of tax returns, payments and refunds. While this is true for most of FTB and one of our agency's most important core functions, the Advocate's Office is busy this time of year for different reasons. We are currently planning for our many education and outreach events, updating our speaking materials and scheduling visits across the state, to meet with you at events, conferences, and sponsored seminars. We continuously update the information we provide at these events, whether it's to reflect changes in existing California law or to let you know about new laws such as the California Minimum Essential Coverage Individual Healthcare Mandate.



As I like to mention at the start of every filing seasons, one of the things you can do to help us and your clients is to confirm with them that we have their current and correct contact information when their return is filed. Having a correct address for your client makes it much easier to resolve any filing or return processing issues which require our sending a notice. Having an incorrect address may mean that someone first learns of a problem with their return after the standard billing cycle has ended and the collection process is underway. A bad address doesn't just affect those balances due. We receive calls each year checking on the status of a mailed refund only to learn that due to an incorrect address, a refund check must be reissued due to it being "returned mail" to the State Controller multiple times.

One last tip for the start of filing season and this one deals with payments. On rare occasions, checks we receive are overlooked in processing. This may happen if a check is attached to a paper-filed return under W-2s, schedules, or in an unnoticeable way. When we are expecting a payment for a balance due with a return and we are unaware that we have received it, this will result in a notice that needs to be mailed. An easy way to avoid this is to use FTB's [WebPay Portal](#), which is covered in a separate article this month.

Finally, the Department continues to look for ways to improve your experience with MyFTB. Many tax professionals still do not have online access to their clients' information and we continue to encourage those without MyFTB accounts to sign up, add their clients, and hopefully make life a little bit easier this filing season.

## All About Business

### New Technical Advice Memorandum (TAM) posted

On January 6, 2020, we issued [TAM 2020-01](#), which addresses the calculation of an S corporation's shareholder's basis when:

- The shareholder improperly claimed losses in excess of stock and
- Debt basis in a year closed by the statute of limitations

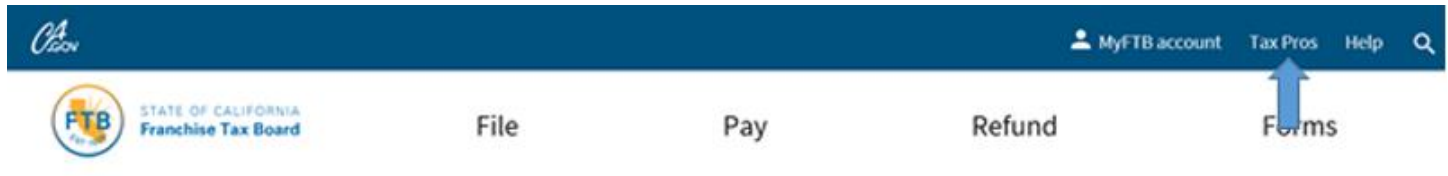
More specifically, the question FTB Audit staff asked was whether or not the Internal Revenue Service Technical Advice Memorandum ("IRS TAM") 200619021 applies for purposes of determining the shareholder's California basis in S corporation stock.

### Did you know you have access to our TAMs?

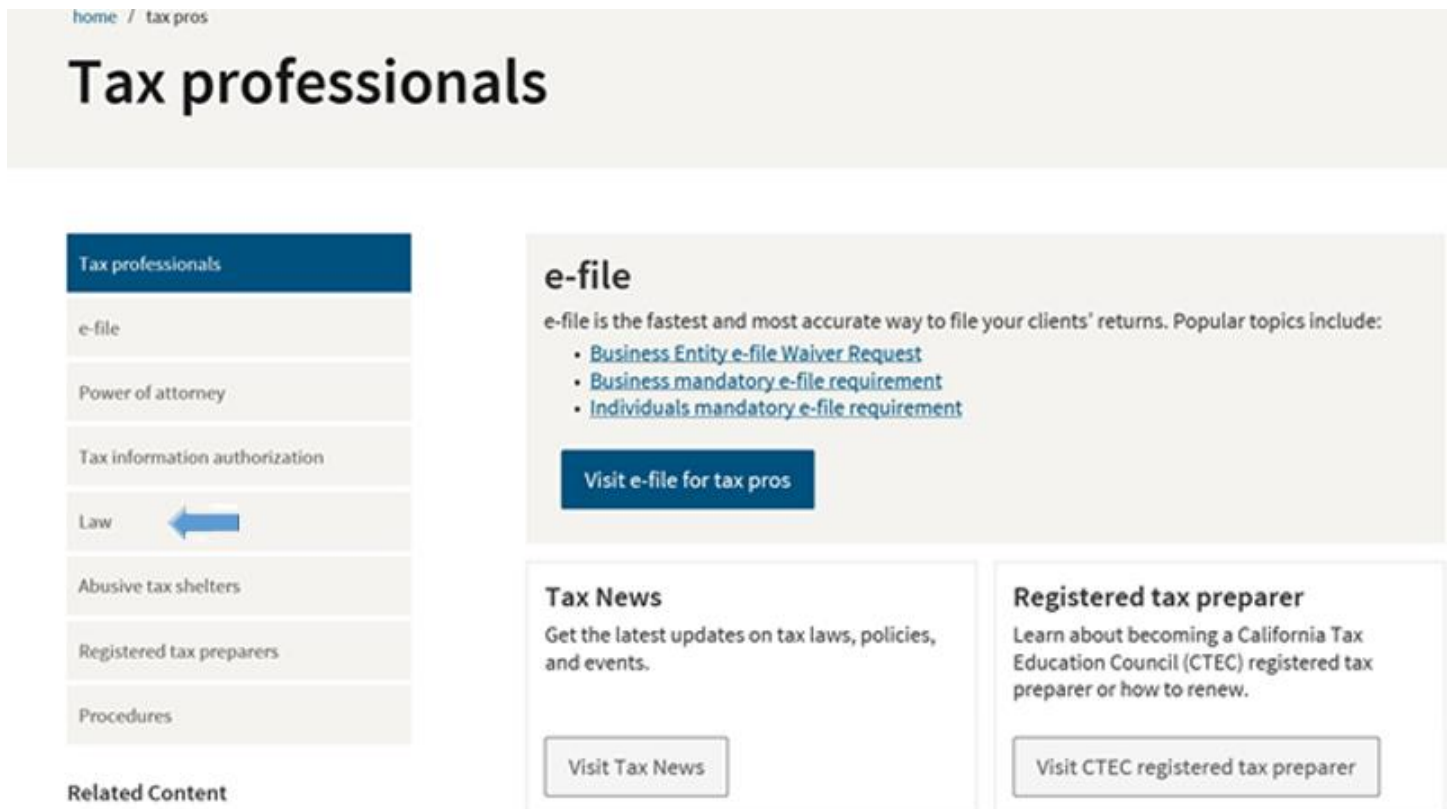
Technical Advice Memorandums (TAMs) are advice our legal team gives when they receive questions from FTB staff. The TAM responses are based on the laws as of the date of the TAM and for the specific situation posed in the question(s) asked.

Where are TAMs located?

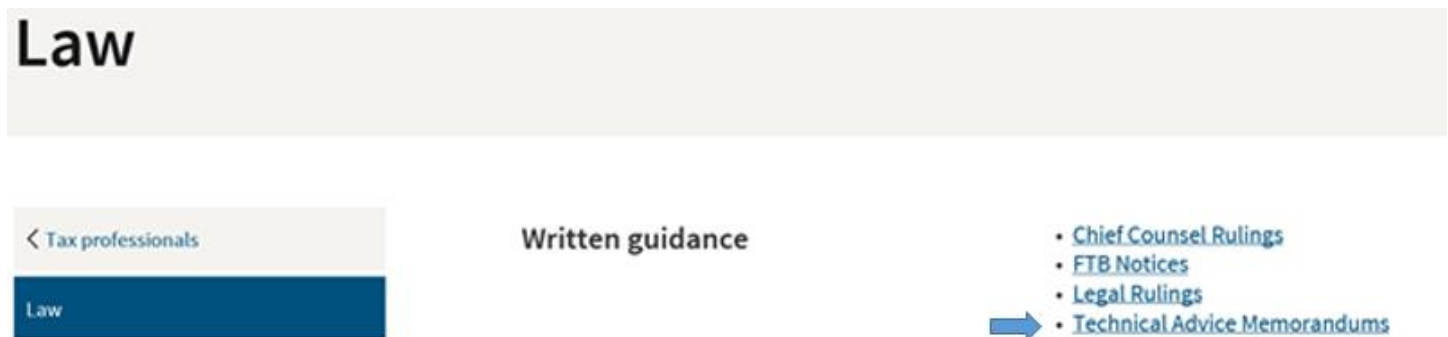
Our new and improved website design was built with all our customers in mind. TAMs are located under TaxPros.



Then on the left find Law



Then under Written guidance click the link Technical Advice Memorandums.



We list all TAMs by year and update the list when new TAMs are published.

## Event Calendar

As part of education and outreach to our tax professional community, we participate in many different presentations and fairs. We provide a [calendar](#) that shows the events we attend, as well as other events happening with us, such as interested party and board meetings.