



# Tax News

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## What's new for Head of Household?

Beginning with returns filed for tax year 2019, we will be able to determine if a taxpayer qualifies for Head of Household (HOH) when the return is processed. We do this by using the information provided on FTB Form 3532, which is required to be attached when taxpayers file as the HOH. If a taxpayer does not qualify for HOH or did not provide FTB Form 3532, we will issue a Notice of Tax Return Change (NTRC) to deny the HOH filing status. This is a change from prior years, when we would have issued a Notice of Proposed Assessment (NPA).

### NPA vs. NTRC

An HOH NPA is a "proposed" change in tax due with the return. If a taxpayer disagrees with an HOH NPA, they may file a protest. When a Protest is filed, it is worked by a protest hearing technician, which may delay the resolution of the issue and often requires additional documentation from the taxpayer.

Alternatively, a NTRC is a change to the tax due with the return. Refund amounts are reduced, possibly resulting in a bill, or if there is a balance due, that amount may increase. If a taxpayer believes it was issued in error, they may contact the Filing Contact Center via phone, chat, or correspondence, without having to file a protest. The taxpayer also has the option to pay the balance in full and submit a claim for refund. If the claim for refund denied, the taxpayer can appeal with the OTA.

### Why the change?

We are always looking for ways to improve our customer experience and this change was made with that goal in mind. With an NPA, a taxpayer may have already received a refund when we contact them several months later asking for some or all of their refund back. This can be frustrating and difficult to understand why we issued the refund in the first place.

By issuing an NTRC we can dramatically shorten the process. If someone does not qualify, they will know immediately why they do not qualify and what they need to do to resolve it. An NTRC can be resolved by reaching out to our contact center and often can be resolved in one contact.

### How do I resolve an NTRC?

If you disagree with an NTRC issued, you may contact us by:

- Phone: Filing Contact Center
- Chat: through MyFTB
- Correspondence: by mail or online

Reminder: In order to ensure we make an accurate determination please make sure a completed FTB Form 3532 is attached when submitting your clients' 2019 tax returns claiming HOH filing status.

## California Individual Health Care Mandate: Letters arriving soon to connect California residents with qualifying health insurance and new penalty estimator

Effective January 1, 2020, a new state law requires California residents to maintain qualifying health insurance throughout the year. This requirement applies to each resident, their spouse or domestic partner, and their dependents.

To reach uninsured individuals, Covered California will send letters to approximately 2.1 million households beginning January 2, 2020. This letter will let individuals know about the new state Minimum Essential Coverage Individual Mandate and share that they can go to Covered California to:

- Shop for qualifying health insurance.
- Get information about financial help to lower the cost of qualifying health insurance.
- Get information about exemptions and the California Individual Shared Responsibility Penalty for failure to have qualifying health insurance coverage or an exemption.
- Individuals who fail to maintain qualifying health insurance will owe a penalty unless they qualify for an exemption. Covered California and the Franchise Tax Board each administer exemptions for qualifying individuals.

### New penalty estimator

Franchise Tax Board has developed a new Individual Shared Responsibility Penalty Estimator to help individuals estimate their penalty if they do not have qualifying health insurance coverage or an exemption. The calculator is available at [ftb.ca.gov/healthmandate](http://ftb.ca.gov/healthmandate).

For more information about the new health care law, exemptions, and financial assistance available, go to [CoveredCA.com](http://CoveredCA.com).

### Reminder: delayed 1099-G

Even if you file a tax return on time, there are situations where it may require additional review and validation.

If this happens, there may be a hold on the return past the year in which it was filed. This hold may affect a refund.

Example:

A tax return for 2018 filed on October 15, 2019, with a processing delay.

1. We may not issue a refund until 2020
2. A 1099-G will be issued for the year the taxpayer receives the refund (in this case 2020)
3. If required, the taxpayer reports the refund in year it was received (2020)

## Tax preparation software with a 1099-G

When tax preparation software is used:

1. The 1099-G may automatically populate for the year the tax return was file
2. Update the 1099-G information to show the year the refund was received
3. Make sure to ask your client for their 1099-G to see if it matched the refund you projected and the year of the refund

## 1099-G not available

If the 1099-G is not available when it is time to prepare the return, you may use the following to verify the correct tax year and amount of the refund:

- MyFTB
- Secure Chat
- Tax Practitioner Hotline

## Did you know farmers and fishermen have special provisions?

There are special provisions for [farmers and fishermen](#) regarding estimated tax payments.

### Calendar year

If your tax year is the calendar year and at least two-thirds of your gross income (for 2018 or 2019) is from farming or fishing, your payment due date for your 2019 estimated tax is January 15, 2020.

The due dates for the first 3 payment periods don't apply to you. If you're a calendar year taxpayer and you file your 2019 Tax return (Form 540) by March 2, 2020, you don't need to make an estimated tax payment if you pay all the tax you owe at that time.

### Fiscal year

If your tax year is a fiscal year you can either:

- Pay all your estimated tax by the 15th day after the end of your tax year
- File your return and pay all the tax you owe by the 1st day of the 3rd month after the end of your tax year

Go to Underpayment of Estimated Tax by Farmers and Fishermen ([5805F Instructions](#)) or to IRS' Tax Withholding and Estimated Tax ([Publication 505](#)) for more information.

## Featured publication: California Tax Forms and Related Federal Forms (FTB Pub 1006)

We have a publication, California Tax Forms and Related Federal Forms (FTB 1006), that can help answer:

Can you use Substitute for Form W-2, Wage and Tax Statement, or Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, Etc. (IRS form 4852) instead of FTB 3593?

We update FTB 1006 annually. It provides:

- A listing of nearly 200 FTB forms and schedules and their federal counterparts
- The ability to cross-reference forms starting with either a California or federal form/schedule number
- A similar listing of federal forms and schedules and their California counterparts
- Forms used by:
  - Individuals
  - Partnerships
  - Limited liability companies
  - Corporations
  - Exempt organizations
- 6 commonly used Employed Development Department forms and their federal counterparts
- Whether a federal form may be used for California purposes

## California Competes Tax Credit

The California Competes Tax Credit (CCTC) is an income or franchise tax credit available to businesses that want to come to 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 2019/2020, the remaining application periods are:

- January 6, 2020 through January 27, 2020

- March 9, 2020 through March 30, 2020

For the next application period, \$75 million is available for allocation. Applications for the credit will be accepted at [calcompetes.ca.gov](http://calcompetes.ca.gov) from January 6, 2020 until January 27, 2020.

Go to GO-Biz's Program webpage on the [California Competes Tax Credit](#) for more information.

## Taxpayers' Bill of Rights Annual Report to the Legislature

We posted the 2019 [Taxpayers' Bill of Rights Annual Report to the Legislature](#) on our website. Each year, the report starts off with a Summary from the Executive Officer and the Taxpayers' Rights Advocate.

This year the report focuses on:

- Identifying areas of non-compliance
- Improving compliance
- Training and evaluating employees
- Department projects and initiatives

The report also provides the Taxpayers' Rights Advocate's mandate, mission, programs, and contact information.

## Ask the Advocate

### 90 years of FTB



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Follow me on Twitter at  
[twitter.com/FTBAdvocate](https://twitter.com/FTBAdvocate)

The California Franchise Tax Board (FTB) that I work for, and the one you are all familiar with, is overseen by a 3-member board; also known as the Franchise Tax Board. Its members are the:

- California State Controller
- Director of the California Department of Finance
- Chair of the California Board of Equalization

Our 3-member board holds quarterly public meetings at FTB's Sacramento campus. Common agenda items include:

- Updates on FTB's projects and initiatives
- Legislative and regulatory matters
- Other items

One agenda item that I always enjoy is whenever FTB has a presentation highlighting some of our agency and staff accomplishments, generally those from the prior year. At the most recent board meeting though, our Executive Officer gave a presentation that shared some history and highlights from FTB's first 90 years and I wanted to share a few of these with you.

FTB began in 1929, when the California Legislature created the office of the Franchise Tax Commissioner, with a staff of 33 employees to administer California's new Bank and Corporation Franchise Tax Act. California's Personal Income Tax Law was enacted in 1935 as part of a major restructuring of the state's tax system. In the first year of operation, nearly 373,000 returns were filed resulting in \$11.8 million in personal income taxes. 90 years later, we have now grown to more than 5,800 employees and for 2019 we processed more than 18 million tax returns for a total of \$48.8 billion in revenue.

The 1950s saw the abolishment of the office of the Franchise Tax Commissioner and the creation of the Franchise Tax Board as we know it now, with the first of FTB's 4 executive officers coming on board. The 1970s were also a period of change for FTB with the start of California income tax withholding and the alternative minimum tax. A new development for many taxpayers came about in the 1980s with California's first tax amnesty program. In the 1990s, we saw significant improvements in the filing process that we now take for granted, including e-filing of tax returns and the direct deposit of tax refunds.

FTB's workloads will continue to grow along with the state of California but our commitment to helping taxpayers and tax professionals file timely and accurate returns will never change. If the recent past is any indication of what the future holds, I am sure there will be many changes between now and FTB's next big milestone, our 100<sup>th</sup> anniversary. Some of these changes will be anticipated while others will not. For my part, my staff and I will help keep you informed about these changes as those come and will work with you to address and resolve any problems or concerns that arise.

## Chief Counsel Corner

### Mandatory e-Pay Requirements for Individual Taxpayers



Jozel Brunett  
Chief Counsel

The individual electronic payment (e-Pay) requirement has now been a part of California law for over 10 years. Since its enactment, we have worked very hard to conduct education and outreach efforts to make sure affected individual taxpayers are aware of the requirement.

However, because we still see individual taxpayers who fail to make electronic payments when required under the law, we thought it would be helpful to review the e-Pay requirements to help individual taxpayers avoid potential penalties.

Below are answers to frequently asked questions about the individual taxpayer e-Pay requirements and penalty.

### Am I required to pay electronically?

Individual taxpayers are required to pay electronically if the taxpayer:

1. Makes an estimated tax or extension payment exceeding \$20,000
2. Files a tax return with a tax liability over \$80,000<sup>1</sup>

Individual taxpayers who meet one or both of the specified threshold requirements must make all payments to us electronically.<sup>2</sup>

### May I get a discontinuance or waiver of the e-Pay requirement?

To request a discontinuance or waiver of the e-Pay requirement, you must submit Form FTB 4107, Mandatory e-Pay Election to Discontinue or Waiver Request. We will grant your request if you have not met the thresholds in the previous taxable year or if you have established the amounts paid in excess of the threshold amounts were not representative of your tax liability.<sup>3</sup> You must continue to make all payments electronically until you receive a letter from us granting the discontinuance or waiver.

### What is the penalty amount and is there a first time abatement?

Failing to meet the e-Pay requirement will result in a penalty of one percent of the amount of payment not paid electronically, and there is no maximum penalty limitation.<sup>4</sup> For example, if a taxpayer with an e-Pay requirement makes three separate estimated tax payments by check in the amount of \$100,000 each, we will impose three e-Pay penalties of \$1,000 each, totaling \$3,000.

The law allows us to abate the e-Pay penalty only for reasonable cause and lack of willful neglect.<sup>5</sup> Being unaware of the e-Pay requirement or arguing it is the taxpayer's first failure does not establish reasonable cause because taxpayers are responsible for knowing and complying with the law.<sup>6</sup> This is true even if a taxpayer's tax software or preparer does not advise the taxpayer to pay electronically.<sup>7</sup>

### How do I pay electronically?

There are several ways for individuals to pay electronically:

- Pay on our website using FTB Web Pay
- Request an electronic funds withdrawal with an e-filed tax return
- Pay by credit card
- Pay by phone
- Create and pay through your MyFTB account and receive other online services (view payments cancel payments, schedule future payments, view your tax returns and more)

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<sup>1</sup> Revenue and Taxation Code (R&TC), Section 19011.5(a)(1).

<sup>2</sup> R&TC, Section 19011.5(a).

<sup>3</sup> R&TC, Section 19011.5(b), (d).

<sup>4</sup> R&TC, Section 19011.5(c).

<sup>5</sup> R&TC, Section 19011.5(c).

<sup>6</sup> See *Appeal of John A. and Debora A. Porreca*, 2018-OTA-095P, Aug. 23, 2018.

<sup>7</sup> *Ibid.*

Go to [ftb.ca.gov](http://ftb.ca.gov) and search for mandatory e-Pay for information on how to use each of these options.

## MyFTB Corner

### Timeframe to renew TIA clients has changed

The timeframe allowed to renew your TIA clients has changed.

#### Renewal timeframe for TIA clients

Beginning January 2, 2020, you can only renew your TIA clients when there is between 90 and 5 calendar days before the expiration date. The previous renewal timeframe allowed a TIA client to be renewed up to four times a year. Each time you renew a TIA client, we send your client a letter advising them of the renewal. Reducing the window for renewals will allow you to focus on which relationships need attention and eliminate excessive notices sent to your client.

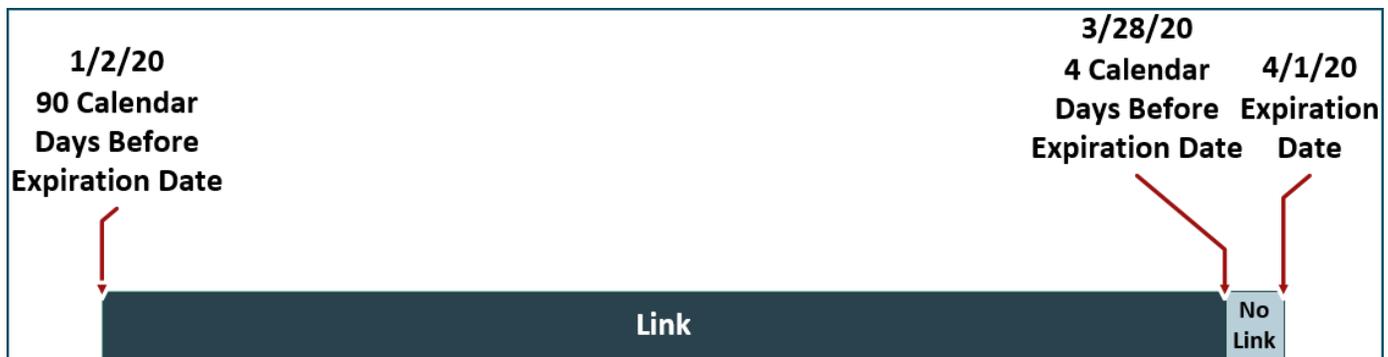
What this means is the Renew link will:

- Display once there are 90 calendar days before the expiration date
- No longer display when there are less than 5 calendar days before the expiration date

If there are less than 5 calendar days before the expiration date, you cannot renew the client. You must use Add TIA Client in MyFTB or submit form FTB 3534, Tax Information Authorization to add your client again. [For more information about how to add a TIA client, refer to How To Add TIA Client.](#)

Reminder: You must have your client's permission to renew the TIA relationship.

The following illustration provides a timeline of the new TIA client renewal period.



#### Helpful Tip

The order of the columns on your Client List has changed. The Expiration Date column was moved next to the Action column. Use the Expiration Date to sort/filter your Client List to quickly identify which TIA clients you may need to renew.

## All About Business

### California's paperless extension, FTB Notice-2019-07

[FTB Notice 2019-07](#), Automatic Seven-Month Extension – Forms 100 and 100W, will make it easier for certain corporations to timely file.

### FTB Notice-2019-07

On December 2, 2019, we issued the Notice granting taxpayers, in good standing, filing the Forms 100 (including REITs, REMICs, and RICs) and 100W an automatic 7-month extension, for taxable years beginning on or after January 1, 2019.

As stated in the Notice, the automatic 7-month extension does not apply to S Corporations. The extended filing due date for S Corporations will remain the 15th day of the 9th month after the close of the taxable year.

### California's paperless extension is an extension of time to file, not to pay.

Generally, California grants all income and franchise taxpayers an automatic extension of time to file a return.<sup>8</sup> As long as a taxpayer files their return within the extension period,<sup>9</sup> taxpayers are allowed either a 6-month or 7-month extension depending on their original due date, thus, the extended due date for a (an):

- 2019 California calendar year taxpayer (individual, partnership, or limited liability company treated as a partnership) is October 15, 2020,<sup>10</sup>
- S Corporation's extended due date is September 15, 2020
- Corporations that file the forms 100 or 100W the extended due date will be November 16, 2020<sup>11</sup>

If the return is filed late the extension is denied and the taxpayer is subject to a late filing penalty.<sup>12</sup> The late-filing penalty is computed at a rate of 5% of the tax due for every month that the return is late, up to a maximum of 25%.<sup>13</sup>

In addition to the late-filing penalty that is based on tax, pass-through business entities (such as a partnership, limited liability company or S-corporation) are also subject to a late-filing penalty based on the total number of partners, members, or shareholders.

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<sup>8</sup> If a business entity is either suspended or forfeited, it is not allowed an extension.

<sup>9</sup> See [Appeal of Auburn Old Town Gallery, LLC](#) 2019-OTA-319P.

<sup>10</sup> In some cases additional time may be allowed, for example taxpayers residing or traveling abroad and members of the armed forces or merchant marines, beyond the U.S. boundaries.

<sup>11</sup> Because November 15, 2020, is a Sunday, the due date will be the following Monday, November 16, 2020.

<sup>12</sup> Regulation 18567(a). To avoid the late filing penalty the taxpayer would need to show their failure to file was due to reasonable cause.

<sup>13</sup> R&TC Section 19131, subd. (a). In some cases individual taxpayers may be subject to a minimum late filing penalty amount.

Refer to our Penalty Reference Chart ([FTB 1024](#)) for more information on the penalties we may assess businesses and individuals.

## Interest

Even if your client can show reasonable cause for either the late filing or late payment of tax, interest is charged. Interest is not a penalty. Since 1982, California law requires interest to be compounded daily.<sup>14</sup> Interest begins to accrue from the original due date for underpayments because the liability for tax arises on the original due date<sup>15</sup> and ends on the effective date of payment. Interest is mandatory, and we are not allowed to abate interest except where authorized by law.

Go to our [adjusted interest rates](#) webpage to find current and previous rates. If your client is planning to file their return under the automatic extension period, but has not paid the full amount of tax owed they can and should pay any unpaid tax as soon as possible after the original due date to avoid the accrual of penalties and interest.

Note: If your client cannot pay in full and needs to make monthly payments, they can request an [installment agreement](#).

## 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.

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<sup>14</sup> [R&TC 19521\(b\)\(1\)](#)

<sup>15</sup> [R&TC 19101\(b\)\(1\)](#)