



Tax News

January 2021

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Time’s running out for the Main Street Small Business Tax Credit

The Main Street Small Business Tax Credit is for employers affected by the economic disturbances of 2020. Taxpayers must make a credit reservation in order to claim the credit. The time to apply for the credit reservation began on December 1, 2020, and ends on January 15, 2021, or when the \$100 million in available credit is reserved, whichever happens first.

Taxpayers apply for the credit reservation from the California Department of Tax and Fee Administration (CDTFA).

Taxpayers must make an irrevocable election when they apply for their credit reservation to use their credit against:

- Income and franchise taxes, or
- Sales and use taxes

Information on requirements for the credit, how to compute the amount of credit available to you, and how to claim the credit are available on our webpage, or on CDTFA’s webpage.

New form: 1099-NEC, Nonemployee Compensation

Beginning in tax year 2020, payers must complete the new Form 1099-NEC, Nonemployee Compensation to report any payment of \$600 or more to a payee if the following conditions are met:

- You made the payment to someone who is not your employee.
- You made the payment, for services or fish purchases for cash, in the course of your trade or business (including government agencies and nonprofit organizations).
- You made the payment to an individual, partnership, estate, or, in some cases, a corporation.

A paper or electronic copy of the form 1099-NEC must be filed with FTB directly, even if you filed it with the IRS. For 2020, the due date is:

- February 28, 2021 for paper
- March 31, 2021 for electronic submissions

You may request an extension to file electronically by submitting FTB Form 6274A. Visit our webpage, Information returns for more information including mandatory electronic filing requirements.

Cannabis update from the Franchise Tax Board Cannabis Business Team

New Form for Reporting Cannabis Deductions

We continue to focus our efforts on education and outreach.

For taxable years beginning on or after January 1, 2020, California allows:

- Individuals
- Other taxpayers operating under the personal income tax law

To claim credits and deduction of business expenses:

- Paid
- Incurred in conducting commercial cannabis activity¹ (R&TC, Section 17209)

We will update our website by January 2021 to include the new Form 4197, “Information on Tax Expenditure Items.”

Taxpayers engaged in commercial cannabis activity will use the form to report tax expenditure items, including:

- Total deductions
- Credits
- Exclusions
- Exemptions

We will use the form to compile information for its required reporting to the California Legislature.

Education and Outreach

We also plan to mail more than 5,000 “Welcome Letters” to licensed cannabis businesses in January 2021. These letters will direct them to:

- Our website where they can access resources
- The new Form 4197 (to comply with their California income tax filing and payment responsibilities)

¹ Commercial cannabis activity mean a business licensed under California Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

We will continue our outreach activities this year to educate cannabis businesses about their California income tax filing responsibilities. This outreach will include attending online cannabis-related events and working with industry trade groups.

Banking

We continue to work with licensed cannabis businesses to assist them in making their California income tax payments. Because banks generally do not serve cannabis businesses due to federal law, cannabis businesses often pay their California income tax in cash.

Federal law may change this year to allow licensed cannabis businesses at least some access to banking services and help them move away from cash-only transactions. The COVID-19 relief package passed by the House of Representatives in October 2020 included the Secure and Fair Enforcement (SAFE) Banking Act of 2020. However the U.S. Senate did not consider the House's legislative package.

As of mid-December 2020, it was uncertain whether the SAFE Banking Act would be included in the economic relief package then under consideration by Congress. If the banking act is not included in an economic relief package, which was expected to be enacted in December 2020, there are indications the new Congress will consider it again during 2021.

In California, the enactment of AB 1525 in September 2020 provides some new legal protections for tax practitioners and has provisions that could help licensed cannabis businesses secure banking and armored car services. The legislation amended Business and Professions Code section 26260. Now, a person practicing public accounting does not commit a crime under California law solely by providing professional accounting services to persons licensed to engage in commercial cannabis activity. Furthermore, armored car services may do business with licensed cannabis businesses.

The new law also authorizes a person licensed to engage in commercial cannabis activity to request, in writing, that certain state and local agencies and authorities can share the person's application, license and other regulatory and financial information with a financial institution of the person's designation. This could make it easier for a licensed cannabis business to forge banking relationships.

Delayed Form 1099-G

There are certain circumstances where a timely filed tax return requires additional review and validation. When this occurs, the return may be held past the year in which it was filed. For example if a 2019 tax return is filed on October 15, 2020 and processing is delayed, we may not issue a refund until 2021.

When a refund is issued in a year after the filing year, a Form 1099-G will be issued for that year in which the refund is actually issued. Take note that taxpayers must then report the refund in the year it was actually received - not the year the tax return was filed resulting in the

overpayment. In the example provided, the refund should be reported in 2021, rather than 2020, and special attention may need to be paid as to how you or your clients report the income.

If you or your clients use tax preparation software, the Form 1099-G amount may be automatically erroneously populated for the year the tax return was filed. If this happens, the Form 1099-G information should be reviewed and updated to show the year the refund was actually issued. If using a tax preparer, taxpayers should notify their preparers of the year the refund was issued to ensure that the Form 1099-G information is accurate on the return.

If the Form 1099-G is not available when it is time to prepare the return, there are some resources available that can be used to verify the correct tax year and amount of the refund. They are in MyFTB, Secure Chat accessed within MyFTB, and/or the Tax Practitioner Hotline.

January 2021 application period for California Competes Tax Credit

For Fiscal Year 2020/2021, the remaining application periods are:

- January 4, 2021 through January 25, 2021
- March 8, 2021 through March 29, 2021

For the next application period, \$80 million is available for allocation. Applications for the credit will be accepted at calcompetes.ca.gov from January 4, 2021, until January 25, 2021.

Visit GO-Biz's Program webpage on the California Competes Tax Credit for more information.

January reminders: estimated tax payments, farmers and fishermen

Estimated tax payments

For individuals the fourth quarter estimated tax payments are due on January 15th, 2021.

Additionally, as we stated in our November 2020 edition: we will extend the time to file 2019 tax returns and pay 2020 estimated taxes due during the disaster period until January 15, 2021, for affected taxpayers in the following counties - Fresno, Los Angeles, Madera, Mendocino, San Bernardino, San Diego, Siskiyou, Napa, Shasta, and Sonoma. This matches the relief that the IRS has provided for these fires. (Announcements IR-2020-237; CA-2020-07).

Farmers and fishermen

There are special provisions for farmers and fishermen regarding estimated tax payments. If your tax year is the calendar year and at least two-thirds of your gross income (for 2019 or 2020) is from farming or fishing, your payment due date for your 2020 estimated tax is January 15, 2021.

Calendar year

The due dates for the first three payment periods don't apply to you. If you're a calendar year taxpayer and you file your 2020 Tax return (Form 540) by March 1, 2021, 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

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

Electronic payment may be mandatory but we encourage Web Pay for everyone. It's fast, easy and the most direct way to ensure payment has been made.

Statute of Limitation waiver e-Signature option extended

The e-Signatures option for Statute of Limitations (SOL) waivers that was set to expire on December 31, 2020, is now available through June 30, 2021.

Taxpayers or their representatives may submit signed SOL waivers to FTB by one of the following methods:

- Fax the SOL waiver to FTB with a handwritten signature.
- Email (encrypted) a copy of the SOL waiver with a handwritten signature to FTB.
- Upload a scanned copy of the SOL waiver with a handwritten signature to the taxpayer's MyFTB account.
- Upload a scanned copy of the SOL waiver with a handwritten signature to cloud storage and provide FTB staff the link to download the waiver.
- Utilize a third-party service such as DocuSign for their e-Signature solution.

We continue to update special tax relief related to COVID-19, visit our COVID-19 webpage for more information. Be sure to track this page over this next filing season for valuable updates that may affect you and your practice in the coming months.

Power of Attorney still requires original signature

We recently updated our COVID-19 FAQ page to reflect that for paper returns and other documents that must be signed with an original signature by a taxpayer and/or tax representative, we will not require an original signature through June 30, 2021, **except** for Powers of Attorney (POAs). POAs will still require an original signature. Follow the procedure on Submit a power of attorney if you need to submit a POA.

New Form: Request for Appeal Before the Office of Tax Appeals

We developed a new form, Request for Appeal Before the Office of Tax Appeals (FTB Form 1037), to assist taxpayers in filing appeals with the Office of Tax Appeals (OTA) from notices of action of FTB. Form 1037 mirrors OTA's Form L-01 – Request for Appeal. We developed this Form at OTA's request.

OTA's Rules for Tax Appeals, Section 30208 provides if an appeal does not contain all the information required under Section 30201 of OTA's Rules for Tax Appeals, OTA will notify the taxpayer that the information is insufficient and allow the taxpayer 30 days to perfect the appeal by providing the missing information. FTB Form 1037 will help taxpayers provide all the information required under Section 30201 to avoid this potential delay.

Taxpayers should start seeing Form 1037 with notices that have appeal rights after it is released on January 4, 2021. Although we believe FTB Form 1037 will be helpful to streamline the appeal process, taxpayers are not required to use the form when filing an appeal with OTA.

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 session plus two prior sessions	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 two years	Before and after each board meeting
FTB Notices	All years	When published
Interested Parties	Current plus two years	When published
Legal Guidance	All years	When published

Item	Web retention period	How often updated
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

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
- Easy to search

From State Controller's Office: Businesses may hear from unclaimed property owners

The California Unclaimed Property Law requires businesses to annually review their:

- Books
- Records

- Report any property to the State Controller’s Office (SCO) when there has been no activity for a period of time (generally three years for most properties and one year for payroll). Common forms of unclaimed property include uncashed checks, payroll, commissions, customer refunds, and vendor payments.

All businesses that have unclaimed property are required to send Notice Reports to the SCO annually before November 1 (before May 1 for life insurance companies). After receiving Notice Reports for unclaimed property, SCO mails letters to owners notifying them that their property may be sent to the State if not claimed directly from the business by a certain date. These letters include contact information provided by the reporting business for the owner to claim the property.

As a result, this is a key time of year when businesses may receive calls or emails from:

- Individuals
- Organizations

Who have received a letter from SCO indicating their property may soon be sent to the state.

If businesses are contacted by unclaimed property owners expressing interest in their property, they should make every effort to reunite the property with the owner and not remit it to the State.

Contact the Outreach and Compliance Unit with the Unclaimed Property Division of SCO at upholderoutreach@sco.ca.gov for more information or to request one-on-one assistance with reporting unclaimed property to the state.

MyFTB Corner

Update Contact Information feature misused



Tax Professionals have been using the Update Contact Information feature in MyFTB to “transfer” the account from one representative to another. This is not an appropriate use of the functionality. The MyFTB account belongs to the credentialed person – not the office – and MyFTB accounts are not transferrable (e.g., when a person sells their business).

We added the following warning in MyFTB as of January 4, 2021:

Warning: Do not update your name to give your account to another user. This may result in account deactivation. If you have added a partner or sold your firm, the tax professional taking over must create their own MyFTB account and establish relationships with clients, if such relationships do not already exist.

As a reminder, we monitor all user activity in MyFTB to ensure taxpayer information is only accessed by:

- The taxpayer
- Their authorized representatives

All About Business

Tax exempt organization application fee and filing fees eliminated

Effective January 1, 2021, Senate Bill 934 eliminates filing fees for nonprofit organizations:

- Seeking income tax exemption
- Filing the annual information returns

Application Fees: The \$25 application fee is no longer required for FTB form 3500, Exemption Applications filed on or after January 1, 2021.

Filing Fees: The \$10 filing fee and the \$25 late return filing fee is no longer required for Form 199, Exempt Organizations Annual Information Returns due on or after January 1, 2021, regardless of when the returns are actually filed. Late filing penalties will still apply.

Contact information

- Website: ftb.ca.gov and search for Charities
- Phone: (916) 845-4171. Assistance is available year-round from 7 AM to 4:30 PM weekdays, except state holidays.
- Mail:

EXEMPT ORGANIZATION UNIT MS-F120

FRANCHISE TAX BOARD

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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 (virtually), as well as other events happening with us, such as interested party and board meetings.