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Tax News

July 2019

Legislative bill watch list

Many tax bills are introduced at the beginning of each legislative season. As bills move through the first house portion of the legislative process, the number of bills that continue to move forward dwindles. Below are a number of franchise and income tax related bills that have passed to the second house:

- AB 37 (Jones-Sawyer) PIT Deduction/Commercial Cannabis Activity
- AB 78 (Committee on Budget) Healthcare
- AB 136 (Quirk-Silva) Charitable Contribution Deduction
- AB 614 (Eggman) Agriculture Product Donations to Food Bank Credit
- AB 1442 (Rivas) Share Our Values Tax Credit
- AB 1590 (Rubio) Qualified First-Time Homebuyer Credit
- SB 51 (Hertzberg et al.) Cannabis Limited Charter Banking and Credit Union Law
- SB 63 (Hertzberg) Student Loan Debt Relief
- SB 248 (Glazer) Renters Credit/Increase Credit/FTB Annually Adjust Adjusted Gross Income for Inflation
- SB 422 (Hueso) Hiring Credit
- SB 521 (Portantino) Section 8 Housing Tax Credit
- SB 763 (Galgiani) Mortgage Forgiveness Debt Relief Within Federal Disaster Area

The State Budget was signed on June 27, 2019. Budget trailer bills that include provisions affecting the Revenue and Taxation Code were also signed:

- SB 78 (Committee on Budget and Fiscal Review) Healthcare
- SB 92 (Committee on Budget and Fiscal Review) Office of Tax Appeals: Establish Alternative to Appear Before a Tax Appeals Panel

Additionally on June 27, 2019, two budget trailer bills, AB 101 and SB 102, were amended to include provisions that would modify the Low Income Housing Credit. A third trailer bill, AB 91 (Burke, et al.), was enrolled and not yet signed; Income taxation: Loophole Closure and Small Business and Working Families Tax Relief Act of 2019.

For more information on these and other bills we're currently analyzing, search for **legislative information** on our website. You can also follow legislative bills by using [California Legislative Information website](#).

2019 filing season update

Here is our first update for the 2019 Filing Season for returns, payments, and refunds as of June 1, 2019:

- To date, we have processed 18.5 million PIT and BE returns.
- 17.4 million personal income tax (PIT) returns were filed, with 88 percent being e-filed.
- 1.1 million business entity (BE) returns were filed, with 82 percent being e-filed.
- 8.3 million payments (PIT and BE), totaling \$37.1 billion.
- We issued 12 million PIT refunds totaling \$11.7 billion and 92,000 BE refunds totaling \$553 million.
- The average PIT refund increased slightly over 2018, while the BE average refund increased by nearly one-third.
- 88% of the PIT refunds were received by taxpayers within 14 days of filing, increasing to 98% of refunds being received within 30 days of filing.
- We received over 1.9 million Earned Income Tax Credit claims, allowing \$348 million in credits/refunds.

We will have another update for you later this year – stay tuned!

UPDATE: Changes to Power of Attorney (POA) Declarations “Pending Taxpayer Approval”

In the [May Tax News](#), we let you know about a POA process change coming this summer.

Please note that this **only** applies to those POA declarations you submit in MyFTB and do not attach the signed declaration. Declarations submitted in MyFTB that do not have the signed declaration attached require taxpayers to log into their own MyFTB account to approve the declaration.

Previously, these declarations remained indefinitely in a “Pending Taxpayer Approval” status. Taxpayers now have 90 calendar days from when the declarations are uploaded to MyFTB to approve the pending declaration. If a pending declaration is not approved within this timeframe, it will expire and be rejected. Beginning September and going forward, we will reject aged declarations under these new rules.

If you need to check the status of declarations you submitted on MyFTB, see

[Power of Attorney \(POA\) Declaration – Check POA Status](#)

[Tax Information Authorization \(TIA\) – Check TIA Status](#)

Declarations that require your client’s approval will display on MyFTB with a status of “Pending Taxpayer Approval.”

[New legislation impacts California Tax Education Council \(CTEC\) requirements](#)

California Assembly Bill 3143 was signed into law last year with new provisions and requirements that will extend the California Tax Education Council (CTEC) program until January 1, 2023. It was the third Sunset Review for CTEC since its inception 21 years ago.

The renamed Tax Preparation Act (Section 22250*) stipulates revisions that will impact CTEC Registered Tax Preparers (CRTPs) and includes additional responsibilities for the Council.

New 2019 requirements

Disciplinary actions

Starting **July 1, 2019**, CTEC will post on the ctec.org website:

- All disciplinary actions taken against registrants by the Council, including – but not limited to – misconduct that results in a suspension or revocation of a CRTP registration
- A list of registrants on probation, including the misconduct that resulted in the probation and any terms of probation

Reporting bond claims

Effective **July 1, 2019**, CRTPs are now **required** to report all paid claims against their \$5,000 surety bond to CTEC. CTEC will post all bond claims it receives on ctec.org.

California law requires nonexempt paid tax preparers (attorneys, certified public accountants and enrolled agents are exempt) to complete tax education courses, obtain a \$5,000 surety bond to protect taxpayers against fraud and register with CTEC each year.

Tax preparers who are doing business in California without a legal designation may face penalties up to \$5,000 from FTB.

New 2020 requirements

Background checks and fingerprint images – Begins July 1, 2020.

California Business and Professions Code Section 22251.3* was amended to require new applicants interested in becoming CRTPs to pass a criminal background check and submit fingerprint images to CTEC to determine an individual's eligibility to register as a CRTP. The new requirements are NOT applicable to current CRTPs, only new applicants who register beginning July 1, 2020.

Also beginning July 1, 2020, if a CRTP allows their CTEC registration to expire and they would like to reregister with CTEC, they not only will be required to retake the 60-hour qualifying education course, but they will also be required to go through another background check and resubmit fingerprint images to CTEC.

*All references are in the California Business and Professions Code, Sections 22250-22259

IRS recommends a "Paycheck Checkup"

The IRS recommends that everyone do a Paycheck Checkup in 2019. Though especially important for anyone with a 2018 tax bill, it's also important for anyone whose 2018 refund was

larger or smaller than expected. By changing withholding now, taxpayers can get the refund they want next year. For those who owed for 2018, boosting tax withholding early in 2019 is the best way to head off a tax bill a year from now. In addition, taxpayers should always check their withholding when a major life event occurs or when their income changes.

When to check withholding:

- Early in the year
- Whenever the tax law changes
- When life changes occur:
 - Lifestyle – Marriage, divorce, birth or adoption of a child, home purchase, retirement, filing chapter 11 bankruptcy
 - Wage income – The taxpayer or their spouse starts or stops working or starts or stops a second job
 - Taxable income not subject to withholding – Interest, dividends, capital gains, self-employment and gig economy income and IRA (including certain Roth IRA) distributions
 - Itemized deductions or tax credits - Medical expenses, taxes, interest expense, gifts to charity, dependent care expenses, education credit, Child Tax Credit, Earned Income Tax Credit

How to check withholding

Use the [Withholding Calculator on IRS.gov](#).

The Withholding Calculator works for most employees by helping them determine whether they need to give their employer a new [Form W-4](#). They can use their results from the calculator to help fill out the form and adjust their income tax withholding. If they receive pension income, they can use the results from the calculator to complete a [Form W-4P](#), Withholding Certificate for Pension and Annuity Payments, and give it to their payer.

Use the instructions in [Publication 505](#), Tax Withholding and Estimated Tax.

Taxpayers with more complex situations may need to use Publication 505 instead of the Withholding Calculator. This includes employees who owe self-employment tax, the alternative minimum tax or tax on unearned income from dependents. It can also help those who receive non-wage income such as dividends, capital gains, rents and royalties. The publication includes worksheets and examples to guide taxpayers through these special situations.

Change withholding

To change their tax withholding, employees can use the results from the Withholding Calculator to determine if they should:

- Complete a new Form W-4 and submit it to their employer.
- Not file with the IRS.

Those who don't pay taxes through withholding, or don't pay enough tax that way, may still use the Withholding Calculator to determine if they have to pay estimated tax quarterly during the year to the IRS. Those who are self-employed generally pay tax this way. See Form 1040-ES, Estimated Taxes for Individuals, for details.

More resources

[Pay as You Go, So You Won't Owe](#)

[Estimated Taxes](#)

Request for Federal Income Tax Withholding from Sick Pay ([Form W-4S](#))

Voluntary Withholding Request ([Form W-4V](#))

Ask the Advocate



Susan Maples, CPA

Taxpayers' Rights Advocate
Follow me on Twitter at
twitter.com/FTBAdvocate

Market based sourcing

For many of you, I'm sure this summer includes a well-deserved vacation before dealing with those returns that must now be filed by the extended due date. For me and my staff, summer time is when we have the opportunity to either speak or staff a table at some of the larger conferences and seminars many of you attend. One of the things I find most valuable about these events is having the opportunity to meet with you and hear your questions and concerns about filing tax returns and conducting business with the Franchise Tax Board.

One subject that comes up frequently when I'm out talking to tax professionals has to do with the sourcing of income for independent contractors who live and work out of California but may have done some work for a California-based company. If a California nonresident receives income for

services from a California company, even if that nonresident never physically worked or lived in California during the tax year, such income may be California-source income taxable by California.

This is based on the January 1, 2013 change in the law and often catches out of state independent contractors and their tax professionals off guard. Effective that date, California law¹ provides that when an independent contractor is engaged in business within and outside of California, that services income is sourced to the location where the independent contractor's customer received the "benefit of the services." In many of these cases, FTB finds that the "benefit of the services" was in California.²

Nonresidents must file a return if they have any California source income **and** their income from all sources is more than the [filing requirement amounts](#) for residents. Many taxpayers living and working outside of California, but providing a service to a business in California are surprised to learn they may have a filing requirement and owe tax to California despite never having physically worked or lived here.

Your nonresident clients may also benefit by filing, especially if they have had California income tax withheld from their compensation. Under California law, any individual or entity must withhold when making payments of California source income to nonresident individuals, among others.³ Withholding is required at a rate of 7% unless the total payments of California source income for the calendar year is \$1,500 or less, the income is not subject to withholding, or the payor has filed for a waiver or a request to withhold at a reduced amount.

The underlying rules for income sourcing and nonresident withholding are far more detailed than I could cover in one month's column. We have helpful information about both of these topics available to you on our website. The important point to remember though is that for your nonresident clients who have California sourced income, it's much better to file timely if they are required to than to ignore this obligation and possibly be subject to late-filing and late-payment penalties.

¹ Revenue and Taxation Code Section 25136.

² Regulations Sections 17951-4 & 25136-2.

³ Revenue and Taxation Code Section 18662.

MyFTB Corner

Reminder! File a Nonresident Withholding Waiver Request service will be temporarily unavailable

MyFTB File a Nonresident Withholding Waiver Request (Form 588) service will be temporarily unavailable. This service will be unavailable effective June 23, 2019. We expect to have it available by October 1, 2019.

If you need to request a waiver prior to this date, please complete Nonresident Withholding Waiver Request ([FTB 588](#)).

File the form by mail or fax:

Withholding Services and Compliance MS F182

PO BOX 942867

Sacramento CA 94267-0651

Or

FAX: (916) 845-9512

MyFTB Corner

Where's MyFTB?

The MyFTB login and where you register for a Tax Professional MyFTB account have been relocated on our newly redesigned FTB website.

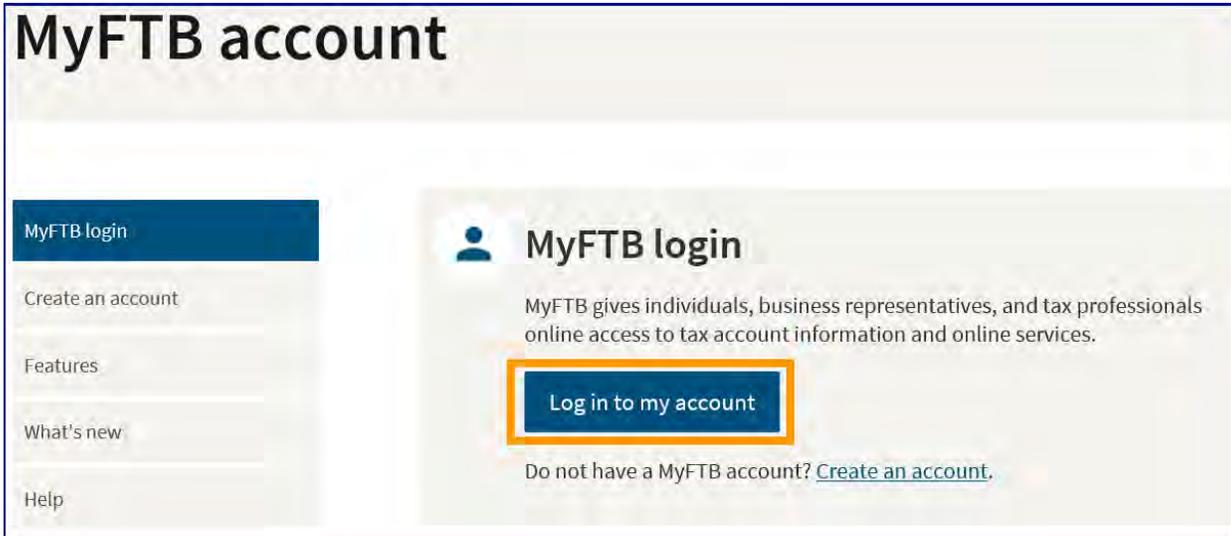
To log in to or to register for a Tax Professional MyFTB account:

Select **Account** in the blue ribbon that runs across the top of all webpages.



To log in to your Tax Professional MyFTB account:

Select the **Log in to my account** button in the **MyFTB login** section.



Select the **Continue to Login** button on the **Access Your Account** page.

Access Your Account

- MyFTB login
- Create an account
- Features
- What's new
- Help

MyFTB PIN Information

- You won't be able to log in to your MyFTB account until you receive your PIN from us.
- You will receive your PIN by mail within 10 business days from the date you registered.
- For your protection, we won't provide your PIN by phone, FAX, or email.
- If you have a visual disability and need an accommodation, go to [Accessibility](#) for assistance after you create a MyFTB account.

Pay Without Registering

[Web Pay for Individuals](#)

[Web Pay for Business Entities](#)

Continue to Login

To register for a Tax Professional MyFTB account:

Select **Create an account** from the left-hand menu or link in the **MyFTB login** section.

MyFTB account

- MyFTB login
- Create an account
- Features
- What's new
- Help

MyFTB login

MyFTB gives individuals, business representatives, and tax professionals online access to tax account information and online services.

Log in to my account

Do not have a MyFTB account? [Create an account.](#)

Select the **Create MyFTB** account button.

Create a MyFTB account

MyFTB login

Create an account

Features

What's new

Help

Get easy 24-hour online access to your (or your client's) tax information.

- Check payment history
- View account details
- View notices and correspondence

Create your account

Individuals/Businesses: Use recent California tax return information

Tax Professionals: Use professional ID number

Wait for your PIN

You should receive your PIN by U.S. mail within 5 to 7 days.

[Accessibility accommodation](#)

Activate your account

Log in and enter your PIN within 21 days.

Create MyFTB account

MyFTB Corner

Change Client

This summer has brought a fresh new look and feel to MyFTB! You may have noticed that we've also moved some things around.

One big change when you access your client's account; items that were on the left side of your page are now on the right side. Additionally, your client's name and the Change Client link are displayed at the top of the Overview page in the Client window.

Select the **Change Client** link to return to your **Client List** and select a different client.

The screenshot shows the MyFTB website interface. At the top, there is a navigation bar with the MyFTB logo, the text 'MyFTB', and links for 'Contact Us', 'FTB Home', and 'Log Out'. Below this, a welcome message reads 'Welcome Justin Case, Tax Professional'. A secondary navigation bar includes 'Home', 'Account', 'Communication', 'Services', and 'Profile'. The main content area features a 'Client: Rosie Bloom' field with a 'Change Client' link highlighted by an orange box. Below this is the 'Taxpayer Overview' section, which includes two columns: 'Contact Information' (SSN/ITIN: Ending in 0000, FTB ID: 0000000000) and 'Account Information' (Current Balance: \$1,044.63, 2018 Return Status: Not Received). To the right, there is a 'CalFile' button for filing state tax returns and a 'Contact Us' link.

All About Business

Administrative Dissolution Program

We established the Administrative Dissolution Program on January 1, 2019, allowing a qualified domestic Corporation or qualified domestic Limited Liability Company (LLC) the ability to request a Voluntary Administrative Dissolution/Cancellation.

This Program authorizes us to abate, upon written request by a qualified entity, the unpaid qualified taxes, penalties and interest for the taxable years in which the entity certifies under penalty of perjury it has ceased doing business or never conducted business, and has no remaining assets in the business name. It does require the entity to file and pay in full for the tax years in which it conducted business.

The entity must submit a request form to us by mail or fax. Only an officer, owner, member, director, or a FTB approved POA is authorized to request Administrative Dissolution/Cancellation.

Request forms to submit by entity:

- Corporations: Domestic Corporation Request for Voluntary Administrative Dissolution ([FTB 3715 PC](#))
- Limited Liability Companies (LLC): Domestic Limited Liability Company Request for voluntary Administrative Cancellation ([FTB 3716 PC](#))

Applying for Administrative Dissolution will not legally terminate a business. The entity is still required to submit the Certificate of Dissolution/Cancellation document to the [Secretary of State](#) to close their business. Please refer to sos.ca.gov for more information.

The entity may qualify if one of the following applies:

- The entity has been registered for more than 12 months, did business for multiple years, has filed and paid in full for those tax years it conducted business, has no remaining assets in the business name, and never filed the Certificate of Dissolution/Cancellation document with the Secretary of State
- The entity has been registered for more than 12 months, never conducted business, has no assets in the business name and never filed the Certificate of Dissolution/Cancellation document with the Secretary of State
- The entity has filed a Certificate of Dissolution/Cancellation document with the Secretary of State, and there are outstanding returns or balances for taxable years in which the entity was not conducting business and was registered with the Secretary of State

The entity will not qualify if one of the following applies:

- The entity stopped doing business within the last 12 months. The entity needs to file a timely final tax return to the FTB and file their Certificate of Dissolution/Cancellation document with the Secretary of State
- The entity has not conducted any business and has been registered for less than 12 months with Secretary of State. The entity needs to file a final tax return with the FTB and file their Short Form Dissolution Certificate /Short Form Cancellation Certificate document with the Secretary of State
- The entity has remaining assets in the business name. This typically includes: bank accounts, properties, debit to shareholders, etc.

The program has no benefits for the entity if one of the following applies:

- The entity has filed and paid up to the current tax year and there are no taxable years to abate
- The entity filed a timely final return for taxable year 2017 or 2018 and is still within the one year timeframe for closing a business. In this instance, there are no taxable years to abate

Additional information is available at our [Administrative Dissolution/Cancellation](#) webpage.

Beginning January 2020, we will initiate the Administrative Dissolution/Cancellation for entities that are suspended by us for 60 or more consecutive months and appear to have no business activity. More information regarding this process will be shared in upcoming Tax News articles.

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.