STATE OF CALIFORNIA
Franchise Tax Board

taxnews

Tax News

July 2020

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[Need to come to a field office? We are open, but make an appointment]

Our field offices reopened on June 15, 2020, to assist customers by appointment only.

Extended due dates remain the same amid COVID-19

The COVID-19 pandemic has changed many things this year. One of the biggest changes, as it relates to income taxes, was moving the due date for income tax returns from April 15 to July 15. That due date is fast approaching and you may have clients impacted by COVID-19 that are concerned about filing timely. If you are unable to file your client's income tax return by July 15, don't forget that California has an automatic extension that allows you to file their individual return by October 15, 2020.

Keep in mind that the automatic extension is only to file the tax return, but the due date for taxes payments is still July 15. If your client does not pay their tax liability by July 15, 2020, they will incur a late payment penalty plus interest.

Your client can use Payment for Automatic Extension for Individuals (Form 3519) if:

- They owe income tax for 2019 and are unable to file by July 15, 2020
- Their estimate tax was too low and they need to pay additional tax

Paying tax due as soon as possible could help them avoid or minimize further accumulation of penalties and interest. If the taxpayer does not file their tax return by October 15, 2020, they will incur a late filing penalty plus interest from the original due date (July 15, 2020) of the tax return.

Businesses also have an automatic extension to file their tax returns. Visit our website to find COVID-19 tax return and payment due dates, original due dates, and extension due dates for personal and the different business entity types:

- Calendar year filers
- Fiscal year filers
- Estimated tax payments

If your client is unable to pay their tax bill and want to get on a payment plan, they can apply for an installment agreement. From our home page at ftb.ca.gov go to Pay, then select Payment Plan for more information.

Your client can't pay their tax due by the July 15th deadline?

During these unprecedented and ever-changing times, a growing number of taxpayers may be faced with financial difficulties. We have different options available for your clients who cannot pay a current year balance due by the July 15th deadline. One option is to set up an Installment Agreement (IA) with us.

Generally, individuals can qualify for an IA if:

- The balance due is less than $25,000
- The balance due can be paid within 60 months or less
- Current with the last five years of tax filings

There are several different options to apply for an IA:

- Online: Go to ftb.ca.gov and search for [payment plans]
- By mail: Complete and sign [Installment Agreement Request (FTB 3567)] and mail to the address on the form instructions
- By phone: Call (800) 689-4776, 8 AM to 5 PM weekdays

You will need to have bank account information when filling out the application. The Installment Agreement Request allows taxpayers to set up an automatic electronic funds transfer (EFT) withdraw directly from a bank account. Review Form 3567 instructions for further information.

Within 30 days of receiving a request by mail or phone, an Installment Agreement Acknowledgement notice is generated by us to advise the taxpayer of receipt and our processing timeframes.

Once the IA is approved a $34.00 installment agreement fee will be added to the tax liability. In situations where taxpayers may not meet the criteria for an IA, or already have an IA or wage garnishment in place with us, call (800) 689-7446 for assistance.

Deferral period for installment agreement payments ends July 16, 2020

If you have been keeping up with our COVID-19 FAQs page, you are aware that similar to the IRS, we have placed a temporary suspension on the following collection activities through July 15:

- Personal income tax
- Business entity tax
- Nontax debt (court-ordered debt and vehicle registration collection)

This included [Installment Agreements] (IA).

If a taxpayer has an existing IA and was not able to comply with the terms, they could request to temporarily skip their payments until July 15, 2020, and we would not default the IA. However, the deferral period will end soon.

Beginning July 16, 2020 we will default IA if:

- A payment has been missed, and they did not request a skip payment.
- A new debt incurred during the deferral period that has now placed them outside of the IA criteria.

We will send a default notice, Notice of Intent to Cancel (Form 4021) if their IA is being defaulted.

If they receive a default notice and want to request an IA reset, contact us at (800) 689-4776, through Live Chat, or by secure email through your MyFTB account.

Any missed payments can be made up by July 16, 2020. Making up missed payments may not always prevent the IA from being defaulted. If they have made up any missed payments and receive a default notice, contact us.

If a taxpayer requested that their payments be skipped, they do not need to contact us now. Their installment plan will resume after the number of skip payments they requested has been completed.

The normally scheduled payment would resume on their normal date selected for the deduction. If the taxpayer did not request to skip payments, they will receive a notice of default for their IA. Any subsequent IA would be a new plan and not an extension of their prior plan. Interest will continue to accrue on their unpaid balance.

For those taxpayers still unable to make payments due to Coronavirus issues, they may be able to renegotiate their IAs by contacting us. Our staff are trained in assisting customers and have the administrative authority to:

- Delay, modify or release levies and garnishments.
- Allow for skipped Installment Agreement payments.
- Delay collection on accounts as warranted.
- Abate penalties when reasonable cause has been demonstrated;
- Place taxpayers into hardship or an installment agreement as warranted.

Going forward, our existing procedures will continue to be used. Taxpayers seeking an IA can request it online, by phone, by Live Chat or mail.

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 2068 Voluntary contribution – California Firefighters' Memorial Fund and California Peace Officer Memorial Foundation Fund
- AB 2247 Dependent Exemption Credit – allow alternate identification for dependent ineligible for ITIN
- AB 2660 Nonresident group return with nonresident aliens
- AB 3372 Electronic Withholding Orders/Water's Edge Election and Doing Business

- SB 587 Voluntary Contribution – California Sea Otter Fund
- SB 934 Exempt Organizations Filing Fees
- SB 1030 Housing omnibus – Low-income Housing Credit
- SB 1410 COVID-19 Eviction Relief Credit

Other bills of interest that have passed to the second house include:

- AB 102 CalSavers Retirement Savings Trust Act
- AB 289 Establish a California Public Records Act Ombudsperson to review contested denials of public records requests
- AB 2028 State Agencies/Bagley-Keene Open Meeting Act
- AB 2528 Taxpayer Bill of Rights timeframe for response to request for written advice
- AB 2570 Expand False Claims Act to include tax matters
- AB 3362 State Bar nontax debt collection – Client Security Fund

The California legislature passed a state budget on June 15, 2020. On June 10, 2020, two budget trailer bills, AB 85 and SB 114, were amended to include provisions that would impact FTB. On June 22, 2020, two additional budget trailer bills, AB 93 and SB 124, were amended to include changes to the CalEITC. AB 85 is currently enrolled, and includes provisions that:

- For taxable years beginning on or after January 1, 2020, and before January 1, 2023, limit the amount of allowable business credits, as specified, to $5 million.
- Extend film credit carryover periods under Revenue and Taxation Code sections 17053.95 and 23695.
- Suspend NOL deductions for taxable years beginning on or after January 1, 2020, and before January 1, 2023, for taxpayers with income, as defined, of $1 million or more. The provision would also extend the carryover period, as specified in the bill.
- Provide a first year exemption from the annual tax for limited partnerships, limited liability partnerships, and limited liability companies that register, file, or organize with the Secretary of State on or after January 1, 2021, and before January 1, 2024.
- Allow the credit related to new advanced strategic aircraft to reduce tax below the tentative minimum tax.
- Make clarifying changes to the Individual Shared Responsibility Penalty and limit the monthly penalty for a responsible individual with an applicable household size of five or more to the maximum monthly penalty for a responsible individual with an applicable household size of five individuals.

AB 93 is currently enrolled, and would modify the CalEITC by removing restrictions requiring certain SSNs and allowing limited use of federal ITINs by eligible individuals who have a qualifying child under six years old as of the last day of the taxable year. As a result of the changes to the CalEITC, this bill also would expand eligibility for the YCTC.

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.

California extends the Film and Television Tax Credit Program to 2025

In August 2018, California lawmakers enacted a third version of the California Film and Television Tax Credit Program known as Program 3.0. This program is a 5-year incentive set to allocate $330 million annually to qualified taxpayers.

Taxpayers can apply for an allocation beginning in July of 2020, when Program 2.0 expires, and continue through June 30, 2025.

For taxable years beginning in 2020, Program 3.0 credit can offset:

- California income tax
- Franchise tax
- Sales and use tax liabilities

Taxpayers can continue to use the carryovers from the former credits against their taxes until they expire.

The California Film Commission (CFC) will continue administering this program. Certificates under Program 3.0 will be issued beginning July 1, 2020, with certificate numbering starting at 7000.

Reporting changes - California Motion Picture and Television Production credit

We are modifying California Motion Picture and Television Production Credit (FTB 3541) for the 2020 taxable year.

- The form will contain the following new items:
  1. A "check box" to indicate if the credit is the:
     a. Original credit
     b. New credit
     c. Program 3.0 credit
  2. An additional entry line for reporting the copyright registration number associated with the certificate.
- A separate FTB 3541 must be used when reporting each of the three credits.
- Both the certificate and associated copyright registration number should always be provided on FTB Form 3541 when reporting or using the credit.
- Pass-through entities, that are allocated this credit, should provide the certificate and copyright registration number details to their: members, owners, and shareholders reporting and/or utilizing the credit.

To claim the credit, refer to the information in the table:

	Program 3.0	New credit	Original credit
Effective Date	Taxable years beginning on or after January 1, 2020	Taxable years beginning on or after January 1, 2016	Taxable years beginning on or after January 1, 2011
Name	Program 3.0 California Motion Picture and Television Production Credit	New California Motion Picture and Television Credit	Original California Motion Picture and Television Credit
Credit Code number	239	237	223
Certificate numbers	7000 and above	5000 to 6999	Below 5000

Visit our Motion Picture and Television Production Credit website for additional information.

California Like-Kind Exchanges (FTB 3840) letters

Beginning in July through August 2020, we are mailing letters to taxpayers who either failed to file or filed an incomplete FTB 3840 for 2017. The letters request that taxpayers file FTB 3840 to include California-specific details. This is similar to requests that we made for the 2016 tax year which were mailed during late 2019 and early 2020. Taxpayers who were not previously identified as having an FTB 3840 filing requirement for the 2016 tax year may also receive a letter at this time.

As mentioned in our October 2018 Tax News in the article, FTB 3840, California Like-Kind Exchanges, Filing Requirements and Tips for Correct Reporting, California requires taxpayers to file form FTB 3840, California Like-Kind Exchanges, when they exchange real property located in California for like-kind property located outside of California. This requirement began with tax years beginning on or after January 1, 2014.

FTB 3840 must be filed in the year the like-kind exchange occurs and every year thereafter as long as the gain or loss is deferred. The reporting continues until one of the following occurs:

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

In addition, if the out-of-state replacement property is later exchanged for another property as part of a tax-deferred exchange, an FTB 3840 is still required because the gain or loss deferral continues.

The instructions for FTB 3840 require that the federal amounts reported on Part III, line 12 through line 25 of federal Form 8824 be entered on FTB 3840, Part II, and line 7 through 20, respectively. In addition, Schedule a, Parts I, II, and III require California-specific information.

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)

Visit [Instructions for Form FTB 3840 California Like-Kind Exchanges] instructions on our website for additional information.

POA/TIA notices coming when revocation is required – Part II

In the April 2020 edition of Tax News, we let you know that beginning in May 2020, when we receive information that a taxpayer is deceased, we would revoke any Power of Attorney (POA) declaration or Tax Information Authorization (TIA) that the taxpayer was listed on and would send a notice.

One exception to this new procedure was for POAs and TIAs properly established after a taxpayer's death. These will remain in effect unless otherwise revoked or expired.

We want to let you know that a similar process for deceased representatives will begin this July. When we receive information that a representative is deceased, we will:

1. Remove them from any POAs or TIAs that they are listed on
2. Send a notice. Instructions will be provided with these notices for what to do in the event of an error.

One important note: POAs and TIAs that list multiple representatives will remain active even after a deceased representative is removed. However, POAs and TIAs that list only a deceased representative will be revoked entirely.

Individual Shared Responsibility Penalty updated

Beginning January 2020, state law (Senate Bill 78 [Chapter 38, Statutes of 2019]) requires individuals to have minimum essential coverage or pay the Individual Shared Responsibility

Penalty (penalty) unless they qualify for an exemption. The law established that, for the years following 2019, the applicable dollar amount used to calculate the penalty will be indexed based on the California Consumer Price Index (CA CPI). As a result, the applicable dollar amount for 2020 is $750.

The applicable dollar amount may change annually.

Our [Health Care Mandate webpage]() and [penalty estimator]() have been updated.

Top 10 questions for Form 593, Real Estate Withholding Statement

On January 1, 2020, our new Form 593, Real Estate Withholding Statement went live. The new form is a combination of the prior:

- Form 593, Real Estate Withholding
- Form 593-C, Real Estate Withholding Certificate
- Form 593-E, Real Estate Withholding - Computation of Estimated Gain or Loss
- Form 593-I, Real Estate Withholding Installment Sale Acknowledgement

All essential information from the forms was consolidated into the new Form 593.

These are the top 10 questions we have received to date from withholding agents regarding the new Form 593.

1) Can someone without a social security number (SSN) complete the new Form 593?

   Yes, the Form 593 can be completed without an SSN. However, if an individual does not have an SSN/ITIN, they cannot meet a full or partial exemption in Part III or IV of the form and withholding is due. The seller will have to contact FTB to provide an SSN/ITIN after they obtain one.

2) Why does Form 593 require the escrow company to be the Remitter?

   The remitter has been defined as the person who will send the tax withheld on any disposition from the sale or exchange of California real estate and file the prescribed forms on the buyer's/transferee's behalf (18 CCR section 18662-2(v)). Typically, the REEP is the individual who remits the form and tax withheld to the Franchise Tax Board, and should identify themselves as the remitter.

3) Is the Buyer's signature required for every real estate transaction?

   No, the Buyer's signature is required only when the transaction is an Installment Sale.

4) Is the Remitter required to send a Form 593 for every real estate transaction?

Yes, Form 593 must be submitted for every real estate transaction, unless an automatic exemption applies under 18 CCR section 18662-3(d)(1).

5) In an installment sale, during escrow, would the Remitter complete the Buyer's information in Part I as the Remitter instead of REEP?

   During escrow, the remitter would be the REEP as they are the one submitting the payment and Form 593. The remitter is the person who will remit the tax withheld on any disposition from the sale or exchange of CA real estate and file the prescribed forms on the buyer's/transferee's behalf. (18 CCR section 18662-2(v)) Post escrow, the buyer would likely be the remitter.

6) Are electronic signatures accepted?

   Yes. We accept DocuSign, wet signatures, and scanned/fax signatures.

7) Explain how and when Form 593 is to be submitted? Can they be submitted in bulk each month or should they be sent in individually?

   The forms should be submitted by mail. You can only submit electronically if you are authorized to submit via SWIFT. The forms are due the 20th day of the month following the close of escrow. It is up to each business as to whether they want to submit all Form 593s in one batch or individually.

8) Where can we overnight Form 593?

   WITHHOLDING SERVICES AND COMPLIANCE MS F182
   FRANCHISE TAX BOARD
   PO BOX 942867
   SACRAMENTO CA 94267-0651

9) If the Buyer is required to sign, can they sign in counterpart?

   Yes, but we ask that only one Form 593 be submitted per transaction.

10) Under what circumstance is the seller's signature required?

    We require a Seller's signature in all circumstances.

Visit our website at ftb.ca.gov for more information about real estate withholding.

IRS accepting e-filing amended personal income tax returns soon

The IRS recently announced that beginning later this summer, taxpayers will now be able to file Form 1040-X electronically using available tax software products. The IRS' News Release explains that initially only the 2019 Forms 1040 and 1040-SR will be able to be amended electronically. Taxpayers will still have the option to file a paper Form 1040-X. According to the IRS, about 3 million Forms 1040-X are filed each year.

FTB began allowing e-filed amended person income tax returns beginning with the 2017 tax year and replaced the traditional 540X with the Schedule X. We wrote about these changes in the August 2019 Tax News.

For business returns, FTB allows corporations, nonprofit (tax-exempt) organizations, partnerships, and limited liability companies to use Business e-file to file original and amended returns for this year and the past two tax years.

The IRS also provides information on their website regarding e-filing amended and superseding corporate returns.

Ask the Advocate

July 2020 filing season is underway

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Taxpayers' Rights Advocate.
Follow me on Twitter at
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July is here which means the initial filing deadline for the 2020 filing season is now two weeks away. FTB is ready for your returns; our Filing Division is fully staffed and will be processing returns, credits and payments in a timely manner. You can expect refunds to go out as quickly as they have in prior years, especially when someone e-files.

FTB will begin sending out current year tax notices based on filed 2019 returns once all payments and credits have been processed. Because we are off to a later start this year, Notices of Tax Return Change (NTRC) with balances due and Statements of Tax Due for the 2019 tax year will start going out in August instead of May as in prior years.

Not having as long a break this year between the first and second part of filing season may present some challenges, but FTB is working hard to ensure as smooth a filing season for you as possible. Our contact centers will be there to answer your calls and resolve any issues or problems that come up, and if there are problems which cannot be resolved through the normal channels, my staff and I will be here to help.

One problem taxpayers face every year is that some are not being able to pay a balance due when a return is filed or after receiving a notice. When someone finds themselves in these circumstances, it is always best to file timely and pay as much of the balance due as possible, to reduce penalties and interest. Another good step to take after filing is to consider a payment plan, more commonly known as an installment agreement (IA). This allows a taxpayer to make monthly payments if they are unable to pay a balance in full and can also help someone avoid the involuntary collection process.

If you have been following FTB's COVID-19 Tax Relief and Assistance FAQ you may have seen that FTB has temporarily suspended a number of collection activities through July 15, 2020 and has granted extensions to taxpayers whose financial hardship was scheduled to expire. We have also been working with taxpayers who are in our involuntary collection cycle and experiencing financial hardships.

Looking back on my six years as your Advocate, I've come to realize that every filing season has been different. Some have gone smoothly while others presented unexpected challenges. With everything we have already faced this year, I hope the 2020 season goes well for you and that brighter days are ahead for everyone.

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.