STATE OF CALIFORNIA
Franchise Tax Board

taxnews

Tax News

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Worker classification and AB 5

We've heard from many tax professionals that they would like more information about:

- Worker classification
- Assembly Bill (AB) 5

As a result, we wanted to make sure that you were aware of the California Labor and Workforce Development Agency website and the FAQs that they posted to help the public understand AB 5 and what it does. We also developed a Gig Economy webpage which we will continue to update as more information becomes available.

Can't pay a tax bill?

The majority of the early tax returns are filed for refunds. However, as tax season moves into the later months, more and more returns are filed with a balance due.

What if your client cannot pay the balance due with their return? We understand unexpected events can make it hard to pay state income taxes on time. And that is why one of our payment options is to create a payment plan. However, this cannot occur until a liability has been established. In other words, a return must be filed, processed, and a bill must be sent out. As a result it will take several weeks after the return has been filed for your client to receive a bill.

In the meantime we recommend that taxpayers pay whatever they can to reduce the tax liability at the time the return is filed. And, continue to make payments on account until the bill arrives. This will reduce any penalties and interest that may accrue until the balance is paid in full. Please see our secure online Payment Options available to you and your clients at ftb.ca.gov.

Once the bill has been received, your client may qualify for a payment plan if:

- The balance due is less than $25,000
- The entire balance due can be paid in 60 months or less

To learn more about payment plans and to apply for a payment plan:

- Payment Plan for individuals ($34 setup fee)*
- Payment Plan for businesses ($50 setup fee)

Also, individuals may apply online for a payment plan if they meet certain additional requirements.

Finally, if your client does not meet the criteria for a payment plan as described above, please call our agents for assistance. They will help you with the more complex payment situations.

- Phone Number Individuals (800) 689-4776
- Phone Number Businesses (888) 635-0494

Reminder: Only populate the Partnership Level Tax line after a centralized federal partnership audit

The Partnership Level Tax (PLT) line on Forms 565 or 568 should only be used to report changes or corrections made by the IRS under the centralized partnership audit regime, commonly referred to as a CPAR audit. There should be no amount entered for PLT on a timely filed original return. The PLT line is only used when a partnership or limited liability company (LLC) needs to amend their return to report entity level tax resulting from adjustments made by the IRS.

This new line to report entity level tax first appeared on our 2018 tax forms. As part of an education and outreach effort, during the 2019 filing season we reached out to over 800 partnerships and LLCs that incorrectly included an amount on the PLT lines.

Moving forward, as we process returns, we will monitor the correct use of this new line. If a PLT amount is entered on the return, a Return Information Notices (RIN) may be issued as a part of our normal return processing. If your client receives a RIN and disagrees with the adjustments or need clarification, please follow the guidance provided in our FTB 5949 Publication, Return Information Notice Explanation.

California Competes Tax Credit application period starts March 9, 2020

The California Competes Tax Credit (CCTC) is an income or franchise tax credit available to businesses that want to come 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 period is March 9, 2020 through March 30, 2020.

For the last application period, $71.8 million is available for allocation plus any remaining unallocated amounts from the previous application periods. Applications for the credit will be accepted at calcompetes.ca.gov from March 9, 2020, until March 30, 2020.

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

Individual Shared Responsibility Penalty Calculation

California's new Minimum Essential Coverage Individual Mandate (Ch. 38, Stats. 2019), otherwise known as the individual health care mandate, requires Californians to have health insurance coverage effective January 1, 2020.

Under the new law, California residents who do not have coverage for themselves and their dependents in 2020, and who do not otherwise qualify for an exemption, will pay an Individual Shared Responsibility Penalty when they file their 2020 California income tax returns in 2021. The penalty is based on several factors, including an individual's age and the household's gross income and is calculated monthly. The penalty applies to each individual who does not have coverage or an exemption.

To assist taxpayers and tax professionals in determining the potential amount of the penalty for the 2020 taxable year, we recently issued FTB Notice 2020-01. For purposes of calculating the penalty, the Notice clarifies the monthly state average bronze plan premium amount per individual and per household size of five or more nonexempt individuals. This Notice provides that for purposes of the penalty, households with five or more members would use the monthly state average bronze plan premium amount based on a household of five.

Refer to FTB's Health Care Mandate webpage or Covered California, the official site of California's health insurance marketplace for additional information regarding the new law and obtaining coverage.

Double check the address on your client's tax return

After a tax return is filed most of us take a deep breath and say, "one more for the books." However, it doesn't always end there. One additional step you should take is to make sure we have a current address for contact.

Generally, you will need to make sure we have a current contact address for your client if:

- They are expecting a refund
- They have a balance due
- We make an adjustment to their tax return during processing

There may be times when a client moves just prior to or shortly after filing their most recent tax return without telling you or us. Not having an updated address for your client can definitely lead to problems.

For example, when a refund is delayed due to additional processing and direct deposit wasn't requested it may be sent out several months after you or your client expect. Without a current address, it will most likely be returned to us.

But, it’s not just refunds that we need to be concerned about. More serious problems can occur when the taxpayer:

- Files a balance due return and is waiting for us to send the first billing notice (Statement of Tax Due) in order to set an installment agreement
- Is unaware of a balance due from a notice of tax return change that we issued during processing of their return.

Unfortunately, over time and unattended balance may result in:

- Additional penalties
- Fees
- Collection action

The best way to avoid these unnecessary mishaps is to double-check the current mailing address with your client and make any necessary changes.

Addresses may be updated with the most recent return. Visit our How do I change my address? webpage for additional ways your client can update their address.

Customer Alert – Misleading solicitations to new business owners

We received a phone call from a concerned tax professional asking if a letter his client received was legitimate. The letter was from a company selling a service to the newly registered business that can be obtained directly from the Secretary of State (SOS). The letter directed the business owner to submit a payment and complete a form by a certain date to receive a “Certificate of Status.” Only the SOS can issue a Certificate of Status, and any “Certificate of Status” issued by a private company is fraudulent. Businesses can obtain a genuine Certificate of Status directly from the SOS for a $5.00 fee, without necessity of hiring a private company as an intermediary.

Visit SOS’s webpage, Customer Alert – Misleading Certificate of Status Solicitations, for more information about how to identify these solicitations and instructions on obtaining a Certificate of Status from the SOS.

Ask the Advocate

Helpful tips for your clients that file as HOH

Susan Maples, CPA.
Taxpayers' Rights Advocate.
Follow me on Twitter at
twitter.com/FTBAdvocate

March and April are definitely busy months for tax professionals and we know that you have less time available to read our monthly newsletter. For this reason, Tax News is usually lighter on content for these two months. Nevertheless, we don’t want you to miss out on something that may be important to you, so I want to briefly mention a few tips that may be helpful for your clients that file as head of household (HOH).

As you may be aware, beginning with tax year 2019 FTB has moved up its validation process for HOH filing status to when a return is filed. Historically, we reviewed HOH filing status well after the filing season, which led to refunds initially being issued only to be followed by an audit letter or billing notice. The new process allows FTB to determine the correct refund much sooner and also alerts taxpayers much earlier if they have made a mistake.

So what can you do to make this process go smoother for your HOH clients? One simple thing you can do is to double-check that all default and prepopulated (from year to year) lines or boxes are correct when completing the HOH filing information. Due to annual changes and updates in tax software, an FTB HOH form 3532 or filing questionnaire that was completed correctly in a prior year should still be reviewed when information from the earlier year is used for the current year’s return.

We have seen instances where an otherwise qualifying HOH filing status was denied because the tax software program used to prepare the return defaulted to “0” for the number of days the qualifying person lived with the taxpayer when in prior years the default number of days was “365.” Similarly, if your client’s qualifying person is a full-time student, take a moment to make sure that box is checked, even if you are using the same tax software as last year.

I know the frustration that an FTB notice can create for both you and your client, especially when you believe the return in question was completed correctly. By taking these few extra steps when preparing and filing your HOH clients’ returns you may be able to save yourself some time and effort during this busy time.

Remind your clients that own a disregarded SMLLC, to file a tax return (Form 568)

A single member limited liability company (SMLLC) that is disregarded for federal tax purposes, is also disregarded for California tax purposes subject to certain exceptions.[1]

However, California law explicitly provides that the separate existence of the eligible business entity is not disregarded for purposes of the:

- LLC tax[2]
- LLC fee[3]
- LLC return filing requirement[4]
- Tax credit limitations[5]

Generally, a disregarded SMLLC must file a Form 568 by the same deadline applicable to the owner's tax return. California grants an automatic extension of time to file a return. An extension of time to file is not an extension of time to pay the LLC tax or fee.

In addition, California law limits the amount of credits the owner of a disregarded SMLLC can claim.[6]

Taxpayers should be aware that credits attributable to the activities of an SMLLC are limited to the increase in the owner's regular tax, (tax before reduction by any credits), that results from including the income and expenses attributable to the disregarded entity.

Taxpayers should also be aware that a disregarded SMLLC is required to:

- File a tax return (Form 568)
- Pay the LLC annual tax
- Pay the LLC fee (if applicable)

Items of income, deduction, and credit (after applying appropriate limitations) from the SMLLC should be included in the owner's tax return.

Visit our Due dates for Businesses webpage for more information.

[1] Revenue and Taxation Code (R&TC) Section 23038

[2] R&TC Section 17941

[3] R&TC Section 17942

[4] R&TC Section 18633.5

[5] R&TC Sections 17039 and 23036

[6] R&TC Sections 17039 and 23036

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.