



# Tax News

May 2018

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## Schedule CA (540 and 540NR)

[Federal H.R.1, Tax Cuts and Jobs Act](#), made changes to federal itemized deductions and the federal standard deduction amounts beginning with the 2018 tax year. These federal changes have significant impact to California Schedule CA (540 and 540NR), California Adjustments, and will require us to make major changes to the form.

FTB plans to update the 2018 Schedule CA (540 and 540NR) as a result of federal H.R.1. The planned changes to Schedule CA (540) are as follows:

- Schedule CA (540), Part II, Adjustments to Federal Itemized Deductions, will be reformatted with three columns similar to Schedule CA (540), Part I.
- Schedule CA (540), Part II will list line numbers to mirror federal Schedule A, Itemized Deductions.
- Schedule CA (540), Part II, Column A will be the federal amounts from federal Schedule A with Column B (subtractions) and Column C (additions) that will allow for state adjustments to federal amounts on each line.
- Schedule CA (540), Part II will have all three columns total at the bottom. Then the column totals will be combined into one subtotal amount.
- A new Part III will be added to Schedule CA (540) for California only deductions and for those deductions expected to be removed from federal Schedule A but still deductible for California such as job expenses and miscellaneous itemized deductions.

Schedule CA (540NR), Part III, Adjustments to Federal Itemized Deductions, will have similar changes mentioned above for Schedule CA (540), Part II.

The main benefit of these changes puts the entire form in a consistent format while allowing the taxpayer to easily see all California adjustments made to each federal line items listed on the form.

Our revised Schedule CA is still under development, we would like your feedback on our planned changes. Send your comments directly to us on our website at Tax Form Improvement Suggestions, by May 31, 2018.

## Summary of federal tax changes

There has been a great deal of interest and attention paid to the recent federal law changes. To help you better understand the extent of the federal changes and their impact on California's tax laws, our Legislative Services Bureau recently released their Summary of Federal Tax Changes. This report is required by law to be submitted to the legislature annually and is frequently referred to as the conformity report. It is available on our public website.

This report explains the new 2017 federal laws along with the effective dates and the corresponding California law (if any) including an explanation of any changes made in response to the new federal law. It also includes the impact on California revenue if California were to conform to applicable federal changes.

This report also contains citations to the section numbers of federal public laws, the Internal Revenue Code, and the California Revenue and Taxation Code sections impacted by the federal changes. Finally, the report contains several exhibits and tables, including a listing of provisions expiring in California tax law.

## “New” financial hardship evaluation enhancements

Available June 1, 2018, you will be able to use our new form, FTB 3561C, Financial Statement to evaluate your clients' financial status and ability to pay. The form, when coupled with our evaluation procedures, will provide a consistent process and reduce the burden for documenting income and expenses used to determine an individual's ability to pay personal income tax liabilities.

We know that California taxpayers' financial situations may be complicated and unique. They may even owe the IRS. In instances where taxpayers are unable to pay their tax liability in full or enter into an Installment Agreement (IA), we may need to substantiate their financial situation. However, that does not mean that the process has to be difficult or a mystery to maneuver. With that in mind, we created a form and evaluation procedures that are:

### **Fair and consistent**

Our staff determines when a financial statement is required, as well as evaluates assets, income, and expenses. In an effort to ensure consistency when reviewing financial statements,

we developed the Financial Statement Requirement Criteria to determine if a taxpayer is required to provide a financial statement to enter into an IA, reduce the amount of an existing IA, or modify an existing bank or wage levy. Generally, a taxpayer will be required to complete a Financial Statement under the following circumstances:

- When the total balance is greater than \$25,000; or
- An IA will not pay in full within 60 months; or
- Claims they do not have the ability to pay (financial hardship); or
- Return/release of assets seized by Warrant; or
- Has demonstrated history of non-compliance.

### **Similar to the IRS' financial hardship evaluation process**

In 2016, we drafted and adopted Regulation 19195-2 to provide guidance for evaluating an individual's ability to pay their tax liability. The regulation significantly aligns our evaluation procedures with the [IRS Collection Financial Standards](#) for evaluating a taxpayer's ability to pay. The Collection Financial Standards take into account allowable living expenses necessary to provide for a taxpayer's (and his or her family's) health, welfare and production of income. Expenses are categorized as [Local Standards](#) and [National Standards](#). In addition, we will allow certain other essential expenses like child and health care benefits. If the taxpayer submitted an IRS Form 433-A or 433-F, dated within the previous 12 months, we will accept that form in-lieu of the FTB 3561C.

### **Simple to use**

The new Financial Statement includes detailed instructions on how to complete the form and expenses have been organized to match the Collection Financial Standards. In June 2018, we will update our online Collection Procedure Manual with the new Financial Hardship Evaluation Procedures to provide clear direction and guidance.

We are pleased to provide a comprehensible process and tools that allow you to service your clients' needs in an efficient manner.

### **Notice of State Tax Lien**

The issuance of a Notice of State Tax Lien (NSTL) is a protective action taken by us to encumber property that could be used to satisfy delinquent liabilities owed to the state of California and to secure a position of priority among other creditors.

We continue to monitor the number of liens recorded or filed annually and pursue efforts to contact taxpayers early in the collection process to educate and encourage compliance prior to issuing an NSTL.

We implemented the FTB 4932, Intent to Record a Notice of State Tax Lien, in December 2014 in an effort to increase taxpayer awareness, increase compliance, and provide education on the negative impacts from the filing of a state tax lien as well as reduce the number of state tax liens issued. The notice clearly identifies consequences of a recorded Notice of State Tax Lien and indicates if payment in full is not received within 30 days from the notice date, that “we intend to record” a Notice of State Tax Lien against their property. This additional education and outreach can increase taxpayer awareness, increase taxpayer compliance, and reduce the number of involuntary collection actions taken on an account.

### **How your clients can prevent a lien**

- File required tax returns timely or provide proof that there is no filing requirement.
- Pay the tax liability in full when it becomes due or enter into a qualifying installment agreement.
- Ensure sufficient withholding or estimated tax payments.
- Respond to all FTB notices received to make sure the tax matter has been resolved.
- Maintain a current address with us.
- Verify tax documents (such as W2, 1099, K1, and tax returns) have the correct identifying numbers and information.

### **How to resolve a lien - Contact us**

To get a lien released, pay the total tax liability (including any penalties and accrued interest) for the tax year(s) included on the lien. If your client is not able to pay the tax liability, contact us to discuss available options. Use our website to find the best way to contact us.

### **Notices Issued in May**

During the last week of May, we will start mailing FTB 5818-B, Notice of Tax Return Change - Revised Balance.

This notice corrects an error(s) made on a tax return. For additional information about this notice, go to [ftb.ca.gov](http://ftb.ca.gov) and search **notice of tax return change**.

If you are an authorized representative, you can view your client's notice in MyFTB:

- **Power of Attorney clients** – use the **Client Notices** page from your Tax Professional account.
- **Tax Information Authorization clients** – from your Tax Professional account, go to your client's MyFTB account and select **Notices & Correspondence** from the Communications dropdown menu.

### Did you miss a Tax News article this tax season?

We know this was a busy time of year for you, so let us highlight a few of the articles you might have missed.

First, we replaced Form 540X with the new Schedule X, California Explanation of Amended Return Changes, which reconciles the differences between the original and amended return to determine any additional amount owed or refund due. The Schedule X also provides a simplified approach for taxpayers to report the reason(s) for amending. For more information, check out our January issue, *New Amended Return Process for Tax Years 2017 and Beyond*, the February issue for the *Advantages of the New Schedule X*, and the April issue, *A Reminder About the New Schedule X*, that gives some tips on common mistakes.

Second, we posted critical information about the affected taxpayers impacted by Southern California wildfires, floods, and mudslides that began in December 2017. We granted an extension to file 2017 California tax returns and make payments until April 30, 2018.

Last, have you visited our cannabis webpage or checked out the changes to MyFTB lately? The cannabis webpage includes helpful information for cannabis businesses. For MyFTB, we dedicate a monthly column to the new features, tips, and procedures MyFTB provides to tax professionals.

## No cash payment policy

In general, we do not accept cash payments. However, your clients in cash-based businesses who are unable to pay by means other than cash may apply for an exemption to our no cash policy using the form FTB 3711, No Cash Policy Exemption.

Once the exemption application has been received, we will respond in writing within two business days. If approved, you or your client may contact us to schedule an appointment to make the cash payment. Requests for appointments need to be made at least 14 business days prior to the date you wish to make the payment.

If the taxpayer is required to make mandatory e-payments, we recommend that you also complete and submit a Mandatory e-Pay Election to form FTB 4107, Discontinue or Waiver Request, for individuals, or FTB 3816, Electronic Funds Transfer Election to Discontinue or Waiver Request, for business entities each time a cash payment is made.

## How to close a California business entity

Business entities doing or transacting business in California or registered with the California Secretary of State ([SOS](#)) can dissolve, surrender, or cancel when they cease operations in California and need to terminate their legal existence here.

- Domestic corporations (those originally incorporated in California) may legally dissolve.
- Foreign corporations (those originally incorporated outside California) may legally surrender.
- Limited liability companies and partnerships (both domestic and foreign) may legally cancel.

## Steps to dissolve, surrender, or cancel a California business entity

Dissolving, surrendering, or canceling a California business entity is a multi-step, multi-state agency process that has requirements with us and SOS.

## Requirements for FTB

The business entity must:

- File all delinquent tax returns and pay all tax balances, including any penalties, fees, and interest.
- File the final/current year tax return. Check the applicable **Final Return** box on the first page of the return, and write “**final**” at the top of the first page. All tax returns remain subject to audit until the statute of limitations expires.
- Cease doing or transacting business in California after the final taxable year.

## Requirements for SOS

The business entity must:

- File the appropriate dissolution, surrender, or cancellation form(s) with the SOS within 12 months of filing the final tax return.
- If the business entity is **suspended** or **forfeited**, it will need to go thru the revivor process and be in good standing before being allowed to dissolve, surrender, or cancel. To revive a suspended or forfeited business entity **each of the following must be done**:
  - File all delinquent tax returns.
  - Pay all delinquent tax balances, including penalties, fees, and interest.
  - File a revivor request form.

For more information on how to revive a suspended or forfeited business entity go to our revivor webpage.

## Additional steps

There are some additional steps that may need to be taken while closing a business entity.

- Notify all creditors, vendors, suppliers, clients, and employees of the intent to go out of business.
- Close out business checking account and credit cards.
- Cancel any licenses, permits, and fictitious business names.
- Consider publishing a statement in a local newspaper of general circulation near the principal place of business that the business entity is no longer in business.

## Additional resources

Here are some additional resources that are available for more information:

- Tax News Live Video “[Close Business Entity in California](#)”
- Publication 1038, Guide to Dissolve, Surrender, or Cancel a California Business Entity
- Publication 1123, Common Forms of Ownership



- Closing a Business Entity webpage on our website.
- [Closing a Business](#) section on the California Business Portal Website.
- [How do I terminate \(dissolve, surrender or cancel\) my business entity?](#) (This question is answered in the FAQ section of [SOS](#) website.)

## Top 500 delinquents taxpayers list

We published our newest list of top 500 delinquent taxpayers on April 13, which includes individuals and businesses that collectively owe the state more than \$505 million in income tax.

In February, we sent letters to taxpayers scheduled to appear on the list. Of these taxpayers, 103 made arrangements to pay their tax debt. Another 324 individuals and 73 businesses did not, resulting in their inclusion on the list.

Since the list's inception in October 2007, we collected more than \$798 million from delinquent taxpayers through the program.

Delinquent taxpayers on the list face an array of consequences:

- If they hold a professional or occupational license, that information is noted on the list and the license may be suspended until the tax bill is resolved.
- The state may suspend the delinquent taxpayer's driver license until the tax bill is resolved.
- State agencies are prohibited from entering into contracts for the acquisition of goods or services with listed taxpayers.
- We publish the names and titles of principal corporate officers of corporations on the list.

We remove a taxpayer from the list once the debt is paid or the taxpayer agrees to make payments under an approved agreement or compromise. Tax liabilities for which the persons liable have filed for bankruptcy protection are not included on the list.

Individual taxpayers on the list can call 888.426.8555 to resolve their accounts. Business taxpayers can call 888.426.8751.

## Ask the Advocate

Working together for taxpayers



**Susan Maples, CPA**

Taxpayers' Rights Advocate

Follow me on Twitter at

[twitter.com/FTBAdvocate](https://twitter.com/FTBAdvocate)

As your Advocate, much of my work focuses on how the Franchise Tax Board interacts with you and your clients. However, I do not work alone. I also work closely with the Advocates at our sister state agencies: Bradley Hodges at the Employment Development Department (EDD), Todd Gilman at the California Department of Tax and Fee Administration (CDTFA), Lisa Thompson at the Board of Equalization (BOE), and Jesse Torres at the Governor's Office of Business and Economic Development (GO-Biz), as well as the Ombudsperson at the Office of Tax Appeals (OTA), Dana Holmes.

Working with these individuals helps me better understand the challenges that both taxpayers and tax professionals face when it comes to meeting their obligations to us. This month, I'd like to first provide some background information for the newly appointed Advocate for the BOE and the newly appointed Ombudsperson at OTA, and give you a brief recap of our most recent meeting.

Lisa Thompson is the new Advocate for BOE. She is a certified property tax appraiser with over 26 years of property tax experience, including supervisory and management experience. She specialized in the areas of change in ownership for legal entity changes in control and exemptions for nonprofit organizations.

Dana Holmes is the new Ombudsperson for OTA. She has over 28 years of professional experience, beginning with the State Controller's Office followed by 24 years at the BOE. In her role as Ombudsperson for the newly created agency, Dana acts as an intermediary between taxpayers and the OTA, helping them navigate the tax appeals process. Dana is currently fielding a lot of questions from taxpayers, attorneys, accountants, representatives, and other tax agencies explaining OTA's appeals policies and procedures, and assisting taxpayers or their designees about upcoming appeals hearings.

I meet with my fellow Advocates and OTA's Ombudsperson quarterly to discuss issues facing taxpayers and tax professionals and we work together whenever possible to find viable

solutions. Our most recent quarterly meeting was held April 20th here in Sacramento. We discussed several issues and had a roundtable discussion regarding our respective agencies' education and outreach efforts. My staff and I are always looking for better ways to keep you and your clients informed and these meetings help us to understand what is working best.

The Advocate for Go-Biz updated our group on efforts towards reauthorizing the California Competes Credit and gaining funding for a proposed Small Business Technical Assistance Expansion Program. Also on the agenda was the [Sacramento County Bar's](#) 5th Annual Tax Symposium on May 9th where Advocates for EDD and IRS, the Ombudsperson for OTA and myself will be on a discussion panel entitled "How to Effectively Work with Your Tax Advocate". An additional item of interest from our meeting was the update of Publication 145 [We're Here For You](#). This publication has contact information for all the Advocates and OTA's Ombudsperson, and is being updated to include general information and contact numbers for both the OTA and BOE. Finally, if you or one of your clients is interested in a small business seminar or a basic sales and use tax class, or something similar, CDTFA's [Education and Outreach Calendar](#) includes links to these and other seminars statewide. These seminars are a great source of information for anyone considering starting a new business in California.

In closing, please know that each of us works hard on your behalf every day. We are committed to helping you navigate a process that may at times be confusing and working with you to find solutions when things don't go as they should.

## MyFTB Corner

### Security enhancements coming to MyFTB

On June 24, we will upgrade MyFTB with enhanced security changes to better protect taxpayers' online confidential data. These changes only relate to your online account access in MyFTB. Below is a summary of the changes.

When we approve a new Power of Attorney (POA) or Tax Information Authorization (TIA) relationship, we will automatically grant **Limited Online Account Access** to your client's information in MyFTB. We will continue to mail your client a letter notifying them that the relationship has been approved; however, there will no longer be a 10-business day hold to access the account online or contact us.

### Limited Online Account Access

- With Limited Online Account Access to your client’s account, you can:\*
- View **notices and correspondence** sent from us in the last 12 months.
- **Chat** with us about confidential tax matters.
- Send us **secure messages** with attachments.
- **Request Full Online Access** to your client’s online account.

\*Information for Power of Attorney representatives is based upon the year(s) listed on the declaration.

## Full Online Account Access

If you need Full Online Account Access you must request the access and your client must approve (also referred to as opt-in).

How the process works:

You request Full Online Account Access in MyFTB **from your client’s MyFTB account**. We mail your client a letter with the authorization code they can use to approve access (the code expires in 30 days). Your client can choose 1 of 5 ways to approve the request:

1. Call our Interactive Voice Response system.
2. Go to our online service at [ftb.ca.gov/access](http://ftb.ca.gov/access).
3. Approve the request in their MyFTB account.
4. Give the code to you to enter in their MyFTB account.
5. Call us to talk to a Customer Service Representative.

If your client doesn’t respond to the letter or denies the request, you will retain Limited Online Account Access.

## MyFTB Corner

### Additional tips when submitting power of attorney declarations.

In March, we shared common rejection reasons and solutions for power of attorney (POA) declarations and tax information authorizations, see [Help Ensure Your Tax Information Authorization and Power of Attorney Declarations are Accepted](#). This month, we are sharing more tips that can help your POA declarations to be accepted:

- **Make sure all representative names that are listed on the POA declaration match what is keyed into MyFTB.** We will not be able to process declarations where the representatives keyed into MyFTB do not match the representatives listed on the declaration. (Example:

Five representatives are listed on the declaration, but only two are keyed into MyFTB or vice versa).

- **Upload only the POA declaration for the client entered in MyFTB.** We will not accept multiple declarations uploaded into one taxpayer's account. Declarations for spouses and registered domestic partners must be submitted in each taxpayer's individual MyFTB account.
- **Use only FTB 3520 PIT or 3520 BE forms.** We no longer accept mismatched forms, including non-FTB forms or previous versions of FTB declaration forms.

## All About Business

### What is the 15-Day Rule?

In short, the 15-day rule is a set of provisions within the California law (Revenue and Taxation Code Sections 17936, 17946, 17948.2, and 23114) that operate to provide relief to business entities (limited partnerships, limited liability partnerships, limited liability companies, and corporations) from the general requirement to pay the annual/minimum tax.

A business entity is not subject to the \$800 annual/minimum tax if the entity:

- Did not conduct business in the state during the tax year, **and**
- The tax year was 15 days or less.

The short tax year of 15 days or less rule is explained in FTB Publication 1060, Guide for Corporations Starting Business in California. Also, for more information see our February 2015 Tax News issue.

When it comes to corporations, if the business qualifies for the short-year 15-day rule, this period of time will also be disregarded for purposes of determining the corporation's first year minimum tax waiver.

## 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.