



# Tax News

May 2022

---

## Table of Contents

Table of Contents.....	1
Resources for Small Businesses.....	2
S Corporation Pass-Through Entity Elective Tax and Mandatory e-Pay Requirement.....	3
FTB Form 592 Submissions.....	4
Ask the Advocate.....	6
The filing season comes to an end.....	6
Tax News Flashes Sent in April.....	7
Event Calendar.....	7

## Resources for small businesses

### Learn about informative websites and publications

We would like to remind you of the many resources available to your small business clients. Having the correct and most up-to-date information is very important.

#### Informative Websites

- [Franchise Tax Board](#) – Our [Business](#) section provides useful links and filing information for the different forms of business ownership. It also includes information on [Doing Business in California](#) and important [due dates](#). There is also a [Business help](#) webpage that includes [Revivor information](#) if a business is suspended, and links for information on how to dissolve or cancel a business entity. Find [Web Pay](#) to make payments online.
- [California Office of the Small Business Advocate](#) – features a business learning center, quick start guides, and links to financial assistance. If you or your client is in need of permit assistance, [CalGold](#) can point you in the right direction of what permits and licenses you may need for your particular business and location.
- [California Secretary of State](#) – has a [Business](#) section to [search](#) for and access all public records for an entity, to find [forms](#) to start or dissolve/cancel a business entity, and even file statements of information online.
- [Small Business Assistance Center](#) –contains useful information about all aspects of your business located at [California Tax Service Center](#) or [taxes.ca.gov](#).

#### Education and Outreach Events

- The following event calendars can be used to find upcoming Small Business Education and Outreach events near you.
- [FTB Event Calendar](#) – shows upcoming small business seminars sponsored by our education and outreach team.
- [CDTFA Event Calendar](#) – includes small business seminars, new business orientation, basic sales and use tax classes, nonprofit seminars, and more!

#### Publications

- [FTB 1123, Common Forms of Ownership](#) – is an exhaustive resource of the filing requirements and general information about the different forms of business ownership. As a business owner, one of your most important decisions is which form of business ownership will best fit your business needs.
- [FTB 984, Common Business Expenses](#) – discusses the most common business expenses.

- [FTB 3556, General LLC Information](#) – specifically deals with limited liability companies (LLCs) and how they are considered hybrid business entities that takes characteristics from corporations and partnerships.
- [FTB 1060, Guide for Corporations Starting Business in California](#) – navigates the filing requirements of corporations.

## S corporation pass-through entity elective tax and mandatory e-pay requirement

### S corporation pass-through entity elective tax and mandatory e-pay requirement

S corporations and limited liability companies classified as S corporations whose total tax liability, including any pass-through entity (PTE) elective tax, exceeds \$80,000 are required to make all *future* payments electronically (California Revenue and Taxation Code section 19011(a)(2)). The mandatory e-pay requirement also applies to any single estimated tax payment or extension payment of more than \$20,000. The triggering payment does not need to be made electronically.

If an S corporation had a mandatory e-pay requirement and received a penalty for paying their PTE elective tax by check, they may qualify for penalty relief.

FTB will offer penalty relief on a case-by-case basis for the electronic funds transfer (EFT) penalties assessed due to the PTE elective tax that was paid by check.

For the penalty to be abated, FTB needs to determine that reasonable cause exists. If the taxpayer experienced difficulties with Web Pay and was instructed by FTB to pay by check, please include that information in the taxpayer's abatement request. For all other scenarios, please include all relevant facts and circumstances in the taxpayer's abatement request.

We will allow for business entity (BE) EFT penalty abatement requests to be submitted in writing. Requests can be faxed to 916-855-5556. Please include your corporation ID number, amount of payment, tax year, and reason for request.

There are exceptions to the mandatory e-pay requirement. Entities who are required to pay electronically may request a waiver of the mandatory e-pay requirement if one or more of the following exceptions apply:

- We grant waivers if amounts paid in excess of the threshold amounts are not representative of the taxpayer's tax liability.
- In addition, taxpayers not meeting either threshold amount for the prior year may use FTB 3816 to elect to discontinue making payments EFT.

To request a waiver of the EFT requirements, submit FTB Form 3816, *Electronic Funds Transfer Election to Discontinue or Waiver Request*.

Fax to 916.855.5556 or mail the completed FTB 3816 form to:

EFT UNIT MS F-284

FRANCHISE TAX BOARD

PO BOX 1468,

SACRAMENTO CA 95812-1468

For additional BE EFT penalty questions, please contact 916-845-4025.

## FTB Form 592 Submissions

### **Should I submit Resident and Nonresident Withholding Statement (Form 592) or a Pass-through Entity Annual Withholding Return (Form 592-PTE)**

If you are a withholding agent who remits payments and submits nonresident withholding forms to the Franchise Tax Board, use these tips to ensure proper submission and avoid errors that could result in the assessment of penalties and interest.

#### 1. Which form should be used to report nonresident withholding?

File Form 592 to report withholding on domestic nonresident individuals. Items of income that are subject to withholding are payments to independent contractors, recipients of rents, endorsement income, royalties, etc.

A pass-through entity should use Form 592 if:

- It is reporting withholding from payments made to domestic nonresident independent contractors or domestic nonresident recipients of rents, endorsement income, or royalties.

File Form 592-PTE to allocate withholding on distributions paid to domestic nonresident partners, members, or shareholders, or pass-through entities to allocate withholding paid on their behalf to its partners, members, or shareholders.

A pass-through entity should use Form 592-PTE if:

- It is reporting withholding on distributions to their nonresident owners, or
- It was withheld upon by another entity and are allocating that withholding credit to their owners.

#### 2. When are Forms 592 and 592-PTE due?

Form 592 must be filed for each payment period for which withholding was required to be remitted to FTB. Payment Voucher for Resident and Nonresident Withholding (Form 592-V) must be submitted with Form 592 and the nonwage withholding payment.

## Specific Payment Periods and Due Dates

January 1 through March 31, 2022.....April 18, 2022

April 1 through May 31, 2022.....June 15, 2022

June 1 through August 31, 2022.....September 15, 2022

September 1 through December 31, 2022.....January 15, 2023

Form 592-PTE must be filed on an annual basis no later than January 31 of the year following the year for which withholding was required to be remitted to FTB. Form 592-Q must be submitted with the annual Form 592-PTE and the pass-through entity withholding payments.

### 3. Which voucher should be used when remitting nonresident withholding payments?

Use Payment Voucher for Resident or Nonresident Withholding (Form 592-V) to remit withholding payments reported on Form 592.

Use Payment Voucher for Pass-Through Entity Withholding (Form 592-Q) to remit withholding payments reported on Form 592-PTE.

### 4. How is the payee informed of the withholding amount?

Resident and Nonresident Withholding Tax Statement (Form 592-B) must be sent to all payees (domestic nonresident partners, members, shareholders, foreign partners or members, and nonresident independent contractors) to report the amount of payment or distribution subject to withholding and tax withheld as reported to FTB.

### 5. What should the withholding agent do if they file the incorrect form?

If an error is discovered after Form 592 or Form 592-PTE is filed, including filing an incorrect taxable year form, then an amended Form 592 or Form 592-PTE must be filed to correct any errors. Only withholding agents may file an amended form.

For more information, please visit our website at [ftb.ca.gov](http://ftb.ca.gov) and search **nonresident withholding**.

## The filing season comes to an end



Brenda Voet, EA.  
Taxpayers Advocate

Tax Day 2022 has finally come and gone. This year, we were not only challenged with the effects of the pandemic, but also late legislation. A huge thanks to those of you who partnered with us to address the many issues we faced during this year's filing season.

After your much needed break, I encourage you to take time to:

### 1. Check to see if your client's tax year 2021 payment was successful

If your client owed taxes, but is filing under extension, we recommend you or your client verify with their financial institution that their tax year 2021 payment went through. Or you can use [MyFTB](#) to confirm we received the payment and applied it as intended.

Remember, that our "Confirmation Web Pay Scheduled" only means we received the request to process the payment, it does not mean we actually received the payment from the financial institution.

### 2. Update your client relationships in MyFTB

- Verify [Power of Attorney](#) is current
- Manage your email notification preferences
- Confirm [Tax Information Authorizations](#) have not expired

### 3. Request a speaker for your organization

This is the time we schedule many of our speaking engagements. We always enjoy meeting with you in person and appreciate hearing your questions, concerns, and issues you face in dealing with FTB and meeting your tax filing obligations. However, because we are a small team, the number of speaking engagements we can accept each year, is limited. For this reason, we established certain criteria for accepting an engagement.

We speak to groups of 25 or more at:

- sponsored small business or tax seminars
- chapter meetings for a non-profit group or organization
- community groups
- government-funded educational institutions learning about tax-related issues

If you'd like someone to make a presentation about tax related issues, email us at [EducationandOutreach@ftb.ca.gov](mailto:EducationandOutreach@ftb.ca.gov). In your email, include:

- Name
- Phone number
- Organization
- Date and location
- Request topics
- Number of attendees
- Materials/biography deadlines
- Special requirements

Finally, I would like to recognize the hard work and dedication of the people behind the scenes here at FTB. No matter where they are on the organizational chart, their commitment to provide excellent customer service to make your filing experience go as smooth as possible is very much appreciated.

## Tax News Flash Links

### Tax News Flashes sent in April

[FTB issues Legal Ruling on Market-Based Rules](#)

[Pass-Through Entity Elective Tax could trigger mandatory e-pay penalty](#)

## Event Calendar

As part of our education and outreach to the 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.