



# Tax News

November 2018

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## Legislative update

Here are the bills that were chaptered this last session

### **Assembly Bill (AB) 1817 (Chapter 37, Statutes of 2018) Modify the State Leadership Accountability Act (SLAA)**

Among other things, AB 1817 requires state agencies subject to the SLAA, including the Franchise Tax Board (FTB), to expand the required biennial report to now include all identified inadequacies and weaknesses. Additionally, the due date for filing the required plan and schedule for correcting reported inadequacies and weaknesses with the Department of Finance is modified to June 30, subsequent to that report's filing date rather than concurrently.

### **AB 2096 (Chapter 206, Statutes of 2018) Organ and Tissue Donor Registry Voluntary Tax Contribution Fund**

AB 2096 adds the Organ and Tissue Donor Registry Voluntary Tax Contribution Fund to the state personal income tax return.

### **AB 2184 (Chapter 388, Statutes of 2018) Cities and Counties Accept California Driver's License or ID Number**

AB 2184 requires cities to accept a California driver's license or identification number, individual tax identification number, or municipal identification number in lieu of a social security number, in combination with other information as specified, for the issuance a city or county business license.

### **AB 2400 California Alzheimer's Disease and Related Dementia Research Voluntary Tax Contribution Fund (Chapter 299, Statutes of 2018)**

AB 2400 allows the California Alzheimer's Disease and Related Dementia Research Voluntary Tax Contribution Fund to remain on the state personal income tax return until January 1, 2025.

### **AB 2503 Administrative Dissolution (Chapter 679, Statutes of 2018)**

AB 2503 allows administrative dissolution for certain domestic corporations and domestic limited liability companies.

### **AB 2944 (Chapter 441, Statutes of 2018) Schools Not Prisons Voluntary Tax Contribution Fund**

AB 2944 adds the Schools Not Prisons Voluntary Tax Contribution Fund to the state personal income tax return.

### **AB 3143 (Chapter 597, Statutes of 2018) Tax Preparation Act/CA Tax Education Council Can Enter Agreement with FTB.**

AB 3143, among other things, allows the California Tax Education Council to provide reimbursement to FTB for assistance in carrying out enforcement activities consistent with the Tax Preparation Act.

### **AB 3249 (Chapter 649, Statutes of 2018) Court Ordered Debt/Include Amounts Imposed by Supreme Court and Amounts Due to State Bar.**

Among other things, AB 3249 adds amounts imposed by the Supreme Court of the state of California for certain amounts due to the State Bar as a debt type that can be referred to the FTB Court Ordered Debt Collection Program.

### **Senate Bill (SB) 274 (Chapter 729, Statutes of 2018) Reporting Federal Changes Imputed to a Partnership under the New Federal Audit Rules.**

SB 274 generally requires that a partnership's federal election to either pay taxes resulting from an adjustment or push the adjustment out to its partners must make the same choice for California purposes. Additionally, under SB 274, partnerships are required to report changes or corrections on a federal partnership return to FTB within six months after the date of each final federal determination.

### **SB 343 (Chapter 887, Statutes of 2018) Carousel Housing Tract Cleanup Income Exclusion.**

SB 343 excludes from gross income certain amounts received by taxpayers related to the remediation of the Carousel Housing Tract.

### **SB 855 (Chapter 52, Statutes of 2018) EITC/Hiring Credit/Tribal Income /California Competes Credit/Disclosure to Cities.**

- Expands the California Earned Income Tax Credit by increasing the gross income limitations and revising the age limit of a qualified individual down from 25 years to 18 years of age.
- Extends the sunset date for the New Employment Credit to 2029.

- Extends the sunset date for the California Competes Tax Credit to 2030.
- Excludes earned income that is derived from sources within Indian Country from gross income for an eligible taxpayer.
- Makes permanent the Tax Data Exchange Agreement between FTB and eligible entities.

### **SB 871 (Chapter 54, Statutes of 2018) CA Motion Picture Credit/Qualified Expenditures and Wages Relating to Original Photography Outside Los Angeles Zone.**

SB 871 creates a tax credit for certain costs related to the production of a motion picture in California.

### **SB 1363 (Chapter 359, Statutes of 2018) National Alliance on Mental Illness California Voluntary Tax Contribution Fund.**

SB 1363 adds the National Alliance on Mental Illness California Voluntary Tax Contribution Fund to the state personal income tax return.

## **Administrative Dissolution/Cancellation of Domestic Corporations and LLCs (AB 2503)**

Beginning January 1, 2019, eligible domestic corporations and domestic Limited Liability Companies (LLCs) that have ceased doing business and have no assets may be eligible for administrative dissolution/cancellation under recently enacted AB 2503. The bill provides two options for administrative dissolution of qualified entities:

- Administrative Dissolution/Cancellation – Authorizes us to administratively dissolve those domestic corporations and LLCs that are suspended, have ceased doing business, been suspended for 60 or more consecutive months, paid all taxes, and filed all returns due as of the date the entity ceased doing business.
- Voluntary Administrative Dissolution/Cancellation – Authorizes us to abate, upon written request by a qualified entity, the unpaid qualified taxes, interest and penalties for the taxable years in which the entity certifies, under penalty of perjury, that it was not doing business, and does not have any remaining assets in the business.

We are currently developing policies and procedures to enable staff to easily identify and process business entities that meet the requirements for an Administrative

Dissolution/Cancellation. However, due to the projected high volume, we anticipate it will take time to fully implement these processes.

Additional information will be available on the “Businesses” link on our website.

## SB 855 Impacts to Tribal Income

Effective January 1, 2018, pursuant to [Senate Bill 855](#), income of tribal members of federally recognized California Indian Tribe living in California Indian country earned from **any** federally recognized California Indian country as defined in [18 U. S. C. Section 1151](#) is exempt from California taxation. This exemption applies to "earned income" as defined in [IRC Section 32\(c\)\(2\)\(A\)\(i\)](#).

Enrolled tribal members who receive per capita income must reside in their affiliated tribe's Indian country for the income to be exempt from taxation.  
(See table below for income exemption requirements)

### Exemption Requirements

Earned Income (Wages)	Received Income (Per Capita)
Individuals must be an enrolled member of a federally recognized California Indian tribe.	Individual must be an enrolled member of a federally recognized California Indian tribe.
Individual must live within <b>any</b> California Indian country.	Individual must reside in the tribe's California Indian country
Individual must earn reservation source income from California Indian country.	Individual must receive reservation sourced income from the same California Indian country in which the individual lives and is an enrolled member.

## Earned Income

Earned income means wages, salaries, commissions, or professional fees, and other amounts received as compensation *for personal services actually rendered*. There are two ways to get earned income:

1. Individual worked for someone who pays you.
2. Individual owned or ran a business or farm.

## Per Capita Distribution

Indian tribes that conduct gaming activities on a California reservation may use gaming profits for all tribal members' general welfare. The law allows tribes to distribute gaming income to each tribal member (per capita) after meeting or accounting for tribal obligations. The tribal member's residence determines whether or not California taxes the per capita payments. Per capita income is **received** income. Per capita income is not **earned** income.

For more information, enrolled members, tribal governments, or designated representatives can contact our tribal hotline:

**Call:** 916.845.2790

**Fax:** 916.843.2299

**Email:** [Tribal Hotline](#)

## [New gig economy tax center webpage](#)

We launched the California Gig Economy Tax Center webpage which provides business owners, individuals, and tax professionals with valuable information about potential tax issues for those generating income in the booming gig (sharing or peer-to-peer) economy. With its untraditional business model, diverse services, and varying employment options, a majority of those participating in gig business are unsure of their tax and return filing obligations. The webpage explains what the gig economy is and features an informative video that gives an overview of what it means to be a part of the economy and its potential tax implications. The webpage also includes helpful information on California tax, filing, and estimated tax requirements.

The [IRS Sharing Economy Tax Center](#) and the [California Tax Center](#) webpages also provide additional information.

## Top 500 delinquent taxpayer list

We updated our website with the current list of taxpayers owing the top 500 delinquencies of personal income tax (PIT) or business entity (BE) tax in excess of \$100,000.

## Market based sourcing amendment clarification

We have received several questions about the applicability of the proposed amendments to California Code of Regulations (CCR) section 25136-2. Here are answers to some of those questions.

First, the proposed amendments are just that, “proposed”. The proposed amendments are not law and cannot be cited as authority, they are only a draft. On May 18, 2018, we held our third Interested Parties Meeting (IPM) for a second round of proposed amendments to California Code of Regulations, Section 25136-2. For more detailed information, read the draft language handout from that meeting.

Second, if the proposed amendments are eventually made into law, those amendments cannot be applied retroactively.

Third, the current regulation for assignment of market based sourcing issues still applies. Both the public and our staff should rely on it as nothing has changed.

Finally, if taxpayers have a question or need clarification on the law being applied to a particular taxable year, they should address their questions or concerns with the auditor assigned to their case. It may even be appropriate for the auditor to contact the Market Based Rules Task Force in our department for guidance so that we ensure the current market based rules are applied in a clear and consistent manner.

## Business entity estimated payment notification project

Beginning early 2019, we will be providing business entities, including corporations, LLC's, and exempt organizations that have taxable income or unrelated business income, with a summary of their 2018 tax year estimated payment, transfer and credit information. This is part of a pilot project to proactively address the most common reason tax professionals contact the Tax Practitioner Hotline: calling to verify payments.

We will mail FTB 3713, Summary of Account Payments, Transfers, and Credits to business entities who made an Estimated LLC Fee or Estimated Tax Payment for their 2018 tax year. The account summary will provide payment, transfer, and credit information including payment amounts and effective dates.

This summary will contain the same data that is available to our call center staff and is intended to assist business entities and/or their tax representatives in filing accurate and timely tax returns. Payment information is also available online to businesses and their tax representatives who have or register for a MyFTB account.

We expect the account summary to be mailed out by the end of January/beginning of February 2019.

## Ask the Advocate



**Susan Maples, CPA**  
Taxpayers' Rights Advocate  
Follow me on Twitter at  
[twitter.com/FTBAdvocate](https://twitter.com/FTBAdvocate)

### Liaison Meetings, Annual Report to Legislature, and Bill of Rights Hearing, oh my

It goes without saying that October was a very busy month for tax professionals! It was also a busy month for me and my staff. But for us, it wasn't due to the end of the 2018 filing season. We had a busy October coordinating our annual meetings with the California Society of Enrolled Agents (CSEA) and the California Society of Certified Public Accountants (CalCPA). We were also working towards finalizing the Annual Report to the Legislature. The Annual Report must be completed each year by December 1 and it includes issues presented at the prior year's Annual Taxpayer Bill of Rights hearing along with FTB's responses. Copies of the Annual Report for 2017 and prior years (back to 2002) are available on our Taxpayers' Rights Advocate homepage. A copy of this year's Report will be available online shortly after December 1.



The annual liaison meetings with CSEA and CalCPA help me and FTB's management team better understand the issues and concerns that tax professionals have when conducting business with FTB. A good portion of each meeting is dedicated to FTB staff responding to questions submitted by each organization prior to the meeting. Depending on the question, either subject matter experts or representatives from the relevant FTB business areas provide responses and take follow-up questions.

These interactions allow tax professionals to voice their concerns, provide constructive feedback and help us identify those areas where improvements in processes and services are possible. While many of you belong to CSEA or CalCPA, membership in one of these organizations isn't necessary for you to have your concerns heard or present your ideas about changes you would like to see made. A public forum that is available to all taxpayers and tax professionals is the annual Taxpayers' Bill of Rights Hearing, held during the last quarterly meeting of the three-member Franchise Tax Board, here in Sacramento.

This year, the Taxpayers' Bill of Rights Hearing will be held on Monday December 10 at 1:30 PM as part of our regularly scheduled quarterly board meeting. If you are interested in attending, go to our public meetings webpage for more information. The agenda will be available as we get closer to the meeting. Alternatively, if there is a Bill of Rights issue or concern that you are aware of but you cannot attend the meeting, you can email me at [FTBAdvocate@ftb.ca.gov](mailto:FTBAdvocate@ftb.ca.gov) or send a letter by November 26 to:

Taxpayer's Rights Advocate MS F280  
Franchise Tax Board  
PO Box 1468  
Rancho Cordova, CA 95812-1468

As the Advocate, one of my goals is to ensure that interacting with FTB goes as smoothly as possible and that everyone is treated with fairness and respect. FTB's management team shares these goals and your input is valuable to us when it comes to making this happen.

## MyFTB Corner

### Requesting full online account access gets easier

Starting January 2, 2019, you can request full online account access to your client's MyFTB account information, when you submit Power of Attorney (POA) declaration or Tax Information Authorization (TIA) requests.

Adding the request for full online account access on the POA/TIA forms and with **Add TIA Client** in MyFTB will eliminate the extra step currently needed for you to request full online account access after the POA declaration or TIA request is approved. This will help you more quickly self-serve your clients using MyFTB.

**Note:** The online account access level (full or limited) does **not** affect the information you can receive with an active POA or TIA relationship by phone, chat, in writing, or in person.

### How To Request Full Online Account Access on forms FTB 3520 PIT, FTB 3520 or BE Power of Attorney Declaration and FTB 3534 Tax Information Authorization

A new section, **Request MyFTB Full Online Account Access for Tax Professional(s)**, will be added to the forms effective January 2, 2019.

#### *Draft language on FTB 3520 PIT*

<p><b>Part V – Request MyFTB Full Online Account Access for Tax Professional(s)</b></p> <p>You must check either the "Yes" or "No" box below. If you check the "Yes" box, you are requesting to authorize or retain full online account access for your tax professional(s), including the ability to view tax returns and take available actions based upon the year(s) designated on this declaration. If you requested full online account access for your tax professional(s) on your POA declaration, a separate notice will be mailed to you with an authorization code and instructions to approve or deny the online account access request. An authorization code will not be sent for tax professional(s) that have existing full online account access.</p> <p>If you check the "No" box, both the "Yes" and "No" boxes, or do not check any box, we will process the authorization as a "No", and your tax professional(s) will be granted limited online account access; any existing relationships with full online account access will be changed to limited online account access. Limited online account access includes viewing notices and most correspondence issued by FTB in the last 12 months.</p> <p>This online account access authorization does not affect their ability to take actions on your behalf or the information your representative can receive by phone, chat, or in person.</p> <p>If your POA declaration is rejected, this request for online access will not be processed and no updates will be made to online access levels for any existing relationships.</p> <p><b>Note:</b> Online access is not available for Fiduciary accounts.</p> <p>Authorize MyFTB Full Online Account Access for Tax Professional(s) ..... <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
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Select **"Yes"** to Request Full Online Account Access to your client's MyFTB account information.

## Request Full Online Account Access in MyFTB

MyFTB will be updated so you can request **full** online account access when you submit a new POA declaration or **Add a TIA client**. For POA declarations, you must use the new FTB 3520 PIT or 3520 BE to request full online account access at the time of submission.

## What happens when there are multiple representatives on a POA declaration?

For POA declarations with multiple tax professional representatives, the online account access request applies to all tax professional representatives listed on the declaration and will override the access level for any existing POA/TIA relationship(s) between the taxpayer and the tax professional representatives listed.

## What will happen if the POA declaration or TIA request is rejected?

If rejected, the online account access request will **not** be processed.

## What happens if the POA declaration or TIA request is approved?

If approved, we will send a letter to your client (FTB 1124/1125) to let them know the POA declaration or TIA request has been approved. Once approved, you can receive information by phone, chat, in writing, or in person. Additionally, at the time the POA declaration or TIA request is approved, we grant the tax professional representative(s) listed, **limited** online account access to their client's MyFTB account information.

If **full** online account access is requested on the POA declaration or TIA request, we send a separate letter (FTB 3911) to the taxpayer that includes an authorization code to authorize or deny **full** online account access for the tax professional(s) listed.

For POA declarations with multiple representatives, the FTB 3911 letter will list a separate authorization code for each tax professional representative who has a Tax Professional MyFTB account. We will **not** issue a code for a tax professional representative who already has **full** online account access to their client's MyFTB account information or for those who do not have online access.

## What will happen if the taxpayer does not authorize full online account access *after* they receive the authorization code letter (FTB 3911)?

If the taxpayer denies the request or does not use the authorization code within 30 days, the tax professional will retain limited online account access.

## Can the online account access level be changed after the POA declaration or TIA request is approved?

Yes. The tax professional can request **full** online account access to their client's information on MyFTB. When requested, we will send a letter (FTB 3911) to the taxpayer that includes an authorization code to authorize or deny the request. Additionally, the taxpayer can change the online account access level from **full** to **limited** in their MyFTB account or call us.

## Can a new request for online account access affect previously authorized online account access levels?

Yes. A new request for online account access (limited or full) authorized by the taxpayer will override the access level granted for any existing POA/TIA relationship(s) with the taxpayer. The authorization is made at the representative level, not the relationship type (POA/TIA). As indicated above, the online account access level does **not** affect the information a representative can receive by phone, chat, in writing, or in person.

## How can a tax professional determine if they have multiple relationships with a taxpayer?

Each **Relationship Type** (POA/TIA) and **Online Access** (Full/Limited), for a specific client, will display as a separate row on the **Client List** in the Tax Professional's MyFTB account.

*Example: Taxpayer on **Client List** with multiple **Relationship Types** (POA and TIA).*

Search Results - Individual Clients						
<a href="#">Clear Filter</a>						
Last Name	First Name	SSN/ITIN	Expiration Date	Relationship Type	Online Access	Actions
<a href="#">Bloom</a>	Rosy	XXX-XX-0000	06/22/2024	POA	Limited	<a href="#">View Details</a>
<a href="#">Bloom</a>	Rosy	XXX-XX-1111	07/22/2019	TIA	Limited	<a href="#">Renew</a>   <a href="#">View Details</a>

## All About Business

### Did you know a due date is not a deadline?

Two out of every seven years, April 15 falls on a Saturday or Sunday. For simplicity, we often refer to the next business day as the "due date" of the return or payment. But that is not correct. The actual due date of returns and payments is set by statute - the 15th of the month. When the due date falls on a weekend or holiday, returns and payments may be made on the next business day.

Interest computations, statutes of limitation, and extension periods all begin on the due date, April 15 for individual and calendar year taxpayers, even if April 15 falls on a weekend or holiday. The statute of limitations for proposing assessments and filing refund claims is normally four years from the date the return is filed, or one year from the date of payment. Tax returns filed before the due date are treated as if they are filed on the due date. For example, for a personal income tax (Form 540/540 EZ/540NR) or LLC (Form 568) return that was filed before April 15, 20x1, the due date is treated as April 15, 20X1, so the four year statute of limitations will expire on April 15, 20X5. But if a taxpayer takes advantage of the weekend grace period, and files the return on the following business day, then the four-year statute of limitations period ends four years from the date the return was filed.

### **Example: Not a specific date, but period such as 6 Months**

If the 6-month period begins on August 31, the due date is the last day of February. If it is a leap year, the payment or return is due on February 29. In the opposite situation, if the 6-month period starts on February 28, the last day of the month, the notice is not late until September 1. It can be filed on August 30 or 31 and still be within 6 months of February 28. Unless, of course, that due date is a weekend or holiday, then it would be timely if mailed on the next business day as described above.

### **Example: Holiday due date**

Tax returns for individuals and C corporations are due on the 15th day of the fourth month after the close of the tax year (generally April 15th). For the 2017 tax year returns due on April 15 the deadline to file was April 17, 2018. Because April 15 fell on a Sunday and April 16 was the District of Columbia's Emancipation Day, tax returns were due on the next business day. Although not a holiday in California, we, in collaboration with the IRS, observe the District of Columbia's Emancipation Day on April 16.

### **Example: Statute of limitation**

Taxpayers who filed their tax returns before the original due date are treated as if they filed on the due date, April 15, 2018. We may issue a notice or they may file a claim for refund by April 15, 2022. For taxpayers who filed their tax returns on Tuesday, April 17, 2018, we may issue a notice or they may file a claim for refund four years from the date the return was filed. But because April 17, 2022, falls on a Sunday, a notice or claim for refund will be timely if mailed on Monday, April 18, 2022.

References: 18 Cal. Code Regs. Section 18566 (return due dates); Calif. Civil Code Section 11 (general rule that action performed on the next business day after a weekend or holiday is timely); Cal. Code of Civil Proc. Section 12 (Computation of time for performing acts required by law).

### [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.