



Tax News

October 2018

Contents

- California extended due dates for corporate taxpayers.....2
- FTB 3840, California Like-Kind Exchanges, filing requirements and tips for correct reporting...3
- Did one of your nonprofit clients receive a notice from us proposing to dissolve their
business?.....4
- IRS’ tax reform page5
- Ask the Advocate6
 - Advisory Board6
- MyFTB Corner7
 - Chat enhancements7
- MyFTB Corner7
 - New notification to taxpayer when the primary representative has been changed on a
power of attorney (POA) declaration7
- MyFTB Corner7
 - Set your email notification preferences7
- All About Business8
 - Interest rates and the conditions for determining “doing business”8
- Event Calendar.....9

California extended due dates for corporate taxpayers

Background

In order to provide a due date for pass-through entities 1 month earlier than non-pass-through entities, for taxable years beginning on or after January 1, 2016, the federal original due dates for many business entity returns were changed by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (H.R. 3236, 114th Cong. (2015-2016)).

In response to the federal law changes, California law changed to generally provide an original due date for pass-through entities 1 month earlier than for non-pass-through entities. (Stats. 2016, Ch. 348) For taxable years beginning on or after January 1, 2016, the California original due date of a/an:

- C corporation return was moved later to the 15th day of the 4th month following the close of the taxable year.
- S corporation return remained the 15th day of the 3rd month following the close of the taxable year. (Revenue and Taxation Code (R&TC) Section 18601)

The automatic extension period for C and S corporations was shortened from 7 months to 6 months. (FTB Notice 2016-04)

Extended Due Dates for Corporate Taxpayers

Under California law, we may grant a reasonable extension of time for taxpayers subject to California Corporation Tax Law to file their returns. (R&TC Section 18604) An extension, however, may **not** exceed 7 months from the original due date of the return. (*Id.*) In 1992, we issued FTB Notice 92-11 providing a 7-month automatic paperless extension for C and S corporations in good standing. In 2016, we issued FTB Notice 2016-04 providing a six-month automatic paperless extension for C and S corporations in good standing. As explained in FTB Notice 2016-04, the extended due date for:

- C corporations is the 15th day of the 10th month following the close of the taxable year.
- S corporations the extended due date is the 15th day of the 9th month following the close of the taxable year.

This extension of time to file is **not an extension of time to pay**. Tax is due on the original due date of the return, without regard to extension. A late filing penalty and or a delinquent filing penalty will be imposed on any return filed after the extended due date, unless the late filing

was due to reasonable cause. (R&TC Sections 19131 and 19172.5.¹ If the return is not filed by the extended due date, no extension exists, and the penalty amount will be computed based on the original due date.

Several taxpayers recently asked if we would extend the due date for filing a corporate return to November 15. We **cannot** extend the due date beyond the October 15 extended due date for filing a C corporation return due to year end processing limitations. If a taxpayer files a return beyond the extended due date and receives a penalty for filing late, the taxpayer may request abatement of the penalty upon a showing of reasonable cause. We will consider a request for penalty abatement for reasonable cause on a case by case basis.

[FTB 3840, California Like-Kind Exchanges, filing requirements and tips for correct reporting](#)

With October 15 right around the corner, this is a reminder that 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 that 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.

¹ A late filed S corporation return may be subject to a delinquent filing penalty pursuant to R&TC Section 19131 and a late filing penalty pursuant to R&TC Section 19172.5. A late filed C corporation return may be subject to a delinquent filing penalty pursuant to R&TC Section 19131.

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, line 7 through 20, respectively. In addition, Schedule A, Parts I, II, and III require California-specific information.

Tips for Correct Reporting

We've reviewed the 2016 FTB 3840 filings and a significant number of the forms filed were incomplete, partly due to the omission of the California-specific information. In the coming months, we will mail letters to taxpayers who filed incomplete FTB 3840 filings, requesting that they update their forms to include the California-specific details.

Common issues that we also found on FTB 3840 include:

- A box on Question B has not been checked to indicate whether the FTB 3840 is an initial, amended, annual, or final form.
- Vague, incomplete, or omitted property descriptions. FTB 3840 instructions require that the full address (or assessor's parcel number, county, and state) must be reported.
- Missing ownership percentages.
- Omitted California source deferred gain (Schedule A, Part I, Line 8).

For additional information regarding FTB 3840, go to ftb.ca.gov and search for FTB 3840.

Did one of your nonprofit clients receive a notice from us proposing to dissolve their business?

Beginning on January 1, 2016, California nonprofit public benefit, mutual benefit, religious, and registered foreign nonprofit corporations are subject to our administrative dissolution (California nonprofit corporations) or administrative surrender (registered foreign nonprofit corporations) process if the entity's corporate powers have been suspended or forfeited by us for at least 48 continuous months.

Once this process is initiated by us, the nonprofit corporation has 60 calendar days to act before the corporation is administratively dissolved/surrendered permanently.

More than 4,000 proposed dissolution notices were sent in mid-September to entities meeting this criteria. These notices were mailed to the entity's last known mailing address.

The Secretary of State [website](#) has additional information available, including an entity's options for avoiding dissolution/surrender. Additionally, the list of suspended entities will be posted to the Secretary of State website. This may help you identify whether one of your clients is in the process of being permanently dissolved or surrendered.

IRS' tax reform page

The [Tax Cuts and Jobs Act](#) will affect individuals, businesses, tax exempt, and government entities.

The IRS [Tax Reform](#) information page and other resources are available to help taxpayers better understand the impacts from this major legislation. This page contains news, guidance, forms and instructions, and resources.

For example, here is the information given for itemized deductions:

- Deduction for personal casualty and theft losses suspended (unless incurred in federally-declared disaster area)
- Limitations to the deduction for state and local taxes
- Limitations to the deduction for home mortgage interest in certain cases
- Eliminating most miscellaneous itemized deductions such as:
 - I. Deductions for employee business expenses
 - II. Tax preparation fees
 - III. Investment expenses, including investment management fees
 - IV. Employment related educational expenses
 - V. Job search expenses
 - VI. Hobby losses
 - VII. Safe deposit box fees
 - VIII. Investment expenses from pass-through entities
- Eliminated the limitation on itemized deductions for certain high-income taxpayers.

Resources: [IR-2017-210](#), [IR-2018-32](#), [IR-2018-122](#), [IR-2018-127](#)

The information provided by IRS is concise and includes references where appropriate. Similar information is provided on a wide variety of topics for businesses and other entities, including the new 20 percent deduction for pass-through businesses.

The IRS updates this page frequently and we hope you will find it to be a useful resource.

Ask the Advocate



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

Advisory Board

This month, I would like to let you know about our annual Advisory Board meeting, which took place in September. In last October's Tax News, I explained that our Executive Officer has an Advisory Board with 20 invited representatives from industry, state, and federal government. They meet annually here at FTB and provide insight and feedback to our Executive Officer on our many projects and programs.

Having an outside perspective and insight regarding the impact we have on taxpayers, tax professionals and how they do business with us is invaluable and can lead to changes benefiting all taxpayers and tax professionals. My entire staff and I attend this meeting each year, allowing us to hear firsthand the questions and concerns raised by our business partners, both in government and industry. Being your advocate, I can assure you that I take seriously any issues raised and work closely with FTB to address and resolve them whenever possible.

This year's meeting opened with a focus group for planned changes to our power of attorney (POA) process, MyFTB, and our e-Services and CalFile.

As in prior years, we also had a presentation by FTB staff and 2 breakout sessions. The presentation covered new legislation and conformity and an update on litigation cases involving or relevant to FTB. The breakout sessions covered security and privacy (always hot topics) and some of what is anticipated for our next Enterprise Data to Revenue project coming in 2025.

My staff and I will keep you updated on any changes impacting you and your clients. We will connect with you through Tax News, our external website, and when speaking at the many statewide California tax updates we present to various groups throughout the year.

One final note: I am very pleased that one of our former Advisory Board members, Charles Rettig, was nominated to serve as IRS Commissioner and has been confirmed by the Senate. On behalf of our Executive Officer, I congratulate Mr. Rettig on this great honor and wish him much success in the future.

MyFTB Corner

Chat enhancements

We've updated our messaging to improve your experience while chatting with us!

You'll receive "we're still here" every two minutes and show your place in line while you wait.

For additional information on chat in MyFTB, see our August Tax News, *Secure Chat Available for Limited and Full Online Account Access*.

MyFTB Corner

New notification to taxpayer when the primary representative has been changed on a power of attorney (POA) declaration

Starting October 1, we will send taxpayers FTB 1184, Primary Representative Change – Power of Attorney, when their primary representative has been changed on their active POA declaration.

MyFTB Corner

Set your email notification preferences

Tax Professionals can now turn off certain email notifications from us in MyFTB. To set your email preferences select:

- **Update Contact Information** from the **Services** dropdown menu
- **Manage Email Notifications**

- The checkbox(es) for the notifications you want to receive (checking the box means you **will** receive the notification)
- Save

The notification settings you select will apply to all taxpayers on your client list, but these settings will **not** affect notifications we send to your clients.

For security purposes, we will always send you an email notification when your account is accessed or when your contact information is updated in MyFTB.

Notifications regarding POA relationships, including available notices and POA relationship approval or rejection, are sent to the email address on the POA declaration. To change an email address on a declaration, see [Add or Edit a Representative's Email Address on An Active Power of Attorney Declaration](#). All other notifications are sent to your preferred email address.

All About Business

Interest rates and the conditions for determining “doing business”

The adjusted interest rate for the period January 1, 2019, through June 30, 2019, will be 5 percent January 1, 2019. This rate is compounded daily and accrues with respect to various state taxes including: personal income, corporate income, and franchise. The rate for corporation tax overpayments for the period will be two percent.

If you are interested in viewing the previous interest and estimate penalty rates, go to ftb.ca.gov and search for interest rates.

Taxpayers' Sales, Property, and Payroll for Doing Business Purposes

"Doing business" means actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. For taxable years beginning on or after January 1, 2011, a taxpayer is doing business in this state for a taxable year if any of the following conditions have been satisfied:

- The taxpayer is organized or commercially domiciled in this state.

- Sales by the taxpayer in California exceed the lesser of \$500,000) or 25 percent of the taxpayer's total sales.
- The real property and tangible personal property of the taxpayer in this state exceed the lesser of \$50,000 or 25 percent of the taxpayer's total real property and tangible personal property.
- The amount paid in this state by the taxpayer for compensation exceeds the lesser of \$50,000 or 25 percent of the total compensation paid by the taxpayer.

Furthermore, when we determine the amount of the taxpayer’s sales, property, and payroll for doing business purposes, we include the taxpayer’s pro rata share of sales, property, and payroll from partnerships, LLCs treated as partnerships, and S corporations.

For taxable years beginning on or after January 1, 2012, the conditions for determining “doing business” also have been “indexed” by California’s Consumer’s Price Index.

The indexed threshold values for the 2018 tax year are as follows:

Sales	Property	Payroll
\$583,387	\$58,387	\$58,387

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.