



Tax News

August 2017

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2017 filing season update

Check out the highlights for the year

- Personal income tax (PIT) returns filed increased by 1 percent this year with 88 percent being e-filed.
- Fiduciary returns increased 3.5 percent from last year. This is the fourth year fiduciary returns have the e-file option.
- Business entity (BE) returns filed increased by 1 percent this year with 80 percent being e-filed.
- We issued over 10.9 million PIT refunds totaling \$10.4 billion and 87,000 BE refunds totaling \$309 million.
- We allowed over 348,000 Earned Income Tax Credit claims for \$181 million in credit.
- Our overall deposits were \$27.1 billion, including \$18.9 billion in electronic payments.
- Over 56,000 new users registered for MyFTB account and 96,000 new users registered for CalFile online self-service. Taxpayers also used the “Check Your Refund Status” web application over 3.4 million times.
- The Tax Practitioner Hotline answered over 113,000 calls, representing 74 percent of the calls received.
- The Filing Compliance Bureau focused their education efforts on the escrow community in an effort to improve the real estate withholding process and accuracy of information received.
- For a more detailed report of our 2017 filing season, go to our 2017 Filing Season Update.

What's new?

Customer Service Dashboard!

The department launched the Customer Service Dashboard on March 1. This customer-centric resource provides wait times and time frames for our service channels. You can find out how long the Practitioner Hotline wait is before you call, or you can see how long the wait is for general and secure chat so you can determine the best way to contact us. The dashboard also displays current time frames for return, payment, and refund processing in a simple and concise design. See for yourself: [Customer Service Dashboard](#)

*Statistics as of May 27, 2017.

California Competes Tax Credit

The California Competes Tax Credit is an income or franchise tax credit available to businesses that come, stay, or expand in California. The Governor's Office of Business and Economic Development (GO-Biz) negotiates the tax credit agreements, and then a statutorily-created California Competes Tax Credit Committee approves them. 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 2017/2018, \$230.4 million of the California Competes Tax Credits will be available for allocation during three application periods. GO-Biz will host [informational online webinars](#) about the California Competes Tax Credit.

For the first application period, \$75 million will be available for allocation. Applications for the credit will be accepted at calcompetes.ca.gov from July 24, 2017, until August 21, 2017.

Go to [GO-Biz Programs](#) for more information on the California Competes Tax Credit.

New online services available on the California Secretary of State website for businesses

The California Secretary of State has announced new online services for businesses that will help them file, search, and order business records quickly and conveniently from one webpage. The new [bizfile California](#) portal includes many helpful links and informative resources to assist business owners.

For example, it includes a link to the [California Business Search](#), which provides access to more than 10 million records related to corporations, limited liability companies, and limited partnerships. There is also the ability to download PDF images of related business documents, such as Statements of Information, amendments, and registrations at no charge!

Through the [bizfile California](#) portal, there are also links to file Statements of Information for both corporations and limited liability companies online. This includes filing required Statements of Information that are due 90 days after registration and every 2 years thereafter during the month of registration. This can also be used when submitting an interim Statement of Information to update the corporation's or LLC's information of record. These online forms can be accessed through [bizfile California](#) or you can access them directly through to Secretary of State:

- For Corporations - [Statement of Information](#)
- For LLCs - [Statement of Information – Limited Liability Companies](#)

The processing time for an electronically submitted Statement of Information is generally just one business day! Although these new options for Statements of Information are encouraged, they are not yet required. You can still file your Statements of Information by mail. To access the appropriate forms for your particular business entity, go to [Forms, Samples, and Fees](#) on the Secretary of State's website, in the [Business Programs](#) section. For more information, visit [Statements of Information Online Processing](#) webpage.

There are other valuable resources available on the web portal as well. Online brochures and checklists such as the [Starting a New Business in California Brochure](#) and the [Starting a Business Checklist](#) give prospective business owners important information needed to start and register a business in California.

In the “How do I?” section, links include how to [register or terminate a business](#), [register a trademark](#), [find document processing times for business entity filings](#), and many more.

Visit sos.ca.gov for additional information.

[Update on California Regulations Section 25136-2 – Market-based rules for sales other than sales of tangible personal property](#)

On June 16, 2017, we held our second Interested Parties Meeting for the second round of amendments to California Code of Regulations section 25136-2.2 about Market-Based Rules for Sales Other Than Sales of Tangible Personal Property. The most discussed issues were (1) assignment of service fees from government and long-term contracts, and (2) assignment of

asset management fees. Other issues discussed include, but are not limited to, (3) changing the term "other countries" to one with more clarity, (4) assignment of services rendered by a subcontractor, (5) assignment of services in connection with freight forwarding, and (6) various clean-up issues. The deadline for further comments to be taken into consideration before the next proposed draft language is August 15, 2017.

The next Interested Parties Meeting will take place in September or October 2017. A second draft document will be posted to our website for discussion at the meeting.

Staff are currently updating the 50 state analysis on assignment of sales of services and sales of intangible property. Staff are also currently preparing a 50 state analysis to evaluate assignment of asset management fees. These will be posted to our website as soon as they have been completed.

[New Tax News Live video – Market-based sourcing](#)

We produced a new video for [Market-Based Sourcing](#). This video points you to our resources to assist you when working on your clients' accounts, and shows how you can be involved in this ever-changing process.

For other products, go to our products page.

[Interest and estimate penalty rates](#)

The current interest rate on personal income tax underpayments and overpayments, corporation underpayments, and estimate penalties will remain the same at four percent through June 30, 2018.

The corporation overpayment rate will remain one percent through June 30, 2018.

For more information on interest rates, go to ftb.ca.gov and search interest rates.

New phishing email targeting tax pros

The IRS, state tax agencies, and the tax software industry warns tax professionals to beware of phishing emails purporting to be from a tax software education provider and seeking extensive amounts of sensitive preparer data.

The email's origin is unknown but likely issued by cybercriminals who could be operating from the United States or abroad. The email is unusual for the amount of sensitive preparer data that it seeks. This preparer information will enable the thieves to steal client data and file fraudulent tax returns.

The IRS reminds all tax professionals that legitimate businesses and organizations never ask for usernames, passwords, or sensitive data via email. And a preparer should never provide such sensitive information via email if asked.

All tax professionals should be aware that their e-Services credentials, the Electronic Filing Information Number (EFIN), the Preparer Tax Identification Number (PTIN) and their Centralized Authorization File (CAF) number are extremely valuable to identity thieves. Anyone handling taxpayer information has a legal obligation to protect that data.

The IRS, state tax agencies and the tax industry, acting in partnership as the Security Summit, are making inroads on individual tax-related identity theft. Consequently, cybercriminals are increasingly targeting tax professionals. Thieves are looking for real client data so they can better impersonate the taxpayer when filing fraudulent refund returns.

The fake email uses the name of a real United States-based preparer education firm.

Here is the text as it appears in phishing emails being sent to tax professionals:

In our database, there is a failure, we need your information about your account.

In addition, we need a photo of the driver's license, send all the data to the letter.

Please do it as soon as possible, this will help us to revive the account.

- *Company Name*
- *eServices Username*
- *eServices Password*

- *eServices Pin*
- *CAF number*
- *Answers to a secret question*
- *EIN Number*
- *Business Name*
- *Owner/Principal Name*
- *Owner/Principal DOB*
- *Owner/Principal SSN*
- *Prior Years AGI*
- *Mother's Maiden Name*

If you received or fell victim to the scam email, forward a copy to phishing@irs.gov. If you disclosed any credential information, contact the [e-Services Help Desk](#) to reset your password. If you disclosed information and taxpayer data was stolen, contact your [local stakeholder liaison](#).

IRS developed short videos, [IRS Tax Tips - Phishing–Malware](#), for you to share with your clients to help avoid phishing scams.

IRS Web Conference Schedule

Two 60-minute sessions available for each topic

Topic	Date	Session 1	Session 2*
Understanding S Corporations Part I – Overview and Election	August 17	Register and Attend	Register and Attend
Understanding S Corporations Part II – Shareholder Stock Basis and Debt Basis	September 7	Register and Attend	Register and Attend

Session 1

11 a.m. Eastern; 10 a.m. Central; 9 a.m. Mountain; 8 a.m. Pacific; 5 a.m. Hawaii.

Session 2*

2 p.m. Eastern; 1 p.m. Central; 12 p.m. Mountain; 11 a.m. Pacific; 8 a.m. Hawaii.

*Closed captioning offered for Session 2 web conferences ONLY.

Continuing education

All participants who qualify will receive a Certificate of Completion.

Tax professionals – Earn 1 [CE Credit](#) Category: Federal Tax.

Questions?

Email IRS at: SBSE.SL.Web.Conference.Team@irs.gov

Ask the Advocate

Change is in the Air – MyFTB, POA, 540x



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

You are probably familiar with the saying “the only thing constant is change” or some variation of that. This is especially true here at FTB! There are frequent changes in the tax laws we administer and in how FTB interacts with you. Keeping you informed about these changes is an important part of my job as your Advocate and one that I enjoy a great deal, especially when I am able to meet with you at a presentation, seminar, or conference.

As part of our ongoing Education and Outreach program, my staff and I regularly speak to professional groups and at tax update seminars. Some of the topics we have spoken about recently include changes to the Form 540X, improvements to our Power of Attorney forms and processes, and upcoming changes and enhancements to MyFTB.

When we rolled out the enhanced MyFTB in January of 2016, we knew there would be changes as we moved forward. Some of these changes were planned while others are being made in

response to your suggestions and concerns. Our goal has always been to balance the need to protect taxpayers' information while providing an easy to use service for our customers.

To help keep MyFTB easy to use, my staff is leading a department-wide effort to keep you informed and up to date about these changes and enhancements. Here is some of what we have planned for the next 12 months:

- Write monthly articles for the Tax News column, MyFTB Corner.
 - This month's article explains the upcoming changes to our Power of Attorney forms and the new Taxpayer Information Authorization form.
- Provide professional groups with educational materials to use for their webinars. We are also exploring the idea of hosting our own MyFTB webinar.
- Update our tax professional webpages, FAQs, and How-To's with the most current information.
- Develop a department-wide training module for call center staff and others that work directly with the public to ensure that we provide you with accurate information.

I look forward to telling you more in the coming months about what we have planned for MyFTB. Experience has taught me that change is often accompanied by challenges, and I am sure we will have a few going forward. But, I am confident we will meet these challenges and ultimately provide a better MyFTB user experience for you and your clients.

Chief Counsel

Entering into a Closing Agreement with the FTB



Jozel Brunett
Chief Counsel

If you are currently involved in our administrative process resolving a tax related dispute, a closing agreement may be a possible avenue for you to resolve specific tax, interest, and/or penalty issues with us. We have the statutory authority¹ to enter into closing agreements with a taxpayer to help resolve a dispute with respect to any tax, penalty, and/or interest assessment. However, before you decide whether you want to pursue a closing agreement, it is important to understand what a closing agreement is and if it is an appropriate option for you.

What is a Closing Agreement?

A closing agreement is, in essence, a contract between FTB and a taxpayer agreeing on the proper tax treatment of a particular tax issue or transaction for a specific time frame. The purpose of the closing agreement is to provide you and us with assurance as to the agreed upon, proper treatment of a specific tax issue. As a result, the closing agreement provides a final, conclusive, and binding agreement between us and you. The agreement is binding on both parties for any matters covered in the agreement in any legal proceeding, administrative action, or litigation. The agreement cannot be modified except on a showing of fraud, malfeasance, or a misrepresentation of material fact. Thus, it is extremely important that both us and you understand the nature and terms of the agreement before it is finalized.

Please note that a closing agreement is not in lieu of a settlement agreement and a closing agreement cannot be used to settle a tax liability. Since closing agreements are an agreement as to the proper tax treatment of an issue or transaction and not a settlement agreement, risks and hazards of litigation are not considered. If you wish to pursue a settlement of your tax liability, see FTB Notice 2007-2 to learn more about the settlement program.

When can a Closing Agreement be used?

In determining whether a closing agreement is appropriate for your situation, consider the following items:

- Closing agreements can be used at any time during the administrative process.

¹ California Revenue and Taxation Code Section 19441.

- Closing agreements provide finality as to the proper tax treatment of an issue or transaction. However, closing agreements, by operation, do not end an audit, protest, or other administrative action. If there are multiple issues or transactions in dispute, the administrative process will continue for those items not covered in the closing agreement.
- Closing agreements may cover transactions or issues that have occurred in a prior tax year. We do not enter into closing agreements for future years.
- All of the material, relevant facts relating to the transaction or issue in dispute must have been determined before we will enter into a closing agreement. If you are currently in the audit and/or protest process, it is important that you have previously provided all relevant information requested by us. As such, we will not enter into a closing agreement where facts are unknown, hypothetical, or contingent.

Common areas in which we have typically used closing agreements to resolve a dispute are:

- Issues covered in federal closing agreements where the California Revenue and Taxation Code conforms or is substantially similar to the Internal Revenue Code;
- Determining available losses or credits available as of a specific tax year;
- Determining a proper accounting method;
- Determining the correct apportionment factors; and
- Resolving issues related to unity.

We will consider any taxpayer's request for a closing agreement; however, we will not enter into a closing agreement if any of the following situations are present:

- The proposed closing agreement attempts to settle a tax liability or reach a resolution based on the risks and hazards of litigation.
- The years covered by the proposed agreement include years that have not yet occurred or are closed by the applicable statute of limitations.
- The taxpayer is not in good standing with us and/or is suspended by the California Secretary of State.
- The proposed closing agreement would satisfy or be in lieu of the taxpayer's filing obligations.

When and how can I request a Closing Agreement?

You may request a closing agreement at any time during the administrative process. If you are currently in the audit, protest, or appeal phase of the administrative process, you should make a request to the FTB professional that is currently working with you. When the request is made,

the FTB professional will review the request to determine if a closing agreement is the proper instrument for your particular situation and notify you as to whether a closing agreement would be an appropriate tool in the current dispute.

For more information regarding closing agreements, contact our Litigation Bureau at **916.845.4581**.

Inside FTB

New cost recovery fees posted

We assess a cost recovery fee to recover program costs when individuals and business entities fail to file tax returns upon demand or pay their delinquent taxes. The cost recovery fee is comprised of two separate fees: the filing enforcement fee and the collection fee. We review the cost recovery fee amounts yearly, and we base them on program costs.

Entity Type	Filing Enforcement Fee	Collection Fee
Individual	\$84	\$287
General Partnership		
Limited Partnership		
Limited Liability Partnership		
Limited Liability Company treated as a partnership		
Corporation	\$85	\$374
Limited Liability Company treated as a corporation		

MyFTB Corner

New forms coming January 1, 2018 – Power of Attorney and Tax Information Authorization

Beginning **January 1, 2018**, we will start using *new* Power of Attorney declaration forms, and introduce *new* Tax Information Authorization and POA and TIA revocation forms. These forms have been updated and created to help expedite processing so that you can more quickly resolve your clients' tax matters.

Power of Attorney (POA) Declarations

We are simplifying our current POA declaration form and instructions in order to expedite the processing of POA declarations. The new POA declaration forms:

- Will be split into two forms:
 - Individual or Fiduciary
 - Business Entity or Group Nonresident
- Will expire six years from the date signed.
- Will not revoke previously submitted POA declarations with overlapping privileges.
- Can be revoked by using the new POA revocation forms.

MyFTB will update the “File a Power of Attorney” online declaration submission to be consistent with the new POA forms.

Important: We will no longer process non-FTB POA declaration forms or prior versions of FTB 3520 after January 1, 2018. POA declarations filed before January 1, 2018 will remain in effect until revoked or expired.

Tax Information Authorization (TIA)

Many representatives file “information only” POA declarations. We have created the new TIA form to allow authorized representatives to receive confidential tax information on a taxpayer's account without the liability of a POA. The new TIA:

- Allows us to release confidential tax information.
- Covers all tax years.
- Expires 13 months from the date signed.

- Is available for individuals, fiduciaries, business entities, and group nonresidents.
- Does not authorize representatives to act on the taxpayer's behalf before FTB to resolve their tax matters (for this a POA declaration is required).
- Can be revoked by using the new TIA revocation form.

Representatives with a MyFTB account will be able to establish a TIA relationship with their client by selecting "Add Individual Client" or "Add Business Client." They will not need to file a paper TIA form. Representatives without a MyFTB account will need to file a paper TIA form.

We will continue to provide additional details regarding these new forms in the very near future.

All About Business

California cannabis complexities

You say marijuana, I say cannabis. Whichever term you use, everyone is talking about the new rules and regulations associated with this industry. Government agencies are busy implementing these rules and regulations and responding to questions and concerns. Although we have come a long way in a short time, the complexities of recently passed laws mean there is still work ahead.

The Legislature recently enacted laws that allow cannabis use for both medicinal and recreational purposes. The Bureau of Cannabis Control is establishing regulations with requirements for cultivating, testing, selling and transporting cannabis products. As new businesses emerge in this industry, there may be income tax related questions and concerns. For example, taxpayers may want to know how to make a payment or what their filing requirements are. As we look ahead at areas that will impact our stakeholders, we are focused on three main issues:

- New business income tax filings.
- Education and Outreach.
- Addressing the challenges associated with cash-based businesses.

Send us your questions and let us know how we can help. FTBCannabis@ftb.ca.gov

What's next?

We will continue to collaborate externally and internally on this issue to learn from each other's experience. As new developments occur, we will keep you updated through Tax News and our Marijuana Related Activities webpage.

We also plan to host an interested parties meeting at the end of this year to solicit feedback on the topics mentioned above and other areas of interest.

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.