



Tax News

February 2017

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What's new for 2016 tax returns?

Standard deductions

- Single or married filing separate – increased from \$4,044 to \$4,129.
- Joint, surviving spouse, or head of household – Increased from \$8,088 to \$8,258.

Personal exemptions

- Single or married filing separate – increased from \$109 to \$111.
- Joint, surviving spouse, or head of household – Increased from \$218 to \$222.

Dependent exemptions

Increased from \$337 to \$344 each.

Voluntary contributions

Personal income taxpayers may contribute to the following four new funds:

- California Domestic Violence Victims Fund
- Revive the Salton Sea Fund
- Special Olympics Fund
- Type 1 Diabetes Research Fund

Low-Income Housing Credit

Allocations to partners - For partnerships owning projects that receive a preliminary reservation of the Low-Income Housing Credit (LIHC) before January 1, 2020, the prior law exception that requires a partnership to allocate the credit among partners based upon the partnership agreement is re-enacted, whether the allocation under the terms of the partnership agreement has substantial economic effect.

Sale of credit – For projects that receive a preliminary reservation of the LIHC beginning on or after January 1, 2016, and before January 1, 2020, a taxpayer may make an irrevocable election in its application to the California Tax Credit Allocation Committee to sell all or any portion of the LIHC allowed to one or more unrelated parties for each taxable year in which the credit is allowed. An original purchaser is allowed a one-time resale of that credit to one or more unrelated parties. For more information, get form

FTB 3521, Low-Income Housing Credit, or go to the [California Tax Credit Allocation Committee](#) website.

California Achieving a Better Life Experience (ABLE) program

For taxable years beginning on or after January 1, 2016, the California Qualified ABLE Program was established and California generally conforms to the federal income tax treatment of ABLE accounts. This program was established to help blind or disabled people save money in a tax-favored ABLE account to maintain health, independence, and quality of life. Additional information can be found in the instructions of Form 3805P, Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts.

New California Motion Picture and Television Production Credit

For taxable years beginning on or after January 1, 2016, a **new** California motion picture and television production credit will be allowed to a qualified taxpayer. The credit is allocated and certified by the California Film Commission (CFC). The qualified taxpayer can:

- Offset the credit against income tax liability.
- Sell the credit to an unrelated party (independent films only).
- Assign the credit to an affiliated corporation.
- Apply the credit against qualified sales and use taxes.

For more information, get form FTB 3541, California Motion Picture and Television Production Credit, form FTB 3551, Sale of Credit Attributable to an Independent Film, go to ftb.ca.gov and search ftb.ca.gov for **motion picture**, or go to the CFC website at film.ca.gov and search for **incentives**.

Native American income

California does not tax reservation sourced income earned or received from the same Indian country in which the tribal member lives and is an enrolled member. Additional information can be found in the instructions for California Schedule CA (540) and Form 3504, Enrolled Tribal Member Certification.

Qualified health care service plan income

Gross income shall not include the qualified health care service plan income of a qualified health care service plan properly accrued with respect to enrollment or services that occur on

or after July 1, 2016 and on or before June 30, 2019. If the corporation included any amount as income for federal purposes, deduct the amount on Form 100, California Corporation Franchise or Income Tax Return, line 15, **Other deductions**. Also, if the corporation has no income other than qualified health care service plan income that is excluded from gross income under Revenue and Taxation Code Section 24330 for the taxable year, then the corporation is exempt from the minimum franchise tax. Additionally, apportioning corporations with excluded qualified health care service plan income must follow the treatment of apportionment factors attributable to exempt income as explained in FTB Legal Ruling 2006-01 (April 28, 2006). Be sure to answer Question CC on Side 3 of Form 100.

Information return due date change

Beginning on or after January 1, 2016, for withholding on foreign (non-U.S.) partners or members, the due date to file Form 592-F, Foreign Partner or Member Annual Return, has changed to the 15th day of the 3rd month following the close of the partnership’s or limited liability company’s (LLC’s) taxable year. The due date to provide Form 592-B, Resident and Nonresident Withholding Tax Statement, to each foreign (non-U.S.) partner or member has changed to the 15th day of the 3rd month following the close of the partnership’s or LLC’s taxable year. Get Form 592-F and Form 592-B for more information.

Original and extended tax return due dates

For taxable years beginning on or after January 1, 2016, the original and extended tax return due dates for California returns have changed as presented below.

Original tax return due dates

Entity Type	Calendar Year Filer	Fiscal Year Filer
C Corporations and LLCs taxable as a corporation	April 15	15th day of the 4th month following the close of the taxable year
*S Corporations	March 15	15th day of the 3rd month following the close of the taxable year

Entity Type	Calendar Year Filer	Fiscal Year Filer
Partnerships and LLCs taxable as a partnership	March 15	15th day of the 3rd month following the close of the taxable year
Exempt Organizations	May 15	15th day of the 5th month following the close of the taxable year

Extended tax return due dates

Entity Type	Calendar Year Filer	Fiscal Year Filer
Entity Type	Calendar Year Filer	Fiscal Year Filer
C Corporations and LLCs taxable as a corporation	October 15	15th day of the 10th month following the close of the taxable year
*S Corporations	September 15	15th day of the 9th month following the close of the taxable year
Partnerships and LLCs taxable as a partnership	September 15	15th day of the 9th month following the close of the taxable year

*No change to original due date

Single member limited liability companies (SMLLCs) follow the original and extended due date of the owner. If a SMLLC is owned by a pass through entity, the original due date is the 15th day of the 3rd month following the close of the taxable year. The due date for all other SMLLCs, is the 15th day of the 4th month following the close of the taxable year.

Implied consent

Our goal is to provide you with assistance to help your clients resolve their tax matters. We have improved procedures to enable staff to interact with representatives easily and quickly, and in many situations without a processed Power of Attorney (POA) Declaration. We call this process “implied consent”. Implied consent occurs when a taxpayer’s representative can provide enough information from a Franchise Tax Board (FTB) notice or a taxpayer’s account to infer that the representative has authorization to discuss specific account information. Implied consent does **not** replace the potential need for a POA declaration, if you wish to discuss any tax years that are not included in the notice or will be representing the taxpayer on an ongoing basis.

Note: It is not intended to be used as a basis to discuss all tax years or all tax matters.

We recommend representatives obtain details about the specific matter requiring assistance from their client prior to calling us. In general, to assist a representative, our agents need to verify the representative’s identity and establish the right-to-know, using details of an FTB notice or transaction, or sufficient taxpayer information and details to establish authorization to discuss a specific tax year and matter.

We are providing ongoing training to our staff to ensure you have a consistent experience when contacting us, regardless of whether or not you have an active POA. If at any time you are unable to obtain information using implied consent and feel that you have provided the information necessary to do so, you may escalate the contact to a supervisor or manager.

For the long term, efforts are underway to help improve and address other areas of concern you have voiced with POA declarations. This is a comprehensive effort and we are committed to making improvements in the POA process where possible. This team is carefully looking at all phases of the POA process, including the various form types and different privileges based on need. We are identifying areas that are “pain points” for you, the tax professional, and working to alleviate them so we can help you serve your clients better. See the December Tax News article, **Ask the Advocate, Power of Attorney Declaration Process**, for specific details on our efforts.

Additionally, the online process for submitting POA declarations has improved since the implementation of MyFTB in January 2016. This is in part due to a combination of education and outreach to the tax professional community, system enhancements and increased staffing. As a result, more electronically submitted POA declarations are being processed, and we've decreased processing timeframes.

Your clients may need to renew their ITINs

IRS issues Individual Taxpayer Identification Numbers (ITIN) to individuals who do not have, and are not eligible to obtain, a valid U.S. Social Security Number (SSN) but who are required by law to file a U.S. Individual Income Tax Return.

The IRS announced last year that certain ITINs would be expiring on **December 31, 2016**:

- All ITINs with middle digits **78** or **79** (9NN-78-NNNN and 9NN-79-NNNN).¹
- All ITINs not used to file a U.S. tax return at least once for **2013, 2014** or **2015**.

Timely renewal of ITINs will help avoid processing delays when filing; however, only taxpayers who will be included on a tax return in **2017** need to renew their ITIN. Additionally, if a taxpayer is now eligible to obtain a SSN, they do not need to renew their ITIN and would use their SSN for 2017 filing purposes.

What do you do if your client cannot locate their ITIN and you do not have a copy of a prior year's return for reference? To retrieve a lost ITIN, have your client call the IRS ITIN Hotline at **800.908.9982**. The IRS will ask them a series of questions to verify their identity before providing the number.

The IRS has an extensive list of [ITIN Expiration FAQs](#) including how taxpayers should notify IRS when an SSN has been assigned so that tax records may be combined.

¹ The IRS sent their [Letter 5821](#) to this group of taxpayers, i.e., those with middle digits **78** and **79**, advising them that they or someone on their tax return has an ITIN that would expire January 1, 2017

Offer in Compromise program – Made easy

The more complete and accurate the application and supporting documents are, the quicker we can make a determination on the case.

Who can apply?

The Offer in Compromise (OIC) program is for personal income tax and business entity (BE) taxpayers who do not have, and will not have in the foreseeable future, the money, assets, or means to pay their tax liability. The program allows a taxpayer to offer a lesser amount for payment of a non-disputed final tax liability. California Revenue and Taxation Code (R&TC) Section 19443 governs our OIC program.

Taxpayers must establish the amount offered is the most they can pay based on their present and possible future assets and income. BE taxpayers may establish that the business has no assets or income, has sustained substantial losses, and/or is out of business. In addition to the individual taxpayer's current financial situation, we consider factors affecting the taxpayer's earning capacity and ability to liquidate assets to pay their liability. We must also determine that acceptance of the offer is in the state's best interest.

In order to help us determine what is in the state's best interest, we evaluate each case based upon its own unique set of facts and circumstances. We give strong consideration to present equity in assets, future earning potential, and other considerations such as age, health, other tax and child support liabilities, or hardships that could affect future earnings and expenses. This case-by-case approach gives us the flexibility to reach a fair and appropriate decision for the state and the taxpayer.

The process

Interested taxpayers should submit a **completed** application Form 4905PIT or 4905BE. After an initial review of the application for completeness, we send an acknowledgement letter to the taxpayer and any authorized representative which may include a request for additional information. Once an account has been assigned to an OIC Specialist, they will validate the information in the application and evaluate all supporting documents to determine if the offer should be accepted.

How to make the process easy?

The more complete and accurate the application and supporting documents are, the quicker we can make a determination on the case. Here are some tips to help **make the process easy**:

All applications:

- Complete the check list provided in the application to ensure all required areas are addressed.
- Complete **all** pages of the application, providing full disclosure. This includes writing “none” or “**not applicable**” in the appropriate areas.
- Complete the justification for the offer and source of funds – these sections cannot be left blank. Include any unique circumstances affecting your ability to pay.
- Verify the application is signed and dated.
- Include copies of all bank statements, pay stubs, and profit and loss worksheets that are required.
- Include the application and the acceptance letter or other IRS arrangements if the taxpayer has submitted or completed an offer in compromise for the IRS.
- Don’t omit any information, sources of income, or assets. If they are located during the evaluation process, it will serve as grounds to deny the offer.

Business entities:

- Ensure that all required returns are filed prior to submitting an application.
 - BEs need to include all returns up to the current year. This may include a partial year return, and marking the “final return” box on the last return.
- Include proof that all bank accounts have been closed.

Personal income tax:

- Ensure that all tax returns are filed.
- Include 3 months of billing statements for all expenses claimed.
- Include a **current** rental agreement or mortgage statement.
- Include copies of all bank statements and pay stubs. If self-employed, provide profit and loss worksheets.
- If one of the reasons for justification of the offer is a medical condition(s), documentation must be provided.

Collateral agreements

In certain cases, the OIC Specialist also requires a collateral agreement signed by the taxpayer as a condition of approval. If a taxpayer has significant potential for increased future earnings or

acquiring additional assets that would allow them to satisfy a greater amount of the liability than the amount offered within a reasonable period, the OIC Specialist may require the taxpayer to pledge a percentage of future earnings for a fixed period of time.

Future compliance requirement

Personal income tax

Taxpayers who have an accepted OIC are required to file subsequent returns and pay all future tax liabilities timely. In addition, if an offer requires a collateral agreement, taxpayers must remain compliant with the terms of the signed collateral agreement. Should a taxpayer fail to comply with these requirements, the offer may be rescinded in accordance with R&TC Section 19443.

Business entities

Business entities are generally required to dissolve with the Secretary of State immediately after the OIC is approved. Failure to complete this necessary step may result in rescission of the offer.

Contact us

For more information on the OIC process, visit our Offer in Compromise webpage or call us at **916.845.4787**.

[We offer several tools to help taxpayers achieve compliance with California's filing and withholding requirements](#)

We have three options that give some out-of-state entities the opportunity to come forward voluntarily if they have unmet filing requirements and owe California state income or franchise tax. These tools are:

- Voluntary Disclosure Program.
- Filing Compliance Agreements.
- Withholding Voluntary Compliance Program.

The Withholding Voluntary Compliance Program is new and allows withholding agents who are not in compliance with California's nonwage withholding requirements an opportunity to become current on their withholding obligation.

Voluntary Disclosure Program (VDP)

Our VDP is open to a variety of business entities including C-corporations, S-corporations, trusts and limited liability companies and their shareholders, beneficiaries or members. To be eligible, the business entities must **not**:

- Be qualified, registered, or organized in California.
- Have previously received a notice from us requesting a tax return.

Business entities who believe they meet these criteria can voluntarily come forward and resolve their filing obligations by submitting an Application for Voluntary Disclosure (Form FTB 4925). If we approve the application, we will limit the imposition of tax to a six-year look-back period and may waive certain penalties.

Filing Compliance Agreements (FCA)

Those business entities not eligible for VDP including Partnerships, Limited Partnerships, Limited Liability Partnerships and their non-resident partners may be able to enter into a Filing Compliance Agreement with us. To be eligible, the business entities must **not** have previously received a notice from us requesting a tax return.

Business entities who believe they meet this criteria can voluntarily come forward and resolve their filing obligations by submitting a Request for Filing Compliance Agreement (Form FTB 5841). If we approve the application, the business entity must file and make full payment for all years they have failed to file a California tax return, and then we may waive certain penalties.

Withholding Voluntary Compliance Program (WVCP)

Our WVCP is geared towards withholding agents (both individuals and business entities) who are delinquent in their California nonwage withholding (resident, nonresident, backup, and real estate) obligations. To be eligible withholding agents, they must **not** have:

- Been audited for nonwage withholding.
- Been assessed a withholding liability or information return penalty for nonwage withholding.

- Participated in our 2008 Nonresident Withholding Incentive Program.

Withholding agents who believe they meet these criteria can voluntarily come forward and resolve their withholding obligations by submitting a Withholding Voluntary Compliance Program Application (FTB Form 4827). If we approve the application and the withholding agent makes full payment of the withholding due, we may waive certain penalties and agree not to perform withholding audits on previous tax years.

For more information about the Voluntary Disclosure Program and Filing Compliance Agreements, go to ftb.ca.gov and search for **VDP** or **FCA** or call us at **800.852.5711**.

For more information about the Withholding Voluntary Compliance Program, go to ftb.ca.gov and search for **WVCP** or call us at **888.792.4900** or **916.845.4900**, if outside the United States.

Acceptable payment options by mail

With the filing season here, we would like to remind you of the options available for remitting your client's payments by mail.

A check or money order is the only acceptable form of payment by mail. Your clients should not send cash or other items of value (such as stamps, lottery tickets, foreign currency, or gift cards). The non-cash items of value will not be accepted, nor will they be applied to a tax bill.

To mail a check or money order payment:

1. Use black or blue ink, make the check or money order payable to "Franchise Tax Board".
2. Write their SSN or ITIN and tax year on the check or money order.
3. Make all checks or money orders payable in U.S. dollars and drawn against a U.S. financial institution.
4. Enclose, but not staple, the payment with the tax return.
5. Mail to:

Franchise Tax Board
PO BOX 942867
SACRAMENTO CA 94267-0001

New and improved publication FTB 1123, Forms of Ownership!

We are pleased to announce that we have recently revised FTB 1123, Forms of Ownership.

While it still keeps most of the important and valuable information from the previous version, we made some needed revisions and additions which include:

1. **Title:** We changed the title from *Forms of Ownership* to *Common Forms of Ownership*. As laws are constantly changing and as certain business entities can become very complicated, we focused this publication on the more commonly used forms of ownership.
2. **Cover:** We have totally redesigned the cover so this booklet will stand out and convey its importance to business owners. We have changed from a white cover with red lettering to a black cover with red and white lettering. Now, the FTB 1123 really stands out!
3. **Content:** While our primary focus is still sole proprietorships, partnerships, corporations, and LLC's, we have added and expanded on these subjects. For example, for corporations, we not only discuss C-corporations and S-corporations, but we also review some of the different and newer types of corporations such as personal service corporations, social purpose corporations, and non-profit corporations.
4. **Dissolution/Cancellation of an Entity:** We have included a section that explains how to dissolve or cancel a business entity in the correct and proper way at the end of each business entity discussion.
5. **Appendices:** At the end of the booklet, there are three very important informational appendices. Appendix 1 explains why it may be necessary for a business to file a Fictitious Business Name Statement, also known as registering a DBA or "Doing Business As" name. Appendix 2 defines some commonly used terms in the booklet. Lastly, Appendix 3 is a Quick Reference Chart that has a vast amount of important information in a convenient chart. For example, it lists the specific tax form needed, due dates, and tax rates of all the different business entities.

We are hopeful that businesses will find this newly revised publication useful and educational. Look for and ask about FTB 1123, Common Forms of Ownership, at our many education and outreach events.

To view or print FTB 1123, Common Forms of Ownership, go to ftb.ca.gov and search for **1123** or **Common Forms of Ownership**.

California Army National Guard bonuses (update)

In our December 2016 issue of Tax News we addressed some of the issues surrounding the tax treatment of California Army National Guard bonuses, including repayment.

Subsequently, the Department of Defense (DoD) established a process to handle erroneous bonus repayment cases.

The majority of the California cases should be resolved without repayment of the bonuses according to a January 3, 2017, DoD News article, [DoD Sets Up Process for Erroneous Bonus Payment Cases](#). Some of the remaining cases will be reviewed further while others already have a debt established and have been referred to the Defense Finance and Accounting Service for recoupment.

For the majority of taxpayers originally affected who now are **not subject to repayment** and who did not make any repayments, nothing further should need to be done for tax purposes.

For taxpayers whose cases are currently **under review**, the correct tax reporting treatment cannot be determined until a final determination regarding their bonus is made. If it is ultimately determined that no repayment is due and none has been made, then nothing further needs to be done for tax reporting purposes.

For taxpayers whose cases have already been **referred to DFAS for recoupment**, once repayments are made, the general tax treatment for those repayments was explained in our article, National Guard Bonuses, in our December 2016 issue of Tax News. However, because everyone's tax situation is unique and there are many possible variables, it is highly recommended that taxpayers who are subject to recoupment and make repayments consult with a tax professional to determine proper reporting for both federal and state tax purposes.

For taxpayers who **repaid the bonuses**, in whole or in part, **and are later reimbursed** for such repayments², then those amounts would generally be taxable as income for federal income tax purposes. The taxability of the reimbursements by California would depend on whether the taxpayer is a resident or domiciliary of California when the reimbursement is received.

² Reimbursements are anticipated to be completed by July 2017, according to the DoD.

Additionally, assuming tax was originally paid on the bonus, then to the extent the taxpayer did not receive a tax benefit for the repayment, e.g., deduct the repayment as an itemized deduction or received a credit under the claim of right doctrine, then under the tax benefit rule in IRC Section 111(a), to which California conforms in R&TC Section 17131, the taxpayer may be entitled to exclude part or all of the reimbursement from income.

IRS Publication 525 Taxable and Nontaxable Income provides guidance regarding repayments and the tax benefit rule. Again, it is highly recommended that taxpayers who are subject to recoupment and make repayments consult with a tax professional to determine the proper reporting for both federal and state tax purposes.

Ask the Advocate

2016 CalCPA and CSEA meetings



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

On October 19 and 21, 2016, we held our annual liaison meetings with the California Society of Certified Public Accountants (CalCPA) and the California Society of Enrolled Agents (CSEA).

Below I share a few of the top questions from those meetings that may be of interest to our Tax News readers.

Question #1:

Identity Theft and State Tax Refund Reporting

I have several clients who had fraudulent tax returns filed last year and who had contacted the identity theft hotline. The identity theft was noted in taxpayer's files and the accounts had a hold put on them. Unfortunately, FTB issued 1099-G's for the fraudulent amounts (I did confirm checks had not been paid on these amounts). These 1099-G's were reported to the IRS. When I called on behalf of one of my clients FTB said they would issue a corrected 1099 to the IRS.

Since identity theft is becoming a major issue, there should be more coordination between the identity theft division and the division who issues 1099-G's. There may be taxpayers who are incorrectly reporting their taxable state refunds due to incorrect 1099-G's and if they don't report the incorrect 1099-G's sent to them by the state they may have issues with the IRS.

Response:

FTB takes a proactive approach to reevaluating current processes where improvements can be made. As stolen identity refund fraud has increased, FTB proactively took steps to exclude the fraudulent refunds and ensure the taxpayer and IRS receives the correct 1099-G. With identity theft, the issue resolution timing and the 1099-G issuance may lead to FTB sending an incorrect 1099-G; however, this should be a rare occurrence.

If your client has concerns regarding the accuracy of the information reported on form 1099-G, please direct them to contact us for assistance at **800.852.5711**. If the 1099-G is incorrect due to an identity theft issue, please direct them to contact us for assistance at **916.845.7088**. For those calling outside of the U.S. call us at **916.845.6500**, TTY/TDD **800.822.6268**. Our call center hours are Weekdays 7 a.m. to 5 p.m. We are closed on state holidays.

Question #2:**Timeframes for Processing Amended Returns (Claim for Refund)**

My question relates to individual tax returns. I would like an explanation of the process at FTB and why it takes so long to get refunds processed. Is this a labor issue (insufficient resources)? Does FTB have budget constraints similar to the IRS? What can be done to expedite processing of refund claims? My specific case was real estate withholding that was done at a partnership level, but the credit was not claimed on the partner's original Form 540. The amended return claimed a refund of the withheld taxes along with documentation necessary to substantiate the credit. After 2 months, I made a follow-up call to the Practitioner Hotline to find out when the refund would be processed and the answer I received was that amended returns take 6-8 months to process as current year filing has priority over amended returns and refund claims.

Although my question related to personal experience in a specific case, it seems to me that the inability of FTB to perform functions in a timely fashion is more of a systemic problem. The state incurs significant dollars in interest that it needs to pay when delays are so long. These dollars could be saved if FTB's work were completed in a timelier manner.

Response:

FTB has always allowed for 4 to 6 months processing time for 540X returns due to the often complex nature of the amendments made to the original return which result in:

- A higher percentage of returns received that require manual resolution (compared to original returns).
- More detailed analysis to resolve.
- Fewer staff available with the skill set to resolve them.

Based on sheer volume, FTB allocates the bulk of its personal income tax return processing staff from January through the end of May to resolve the 16 million current year original returns received by the department. This includes an “all hands on deck” period in April when all processing staff work only current year returns.

This year, FTB extended the 540X time frame to 6 to 8 months to account for additional processing delays attributable to FTB’s efforts to implement the new Earned Income Tax Credit. However, FTB is currently processing most 540X returns within 4 months.

To address the delay caused by our resources redirected to implementing Earned Income Tax Credit (EITC), FTB redirected 540X staff back to processing amended returns at the end of May, doubled the number of trained staff in June, and is doubling the number again, in September. Through this augmentation, FTB expects to be back within normal processing timeframes by the end of the calendar year.

Future improvements include moving amended return processing out of the legacy Return Validation (RV) system and into the new EDR Return Analysis (RA) application. RA will significantly improve our ability to manage our inventory; most notably by prioritizing 540X returns by age **and** the balance type of the return. This will ensure that claims for refund rise to the top in a way that our current system cannot do. Consistent with all EDR project releases, we are moving amended returns into RA on a Crawl/Walk/Run basis. We are currently in the “Walk” stage and have a limited number of staff working amended returns in RA while most work the current inventory in the RV system.

In addition, we are looking to improve the 540X form itself. As you may have read in the October Tax News article, FTB is looking at eliminating the separate form for amending personal income tax returns (Form 540X) and replace it with a modified Form 540 adapted with an option to allow for amended return filing. We look to have this in place for the 2017 tax year (Jan 2018). Since the modified 540 series forms are expected to use the same fields, edits and math as those in the current 540 series, it would enable the returns to be validated faster thus speeding up the timeframes for processing them.

Question #3:

It is our understanding that an online business revivor was implemented in July. Where exactly is it located, and how is it accessed and utilized?

Response:

On July 1, 2016, the Revivor Assistance Request Form was deployed. The Revivor Assistance Request Form provides another avenue for entities to contact FTB to request assistance with revivor requirements.

MyFTB Registration *is not* required to submit the request form. To access the form, you have three options:

- Go to ftb.ca.gov and search our website for **revive**. This new option allows practitioners a searchable option once on our website.
 - Once the results page displays, you will then select on the first link, How Can I Revive My Business Entity?
 - Then select on the link **Revivor Assistance Request Form**.
- Go to: [Revivor Assistance Request Form](#)
 - Once on the form, you will then be asked to complete all required fields prior to submitting the form.
- Go to: [How Can I Revive My Business Entity?](#) webpage.
 - Once on the page, select on the link **Revivor Assistance Request Form**.

After the request is submitted, one of our specialists will research the account and contact the business representative by telephone within 48 hours. If a message has to be left, the specialist will leave their direct phone number for the representative to call back. Once contact is made our specialists will ensure the requestor passes our security and disclosure protocols, including Power of Attorney requirements, prior to discussing confidential information.

Chief Counsel

Notice of Proposed Overassessment



Jozel Brunett
Chief Counsel

What is a Notice of Proposed Overassessment?

Generally, a taxpayer has four years from the original due date of the California tax return or one year from the date of their overpayment, whichever is later, to claim a refund of California state income and franchise taxes. Under Revenue and Taxation Code Section 19306 we cannot allow a refund or credit unless before the expiration of the statute of limitations, the taxpayer files a claim or we "mail a notice of proposed overpayment on a preprinted form prescribed by the Franchise Tax Board." The form referenced in Section 19306 is FTB Form 5850, Notice of Proposed Overassessment (NPO).

An NPO represents a tentative determination of an overassessment of tax over the original self-assessed tax or previously assessed tax. For corporations, we may issue an NPO during the course of an audit or as a result of a taxpayer filing a claim for refund where allowance of the claim is conditioned on a related proposed deficiency assessment. For individual taxpayers, an NPO is generally audit initiated. Like a Notice of Proposed Assessment (NPA), we must issue the NPO before the statute of limitations period expires.

An NPO typically results from the same audit as a related NPA. The effect of an NPO is that it keeps the statute of limitations period open while the taxpayer protests and appeals the related proposed deficiency assessment. It is important to know a withdrawal or modification of an NPO is not a denial of a claim for refund with appeal rights. Instead, the NPO is pending while the taxpayer contests a related proposed deficiency assessment and when the proposed assessment becomes final, FTB will apply an overpayment from the NPO year to any final balances due. If the taxpayer prevails in contesting the proposed deficiency assessment, we will also withdraw the NPO, since it is only a proposed overassessment pending the results of the NPA. The example below illustrates how an NPO would operate in practice.

Example: We issue an NPA and an NPO in February 2016, stating a deduction should have been claimed for the 2011 tax year instead of the 2012 tax year, resulting in an increase in tax liability for the 2012 tax year and a decrease in tax liability for the 2011 tax year.

The taxpayer timely protests and in August 2016, we determine the deduction was properly disallowed for the 2012 tax year. In this example, when the 2012 NPA is final, the NPO would take effect and FTB would issue a refund or credit for the 2011 tax year even if the statute of limitations to claim a refund for the 2011 tax year had expired.

MyFTB Corner

Renew your tax preparer client relationships in MyFTB

For uninterrupted access to your client's online account, renew your Tax Preparer client (non-POA client) in MyFTB.

Renewing is easy, simply:

- Select **Renew** link next to your client's name.
- **Confirm** you are authorized to continue to access your client's account.
- **Submit** by selecting OK.

Access to Tax Preparer clients expire 13 months from the date you add them to your **Client List** in MyFTB. For uninterrupted access, renew your client relationships *more* than 10 business days **before** the expiration date. We will send a letter to your clients notifying them you have renewed access to their account.

For additional details, see *How To Renew a Tax Preparer Client on the Client List* and our December *Tax News-MyFTB Corner* article *Renew Your Tax Preparer Client Relationships in MyFTB*.

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Have a new client?

One of the benefits of adding a client to your Client List in MyFTB is having access to their online account information, such as estimated payments and withholding.

This access will allow you to quickly see your client's information when preparing their return. This may eliminate the need to call us.

We recommend you add your clients early, before you need to access their accounts.

When you add a client to your Client List in MyFTB, you must wait 10 business days while we notify your client and allow them the opportunity to review the request. We will send a letter (FTB 4099) to your client notifying them that you have added them as a client in MyFTB and that you will have access to their online account information.

As a reminder, you need to obtain your client's permission to add them to your Client List in MyFTB. Tax professionals can use FTB 743, Online Account View Access Authorization (or equivalent form), from your client to gain permission to access their account. Do not mail this form to us; keep it for your records.

For more information, see [How to Add a Client to My Client List](#).

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.