STATE OF CALIFORNIA
Franchise Tax Board

taxnews

# Tax News

June 2016

## Contents

## Changes coming soon to the MyFTB registration and login processes

We streamlined our processes to enhance security and make it easier for you to log in to MyFTB.

We use leading industry-standard encryption on all webpages to protect your information. The locked padlock in your web browser's address bar indicates our website is secure.

### When the processes change:

We plan to make the changes on June 22, 2016.

### What is changing?

#### Easier to log in

Your User Name and Password entry will be conveniently located together on one page.

#### No security image

When you log in to MyFTB, you will no longer see your security image.

New users that register for MyFTB will no longer need to select a security image: we are removing the security image from all existing MyFTB accounts.

### Update existing MyFTB account information

We will remove the security image from all existing MyFTB accounts.

Your existing user name, password, and security questions/answers will **not** change.

### Passwords

We will increase the maximum length for passwords from 16 to 32 characters and allow spaces and special characters.

You do **not** need to change your existing password.

## Two Internal Revenue Service (IRS) webinars for tax professionals

IRS Stakeholder Liaison Western Area presents two free webinars.

### IRS 101 – Understanding Correspondence Examinations

**Date**: June 16, 2016
**Time**: 11 a.m. (1 Hour)

To Register and attend

Continuing Education (CE): Earn 1 CE Credit for each hour – Category: Federal Tax

To receive a certificate of completion, you must:

- View the live presentation for at least 50 minutes from the start of the program for one CE credit (100 minutes for the Appeals webinar).
- View the presentation while signed in using the same email address that you used to register (you will not receive credit by watching on someone else's computer). This will confirm your attendance and generate your certificate of completion.
- Groups cannot register with one e-mail address and then receive separate certificates; each person must separately register.

If you are an enrolled agent or another tax return preparer attending for education on a voluntary basis, you must register with your 8-character PTIN, and first and last name as shown on your PTIN card or letter. If you do not have a PTIN, you will receive a certificate; however, your credit will not be reported to the IRS. Other tax professionals will be sent a certificate and may receive credit if the broadcast meets their organization's or state's CE requirements.

### FBAR: Understanding Foreign Financial Account Reporting

IRS Stakeholder Liaison Western Area presents also with California Society of Enrolled Agents (CSEA) sponsoring the continuing education:

**Date**: June 9, 2016
**Time**: 11 a.m.

To Register and attend

Learning objectives include:

- Learn the FBAR purpose.
- Determine who must file a FBAR.
- Determine the FBAR filing requirements.
- Determine who is exempt from the FBAR filing requirements.
- Understand the FBAR civil and criminal penalties.

*This webinar is FREE to attend.

The CSEA (not the IRS) is providing 1-hour CE credit (Federal Tax) for a fee. To receive credit and a certificate of completion, you must:

- Register through the CSEA website.
- View the live presentation for at least 50 minutes from the start of the program.
- View the presentation while signed in using the same email address that you used to register (you will not receive credit by watching on someone else's computer). This will confirm your attendance and generate your certificate of completion.
- Groups cannot register with one e-mail address and then receive separate certificates. Each person who wants a certificate must register separately.

**Questions?** Email IRS Stakeholder Liaison Western Area at SL.WESTERN@IRS.GOV.

## Top 5 rejection reasons when filing a POA using MyFTB

The March Tax News Article, Tips for Filing a Power of Attorney Declaration Using MyFTB, announced that we will process your Power of Attorney (POA) Declaration faster if you use MyFTB than if you file by paper. However, it is important to follow the step-by-step instructions provided to ensure your POA Declaration will not be rejected.

Estimated times for POA processing are as follows:

- 30 business days or less for online submissions using MyFTB.
- 45 business days or less for paper processing with qualified exception marked.
- 90 business days or more for paper processing with no exception.

1. **Taxpayer approves using MyFTB**.

   **Step 1:** Representative files the POA Declaration online using MyFTB and does not attach a signed copy of the POA Declaration.
   **Step 2:** We review and process.
   **Step 3:** The taxpayer client approves using their MyFTB account. The POA Declaration is now active.

2. **Upload signed POA declaration**.

   **Step 1:** Representative completes the declaration online using MyFTB and uploads a signed, dated, and fully completed declaration. **The declaration must exactly match the**

information entered using MyFTB.
**Step 2:** We review and approve. The POA Declaration is now active.

The most common reason we reject MyFTB POA Declarations is that the uploaded signed copy does not match the information entered in MyFTB.

The Top 5 reasons why we reject a POA Declaration are:

1. A POA Declaration is entered online using MyFTB with a single signed declaration uploaded, however the information entered does not match the information found on the POA Declaration (i.e., tax years, authorization, # of reps, etc.)

   Solution: The declaration must exactly match the information entered using MyFTB.

2. A POA Declaration is entered online using MyFTB with two signed declarations uploaded for related taxpayers (joint filers).

   Solution: For every declaration entered using MyFTB, there may only be one signed matching declaration uploaded per entry.

3. A POA Declaration is entered online using MyFTB with a single, signed, and matching declaration, however additional signed declarations are also uploaded for non-related taxpayers.

   Solution: For every declaration entered using MyFTB, there may only be one signed matching declaration uploaded per entry.

4. A POA Declaration for a Business Entity is entered online using MyFTB with a single, signed, and matching declaration, however the declaration is not signed or dated or does not appear on the appropriate signature line.

   Solution: The declaration for a business entity must exactly match the information entered using MyFTB and include the proper signature and date on the appropriate signature line.

5. A POA Declaration for Fiduciaries is entered online using MyFTB with a single, signed, and matching declaration, however there is no supporting documentation attached

Solution: The declaration for a Fiduciary must exactly match the information entered using MyFTB and the upload must include all supporting documentation.

Acceptable forms of documentation are:

- A legal document naming the person authorized to sign the POA on behalf of the Estate or Trust.
- A completed copy of Federal Form 56, Notice Concerning Fiduciary Relationship.
- A Court Order.
- A Governing Instrument.
- A Last Will and Testament.

If you elect to file your POA Declaration on MyFTB using the Upload Signed POA Declaration method, use the current version of the FTB 3520.

Additionally, use the following checklist to ensure your declaration is not rejected:

- Individual taxpayer POA Declarations are submitted separately from Business Entity declarations (even for Sole Proprietorships).
- All representatives listed on the signed POA Declaration must be entered in MyFTB, including secondary representatives.
- The primary representative on the declaration must be marked as the primary representative when entered in MyFTB.
- The Privileges listed on the signed POA Declaration must exactly match what is entered in MyFTB. For example:
  - If the Authorization for All Tax Years for a Limited Duration box from Part 3 is marked on the signed POA Declaration, then the box in the All Tax Years or Income Periods for a Limited Duration section on MyFTB must be selected.
  - If tax years or account periods are listed on the signed POA Declarations in Part 4 or Part 8, the exact tax years or account periods must be entered in the Calendar Tax Year or Fiscal and Short Period Income Year sections, respectively, on MyFTB.
  - If Tax Year 2013 is entered in the Calendar Tax Year section, do not enter January 1, 2013 – December 31, 2013 in the Fiscal and Short Period Income Year section.
- We do not require the IRS 2848 when submitting a POA Declaration. If the IRS 2848 is included with the FTB 3520, the POA Declaration will be rejected because the information on the two forms is contradictory. Only upload one signed declaration for each taxpayer. If a non-FTB form has been modified to apply for FTB matters and is being uploaded, you should not upload a signed FTB 3520 because this will result in rejection of the POA.

## 10 business day hold notification for enhance taxpayer security

At the end of June, we will implement a new 10 business day hold for both Power of Attorney (POA) and Tax Preparer relationships

We take taxpayer privacy and security of confidential information seriously. We continuously look for new and more robust security measures to keep information safe and secure. At the end of June, we will implement a 10 business day hold before you can access a client's account information for both Power of Attorney (POA) and Tax Preparer relationships in MyFTB.

1. **Power of Attorneys (POA): Processed POA Declarations**

At the time that we process and approve a POA declaration, the following will occur:

- A 10 business day hold is set on the representative's access to their client's MyFTB account information*.
- A letter (FTB 1124) is sent to the taxpayer notifying them that the declaration has been processed.
- The authorized representative will be able to access the client's MyFTB account information after 10 business days, unless we have been contacted by the taxpayer notifying us that the POA declaration is not valid and/or they no longer approve it.

*The 10 business day hold does *not* apply to: 1) POA declarations submitted by the representative through MyFTB without an uploaded copy of the declaration. After we process and approve the declaration, the taxpayer must approve the declaration by logging into their own MyFTB account and 2) POA declarations submitted by the taxpayer through their MyFTB.

You can still get assistance with your clients' tax matters during this 10-day hold by calling us. After we complete the appropriate ID verification, we will assist you with your client's tax matters to the extent possible. If you have an extremely urgent matter that requires immediate access, we may release the 10-day hold. We are developing this process and will publish further information as it becomes available.

2. **Tax Preparers: Adding Clients to their Client List in MyFTB**.

When a Tax Preparer adds an **Individual Client** or **Business Client** to their **Client List** in MyFTB, the following will occur:

- A 10 business day hold is set on the Tax Preparer's access to their client's MyFTB account information.
- A letter (FTB 4099) will be sent to the taxpayer notifying them that the Tax Preparer has added them as a client in MyFTB and will have access to their MyFTB account information.
- The Tax Preparer will be able to access the taxpayer's MyFTB account information after 10 business days, unless we have been contacted by the taxpayer notifying us that access to their account should not be allowed.

If you do not have a Power of Attorney for your client, we will not release the 10-day hold. However, you may still call us and we will assist with your clients' tax matters to the extent possible.

As a reminder, if you do not have a Power of Attorney with your client, you need to obtain your client's permission to add them to your Client List, which allows access to their MyFTB account. 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 details, see our February 2016 Tax News Article, Obtaining Your Client's Permission to View Their MyFTB Account.

The client notification and 10 business day hold is an extra security measure we have put in place to help address potential risks of fraud.

For information on how to add a client to your **Client List** or submit a POA declaration in MyFTB go to **ftb.ca.gov** and search:

- **how to file a poa** for instructions on how to submit a POA declarations online.
- **how to add a client** for instructions on how to add a client to my client list.

## Updated revivor webpage

Do you have clients with suspended or forfeited business entities? We suspend or forfeit business entities when they fail to file a return or pay their tax liability (tax, penalties, interest or fees). Suspended business entities lose their rights, powers, and privileges to conduct business in California.

We have recently updated our “How Can I Revive My Business Entity” webpage. The updated webpage will provide you and your client’s easier access to Revivor information for suspended/forfeited business entities.

The webpage includes the following information:

- Suspension causes and effects.
- What is needed to revive a suspended entity.
- How to revive an entity at an FTB field office.
- How to qualify for a walk-through revivor at an FTB field office.
- Explanation of contract voidability and how to purchase relief from it.

For more information visit our webpage and enter Revive in the Search box or go to the business page on our website in the ‘Popular’ column and go to How to Revive a Business Entity.

## New online revivor assistance form

Beginning Friday, July 1, 2016, business entities can submit an online request for revivor assistance on our website.

Our goal is to revive business entities as quickly as possible once they meet their tax compliance obligations to ensure the business is promptly and legally able to conduct business in California. When a business is suspended or forfeited, the entity must properly revive in order to be placed back in good standing. Not all businesses understand their requirements to return to good standing and will call or write us for assistance.

Beginning Friday, July 1st 2016, business entities will now be able to submit an online request for revivor assistance via the Revivor Assistance Form on our website. Using the Revivor Assistance Form should expedite the revivor process and provide more comprehensive service by offering a specific path for suspended businesses to revive.

To locate the Revivor Assistance Form, go to www.ftb.ca.gov, search "**revive**," and navigate to the page titled, "How Can I Revive My Business Entity?" Next, complete the required fields and submit the form. Once submitted, one of our Specialists will contact you or the business representative within 24-48 hours.

In addition to the Revivor Assistance Form, we will provide new and updated information on the "How Can I Revive My Business Entity?" webpage, addressing the following:

- How to Revive your Suspended Entity.
- How to Qualify for a Walk-Through Revivor at a Field Office.
- Suspension Causes and Effects.
- Explanation of Contract Voidability.
- How to purchase Relief from Contract Voidability.

## New California film credit

Did you know there is a new California Motion Picture and Television credit?

A sizable $330 million is the amount of Motion Picture and Television Production credit that is available to California taxpayers this year! The old credit program which has an annual allocation limit of $100 million will sunset on June 30, 2016. This $230 million increase in allocation is sanctioned by legislation introduced this year for the new credit program. The new California Motion Picture and Television Production credit became effective for taxable years beginning January 1, 2016, and will continue through fiscal year 2019-2020.

The California Film Commission (CFC) will continue to administer this program. Certificates under the new credit program will be issued beginning July 1, 2016, and the numbering of these certificates will start at **5000**. Taxpayers continue to use the credit carryovers against their taxes. The provisions regarding the purchase and sale, application against sales and use tax, assignment of credit and expiration of credit remain unchanged.

### FTB reporting - things to remember!

- Use form FTB 3541, California Motion Picture and Television Credit, to claim the credit.
- Check boxes were added to the form, so taxpayers can indicate whether they're using the form to claim the old credit or the new credit by checking the appropriate box.

- **Separate** forms of FTB 3541 must be completed when the taxpayer claims both the new and the old credit in the same year.
- **Certificate numbers should always be provided** on Form 3541 when reporting or using this credit.
- Pass-through entities that are allocated this credit should provide the certificate number details to their shareholders, beneficiaries, partners or members using or reporting the credit.

To claim the credit correctly refer to the information below:

| | New credit | Old credit |
|---|---|---|
| **Name** | **New** California Motion Picture and Television Credit | California Motion Picture and Television Credit |
| **Code number** | **237** | **223** |
| **Certificate number** | **5000 and above** | **Below 5000** |

For additional details about the credit please visit our motion picture and television production credit website.

## Use tax errors on paper filed returns

The required change to tax return forms in reporting use tax resulted in unintended errors by taxpayers.

### Background

Since 2003, taxpayers have self-reported and paid sales tax that has not otherwise been collected by the seller for online purchases on their California income tax returns. This is known as Use Tax.

Before 2015, taxpayers could self-report Use Tax after they determined their income tax liabilities and any remaining tax amount due. However, in order to comply with a recent amendment to the California Revenue and Taxation Code, we changed the 2015 tax return forms to allow taxpayers to self-report and pay Use Tax before paying any outstanding income tax liability.

This required change to the tax return forms resulted in unintended errors by taxpayers. We identified instances where taxpayers have entered either the total tax amount or the total amount of payments made toward their tax liabilities on the Use Tax line. We found that most of the errors have occurred on paper-filed returns.

### How does this affect me or my client?

While we have put steps in place to correct returns that have not yet been processed, we may not have caught all of the earlier Use Tax errors. As a result, taxpayers may receive an incorrect balance due or reduced refund when their return is processed.

### What should I do if I or a client receive a letter regarding use tax on my tax return?

Check your or your client's tax return to see if you mistakenly entered the total tax or the total payments on the Use Tax line. If this is the case, you may file an amended return, or you may contact us at 800.852.5711 and we will work with you to correct the account.

## California real estate withholding options for failed exchanges

If California real property is part of a simultaneous or deferred like-kind exchange, the property transfer may qualify for an exemption from California real estate withholding.

If California real property is part of a simultaneous or deferred like-kind exchange within the meaning of Internal Revenue Code (IRC) Section 1031, the property transfer may qualify for an exemption from California real estate withholding.  To qualify for the exemption, our statute[1] and regulations[2] require a written certificate executed by the seller or transferor certifying, under penalty of perjury, that an exemption applies. FTB Form 593-C, *Real Estate Withholding Certificate,* fulfills this requirement.  However, withholding may be required if the seller/transferor receives money (boot) exceeding $1,500 or if the exchange fails. The entity facilitating the exchange, known as the qualified intermediary or accommodator (QI), is

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[1] R&TC Section 18662(e)(3)(D)(ii).

[2] CCR Section 18662-3(d)(3)(A).

required to withhold unless the seller qualifies for an exemption other than the exemption that qualifies as a simultaneous or deferred like-kind exchange (see Form 593-C, Part III).

If the exchange does not materialize or does not qualify for nonrecognition treatment, and no exemptions apply, the QI must withhold 3 1/3 percent of the total sales price or use the Optional Gain on Sale Election certified on Form 593, *Real Estate Withholding Tax Statement*. Withholding is reported as a credit for the taxable year the withholding occurred. If a QI withholds for a failed exchange or on boot in the year following the year of the sale, the seller generally reports withholding in the second year. However, the law allows sellers to choose one of the following three options to report and claim the withholding credit:

**Option 1** — When the seller reports the gain and withholding in the year the exchange fails (year 2).

| The QI withholds . . . | The seller . . . |
|---|---|
| In the year the exchange fails (year 2). | Reports the gain and withholding on their year 2 income tax return. |

**Example:** If a property is sold in December 2014, but the exchange fails in April 2015, the QI reports the withholding with a 2015 Form 593.

**Option 2** — When the seller reports the gain and withholding in the year of the sale (year 1).

| The QI withholds . . . | The seller . . . |
|---|---|
| In the year the exchange fails (year 2). | Calls us to request we move the withholding credit to the year of the sale (year 1). If we move the credit before the seller files their income tax return, the credit will be available after we process their tax return.<br><br>Reports the income and withholding on their year 1 income tax return. |

**Example:** If a property is sold in December 2014, but the exchange fails in April 2015, the QI reports the withholding on a 2015 Form 593. The seller contacts us to request we move the withholding to the 2014 tax year and reports the gain and withholding on their 2014 income tax return.

**Option 3** — When the seller pays all related taxes before the exchange funds are distributed.

| The seller . . . | The QI . . . |
|---|---|
| Files a tax return reporting the income and pays all related taxes in the year of the sale (year 1). | Holds the seller's funds until they receive notice from the seller that we approved the QI to release and distribute the funds without withholding. |
| Calls us to request a release from withholding. We cannot approve a release request until the seller's income tax return is processed and reviewed. | |
| Receives an approval letter from us (generally within 30 days) releasing the seller from all future withholding, and provides a copy to the QI. | |

**Example:** A property is sold in December 2014, but the exchange fails in April 2015. The seller files their 2014 income tax return, reports the gain from the sale, and pays all related taxes. The seller contacts us and requests we release the QI from the withholding requirement. The QI holds the seller's funds until the seller receives an approval letter from us releasing the QI from the withholding requirement. At that point, the QI can distribute the funds to the seller without withholding.

## Need more information?

Email Withholding Services and Compliance Section.

Call us at: 888.792.4900 or 916.845.4900.

See also Publication 1016, Real Estate Withholding Guidelines.

## 2015 summary of federal income tax changes

The 2015 Summary of Federal Income Tax Changes explains the new 2015 federal laws along with the effective dates, the corresponding California law, if any, including an explanation of any changes made in response to the new federal law, and the impact on California revenue if California were to conform to applicable federal changes.

The summary also contains citations to the section numbers of federal public laws, IRC, and how the federal changes affect the R&TC.

## How to close a California business entity? video

This video provides step-by-step instructions for you to assist with closing a business entity.

We continuously look for new ways to educate small businesses. In a joint effort with the California Society of Enrolled Agents Education Foundation, we created a video on how to close a business entity properly.

This video, How Do I Close my California Business Entity?, provides step-by-step instructions for you and your clients to assist with closing a business entity. It also provides important contact phone numbers for us and the Secretary of State, and other resources.

We hope you enjoy the video and can use it as a learning tool for your clients.

## Estimated fee payment for LLCs due June 15

For Limited Liability Companies (LLCs) not classified as a corporation and on a calendar year, the estimated LLC fee for the 2016 taxable year is due on June 15. For fiscal year LLCs not classified as a corporation, the estimated fee is due on the 15th day of the sixth month of the current taxable year. An LLC must pay the annual LLC fee if it is organized, doing business, or registered in California and has total income of at least $250,000. LLCs are subject to the annual fee based on their total income from all sources derived from or attributable to California (R&TC Section 17942). Total income for LLC fee purposes is gross income plus the cost of goods sold that are paid or incurred in connection with the trade or business of the taxpayer.

The fees are as follows:

| If total income is: | 2016 fee: |
|---|---|
| $250,000-$499,999 | $900 |
| $500,000-$999,999 | $2,500 |
| $1,000,000-$4,999,999 | $6,000 |
| $5,000,000 or more | $11,790 |

When making estimated fee payments, LLCs should use California Form 3536, Estimated Fee for LLCs. LLCs also have the option to pay by using Web Pay for Businesses or registering for a MyFTB account. For assistance in registering with MyFTB, please see our How-to-Guide for more information. For other ways to make the LLC estimated fee payment, please go to Payment Options or visit [ftb.ca.gov](ftb.ca.gov).

## Ask the Advocate

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

### CSEA Super Seminar summary

An important part of the role of the Advocate is my commitment to ensure our tax practitioner community is informed of FTB's programs, policies, and procedures.

Not only does my Education and Outreach Staff participate in tax professional seminars, industry group workshops, and small business events, but I've been out participating in many different presentations. Last week, I had the opportunity to attend and participate in the [California Society of Enrolled Agents](California Society of Enrolled Agents) (CSEA) Super Seminars in Las Vegas. I was able to share FTB's new programs and tax updates, as well as, listening to your concerns and topics of interest. Next week, I will also be in Reno attending CSEA's next Super Seminar.

The presentations vary depending on the audience, but include tax updates, information on any changes to FTB's policies and procedures, and a focus on areas of noncompliance. We also provide filing season updates and information to legislative offices.

Speakers can be requested to make a presentation to groups of 25 or more on tax-related issues. To request a speaker contact our **Speakers' Bureau** at SpeakersBureau@ftb.ca.gov.

## Inside FTB

### Notice and webpage changes

We changed our notices and our webpages. Every year at about this time, taxpayers receive notices for changes to their tax returns. In an effort to improve our communications with taxpayers and tax practitioners, and, in conjunction with our new notice, ***Notice of Tax Return Change***, we updated our webpages.

Taxpayers receive ***Notices of Tax Return Change*** for numerous reasons but the primary reason is a difference between what the taxpayer reports and what we can verify. The old form was titled, *Return Information Notice*. The new title more accurately depicts the purpose of the notice.

But, we have not just changed a name, we improved navigation on our webpage. Go to ftb.ca.gov and under "Popular" we added a title, "Did you receive a Notice?" This link takes you to a list of common notices, or you can view all notices. Click on a notice and it answers questions such as:

- Why did I receive the notice?
- What's in the notice?
- What do I do about the notice?

If the taxpayer agrees, and payment is due, payment options are provided. If the taxpayer disagrees, instructions are provided to prepare the taxpayer for a conversation, secure chat, or other communication with us, depending on the notice.

As always, we recommend signing up for MyFTB for faster service. And, with a declaration of power of attorney, you may see the notice and look up the reason code for your client. Whether you have a POA or not, give our new webpages a try. There are fewer clicks and clearer instructions to understanding our ***Notice of Tax Return Change***.

## All About Business

### Limited liability companies can be tax-exempt as title-holding companies

In our May 2016 edition of Tax News, our article *Nonprofit Exempt Organizations, Not Every Nonprofit Organization Can be Tax-Exempt* explained how some Limited Liability Companies (LLC) (with a federal election to be an association, taxed as a corporation) may qualify to be exempt from the taxes imposed under Revenue & Taxation Code (R&TC) Section 23701. In this article, we will explain how an LLC that holds title for an organization exempt under R&TC Section 23701 may qualify for exemption from tax as a title-holding organization under R&TC Section 23701h or 23701x.

Limited liability companies (LLC) can elect to be taxed as partnerships, disregarded entities, or associations taxed as corporations.

R&TC Section 23701 permits LLCs that elect to be associations, taxed as a corporations to request exemption from income or franchise taxes imposed under Part II, Division 2, Corporation Tax. The LLC or single member limited liability companies (SMLLC) must be 100 percent owned and controlled by a tax-exempt parent organization(s).

LLCs that elect to be taxed as partnerships or as disregarded entities are generally subject to a tax and fee imposed under R&TC Sections 17941 and 17942. These sections are included within Part 10, Division 2, Personal Income Tax. Generally, if an LLC is taxed as a partnership or disregarded entity, there is no authority for the Franchise Tax Board to grant exemption from the tax and fee imposed by Sections 17941 and 17942. However, a LLC classified as a partnership or as a disregarded entity that meets all of the requirements of R&TC Section 23701h or 23701x may qualify for exemption from the tax under Part 11, and the tax and fees imposed under Chapter 10.6 (commencing with Section 17941) of Part 10.

It is important to remember that for an LLC to receive tax-exempt status under R&TC Section 23701h or 23701x, the LLC must have been organized to hold title to property and all member(s) of the LLC must be tax-exempt. The LLC or SMLLC must be 100 percent owned and controlled by parent organization(s) who has/have exemption under Internal Revenue Code (IRC) section 501(c) or 401(a).

The fundamental purpose of a title-holding company organized under R&TC Section 23701h or 23701x is to:

- Hold title to property,
- Collect income therefrom, and
- Turn over the entire amount, minus expenses, to a tax-exempt parent organization or organizations.

To qualify for exemption under R&TC Section 23701h, the LLC must be an organization described in IRC Section 501(c)(2), organized for the exclusive purpose of holding title to property, collecting income, and turning over the entire amount to an organization which itself is exempt as a (n):

- Pension plan described in IRC Section 401(a),
- Organization described in IRC Sections 501(c)(1) through 501(c)(27), or
- Religious or apostolic organization described in IRC Section 501(d).

To qualify for exemption under R&TC Section 23701x, the LLC must be an organization described in IRC Section 501(c)(25). In contrast to R&TC Section 23701h, under Section 23701x the title-holding company is restricted to acquiring and holding title to real property for its tax-exempt parent organization(s). The title-holding company can be a corporation or trust which can have up to 35 parent organizations including any combination of:

- Qualified pension, profit sharing, or stock bonus plans under IRC Section 401(a),
- Governmental pension plans under IRC Section 414(d),
- Government agencies, or subdivisions, of the United States, any state, or local government, or
- Organizations exempt under IRC Section 501(c)(3).

It is important to note that title-holding companies described in R&TC Section 23701h or Section 23701x are the only type of organizations described in R&TC Section 23701 that are not required to organize or incorporate as nonprofit. They are also the only type of organizations organized as limited liability companies that are classified as partnerships or as disregarded entities that may qualify for exemption from tax under Part 11 and exemption from the tax and fees imposed under Chapter 10.6 (commencing with Section 17941) of Part 10.

For more information about tax requirements and/or applying for tax exempt status, visit ftb.ca.gov and search for **Exempt Organizations**, or contact our Exempt Organizations Unit at **916.845.4171**.

## 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.