



Tax News

November 2017

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Cannabis business team interested parties meeting

We are planning another meeting early next year in southern California. Please continue to check our website for updated information.

We will hold an Interested Parties Meeting to discuss developments in income tax administration relating to the cannabis industry. We are interested in understanding the challenges faced by the cannabis industry and welcome your participation. We look forward to hearing your questions, concerns, and ideas.

At this meeting, we would like to identify the best way to reach the taxpayers and the related emerging markets. We would like to open a dialogue to find out the questions taxpayers might have and identify the most effective tools to assist them.

This meeting is geared primarily towards businesses and taxpayers who may be new to business income taxes.

Discussion topics include:

- The role of FTB
- Help filing income tax returns
- Recordkeeping practices
- Tools that can help
- Types of challenges faced by the cannabis industry

When: December 5, 2017 at 1:30 PM

Where:

Franchise Tax Board
Goldberg Auditorium
9646 Butterfield Way
Sacramento, CA 95827

To attend this meeting, RSVP by November 30, 2017, by email at FTB Cannabis.

You may also attend the meeting via phone by calling 877-714-6671 and entering passcode 43210432 when prompted. The phone line will be open starting at 1:15 PM, Pacific Standard Time. Space will be limited.

2017 filing season update

- Personal income tax (PIT) returns filed increased 1 percent this year with 84.5 percent being e-filed.
- E-filed fiduciary returns increased 4 percent from last year. This is the fourth year fiduciary returns have the e-file option.
- Business entity (BE) returns filed increased by 3.4 percent this year with 80 percent being e-filed.
- We issued over 12 million PIT refunds amounting to \$12.6 billion and over 165,000 BE refunds amounting to \$837 million.
- We allowed over 380,000 Earned Income Tax Credit claims for \$202 million.
- We validated 317,000 PIT amended returns and reduced the processing timeframe to three months.
- We validated 25,000 BE amended returns with a processing timeframe of less than four months.
- Overall deposits were \$45.4 billion, including \$32.6 billion in electronic payments.
- Over 86,000 new users registered for MyFTB and 106,000 new users registered for CalFile online. Taxpayers also used the “Check Your Refund Status” web application over 3.7 million times.
- FTB’s primary contact center answered over 826,000 calls, representing a 61 percent level of access
- The Tax Practitioner Hotline answered over 224,000 calls, representing a 76 percent level of access.
- Customers were assisted via the Non-Authenticated chat line over 81,000 times representing an 88 percent level of access. In addition, Authenticated Chats, which allow account specific information to be shared, were answered over 28,000 times representing a 80 percent level of access
- Traditional correspondence is at 100 percent of goal for all categories
- The Filing Compliance Bureau focused its education efforts on the escrow community to help improve the real estate withholding process and accuracy of information received.

Stats as of October 21, 2017.

Legislative update

The following is a brief overview of the bills that became law in 2017.

[AB 94](#) Modifies the requirements for federally tax-exempt veterans' organizations to apply for a California income and franchise tax exemption.

[AB 97](#) Appropriates for the support of State government for the 2017/2018 fiscal year.

[AB 102](#) Creates the California Department of Tax and Fee Administration.

[AB 103](#) Requires FTB to contact the Attorney General before employing in-house counsel or contracting with outside counsel.

[AB 111](#) Requires a state entity, or its designee, to conduct criminal background checks on employees, contractors, or vendors that have access to federal tax information, and reduces the minimum contribution amount requirement for voluntary contribution funds for the 2017 calendar year.

[AB 119](#) Modifies the extension of time to file certain returns. Extends the maximum number of months that FTB may grant as an automatic extension of time for filing partnership returns from six to seven months.

[AB 129](#) Requires FTB to disclose specified information of individual taxpayers to the Scholarshare Investment Board.

[AB 131](#) Provides technical clarification for the California Earned Income Tax Credit (CA EITC):

- Revised minimum voluntary contribution amount requirement for 2017.
- Makes clarifying and conforming changes regarding the transfer of duties from the State Board of Equalization (Board) to the Office of Tax Appeals (Office).

[AB 149](#) Establishes Habitat for Humanity Voluntary Tax Contribution Fund and allows a taxpayer to make a voluntary contribution to the fund on their California personal income tax return.

[AB 280](#) Establishes the Rape Kit Backlog Voluntary Tax Contribution Fund and allows a taxpayer to make a voluntary contribution to the fund on their California personal income tax return.

[AB 434](#) Requires state agencies, including the Franchise Tax Board, to post certification that the agency's Internet website is in compliance with specified accessibility standards.

[AB 454](#) Conforms to the federal exclusion from gross income of certain amounts received by wrongly incarcerated individuals.

[AB 461](#) Excludes from gross income student loan debt that is canceled or repaid under the Income Contingent Repayment plan, the Pay As You Earn Repayment plan, and the Revised Pay As You Earn Repayment plan as administered by the U.S. Department of Education.

[AB 490](#) Extends the sunset date for the College Access Tax Credit and the repeal date by five years.

[AB 519](#) Establishes the California Senior Citizen Advocacy Fund and allows a taxpayer to make a voluntary contribution to the fund on their California personal income tax return.

[AB 571](#) Modifies the definition of farmworker housing and the applicable percentage for the Low-Income Housing Credit.

[AB 846](#) Establishes the California YMCA Youth and Government Voluntary Tax Contribution Fund and allows a taxpayer to make a voluntary contribution to the fund on their California personal income tax return.

[AB 1031](#) Establishes the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund and allows a taxpayer to make a voluntary contribution to the fund on their California personal income tax return.

[AB 1593](#) Expands reporting of use tax on resident individual income tax returns.

[AB 1717](#) Clarifies that use tax can be reported on an original return, regardless of the date the return is filed.

[AB 1719](#) Among other things, expanded the Voluntary Disclosure Program to allow S-corporations and limited liability companies classified as partnerships relief from the failure to file penalty.

[AB 1720](#) Continues an alternative electronic communication method with the FTB, by extending the repeal date by seven years.

[SB 2](#) This act imposes a fee of \$75 on the recording of certain county-recorded documents including tax liens, to fund the California Homes and Jobs Trust Fund.

[SB 61](#) Renames Emergency Food Assistance Program Fund as the Emergency Food for Families Voluntary Tax Contribution Fund, extends the sunset date by seven years, and specifies a fixed minimum annual contribution amount of \$250,000 for the renamed Fund to remain on the return.

[SB 85](#) For Every Kid Counts College Savings Match Grant Program, requires FTB to provide an applicant's tax return information to the Scholarshare Investment Board to verify eligibility.

[SB 106](#) Modifies the California Earned Income Tax Credit (EITC) by including, in the definition of earned income, net earnings from self-employment, consistent with federal law, and also increases the maximum Annual Gross Income phase-out amounts.

[SB 440](#) Among other items, renamed (1) the "California Breast Cancer Research Fund" as the "California Breast Cancer Research Voluntary Tax Contribution Fund," and (2) the "California Cancer Research Fund" as the "California Cancer Research Voluntary Tax Contribution Fund," and extended the sunset date for these funds by seven years.

[SB 503](#) Renames and extends the sunset date for the Keep Arts in Schools and Protect Our Coast and Oceans Funds, and modified provisions of the renamed funds.

[SB 813](#) Expands Voluntary Disclosure Program (VDP) to allow out-of-state partnerships with non-resident partners, and out-of-state administered trusts to participate in the VDP. This act

also provides penalty relief for admitted VDP applicant S-corporations and limited liability companies, from the failure to file penalty.

Wondering why you received an estimate payment email reminder for the 3rd quarter?

We recently received a question from a practitioner asking why we sent an email reminder that 3rd quarter estimated tax payments were due by September 15, 2017, when under most circumstances individuals do not have a third quarter estimated payment due. As a general rule, for personal income taxpayers, 30 percent of the required annual payment is due with the 1st and 4th required quarter installments and 40 percent of the required annual payment is due for the 2nd quarter required installment -- no installment is due for the 3rd quarter.

While most taxpayers should not need to make a 3rd quarter estimate payment in September, some still do. In fact, we processed over 100,000 estimate payments in September 2017 by the 15th. In some cases, taxpayers may not have paid enough in the first two quarters and the email can serve as a reminder to make their estimated payments if they haven't already. It's worth noting that the email reminder only goes out to individuals that have signed up to receive it.

So how do you sign up to receive these reminders? If you are interested in receiving email updates for estimated payment due dates, FTB Subscription Services is our free automated service providing you important information by email.

You can choose from a variety of topics and change or discontinue the topics you subscribe to at any time. Some of the topics included are *Tax News*, Announcements and Press Releases, Law and Legislation, Tax Information, Taxpayer Services (estimated tax payment reminders), and Withholding Information. You can even receive emails from us regarding Career Information for career opportunities here at FTB!

Other State Tax Credit (OSTC)

California law provides an OSTC for taxes paid to another state on income sourced in the other state. To prevent the application of duplicate tax credits California law provides that the credit

will not be allowed if the other state allows California residents a credit against the taxes imposed by the other state for taxes paid to California. We call the latter reverse-credit states.

Until recently, Indiana was a reverse-credit state along with Arizona, Oregon, Virginia, and Guam.¹ According to Indiana Department of Revenue [Information Bulletin #28](#) published in November 2016, “Full-year nonresidents who received income from Indiana sources must file an Indiana individual income tax return (Form IT-40PNR). They are subject to tax on that part of their total federal income that is derived from or connected with Indiana sources. If the nonresident’s only Indiana source income was from an Indiana partnership or S-corporation, the nonresident shall be included in the entity’s composite return and is not be required to file Form IT-40PNR, though the individual may file a Form IT-40PNR if the individual so chooses.”

Information Bulletin #28 goes on further to say, “The reverse credit agreement applies to Indiana residents who have income from the following jurisdictions and to residents of those jurisdictions who have income from Indiana. Included are Arizona, Oregon, and Washington, D.C. **Effective for tax years 2017 and later, California is no longer treated as a reverse credit state.**” Consequently, Indiana no longer allows a credit to California residents for taxes paid to Indiana. Since Indiana no longer allows the credit in this situation, California will allow the credit for taxes paid to Indiana on income sourced to Indiana.

Be sure to keep this in mind when preparing 2017 tax returns for California residents who have Indiana sourced income.

A partner is allowed a credit for the partner’s pro rata share of net income taxes paid by the partnership to another state. A shareholder of an S-corporation is allowed a credit for the shareholder’s pro rata share of taxes on or measured by income paid by the S-corporation to another state that either does not allow S-corporation elections or imposes tax on S corporations. A member of a limited liability company also is allowed a credit for the pro rata share of net income taxes paid by the company to another state.

For a discussion on credits allowable for tax payments made on a group nonresident return, please see Technical Advice Memorandum 2017 – 04.

¹Guam is a U.S. Territory.

New Office of Tax Appeals

Beginning January 1, 2018, the new Office of Tax Appeals (OTA) will hear and determine all appeals that involve corporate income tax, corporate franchise tax, personal income tax, sales tax, and use tax. If a taxpayer disagrees with us or the California Department of Tax and Fee Administration (CDTFA) on a Notice of Action or a Notice of Determination, the taxpayer may appeal with the new OTA by the “appeal date” listed on the notice. As of October 1, 2017, we include an insert in all notices containing information about appeal rights and OTA’s contact information. As of October 1, all appeals need to be filed with OTA, and beginning January 1, 2018, OTA’s three-member panels will hear and determine all appeals. The OTA may be contacted through email at info@ota.ca.gov or mail:

State of California
Office of Tax Appeals
P.O. Box 989880
West Sacramento, CA. 95798-9880

2017 CSEA and CalCPA Meetings

On September 22 and October 19, 2017, we held our annual liaison meetings with the California Society of Enrolled Agents (CSEA) and the California Society of Certified Public Accountants (CalCPA).

Question 1

MyFTB

Will MyFTB enhancements improve the current POA processing times which are currently 30 to 45 days?

Response 1:

Yes, timeframes are expected to improve with the new process, for a variety of reasons. For example, we have simplified the POA Declaration forms and instructions and separated them by entity type, which will lend itself to fewer errors being made and fewer rejections. In addition, we created a new revocation form which can be automated and we are moving our POA Declaration process to a platform similar to how we process tax returns, which will also help expedite processing. Finally, moving to the use of an only accepting an FTB form, along with enhanced business validation rules, will reduce the need for manual intervention by our staff.

In January 2018, we expect our POA Declaration processing timeframes to be 20 to 25 business days or less. This includes the 10 business day hold currently in place, and assumes no manual intervention is required. By June 2018, we expect our processing timeframes to be 15 business days or less, again, assuming no manual intervention is required.

Question 2

California Earned Income Tax Credit (CA EITC)

Senate Bill 106 (CH 2017-96) amends the definition of “earned income” for purposes of the CA EITC to include earnings from self-employment for tax years beginning on or after January 1, 2017. Additionally, for 2017 and later, Assembly Bill 106 also increases the maximum adjusted gross income (AGI) phase-out amounts to AGI of less than \$15,010 if there are no qualifying children, and less than \$22,301 (full-time hours at the California minimum wage) for taxpayers with one or more qualifying children.

Since self-employment income is most vulnerable to manipulation, we suspect this change will increase instances of fraud with the credit, which has been IRS’ experience.

What, if any, will be the increased measures to counteract this type of fraud?

Response 2:

As indicated in the question, self-employment income is most vulnerable to manipulation. In fact, the IRS has reported that over 30 percent of these claims are improper. This means the integrity of the credit and getting it to those Californians that truly need it is in jeopardy.

What we know

- Identity thieves will steal or prey on ‘real taxpayers’ to get their identification information and create a fraudulent return and claim ‘made up’ self-employment income to get the refundable credit.
- Based on information from the IRS and other states, some tax professionals that will file returns for unsuspecting taxpayers claiming self-employment income or losses to increase the credit. These tax professionals may do this in order to be able to offer a larger refund to entice the taxpayer to use their service over their competitors. We also understand that some of these tax professionals will ensure the taxpayer gets the portion of the credit they qualify for and then have the remaining fraudulent amount issued to themselves.
- Due to the complexity of the credit, taxpayers can get confused or misinterpret the law and claim the incorrect amount.

We need to ensure the correct amount of refund gets into the right hands. As with any refundable credit, we take measures to protect taxpayers and California. We use a variety of data, including third party sources, taxpayer history, and the taxpayer's return to attempt to verify the claim. For those EITC claims that include self-employment income or losses, we will be using all of the tools available to us to avoid holding onto what appear to be valid claims versus those that we may need additional documentation to verify the business and the related income or losses being claimed.

If we need additional documentation to verify the business and related income or losses, we will send a request to the taxpayer within 30 days of the tax return being filed. We will need this information back before we can allow the credit and issue the refund. The request will come on the FTB 4502, Additional Documentation Required — Refund Pending.

We looked to the IRS and New York for best practices to help us determine what information to ask for to verify the claim. As a result, we will be asking for the following:

- Items from the Federal Return, including Schedules C, C-EZ, F, and/or SE.
- A profit and loss statement or schedule used to determine the business income and expenses reported on the tax return, along with:
 - Business bank statements and credit card statements supporting the business income (covering at least 2 months), and
 - Any certification, license, permit, or registration required for the business (taxicab, cosmetology, food service, contractor, vendor, etc.)
 - Any federal Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc.

If the taxpayer has claimed qualifying children, we more than likely will ask for documentation regarding these individuals, as well. This way we can validate the entire claim.

We have less than six months to implement the expansion of this credit, so we will identify ways to improve on our letters and processes over time. We appreciate and will consider any feedback that is provided.

Question 3

Application of *Swart*

In *Swart Industries*, an investor with a 0.2 percent share in a manager-managed partnership was held not to be doing business and therefore, not subject to the \$800 minimum tax.

Will the FTB limit this holding to investors with no more than a 0.2 percent share? For non-managing members with no operational control, is there a threshold investment below which they will not be “doing business” in California?

Response 3:

Yes. On February 28, 2017, we issued [FTB Notice 2017-01](#) in response to the California Court of Appeal decision in *Swart Enterprises, Inc. v. Franchise Tax Board* (Cal. App. 5th Dist. 2017) 7 Cal. App. 5th 497 (“*Swart*”). Through that Notice, we advised taxpayers that if the facts surrounding their individual circumstances were the same as those considered by the Court of Appeal in *Swart*, they should make appropriate decisions regarding their obligations to file tax returns with the state of California, or to file a claim for refund. With respect to filing claims for refund, Notice 2017-01 specifically requested that taxpayers claiming refunds explain why they believed their fact patterns were the same as those in *Swart*.

Question 4a

FTB’s New Notice of Tax Return Change

The new notices the FTB is using, while a lot better than in the past, could use some reformatting. Page one states that there is a balance due and the explanation says "we imposed penalties, fees and/or interest which revised your balance due". The bottom of the page tells the taxpayer how to pay the balance. The next two page talks about the collection process and penalties. The last page shows the calculation.

My first question - **Why can't the calculation be included on the first page?**

Response 4a:

We completely understand your concern. If we could place the calculation on the first page we certainly would do so. The calculations for the NTRC are on the last page because each taxpayer’s account is dynamic and will populate directly on the notice. This information expands (possibly two pages) because the taxpayer can have multiple adjustments on the NTRC. If the calculation was placed on the first page, the information would split the calculations/table, likely causing more confusion to the taxpayer. Our remedy was to add language to direct the taxpayer to the Account Balance Summary for more specific details about their account.

Question 4b

Can there be an explanation as part of the calculation or at least a clearer explanation?

Response 4b:

Yes, this issue will be solved very shortly. We are in the process of building a reference table that will allow each fee, penalty, and interest to automatically populate directly on the notice based on the taxpayer's account (similar to the adjustments on the NTRC). As a result, the taxpayer will not need to refer to an insert to identify their code and match it to the name of the penalty or fee. We plan to release this with the revised FTB 4963, Notice of State Income Tax Due in March 2018, and remaining notices upon revision. The NTRC will have this functionality in 2019. The language will include the code, name of the penalty, appropriate Revenue and Taxation Code reference, description, and calculation we imposed and will display directly on the notice. We plan to conduct usability testing in September/October 2017.

State's top 500 tax delinquencies total \$520 million

We published the newest Top 500 Delinquent Taxpayers list, which includes individuals and businesses that collectively owe the state more than \$520 million in income tax.

In August, we sent letters to taxpayers scheduled to appear on the list. Of these taxpayers, 114 made arrangements to pay their tax debt. Another 285 individuals and 101 businesses did not, resulting in their inclusion on the list.

The Top 500 list is published in April and in October. Since the list's inception in October 2007, we have collected more than \$732 million from delinquent taxpayers through this program.

Delinquent taxpayers on the list face an array of consequences:

- If they hold a professional or occupational license, that information is noted on the list and the license may be suspended until the tax bill is resolved.
- The State may suspend the delinquent taxpayer's drivers license until the tax bill is resolved.
- State agencies are prohibited from entering into contracts for the acquisition of goods or services with listed taxpayers.

- We publish the names and titles of principal corporate officers of corporations on the list.

We remove a taxpayer from the list once the debt is paid or the taxpayer agrees to make payments under an approved agreement or compromise. Tax liabilities for which the persons liable filed for bankruptcy protection are not included on the list.

Individual taxpayers on the list can call 888.426.8555 to resolve their accounts. Business taxpayers can call 888.426.8751.

The California Department of Tax and Fee Administration has a [similar list](#) of the state's top sales and use tax debtors, which is updated quarterly.

Ask the Advocate



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

Taxpayers' Bill of Rights Hearing

Fall is always the busiest time of year for us in the Advocate's Office. We prepare for several annual meetings, including our Executive Officer's Advisory Board meeting and our liaison meetings with the California Society of Enrolled Agents and the California Society of Certified Public Accountants. In addition, my staff and I attend several events to update you on the many new things happening at the Franchise Tax Board (FTB) and help you get ready for the 2018 filing season. We are also preparing the Annual Report to the Legislature and looking ahead to the December Taxpayers' Bill of Rights Hearing.

During my speaking engagements, I emphasize to the tax professional community how important your voices are to the process of tax administration. The Advocate's Office considers our annual liaison meetings and events such as seminars, conferences, and chapter meetings to be extremely important. This is where we can interact and receive feedback from you, the tax professional. My staff and I listen to your questions and comments, both good and bad. We bring your comments and concerns back to FTB to share where things are working and the pain points that require some adjustments to our processes. Bottom line, we could not do this without you!

As part of the Taxpayers' Bill of Rights Hearing, you have a more formal opportunity to provide FTB's executive staff, our three-member Board, and me your ideas about changes you would like to see made. This year, the Taxpayers' Bill of Rights Hearing will be held on December 7 at 1:30 PM as part of our regularly scheduled quarterly Board Meeting. If you are interested in attending, go to our public meetings webpage for more information. As the meeting gets closer the agenda will be available.

Alternatively, if there is a Bill of Rights issue that you are aware of, but you cannot attend the meeting, you can email me at FTBAdvocate@ftb.ca.gov or send a letter to:

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

As I mentioned above, your input about FTB and our processes is valuable to us. I look forward to hearing from you and working with you to ensure the process works better for everyone.

Inside FTB

[New Tax News Live video – California \(CA\) State Income Tax](#)

We produced a new video, [CA State Income Tax](#), which describes the gig economy and provides information on their filing requirements. We also offer resources to assist them on how to file, determine the appropriate taxes to pay, and how to maintain a small business.

For other products, go to our products page.

MyFTB Corner

[MyFTB changes coming January 2, 2018](#)

The MyFTB Tax Preparer registration role will be renamed to Tax Professional. This change better aligns this role.

- Professional ID numbers valid for registration include:
- Preparer Tax Identification Number (PTIN)
- California Certified Public Accountant (CPA)

- California State Bar Number
- Enrolled Agent (EA) *new*

EFIN and CTEC will no longer be allowed as registration numbers.

Tax information authorization

The “Tax Preparer” access type will be renamed to Tax Information Authorization (TIA) throughout MyFTB. TIA is a new formal relationship for authorized representatives that we will recognize starting January 2, 2018. MyFTB will now display TIA as the relationship type. Tax professionals can establish a TIA in MyFTB (using the Add Individual TIA Client or Add Business TIA Client pages) or by mailing FTB 3534, Tax Information Authorization to FTB.

Tax professional homepage

Tax Professionals will have a new homepage called the **Tax Professional Overview**. This title matches the renamed registration role. Here’s what the new home page will look like:

STATE OF CALIFORNIA Franchise Tax Board [Contact Us](#) | [Home](#) | [Logout](#)

Welcome Jane Smith, Tax Professional

Home Client List Client Notices Services Profile

MyFTB

CalFile
File your state tax return

[Start My Return](#)

[Contact Us](#)

[CHAT NOW](#)
Secure Chat

Tax Professional Overview

Alerts

- A [Power of Attorney](#) has become active or rejected since your last login.

New Features

- Your **Client List** can now be found in the navigation header above and the Quick Links below.
- **Alerts** display when a Power of Attorney has been accepted or rejected since your last login.
- Tax Preparer access type is now a “**Tax Information Authorization**” (TIA) relationship type.
- We only accept the new POA forms **3520 PIT** and **3520 BE**. We no longer accept non-FTB POA or old 3520 forms.
- Create and manage an **Associates List** to easily add other representatives to your new and existing POA declarations.
- Use the **What’s New** link in the footer to stay up to date with the latest updates to MyFTB.

Contact Information

Tax Solutions
2374 January Street
Midtown, CA 52267
916.333.1234
jane.smith@ftb.ca.gov

[Update Contact Information](#)

Quick Links

[Client List](#)

[Client Notices](#)

[Add Individual TIA Client](#)

[Add Business TIA Client](#)

[File a Power of Attorney](#)

[Power of Attorney Activity](#)

Some of the new features on the homepage include:

- **Alerts** displaying when a POA declaration has become active or been rejected. The POA link navigate to the POA Activity page.
- **New Features** highlighting the newest changes in MyFTB.
- **Contact Information** displaying your preferred contact information, if provided or the most recent information we have available. This includes an **Update Contact Information** link you update your contact information.
- **Quick Links** takes you to the most commonly used pages or tasks, you can:
 - Navigate to the **Client List** page
 - Navigate to **Client Notices** page for your Power of Attorney clients
 - **Add Individual TIA Client** or **Add Business TIA Client** pages
 - “TIA” has been added to this action to align with the new TIA relationship that will be established when adding a client.
 - **File a Power of Attorney Declaration**
 - View **Power of Attorney Activity**

Power of attorney activity

From your homepage, you can link to the **Power of Attorney Activity** page from either the **Alert** or **Quick Link** sections. This page displays up to 200 of the most recent declarations that became active or were rejected in the last 60 days. Only POA declarations processed after January 2, 2018 will display on this page.

Power of Attorney Activity

The following table displays POA declarations recently approved or rejected by FTB.

[Show Filter](#)

Date ▼	Client Name ↕	Description ↕	Action
02/14/2018	Johnson, James	POA Declaration 250000000 set to Active status.	View POA
01/18/2018	ACME Management Inc	POA Declaration 240000000 rejected.	View POA
01/03/2018	Adams, Joseph	POA Declaration 230000000 set to Active status.	View POA

In December's MyFTB Corner Tax News article we will cover the following MyFTB changes coming January 2, 2018:

- Client List page
- Power of Attorney wizard
- Statuses for Power of Attorney and Tax Information Authorization relationships

All About Business

Voluntary disclosure program: Expanded eligibility and penalty relief

Effective January 1, 2018, the existing Voluntary Disclosure Program (VDP) will be expanded to allow out-of-state partnerships with non-resident partners, and out-of-state administered trusts, to participate in VDP.

Current state law allows qualifying entities, certain limited liability companies (LLCs), qualified trusts, qualified shareholders, qualified members of LLCs, and qualified beneficiaries of qualified trusts to participate in the VDP. The law allows an applicant requesting a "voluntary disclosure agreement" (VDA) that has never filed a California income or franchise tax or LLC return and that voluntarily applies for a VDA prior to any contact from us regarding income, franchise, or LLC tax liability to remain anonymous until the signed VDA is returned to us.

Senate Bill 813 (Ch. 288, Stats. 2017) expands the specification requirement to apply to voluntary disclosure agreements between us and a qualified entity. This bill eliminates inconsistent treatment among similarly-situated entities by allowing most out-of-state partnerships with nonresident partners of: general partnerships (GPs), limited partnerships (LPs), and limited liability partnerships (LLPs), and out-of-state trusts with California resident beneficiaries to participate in the VDP. The law was amended and defines "qualified partner" and "qualified partnership."

Senate Bill 813 also eliminated the exclusion from a qualified trust of a trust with resident beneficiaries and added the additional requirement to the definition of "qualified beneficiary" of being a beneficiary with a contingent or non-contingent interest in the qualified trust.

A qualified entity specifically excludes any of the following:

- An entity that is organized and existing under the laws of this state;
- An entity that is qualified or registered with the office of the SOS; or
- An entity that maintains and staffs a permanent facility in this state, as specified.

To satisfy the terms of the VDA, approved applicants must return a signed VDA to us, make all payments, and submit all returns to us within 30 days from the signing date of the VDA. We may grant an extension for filing tax returns and paying amounts due to 120 days from the signing date of the VDA, or the latest extended due date of the tax return for a tax year where relief is granted, whichever is later. Failure to adhere to the terms of the VDA renders the VDA null and void.

Senate Bill 813 also expands the types of penalties that we may waived to include a penalty related to the failure to file specified returns of a partnership and a limited liability company classified as a partnership and allows us to waive a penalty related to “S” corporations that fail to file specified returns.

Partnership Late Filing Penalty

If any partnership fails to file a return by the original or extended due date, a late filing penalty is imposed. The late filing penalty is \$18 per partner, for each month or fraction of the month the return is late or incomplete, up to a maximum of 12 months.² The penalty is also imposed for returns which fail to provide complete or required information. This penalty is also known as the per partner penalty, and is in addition to the delinquent filing penalty.

S-corporation Late Filing Penalty

If an S-corporation fails to file a return by the original or extended due date, a late filing penalty is imposed.³ The late filing penalty is \$18 per shareholder, for each month or fraction of the month the return is late or incomplete, up to a maximum of 12 months. The penalty is also imposed for returns which fail to provide complete or required information. This penalty is also known as the per shareholder penalty, and is in addition to the delinquent filing penalty.

The bill specifically applies these changes to VDAs entered into on or after January 1, 2018.

² R&TC Section 19172.

³ R&TC Section 19172.5.

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

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

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.