Tax News

September 2020

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Having difficulty submitting a BE POA in MyFTB?

We have a known issue in MyFTB that occurs when tax professionals attempt to submit a power of attorney (POA) for a business entity (BE) that has more than one tax identification (ID) number. When a tax professional attempts to submit a POA through the MyFTB POA Wizard and enters more than one ID number for the BE client, e.g., a California corporation number and federal employer identification number (FEIN), tax professionals receives an error message. To avoid this issue, enter only the primary ID, e.g., California corporation number at this time. This only affects the information submitted through MyFTB. We will not reject a POA declaration if the uploaded signed copy of the POA shows an additional ID number for the business.

We have alerted our call center about this so they can assist tax professionals experiencing this issue. This defect will be corrected by September 30, 2020.

2020 filing season update

Now that the initial filing deadline has passed, we wanted to provide an update on some key statistics for the first part of the 2020 filing season. Both the IRS and FTB had an extended filing season this year with the initial due date for returns and payments postponed to July 15, 2020.

Through careful planning and by making some timely adjustments, we have seen a smooth and successful filing season to date. We expect to see the same positive outcomes through the extended filing deadlines, which remain the same, even in light of the COVID-19 extension of the initial due date.

While the processing and validation of all returns and payments continues, as of August 1, 2020, the year-to-date filing season highlights are as follows:

- Personal Income Tax (PIT) returns filed totaled 18.4 million, with 16.5 million e-filed (90%).
- The volume of PIT refunds issued totaled 13.2 million, with an average refund of $1,036.
- Total payments processed totaled $47.5 billion, with 52% of payments being made electronically. Electronic payments continue to increase and are up from 46% of payments as of July 15th.
- Level of access in our Contact Center was 81% for the week of the July 15th due date, and is at 63% for the year, serving over 460,000 customers.

We hope to be able to update you again once we are through the 2020 filing season.

Reminder: S Corporations file Form 100S by September 15, 2020

This is a reminder for you and your clients to make sure to file Form 100S, California S Corporation Franchise or Income Tax Return, by the extended due date of September 15, 2020.

The original due date of an S corporation's return is the 15th day of the third month following the close of the S corporation's taxable year, which is generally March 15. Due to the COVID-19 pandemic, the original due date for this year was moved to July 15. However, the six-month extended due date did not change and is still September 15.

The six-month automatic extension does not apply to payment of the S corporation's tax liability. Normally, the S corporation is required to pay its tax liability by the original due date of March 15, regardless of whether it files its return later using the six-month extension. Due to the COVID-19 pandemic, the original due date due was moved to July 15 and tax liability payments were due at that time.

If an S corporation does not file its return by the extended filing deadline, then the extension does not apply and any applicable late filing penalties will be calculated from the original due date of July 15 for this year only, instead of the normal March 15 due date.

For more information about S Corporation and other business entity due dates, visit our Business Due Dates webpage. Also, go to our COVID-19 Extension to File and Pay webpage to view the changes to these due dates.

Extension of time: Original signatures not required through December 31, 2020

We recently updated our COVID-19 FAQ page to reflect that for paper returns and other documents that must be signed with an original signature by a taxpayer and/or tax representative, we will not require an original signature through December 31, 2020, except for Powers of Attorney (POAs).

For paper returns, we will accept two signature alternative methods:

1. An attached document must be included with the filed return that provides a copy of the original signature. The attached document should:
    - Identify what the document signature is for (Example: Corp XX, 2019 Form 100)
    - State "Refer to the attachment for a copy of the original signature" on the signature line
2. A paper return with a faxed signature on the signature page

For all other documents, except POAs, filed with us that require an original signature, we will accept documents with photographed or digital copies of required signatures. You can also upload a document with a signature into MyFTB. Please note that only PDF and Excel documents are currently being accepted.

These temporary procedures do not apply to filing a POA. POAs will still require an original signature. Follow the procedure on Submit a power of attorney if you need to submit a POA.

Adjusted interest rates

For the period January 1, 2021 through June 30, 2021, the adjusted interest rate is 3%.[1] This is the rate compounded daily that accrues with respect to various state taxes including: personal income, corporate income and franchise tax.

The rate for personal income tax overpayments for the period is 3%. The rate for corporation tax overpayments for the period is 0%.

Current and prior adjusted interest rates are available on our website. Rates for estimate penalties are also provided.

New WebPay video

Paying your tax bill may not be fun, but we have a quick and easy way to do it: WebPay. To help get the word out, we produced a video for you to share with your clients.

We have also produced several other educational videos on a variety of topics:

- Avoid an Estimated Penalty
- Gig Economy (2019)
- How to Close a Business Entity
- Installment Agreements
- Lien Information
- Market Based Source
- Offer in Compromise
- Record Keeping
- Record Keeping for Cash Based Small Businesses
- Report Systemic Issues
- Taxpayers' Rights Advocate
- Administrative Dissolution Program (Facebook video)

Keep up-to-date on importation information, follow us on social media:

- Twitter: @FTBAdvocate
- Instagram: @calftb
- Facebook: @franchisetaxboard

[1] Pursuant to Section 19521 (formerly 19269) of the Revenue and Taxation Code

Ask the Advocate

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

Advisory Board meeting update

August is usually when many of us are able to get away from the office for a well-deserved vacation. There is still time before the extended filing deadline and for those of us with school age children, there are usually a few weeks left before the new school year begins. For me and my staff, August is also when we begin preparing for our annual meetings. One of these meetings is our Executive Officer's Advisory Board which traditionally meets here at FTB's main campus.

However, like many other events this year, we weren't able to have an in-person meeting. Instead, we had our first ever virtual Advisory Board meeting in mid-August. While meeting in person with the Advisory Board members is preferable, we were still able to gain some valuable insights from them by meeting virtually. Hearing from those outside our agency regarding FTB's programs and processes is very helpful and leads to a better overall FTB experience for taxpayers and tax professionals.

This year's meeting began with an update on FTB's relief efforts due to COVID-19 followed by a legislative update and then a presentation detailing some changes to FTB's Strategic Plan. Some of the proposed changes came about from Advisory Board members' input. This month, I want to let you know about a few key points from both the COVID-19 and Legislative updates.

With regard to COVID-19 relief, FTB realized early on that all California taxpayers would be impacted by the pandemic. Nearly all relief FTB provided was automatic. One process that did require taxpayers to contact us was if they wanted to cancel a previously scheduled April 15 tax return payment now that the payment due date had been moved back. Once FTB determined the potential number of requests for payment cancellations that might come in, we quickly established a dedicated line for these calls and moved staff to this new contact center, allowing us to answer calls timely and cancel these payments. My staff followed up with a few taxpayers who had initially contacted my office directly about cancelling payments and what we heard back was that the process went smoothly and they felt the wait times for the contact center were reasonable.

Another form of relief for California taxpayers discussed at the meeting was that provided by our Accounts Receivable Management (ARM) Division. Again, much of what FTB did was done automatically; we stopped issuing levies, liens and collection calls were not made. Now that the moratorium on collection activity ended (July 15, 2020), FTB's ARM staff continues to work with taxpayers to provide relief when warranted. ARM staff are able to delay, modify, and release levies, establish installment agreements, allow for skipped payments, abate penalties, and if necessary put taxpayers into hardship status. Even when someone cannot meet their tax obligations, it is very important that they maintain contact with FTB to work towards a solution and not move into involuntary collection.

As part of their update, FTB's Legislative Services Bureau (LSB) discussed what is commonly known as the Conformity Report. The formal title of this report is the Summary of Federal Tax Changes and is required by law to be submitted to the Legislature annually. Once the Report has been provided to the Legislature, it is made available on our public website. The 2019 Summary of Federal Tax Changes came in two parts with more than 350 pages when combined. For 2020, FTB's LSB is working a new online format in table form, which will make it easier to search the Report for the information you need. I have seen a prototype of the online report, I was impressed with the new functionalities and I think you will be too. We will let you know about the updated version of the Report once it becomes available.

Overall, the 2020 meeting went well, especially considering this was the first virtual Advisory Board meeting. I know that everyone would have liked to have met in person, just as my staff and wish we were able to interact with you at the many events, conferences, and speeches we normally attend. I remain optimistic and hopeful that we will be able to return to some semblance of normalcy soon and look forward to seeing you again when they do.

All About Business

Clarification on how California taxes trusts

A trust is a taxable entity separate and apart from its beneficiaries.[2] In order for California to tax the income of a trust, one or more of three separate elements must be present:

1) The trust must have income from California sources[3]
2) A trustee of the trust must be a resident of California[4]
3) A non-contingent beneficiary of the trust must be a resident of California

Under both Federal and California law, non-grantor trusts are taxable at the trust level on accumulated income.[5]

For many years, we have taken the position that trusts are subject to California state income tax on all of their California-source income, and that non-California-source income is apportioned pro rata according to the number of California fiduciaries and noncontingent beneficiaries (see Cal. Code Regs. tit. 18, §17743). Recently, in a published decision, THE COURT OF APPEAL OF

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[2] Internal Revenue Code Section 641; California Revenue and Taxation Code (R&TC) Section 17731 (conformity with Federal law).

[3] R&TC Section 17951 (California source income).

[4] R&TC Sections 17742 and 17743 (apportionment to resident trustees).

[5] Internal Revenue Code section 641; R&TC Section 17731, et seq.

THE STATE OF CALIFORNIA, FIRST APPELLATE DISTRICT (*Steuer v. Franchise Tax Board*, No. A154691 (Cal. Ct. App. 1st Dist. June 29, 2020, commonly referred to as the Paula Trust case) affirmed that a Trust's entire California source income is subject to California taxation, regardless of the residency of the trust's fiduciaries.

The court held, "The plain language of Section 17743 and its rules require taxing all of a trust's California-source income and then apportioning only income derived outside of California according to the number of resident fiduciaries. (Section 17743; Cal. Code Regs., tit. 18, Section 17743.)"

Visit our [Estates and trusts](#) webpage for more information.

Event Calendar

As part of our education and outreach to the tax professional community, we participate in many different presentations and fairs. We provide a [calendar](#) that shows the events we attend (virtually), as well as other events happening at FTB, such as interested party and board meetings.