

# FTB 3520 – What’s New Webinar Script

## Slide 1

Good morning and welcome to Franchise Tax Board’s first 2013 webinar. I am Kelly Bluth. In today’s webinar, we are going to cover the **2013 revisions** to our POA form.

## Slide 2

But first, our next webinar will be held on: Tuesday March 26 from 10:00 am – 10:30

And will cover: How to Request Waivers for the Underpayment of Estimated Tax Penalty due to Proposition 30.

Please see our March’s Tax News for the registration link.

## Slide 3

In today’s webinar, we will be covering the major changes we made to our power of attorney form.

These changes are:

- Requiring separate POAs for married filing joint filers
- Revising the taxpayer and representative information sections
- The addition of the new Authorization for All Tax Years or Income Periods (which we fondly call Super Box)

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- Adding a new checkbox to Additional Privileges
- Adding new formatting for fiscal and short-period return dates
- Revising the formatting for Authorization to Receive Confidential Information Only

## Slide 5

So, let's begin with married filing joint filers.

## Slide 6

As most of you know, starting in March 2012, IRS began requiring joint return filers to submit a Power of Attorney for each spouse.

This change allowed each spouse to designate their own representative.

Starting in 2013, we will also be requiring joint filers to submit a separate POA for or each spouse or registered domestic partner.

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However, we will continue to accept joint filed POAs using the prior version of FTB 3520 or the federal Form 2848.

Also, any joint declarations filed prior to this change remain valid.

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This year we have revised the taxpayer information section. We have provided you more space to enter your information and separated the taxpayer by entity type.

The new formatting will allow us to use optical scanners in the future to capture the taxpayer’s information.

## Slide 9

To help us correctly identify your taxpayer and process your POA, we **require** that you complete one POA per taxpayer.

For example: Kelly Stickfigure is the President of Stick-figure Inc. Kelly and her corporation are considered two separate taxpayers and will have to file two separate POAs, even though they are represented by the same CPA.

## Slide 10

Also, we have revised Part 2, the representative’s information to make it easier for the taxpayer to identify their tax representative.

## Slide 11

Did you know? One of the top ten reasons we reject POA is because we simply can’t read it! So, neatness counts!

## Slide 12

To avoid this very common problem, you can complete and print the 3520 from our website.

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Our website address is [ftb.ca.gov](http://ftb.ca.gov)

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## Slide 14

New this year, is Authorization for All Tax Years or Income Periods for a Limited Duration. Or as we like to call it Super Box!

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Super Box allows the taxpayer to, by checking just one box, let their representative handle all their FTB matters.

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For example, you are representing Kelly Stickfigure on a FTB collection matter. Your POA covers 2009 through 2013. You are talking to Cindy Collector about Kelly’s tax liabilities. Cindy tells you that there is an outstanding liability for a year not covered by your POA and that she needs a new POA in order to help you. So you have to go back to Kelly and get her to sign a new POA so you can resolve the matter.

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If Kelly had checked Super Box, you could have handled all of her FTB matters at once. Here are some additional advantages of Super Box:

- Check one box and you are done. Other than signing the POA your client does not have to complete the rest of the form
- No need to specify tax years or income periods

And the Super Box authorization is good for 4 years from the date the POA was signed unless it is revoked or a new POA is filed. So you do not have to get a new POA every year.

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How easy is that?

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## **Slide 19**

Last year we did a survey of what was being entered into the other line in Additional Privileges.

## **Slide 20**

The number one Additional Privileges listed was signing the tax return for an individual taxpayer.

When the taxpayer authorizes their representative to sign their return for them, they are required to state the reason for the authorization on both the state and federal POA forms.

## **Slide 21**

What we saw on the 3520 was lot of cutting and pasting of the official verbiage from the Federal Form 2848 instructions.

Yes, they looked just like the slide. And that small.

## **Slide 22**

So, this year we added check boxes to make this process faster and easier for you.

## **Slide 23**

Dealing with individual taxpayers is easy, at least when it comes to talking about tax years. At least 99% of individuals file on a calendar year for a full 12 months. However, business entities, such as corporations and partnerships, can file on either a calendar or fiscal year basis.

Business entities can also have a short-period tax return. Short period years occur when businesses are created, dissolved, bought, or sold during the year.

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Let’s take a moment and go over some definitions:

- A **calendar year** means an accounting period of 12 months or less ending on the last day of December.
- A **fiscal year** means an accounting period of 12 months or less ending on the last day of any month except December.
- A **short period tax year** is any tax period of less than 12 months.

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As I mentioned, most individuals and some business entities are calendar year filers, so it is easy to designate them in Part 5 by using just the tax year date such as 2010 or 2009 through 2012.

## Slide 26

However, when it comes to fiscal and short-period returns we need a little more information to process your POA.

Let’s look at an example where a corporation has both a fiscal and short-period return. Stick-figure, Inc is normally a fiscal filer with a July 1 to June 30 fiscal year. On July 1, 2009, Stick-figure was purchased by another corporation. Stick-figure filed a short-period return from July 1 to December 31, 2009 to match its new parent’s year end after which it continued to file on a calendar year basis. Stick-figure hires C. P. Accountant to work with FTB on matters concerning these two returns. This is how Section 5 would look based on our example.

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However, if Stick-figure wanted Mr. Accountant to handle all of their FTB tax matters, regardless of tax years, they could have checked Super Box.

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Moving on to our final change, Authorization to Receive Confidential Information Only.

Before starting the POA redesign project, we looked over a portion of the POAs that were filed last year.

We were surprised to discover that Authorization to Receive Confidential Information Only was the most misused authorization on the form. We found taxpayers completing Specific Tax Years part of the POA and Confidential Information Only for the same tax years.

So, we changed the title to be more descriptive of the authorization being granted. We moved it to the end of the form, so you would have to read the entire form before getting to it. In addition, we added the fiscal and short-period return formatting.

Unfortunately, our changes didn’t help and we continue to see the 3520 incorrectly completed.

## Slide 29

Let’s take a minute and review the basic POA privileges.

When a taxpayer completes and signs a POA, they are granting their representative a set of general privileges.

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Two of the general privileges granted to a POA are:

- Receive and inspect the taxpayer’s confidential information, and
- Request information we receive from IRS.

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So it was very surprising to see so many POAs with “receive confidential information” written on the Other line in Part 6.

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Part 9 – Authorization to Receive Confidential Information Only is similar to Federal Form 8825.

It authorizes a representative to receive the taxpayer’s confidential information **only** for specific tax or income years.

The representative cannot represent the taxpayer in any other FTB matters.

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So, if the taxpayer completes any part of the FTB 3520, other than Part 1 and Part 2, and Part 9 is also completed we will reject your POA.

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Let’s look at an example.

Ms. Kelly Stickfigure was in a hurry and completes Part 5 listing the years she wants her CPA to handle. She sees Part 9 and thinks “Yes I want my CPA to get my confidential information.” So Kelly also completes Part 9 and because she is in a hurry, she did not read the instructions. She signs it and sends it in.

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A few weeks later, Kelly receives FTB 4267, Notice of Incomplete, or Incorrect Power of Attorney telling her we rejected her POA, because Part 5 and Part 9 were completed and listed the same tax years. Kelly is going to have to submit a new POA to FTB.

## Slide 36

Let’s do a quick review of today’s webinar topics:

- You need to file separate POAs for Married Filing Joint Filers
- Remember one POA per taxpayer
- We revised the taxpayer & representative information sections
  - Remember that neatness counts and
  - If we can’t read it, we can’t process it!

## Slide 36 cont’d

- We added SUPER BOX
  - Which is fast and convenient and
  - One box & one signature and you are done!

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## Slide 37

- We added a new checkbox to Additional Privileges
- Just check your reason or reasons
- No more cutting and pasting
- We added new formatting for fiscal and short-period dates
  - After seeing that, are you sure you don’t want to use Super Box?
- We revised the formatting for Authorization to Receive Confidential Information Only
  - Remember, it gives your representative no other authority. They cannot act as your attorney-in-fact.

## Slide 38

Your representative is granted these general privileges:

- Talk to Franchise Tax Board agents about your account
- Receive and inspect your confidential information
- Represent you in FTB matters
- Waive the California statute of limitations
- Execute settlement and closing agreements
- Request information we receive from IRS

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Now we have come to the question and answer part of our webinar.

You can submit your questions using the Ask Question window on your Go to Meeting Dashboard.

Depending on the number of questions we receive, we may use a series of standard questions and answers.

If we cannot answer all of your questions within the allotted time period, we will email your answer to you.

### POA Webinar Questions

1. If a representative has previously filed a POA for a taxpayer and then submits a new POA with FTB will the new form automatically void the prior POA and the years it covered by it?

Yes, when you file a new POA, it does automatically revoke any prior POAs that you filed with us covering the same income period or tax years. This is also true for federal.

If you do not want this automatic revocation to take place, you can check the box in Part 7, Retention or Revocation, and attach copy of the POA you are retaining.

2. Next, question, please. The new feature for voiding POAs after a period of time is nice in many ways but I see problems in my practice.

I have several seniors in my practice and if a POA is close to the end of its time period of being effective, then a client becomes incompetent then the POA could run out and no ability to obtain a new POA.

Is there any way to overcome the automatic lapsing feature of the POA after a certain time period?

Unfortunately, there is no way to keep Super Box from expiring. However, you can continue to file POAs listing the specific tax years which do not expire.

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3. I have a durable POA from a client. Do I still need to file a POA?

Yes, you’re still going to have to file a POA. For us to be able to process your general or durable POA it has to contain the same information that is required on FTB 3520.

It is important to note that we reject most general and durable POAs because they don’t contain the required information. We recommend that you complete a 3520 and attach it to your general or POA when you submit it for processing.

4. How long can I still use the old POA form?

We still are processing prior versions of the 3520. However, we recommend that you use the most current version of the form to ensure that your clients are covered by any changes in the law or procedures, such as Super Box. So, if you do not use this current form, you would not have Super Box or the nice processing features of the redesign.

5. Do I have to use your form or can I use the IRS one instead?

We do accept the federal form 2848 and the Board of Equalization Joint POA form, BOE 392. However, the federal form needs to be modified to state that it is for CA purposes. Please see our instructions to the 3520 for more information on how you make the modifications. If these modifications are not made, we will reject your POA.

However, we always recommend that you use our 3520 to make sure you are taking advantage of our special authorizations such as Super Box.

6. Can I use a POA form of my own design?

Maybe. This is a true tax answer. Yes, we will accept your letter or handwritten POA, only if it contains all the information required on FTB 3520. You can see the instructions for the 3520 and it should tell you what the handwritten POA should say. Just a word of caution, we reject a lot of the handwritten POAs because they don’t contain all the required information. We always recommend that you use our POA form.

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7. Will the FTB accept POAs in general for all clients whose returns our firm prepares or should the POA be filed only when there is an issue to be resolved?

This one is up to you. There would be no reason to file a POA unless you were expecting to handle, let's say, a processing problem that happens in the beginning of processing a return like a RIN and STD. You want to send it in to take care of those in a proactive manner or you could wait until your taxpayer comes in and says they have a problem and you can file it at that time.

8. Do you have a PowerPoint presentation available for download? Thanks.

Yes, this presentation will be available probably this afternoon and you can download it. So when it comes up, you can get a copy of our presentation.

9. Does FTB send copies of correspondence to the POA as well as the taxpayer?

We do send the first two notices to the POA on record. Those would be RINs and STDs. After that time, we do not send the correspondence to the POA. We recommend that you tell your taxpayers/clients in advance that if they receive any correspondence from FTB they contact you immediately.

10. Can we put future years in the POA?

There are two answers to this. The first answer is that with the advent of Super Box. Super Box is good for all years regardless of whether they are in the future or in the past as long as it is covered within the first four years before it expires. At which time you can file another POA checking Super Box. With older forms, and on this form, you can specify future tax years but we are the same as the Federal and you can only do it three years in the future. Should you put a year that is beyond the three years, we will reject your POA.

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11. Do we need the Super Box on part 4 and also part 5 too?

No. Super Box takes care of everything so if you check Super Box in part 4 you do not have to complete part 5. However, we will not reject your POA if you do this and we will list in our database all the years you list here but you really don't have to. You can just check Super Box.

12. Is there anything unique for nonresidents?

No, there isn't. You don't have to make any alterations to the form at all. Just go ahead and fill it out and send it in.

13. How do we revoke a POA?

You can revoke a POA several ways. These are all covered in the instructions to the 3520. We changed what number it was. It is going to be in part 7 under Retention and Revocation of a Prior POA. As I mentioned earlier, when you file a new POA for a client, it automatically revokes all other POAs for the same time period and the same tax matters if you listed them. So that is an automatic revocation.

You can also do it by sending in a copy of the 3520 you are revoking and write the word revoke on it and we will process it. You can also send us a letter with all the needed information. Again, you can find that information in the instructions saying that your client is revoking their POA.

Now sometime, you are going to have to revoke the POA yourself as the representative. You can also do this in letter format giving us the pertinent information and we will revoke your POA. Now there are going to be times where you do want to revoke or you are going to be filing a new POA but you do not want to revoke the old one and so you just attach a copy and we will keep that one in affect.

14. Can you file the POA electronically?

Not at this time. I am sorry. You can fax it to us. The fax number is in the instructions or you can go ahead and file it by mail.

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### **Slide 40**

This ends our POA webinar. Today our goal was to highlight the changes we made to our POA form. We hope that you found this webinar interesting and informative. On behalf of the California Franchise Tax Board, thank you for attending today’s webinar.