MAP

MANUAL OF AUDIT PROCEDURES

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7.6.1	Primary Case (or for all Cases Where Work Papers Are Being Stored)	Added language	04-2009
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1 Overview

1.1 Introduction

The Manual of Audit Procedures (MAP) contains procedures and guidelines for completing all types of audits. This manual is meant to be the primary reference for current audit procedures. However, the MAP does not contain all possible audit situations. It will be noted when differences exist for each program.

As explained in FTB Notice 1994-8, manuals provided for the guidance of audit staff are not authoritative and may neither be cited to support an audit position nor relied upon by a taxpayer. Instead, the manual should be used as an initial step in understanding audit procedures and guidelines.

Statements of law made in the MAP reflect the law on the manual's revision date. To ensure the continued relevance of this manual, it is important that it be updated to reflect changes. Any suggestions or corrections are welcomed and should be sent to MAP PF.

1.2 Taxpayers' Bill of Rights

See the **California Taxpayers' Bill of Rights, A Comprehensive Guide** (REV. 04-2006). (Form FTB 4058C) and for more information, refer to the income tax law code sections. Most of the Taxpayers' Bill of Rights provisions are in R&TC Sections 21001–21028.

You can find the California Taxpayers' Bill of Rights in the FTB public website.

1.3 Privacy Principles

The Franchise Tax Board takes the privacy of personal information very seriously. You are responsible for protecting any personal information used in your audits.

See our Privacy Principles in the FTB public website.

1.4 Mission of the Franchise Tax Board

See our Mission Statement in the FTB public website.

1.5 Statement of Principles of Tax Administration

See our Statement of Principles of Tax Administration in the FTB public website.

1.6 Customer Service

In the high quality audit environment, we listen, recognize and respect a customer's needs, and provide timely assistance. Our Statement of Principles of Tax Administration clearly values high quality customer service.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

We emphasize customer service while ensuring compliance. To ensure quality customer service, the Audit Division stresses the following goals:

- **Value Customer Service –** Be aware of customer service and its application during audit activities.
- **Be Efficient –** Audit tax year(s) that are more current, shorten audit time, and produce quality audits.
- **Follow up and Meet Deadlines –** Always respond timely to letters, phone calls, etc.
- **Minimize Intrusiveness –** Use all available resources to minimize information requests. Be flexible by accepting alternative documents when possible. Apply the law consistently and clearly. Emphasize education and compliance to measure benefits and efficiencies.
- **Value and Apply Professionalism in the Workplace –** Value communication. Respect individuality and ideas. Provide equal opportunities to staff. Continue developing and training staff.

It is critical to establish a positive relationship with the taxpayer or representative to ensure completion of the audit effectively and on time. To encourage positive working relationships, use the audit standards of Legality, Objectivity, Timeliness, and Supportability (see MAP Audit Standards).

When interacting with the taxpayer and/or representative, ensure that:

- The taxpayer understands the audit's purpose and our legitimate need for the information requested. Discuss alternative information sources that could be used to satisfy the request.
- You evaluate the audit data and determine the results in a timely, fair, and impartial manner.
- You ensure that the audit progresses with a minimum of inconvenience to the taxpayer. This includes obtaining information from third party sources in order to minimize the inconvenience (see MAP Third Party Contacts). Auditors should always keep in mind the other available sources of information, which could make an Information/Document Request (IDR) unnecessary.
- Both the facts and the law support the final audit recommendations.
- You communicate the results of the audit in writing to the taxpayer, and provide the taxpayer with the opportunity to rebut any findings.

1.7 Audit Objectives

The primary responsibility for determining the correct amount of tax rests with taxpayers. In accordance with R&TC Sections 19501-19504, the department has developed Audit Programs. The objective of an audit is to effectively and efficiently determine the correct amount of tax based on an analysis of relevant tax statutes, regulations, and case law as applied to the taxpayer's facts. The procedures and techniques needed to successfully complete an audit assignment will depend on the circumstances in each case.

In all cases, established audit standards and resource considerations govern how the procedures and techniques are used and also the manner in which they are applied.

Experience has shown that the best results are achieved through cooperation, effective communications, and setting and adhering to goals throughout the audit process.

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1.8 Audit Standards

We use audit standards process throughout the audit process by identifying issues, gathering, evaluating, documenting information, and determining the correct tax liability, supported by reasonable interpretation of the tax laws.

Use the following audit standards in completing audits, called **LOTS**:

- **L**EGALITY – Ensure audit activities and conclusions agree with established laws and legal interpretations.
- **O**BJECTIVITY – Examine all relevant, available facts fairly and without bias.
- **T**IMELINESS – Conduct and complete audits with a minimum of inconvenience to taxpayers.
- **S**UPPORTABILITY – Adequately support recommendations with facts and law.

To consistently meet our audit standards, you are expected to correctly apply and administer the tax laws in a reasonable, practical, fair, and impartial manner. Conduct audits within the bounds of the law, with sound administration, minimal delay, courtesy, and respect to taxpayers. Also, conduct audits in a manner that is the least burdensome, costly, or intrusive to taxpayers.

1.9 Audit Priorities

You must determine the relative priority of each of the cases assigned to you and conduct your activities accordingly. The criteria used in establishing these priorities include the following:

1. **Statute of Limitations (SOL) Expiration Date** – You must submit all cases to review with at least 6 months before the expiration of the SOL. Consider requests for early statutes. See MAP Statute of Limitations.
2. **Collection of Tax in Jeopardy** – This includes situations where there are indications that the taxpayer may leave the state, Jeopardy Assessments and Post Dissolution Audits. See MAP Jeopardy Assessments and MAP Post Dissolution.
3. **Tax Clearance** – To permit dissolution or withdrawal from the State. Also, see MAP Post Dissolution.
4. **Claims for Refunds** – See MAP Claims.
5. **Protest Cases** – See MAP Protests.
6. **Backlog cases** – See MAP Referrals.
7. **Cases started by another** office or auditor and forwarded for completion.

The audit priorities are general in nature and may vary slightly for each Program or Office. Exercise judgment in each case.

1.10 Resource Consideration

The resources available to the department are set through the budget process. The department expects you to use these limited resources efficiently and effectively.

The following general resource guidelines apply in all cases:

- Use a limited scope audit when appropriate.

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- Taxpayers carry the burden of supporting over-assessments.
- Work-paper files and documentary evidence must adequately support the audit recommendations. This is necessary to sustain the proposed audit adjustments at the protest and appeals level.

1.11 Commonly Used Acronyms

These acronyms are used throughout the Manual of Audit Procedures:

Acronym:	What it means:
AIPS	Audit Issue Presentation Sheet
BAP	Best Audit Business Practices
BETS	Business Entity Tax System
CR&TC	California Revenue and Taxation Code
FTB	Franchise Tax Board
GTA	General Tax Audit
IDR	Information Document Request
IMF	Individual Master File
IRC	Internal Revenue Code
IRS	Internal Revenue Service
MAP	Manual of Audit Procedures
MATM	Multi-state Audit Technique Manual
MSA	Multi-state Audit
NPA	Notice of Proposed Assessment
PASS	Professional Audit Support System
PIT	Personal Income Tax
RAR	Revenue Agent's Report
SBE	State Board of Equalization
TI	Taxpayer Information

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NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

2 Confidentiality and Disclosure

2.1 Confidentiality and Disclosure

Provisions prohibiting the disclosure of confidential information help us administer the income tax laws of the State of California by encouraging taxpayers to make full and truthful information disclosure, without fearing that we will give the information to other parties or allow other parties to use it inappropriately.

You must keep this data confidential. Failing to do so could subject you to disciplinary proceedings, loss of employment, and criminal penalties.

Additional information is available at the Disclosure for Audit webpage.

2.2 Confidential Information Defined

Confidential information is defined as any item of information that is:

- Submitted to, or developed within, our organization to administer its program responsibilities.
- Is not specifically public information by statute.

All information received or developed during the audit is to be treated as confidential information unless it is specifically made public by law. It is the auditor's responsibility to maintain the security of all confidential data during the audit process and to prevent any unauthorized disclosure. Confidential information generally includes federal and state tax return information. We do not have authority to use these records and information for any purpose not specified by law.

2.2.1 Need to Know/Right to Know

Need to know is the need to see information in order to perform official responsibilities. Always question the **need to know** if an information request is unusual.

Right to know is the right to get information because of statute, court order, or decisional law. Individuals also have the right to submit evidence to correct and complete records.

The law says that to simply VIEW taxpayer data where you have NO NEED or RIGHT TO KNOW is unauthorized disclosure.

2.3 Unauthorized Disclosure of State Information

Under R&TC Section 19542, any unwarranted disclosure or use of tax return information, or any willful unauthorized inspection of tax return information, is punishable as a misdemeanor. **Inspection** is defined to mean any examination of confidential information.

Under R&TC Section 19542.1(b), the FTB must notify the affected taxpayer of the unwarranted disclosure or use of a tax return or any unauthorized inspection of a tax return, but only if criminal charges have been filed for the willful unauthorized inspection or unwarranted disclosure. Under Civil Code Section 1798.29, we must notify the affected taxpayer when there is unauthorized access made and acquisition of specified computerized personal information. The consequences of violating these rules can be severe, including dismissal, criminal prosecution, and being personally sued by the taxpayer.

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The taxpayer notification provisions are the same for federal and state. State employees are subject to the federal law provisions regarding unwarranted disclosure or use of federal tax information, or any willful unauthorized inspection of federal tax information we receive from the Internal Revenue Service. You must clearly identify the source whenever any file contains information we have obtained outside our offices.

2.4 UNAX – Taxpayer Browsing Protection Act

The Taxpayer Browsing Protection Act makes unauthorized inspection (or browsing) of federal taxpayer information a felony. The penalty for unauthorized browsing is, **fine in an amount not exceeding $5,000, or imprisonment of not more than five years, or both, together with the costs of prosecution**. The provisions extend the prohibition to state employees with access to federal information.

R&TC Section 19542.1 makes punishable as a misdemeanor:

- Unwarranted disclosure or use of tax return information.
- Willful unauthorized inspection of tax return information.

We must notify the affected taxpayer of the unwarranted disclosure if certain criminal charges are filed for the offense.

UNAX requires concealment of all confidential taxpayer data (including Revenue Agent Reports, 6227 requests) at all times, from everyone, except those working on the case.

- Do **not** place these documents in in-baskets or leave them on desks unless covered or turned over.
- Cover or turn over all confidential information when another person enters your workstation. You may use form FTB7805 Confidential Cover Sheet.
- Turn over, cover, or put away taxpayer documents if you leave your desk.
- Place all confidential data in drawers, boxes, or shelving that conceals taxpayer identity when you leave the office.

The law says to view taxpayer data where you have no need to know is unauthorized disclosure.

NOTE: State employees are subject to the federal law provisions regarding unwarranted disclosure or use of federal tax information or any willful unauthorized inspection of federal tax information that we receive from the Internal Revenue Service.

2.5 Authorized Disclosure of Information

We disclose nonproprietary information after completing the audit. This practice generally conforms to the provisions of the Information Practices Act, which mandates disclosing information to individual taxpayers (California Civil Code Section 1798.30-1798.44). We assert that the audit is not complete until the review process is complete.

Taxpayers and their authorized representatives can receive copies of their audit files once the audit review process is completed. Sometimes, we issue Notices of Proposed Assessment before the review to protect the statute of limitations. Still, we will not disclose the audit file to the taxpayer until the review process is complete. We charge $.10 per page for copies of completed audit files.

The **audit file** includes:

- The Narrative Report.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- The Event Log.
- All work papers, and supporting material.

In general, taxpayers may not see any document, or portion of a document, that discloses:

- Proprietary systems information (e.g., PFK indicators and system access codes) (Govt. Code section 6254.9).
- Other proprietary information.
- Audit selection standards (R&TC Section 19544).
- Information from or about informants (Govt. Code Section 6254(f)).

The IRS/FTB Exchange of Information Agreement prohibits disclosing information from the IRS to anyone other than the taxpayer or authorized representative. We cannot provide other states with copies of information we receive from the IRS.

We may disclose information from or about a taxpayer's affiliate to the taxpayer or authorized representative if it is relevant to determining the taxpayer's franchise/income tax liability (see MAP Disclosure in Judicial or Administrative Tax Proceedings).

If the Protest Unit handled the case, taxpayers and authorized representatives may obtain copies of the protest file. In general, we must disclose the protest-hearing officer's reports and all work papers and supporting material.

Fully explain the above guidelines if taxpayers request copies of their audit files before the review process is completed.

Remember: before disclosing any information, contact the Disclosure Unit for approval at 916.845.3226.

See MAP Disclosure Guidelines – Corporations; and see MAP Disclosure Guidelines – Partnerships, for specific business entity disclosure information.

2.6 Disclosure Guidelines – Corporations

The Corporation Tax Law is quite specific about disclosure of business activities information for corporate taxpayers.

We can disclose the following **public** information (R&TC Section 19543):

- Corporate title.
- Corporate number.
- Date of commencement of business in this state.
- Taxable year adopted.
- Filing date of return.
- Name, date, and title of individuals signing affidavit to return.
- Due date of taxes.
- Total amounts of unpaid balances (tax, penalty, interest and fees). This may be broken down on an annual basis.
- Entity address.
- Private address of officers and directors, if that information is on the tax return or the Secretary of State file.

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Corporate taxpayers and their authorized representatives may obtain copies of their audit files once the Review process is complete. We disclose non-proprietary information to corporate taxpayers when the audit is complete before the discovery process in Superior Court litigation, although no statute requires it. Although not mandated by law to provide corporate audit information, this practice generally conforms to the provisions of the Information Practices Act, which mandates disclosing information to individual taxpayers (California Civil Code Section 1798.30-1798.44). The department asserts the audit is not complete until the review process is complete.

The **audit file** includes:

- Narrative Report.
- Event Log.
- All work papers and supporting material.

Corporate taxpayers may not see any document, or portion of a document, such as:

- Proprietary systems information (Govt Code Section 6254.9).
- Other proprietary information.
- Audit selection standards (R&TC Section 19544).
- Information from or about informants (Govt. Code Section 6254(f)).

Before releasing any of the above information, contact the Disclosure Unit for approval at 916.845.3226.

At times, an audit or protest file contains nonaffiliated taxpayer information used as reference material. The information is pertinent to the analysis and determinations being made in the present audit or protest. Taxpayers or their representatives often ask for copies of their audit or protest files. To avoid an inadvertent disclosure of another taxpayer's information, this information should be included in the audit or protest file as an exhibit. It should be clearly identified, using red ink or red pencil: **CONFIDENTIAL TAXPAYER INFORMATION**. This will help ensure that taxpayer information is not inadvertently disclosed.

2.6.1 Disclosure of Corporate Taxpayers' Files

The following guidelines have been developed for the disclosure of certain taxpayer files. Refer to the Security and Disclosure Manual for additional guidance:

What to Disclose:

Audit File: Taxpayers and their authorized representatives may obtain copies of their audit file. This includes the narrative, event log, and all work papers and supporting material. However, they may not obtain any document, or portion of a document, that discloses the auditor's opinion, judgment, analysis of the strengths and weaknesses of the proposed assessment, proprietary information (such as dollar thresholds for audit selection or other audit selection criteria), or information from or about third parties unrelated to the taxpayer. In particular, review notes are not subject to disclosure because they typically contain recommendations and analysis of the strengths and weaknesses of a case. This would include review notes of the supervisor and the review staff in the Technical Resource Section.

IRS Information: The IRS/FTB Exchange of Information Agreement prohibits the disclosure of information received from the IRS to anyone other than the taxpayer or their, authorized

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

representative. For example, we cannot provide other states with copies of information we received from the IRS.

Affiliated Entity Information: Information from or about an affiliate may be disclosed to the taxpayer or their authorized representative if it is relevant to the determination of the taxpayer's franchise/income tax liability. See R&TC Section 19545. For example, assume Taxpayer A and Taxpayer B is affiliated and filed their California returns on a separate company basis. Audit determines that A and B are unitary. Each taxpayer is entitled to obtain information regarding their affiliates' income and apportionment factor denominators because such information is relevant to the determination of the taxpayer's California franchise/income tax liability.

Protest File: The protest file for cases handled by the Legal Branch may not be disclosed. Taxpayers and their authorized representatives may, however, obtain copies of the protest file if the audit staff handled the case. In general, the information that must be disclosed includes the protest-hearing officer's reports and all work papers and supporting material. We are not required to provide copies of any document, or portion of a document, that discloses the hearing officer's opinion, judgment, analysis of the strengths and weaknesses of the proposed assessment, or information from or about third parties unrelated to the taxpayer.

When to Disclose:

Audit File: Copies of audit files will not be provided until the staff in the Technical Resource Section has completed its review (if necessary). For example, notices of proposed assessment are occasionally issued prior to the case being reviewed in order to protect the statute of limitations. In such situations, the audit file will not be disclosed to the taxpayer until Technical Resource Section completes its review.

Protest File: Copies of protest files will not be provided until the Notice of Action on Protest has been issued. The protest file for cases handled by FTB Legal Branch may not be disclosed.

The above guidelines should be explained to taxpayers that request a copy of their audit file prior to the case completing review, or to taxpayers that question why items such as review notes were not provided. These taxpayers should be advised that although there is no statutory requirement to disclose audit files to corporate taxpayers prior to the discovery process in Superior Court litigation, long-standing department practice is to disclose nonproprietary information when the audit is complete. This practice generally conforms to the provisions of the Information Practices Act (IPA), which mandates the disclosure of information to individual taxpayers. (California Civil Code Section 1798.30-1798.44) The department's position is that the audit is not complete until the completion of the review process.

We charge $.10 per page for copies of the completed audit file.

2.6.2 Corporations – Shareholder Access to Records

The shareholder's access to information depends upon whether the shareholder is an officer or director of the corporation. The shareholder's stock ownership percentage is **not** a factor in determining what you can release to the shareholder.

Officer/Director

A shareholder who is an officer or director of a corporation is entitled to most information we maintain on the corporation, including:

- The corporate return and all supporting schedules, including any Schedule K-1s filed with the return.

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- Most other records we have that pertain to the corporation. These records include a printout, or transcript, of the corporate account and most of the audit report, including the narrative report, work papers, letters, and supporting documents (See MAP Authorized Disclosure of Information.)
- Information directly relating to the resolution of tax issues in a judicial or administrative proceeding (See MAP Disclosure in Judicial or Administrative Tax Proceedings.)

The Disclosure Unit must review the records for any information exempt from disclosure, including proprietary information and informants' identities prior to releasing the information.

We do not release copies of the audit report until after we have closed the examination and issued an assessment, refund, or no-change letter. (See MAP Authorized Disclosure of Information.)

Usually, shareholders owning 100 percent of a corporation's stock are officers or directors of the corporation. However, a 100 percent shareholder might not be an officer or director of the corporation. Regardless of percentage of stock ownership, the above disclosure guidelines apply only to shareholders who are officers or directors of the corporation and the corporation's authorized representative.

Other Shareholders

Shareholders who are not corporate officers or directors may have access to the following limited information:

- The Schedule K-1 that pertains to them. Shareholders cannot access a copy of the corporate return, nor any of the Schedule K-1s relating to the other shareholders.
- The portion of the audit report pertaining to the adjustment passed through to them. (See MAP Authorized Disclosure of Information).
- The amount of the adjustment allocated to them. The shareholder may not access the amount of the adjustment allocated to any of the other shareholders.
- Information that directly relates to the resolution of tax issues in a judicial or administrative proceeding. (See MAP Disclosure in Judicial or Administrative Tax Proceedings).

Before we can release the records, the Disclosure Unit reviews them for any information exempt from disclosure or that the shareholder may not access. (See MAP Authorized Disclosure of Information, for a description of the information exempt from disclosure and our practice concerning the release of audit and hearing officer reports.)

NOTE: Under R&TC Section 19545(c), the transactional relationship criteria would apply more often to shareholders who are not officers or directors of an S Corporation. For example, if we revise the Accumulated Adjustments Account and the adjustment passes through to the shareholder, the shareholder may receive a copy of the Account that was filed with the corporate return. This information has a direct transactional relationship to the adjustment on the shareholder's individual return.

2.6.3 Information on Individual Shareholder Returns

We cannot disclose information on a shareholder's tax return to the corporation or the other shareholders.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

2.6.4 Group Return of Nonresident Shareholders

R&TC Section 23810 provides that certain nonresident shareholders may file a group nonresident return on Form 540NR. Each shareholder included in the filing group is entitled to the following information:

- Form 540NR (side 1 and 2).
- Schedules attached to the Form 540NR, showing the computation and apportionment of California source income, losses, deductions, and credits.
- Parts of any schedule attached to the Form 540NR that show the shareholder's distributive share of the corporate and California source income, losses, deductions, credits, and the computation of tax on the shareholder's distributive share.

We cannot disclose any information to an individual shareholder that shows other shareholders' allocation of corporate and California source income or tax computations.

2.7 Disclosure Guidelines - Individuals

If requested by the individual taxpayer, we can disclose the following information:

- Closed audit reports.
- Copies of tax returns.
- Account transcripts.
- Collection progress reports.
- Closed investigation reports.
- Information from outside sources (IRS, DMV, and Board of Equalization) which is maintained within the audit file.

Individual taxpayers and their authorized representatives can receive copies of their audit files once the Review process is completed. Sometimes, we issue Notices of Proposed Assessment before reviewing the case to protect the statute of limitations. We do not disclose the audit file to the taxpayer until the Review process is complete. We disclose nonproprietary information when the audit is complete. The audit is not complete until the review is complete. Our practice generally conforms to the provisions of the Information Practices Act, which mandates the disclosure of information to individual taxpayers (California Civil Code Section 1798.30-1798.44).

The **audit file** includes:

- The Narrative Report.
- The Event Log.
- All workpapers, and supporting material.

Individual taxpayers may not see any document, or portion of a document, that discloses:

- Proprietary systems information (Govt. Code section 6254.9).
- Other proprietary information.
- Audit selection standards (R&TC section 19544).
- Information from or about informants (Govt. Code section 6254 (f)).

All requests should be in writing. Under most circumstances, authorized representatives should provide a power of attorney from the taxpayer.

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Remember: before disclosing any information, contact the Disclosure Unit for approval.

2.8 Disclosure Guidelines - Partnerships

Partnerships and their authorized representatives may obtain copies of their audit files once the Review process is completed. We disclose nonproprietary information to a partnership when the audit is complete before the discovery process in Superior Court litigation, although no statute requires it. This practice generally conforms to the provisions of the Information Practices Act, which mandates disclosing information to individual taxpayers (California Civil Code Section 1798.30-1798.44). The department asserts that the audit is not complete until the review process is complete.

The type of partnership concerned determines to whom you may disclose information.

2.8.1 Partners' Returns

We cannot disclose information on a partner's tax return to the partnership or the other partners, regardless of the type of partnership or type of partner.

2.8.2 General Partnership

A general partnership has the following characteristics:

- Two or more partners.
- The partners function as one for the management of the partnership.
- All partners are liable for the partnership's total debts.

General partnerships are not required to file with the Secretary of State or pay a minimum tax. General partnerships are subject to the personal income tax disclosure provisions (see MAP Disclosure Guidelines – Individuals). All our information for a general partnership is confidential, and cannot be released to the public.

General Partnerships – Public Information

General Partnerships are subject to the personal income tax disclosure provisions (see MAP Disclosure Guidelines – Individuals). All of our information on the partnership is confidential, and cannot be released to the public.

General Partner's Access to Records

The partnership’s authorized representative and all partners are entitled to most information that we maintain on the partnership, including:

- The complete partnership return and all supporting schedules, including all Schedule K-1s filed with the return.
- Most of our other records pertaining to the partnership, including a printout, or transcript, of the partnership account and most of the audit report (narrative report, workpapers, letters, and supporting documents).
- Information that directly relates to the resolution of tax issues in a judicial or administrative proceeding. (See MAP Disclosure in Judicial or Administrative Tax Proceedings, for additional information.)

See MAP Authorized Disclosure of Information, for additional information.

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Before we can release the records, the Disclosure Unit must review them for any information exempt from disclosure.

2.8.3 Limited Partnership

Generally, a limited partnership has the following characteristics:

- Two or more partners with at least one general partner and one limited partner.
- General partners manage the partnership's daily business activities and each general partner is individually liable for the partnership's total debt.
- Limited partners do not share in the management of the partnership and each partner's liability is limited to the amount that they have invested in the partnership.

Limited partnerships register with the Secretary of State. Those doing business in California must pay a minimum tax under the provisions of R&TC Section 23081.

Limited Partnerships- Public Information

We can disclose the following information on limited partnerships to the public:

- Partnership name and address.
- Date of registration with the Secretary of State.
- Tax year adopted.
- Due date of the partnership return.
- Whether a return was filed.
- Filing date of the partnership return.
- Total unpaid amount (including tax, penalty, and interest) for each tax year, without a breakdown.
- Status of the partnership (e.g., terminated or Secretary of State registration withdrawn).
- Name, date signed, and title of the person who signed the return.
- Industry code.

NOTE: Names and addresses of the partners are not public information.

Limited Partners' Access to Records

A partner's access to information depends on whether the partner is a general partner or a limited partner.

The authorized representative of the limited partnership and the general partners are entitled access to the same information as those of a general partnership (see MAP General Partnership).

The limited partners of the partnership are entitled access to the following limited information:

- The partnership return, including supporting schedules, with the exception of the Schedule K-1s. Limited partners are entitled to see only a copy of the Schedule K-1 pertaining to them. We do not allow limited partners any access to the Schedule K-1s pertaining to the other partners.
- The printout or transcript of the partnership account and the portion of the audit report (narrative, work papers, letters, and supporting documents) pertaining **only** to the adjustment passed through to them. (See MAP Authorized Disclosure of Information, for additional information.)

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- The amount of adjustment allocated to them. **Limited partners cannot see the amount of the adjustment allocated to any of the other partners**.
- Information that directly relates to the resolution of tax issues in a judicial or administrative proceeding. See MAP Disclosure in Judicial or Administrative Tax Proceedings.

Before we can release the records, the Disclosure Unit must review them for any information exempt from disclosure or that the limited partner cannot see. (See MAP General Partnerships).

2.8.4 Other Entities (LLC, REMICS)

Other types of entities, such as Limited Liability Companies and Real Estate Mortgage Investment Conduits, may elect treatment as a partnership for tax purposes. Generally, these entities have more characteristics in common with limited partnerships than with general partnerships. You should apply the disclosure guidelines on limited partnerships to these entities. (See MAP Limited Partnerships).

Investors in Limited Liability Companies and Real Estate Mortgage Investment Conduits may be known as members or owners rather than **partners**. Members or owners have some of the same characteristics as a general or limited partner. Consider whether the investors manage the entity's business and if they have liability for the entity's debts.

If you have reviewed the general disclosure rules and you cannot decide if you should disclose the information, then do not disclose the information. Tell the partner or representative you are not sure if you can provide the requested information, and that you will call back to confirm your findings. Discuss the issue with your supervisor and, if necessary, contact the Disclosure Office.

2.8.5 Group Return of Nonresident Partners

R&TC Section 18535 says that certain nonresident partners and Limited Liability Company members may file a group nonresident return on Form 540NR. Each partner or member in the filing group is entitled to the following information:

- Form 540NR (side 1 and 2).
- Schedules attached to the Form 540NR, showing the computation and apportionment of California source income, losses, deductions, and credits.
- Parts of any schedule attached to the Form 540NR that show the partner's distributive share of the partnership and California source income, losses, deductions, credits, and the computation of tax on the partner's distributive share.
- We cannot disclose any information to a partner or member about the other partners' allocation of partnership and California source income or tax computations.

If you have reviewed the general disclosure rules and you cannot decide if you should disclose the information, then do not disclose it. Tell the shareholder or representative that you are not sure if you can provide the requested information, and that you will call back to confirm your findings. Discuss the issue with your supervisor and, if necessary, contact the Disclosure Office.

2.9 Disclosure in Judicial or Administrative Tax Proceedings

We may disclose return or return information in a judicial or administrative proceeding pertaining to tax administration, if certain criteria apply (R&TC Section 19545). Administrative proceedings include audits, protest hearings, and collection actions. We may disclose information to taxpayers if:

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- The proceeding relates to determining or collecting their tax liability.
- The treatment of an item on the return directly relates to resolving an issue in the proceeding.
- The information directly relates to a transactional relationship between them and a person who is a party to the proceeding, and directly affects how an issue will be resolved.

2.10 Requests for Information

R&TC Sections 19542-19565 permit disclosing limited information.

We do not give income tax returns or related information to Political Reform Audit Program personnel to perform political reform audits.

2.10.1 Taxpayer's Request for Copy of Tax Return

We will provide a copy of personal income tax and business entity tax returns filed by the taxpayer, upon request. We charge $20, in advance, per tax year for the copies.

Taxpayers should send their request and payment to:

RID UNIT MS C2
FRANCHISE TAX BOARD
PO BOX 1570
RANCHO CORDOVA CA 95741-1570

We waive the fees if:

- Taxpayer states they are the victim of a designated California or federal disaster.
- Taxpayer request copies from a district office where we assisted them in completing their return.
- The auditor provides a copy during an audit in order to expedite the audit's completion.

Auditors should not be receiving payment for copies of tax returns. The RID Unit should handle these requests.

See MAP Authorized Disclosure of Information, if a taxpayer requests copies of our audit work papers.

2.10.2 Federal Tax Return Information

Authority to inspect a state tax return does not necessarily imply authority to inspect tax information received from the Internal Revenue Service. IRC Section 7213(a)(2) makes the unauthorized disclosure of IRS data by state employees a felony.

IRC Section 7217 also subjects state employees to civil damages.

We must use additional information security measures when we receive any document containing confidential Federal Tax Information directly from the IRS. This includes items such as copies of returns, files, documents, letters, RARs, and **no record** responses. If the IRS source data becomes part of an audit file, stamp (in red ink) the face of the document **CONFIDENTIAL IRS INFORMATION** and stamp the cover of the audit file **FILE CONTAINS CONFIDENTIAL IRS INFORMATION.** Include FTB Form 7805 on the top of your audit file.

If you have any questions, please contact your supervisor.

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2.10.3 Other States Agencies Requests for Information

Other States' requests for information can only be provided by designated Franchise Tax Board employees. Franchise Tax Board designees are authorized to receive, request and disclose confidential tax information with those states with which we have reciprocal agreements. See the Disclosure Unit website for a listing of designated employees.

NOTE: We cannot provide Other State Agencies copies of information we receive from the IRS.

2.11 Taxpayer Advocate, Public Affair & Legislative Services Referrals

Taxpayer Advocate Referrals

If any of the following elected public officials or any of their assistants makes direct contact by email, telephone, or written correspondence, tell your supervisor and refer the contact to the Taxpayer Liaison Section of the Taxpayer Advocate Bureau.

- Federal or state legislators or their staff.
- Franchise Tax Board member or their staff.
- Board of Equalization member or their staff.
- Governor or his staff.

The Taxpayers' Bill of Rights established the Taxpayer Rights Advocate to resolve taxpayer complaints. The Taxpayer Liaison Section handles all written correspondence mailed to the Advocate, all contacts from elected public officials, and classified account requests.

Refer immediately any written correspondence with a **cc** to the Taxpayer Advocate to the Advocate Office regardless of the letter's addressee. The Taxpayer Liaison Section will determine if the Taxpayer Advocate Office must resolve the matter.

If taxpayers ask for the Taxpayer Advocate, give them the following address:

FRANCHISE TAX BOARD – TAXPAYER ADVOCATE
MS A381
PO BOX 157
RANCHO CORDOVA CA 95741-0157

Do the same for letters addressed to or containing **cc's** to any of the above or:

- Executive Officer.
- Chief Executive Officer.
- Director.

Please call the Taxpayer Advocate Bureau if you have any questions about referrals.

Public Affairs Referrals

If taxpayers indicate that they have communicated with elected officials, newspapers, or television stations, etc., photocopy the taxpayer's letter and our reply, notify your supervisor, and send a copy of each letter to the Public Affairs Office. This type of case needs priority handling.

You should refer any contacts from a newspaper or other publication to the Public Affairs Office.

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Legislative Services Bureau Referrals

If an outside source contacts you about legislation, tell your supervisor and refer the contact immediately to the Legislative Services Bureau. The Bureau ensures that that we present consistency on legislative matters.

Occasionally, we ask our staff to testify with bill sponsors at legislative hearings. Our management must approve this participation. The Bureau Director gives final approval.

2.12 Internet Mail and Secure Electronic Communications (SEC)

We have the ability to receive and send electronic mail over the Internet. This tool can be used to accommodate business-driven needs. However, because regular Internet email may be processed through private service providers and transmitted through unsecured lines, the security and confidentiality of the information cannot be ensured.

Confidential information may only be sent to, or received from, a taxpayer or representative via Internet Secure Electronic Communications (SEC).

If a taxpayer or representative sends confidential information via Internet email, you may review the data. However, if the taxpayer or representative requests receipt of emailed correspondence, do not acknowledge receipt via email. Call the taxpayer or representative to acknowledge receipt of emailed correspondence.

Do not confirm an audit appointment via Internet email, even if requested by a taxpayer or representative. You risk making an unauthorized disclosure because email is transmitted through unsecured lines.

- Do not exchange confidential information with a taxpayer or representative by Internet email under any circumstance.
- Do not use the Internet unless you are an authorized employee who has completed the Internet Service Application (Form FTB 6614) and attended Internet training.
- Do not use the Internet through stand-alone PASS laptops (laptops not connected to the PASS network).

Do not access the Internet through Franchise Tax Board owned equipment using a personal account at any time.

2.12.1 Outlook Email to Locate Returns or Audit Files

For normal procedures for requesting tax returns see MAP Requesting State Tax Returns and Prior Audit Reports.

Use Outlook email to request assistance in locating tax returns or the audit file ONLY if Data Storage **cannot** locate the requested information. However, you must **limit** your search to areas where there is a reasonable probability for finding the returns or audit file.

- Do not send an email to **All Audit Users**. **All Audit Users** includes areas outside of MSA and GTA. Use discretion when choosing email addresses.
- Please omit the taxpayer's name, ID number, or SSN from the email subject line. This procedure is consistent with federal email policies.

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- When accessing email through OWA from a non-FTB system, do not save the email including attachments to the non-FTB system.
- Use MS Communicator Instant Messaging (IM) as an alternative for communicating confidential or sensitive information since IM is restricted to internal users only.
- Avoid sending emails containing large lists of confidential taxpayer data. Lists may be shared via PASS or a shared network folder in which a link is sent to recipients. Please contact the help desk for assistance in establishing shared network folders.

If PASS or a shared network folder prove to be impractical for sharing lists, the list may be sent as an attachment in an email, however it must be password protected prior to attaching and sending.

2.13 Traveling With Confidential Taxpayer Information

Many auditors check-in audit bags at airports or carry them inside the plane. These may contain tax returns and audit workpapers. All checked and carry-on baggage may be screened by airport personnel. The screening process may be done at a location away from you. NOTE: Airport security procedures are subject to change depending on the National Security Alert level.

Transportation Security Administration (TSA) guidelines for checking baggage at airports say to leave checked baggage unlocked. This raises a concern because audit bags may include taxpayer confidential information.

If you are traveling through airports with confidential tax information:

- Cover the face of all returns and workpapers with a piece of blank paper or cardboard so that the name and other confidential taxpayer information are not readily visible during security checks. You may use FTB7805 for this purpose.
- Spread out your books and documents in your audit bags. This may reduce the likelihood that TSA will examine your bag.

If checked baggage is screened during the check-in process:

- Keep your audit bags unlocked during the physical screening process .
- Secure or lock the audit bag upon completion of the physical screening process.

If your checked bag is not screened during the check-in process:

- Keep the audit bag unlocked. Otherwise, the screener will break the lock if it is screened at a later time after it is checked.
- If your baggage is opened, the screeners will secure it with a tamper evident seal and place a notice in your bag alerting you that they opened your bag for inspection.

If you believe there was an unauthorized disclosure as a result of the screening process, contact your supervisor or the Disclosure Unit immediately.

2.14 Off-Site Security Considerations

We must exercise due diligence to protect the confidentiality of all information by restricting use of PASS PC equipment and the PASS system. Use these guidelines to protect the security of all confidential information. Use extra caution when appropriate.

- Do not leave the PC on and unattended.
- Do not let family members or friends access the laptop, tax return, and other case-related information while you are telecommuting.

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- Do not leave the PC or audit records in an unsecured location, such as a vehicle.
- Do not leave the PC unattended while connected to the system, or when using the PC to work offline.
- Physically secure the PC to reduce the risk of theft.
- Physically secure any diskettes that contain confidential information.
- Use the screen-saver password feature when using your PC.

For more information, see Statement of Incompatible Activities and Rules of Conduct for Department Employees (FTB Policy File 4130); Confidentiality and Security of Data (FTB Policy 9201); FTB Computer Access Request Procedures (FTB General Procedures Manual 7010); FTB Information Security Policy; FTB Disclosure Manual; or Contact the FTB Disclosure Office at 916.845.3326 or visit the Disclosure Unit website.

2.15 Destruction of Confidential Information

Place all paper waste items containing confidential taxpayer information into confidential destruction boxes or shred them immediately. Return confidential material obtained in the field to our office for proper destruction.

The Department of General Services will destroy disks and CDs containing confidential information or outdated commercial software. Please send your outdated disks/CDs in a secure package without any external reference to confidential data contained therein to the appropriate addresses below.

Program Offices:

Mail:

BUSINESS SERVICE SECTION MS C3
PO BOX 1998
RANCHO CORDOVA, CA 95741-1998

Route Slip:

Business Service Section
Mail Stop C3

Central Office

Route Slip:

Business Service Section
Mail Stop C3

Section Revised 08/31/08

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3 Power of Attorney

3.1 Power of Attorney – Form FTB 3520

The Power of Attorney (Form FTB 3520) is the general form for obtaining power of attorney for individuals, corporations, partnerships, Limited Liability Companies, and others. Subject to revocation, it authorizes the taxpayer's representative to receive confidential tax information and to act on behalf of the taxpayer in tax matters.

Individuals

If a tax matter concerns a joint return, and taxpayers have requested joint representation, both husband and wife must sign the Power of Attorney.

Corporations

A principal officer of the corporation must sign the Power of Attorney. A principal officer is the president, vice-president, secretary, treasurer, and secretary-treasurer. A tax manager is not necessarily a principal officer, so make sure that the signer has the power to execute the Power of Attorney.

The majority shareholder must also be a principal officer to execute the Power of Attorney. Since not all majority shareholders are principal officers, make sure you verify their officer status before accepting the POA. Also, only **current** officers can sign the POA. An individual who was a principal officer of the corporation for the tax years under examination, but who is no longer a principal officer, cannot execute the POA.

3.2 When Is a Power of Attorney Required?

The taxpayers must have an executed Power of Attorney to authorize their representatives to waive the statute of limitations, receive refunds, or perform any action other than representing them during the audit.

The taxpayers do not need a Power of Attorney if they tell you whom to contact for information during an examination. If someone other than the taxpayer completes and returns the initial contact letter, you can infer that the taxpayer provided the initial contact letter to this person.

At the conclusion of your audit, you can send a copy of the notice to the representative and the taxpayer. However, you cannot send the notice only to the representative if the representative does not have a Power of Attorney on file.

If you have concerns about authority, seek a signed Power of Attorney.

3.3 Facsimile and/or Photocopied Power of Attorney

The Department's Taxpayer Signature and Authentication Policy (FTB Policy File 9140, October 1994) gives internal guidance on the level of authentication required on specific documents, including whether we can accept a photocopy or facsimile of a document.

Taxpayer authentication means any method that we can use to verify a taxpayer’s identity. Currently, original signature on paper is the most common method. This may change as new technologies develop.

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We can accept a faxed or photocopied power of attorney unless we have reason to suspect that the form has been forged or is otherwise invalid. If unsure, contact the Technical Resource Section.

3.4 Departmental Power of Attorney Processing Procedures

POA Unit and Database

The Power of Attorney (POA) Unit processes and stores Power of Attorney documents and maintains the FTB centralized Power of Attorney database. If you need a document on file, or have questions about the database, contact the POA Unit at **********. To access the database, you need your **********.

POA Received During Audit

If you receive a Power of Attorney during an examination, send a copy to the POA Unit **within 24 hours of receipt**, to keep the database current. Follow the procedures outlined below.

The information in the database should only be from Power of Attorney forms. Do not include contact information from the initial contact letter in the Power of Attorney database.

IF	AND	THEN
Power of Attorney form is complete. A complete form must include all of the following: • Authorization for use by FTB. • Specific tax years. • Representative acts authorized. • Taxpayer signature.	**Form is an acceptable form.** Following are acceptable forms: • FTB POA Form 3520. • BOE POA Form 392. • EDD POA Form DE 48. • IRS POA Form 2848. • IRS Form 8821. • Durable POA. • Handwritten POA. If not using Form 3520, the alternative forms must state the specific FTB Tax Form (540, 100, 100S, 541, etc.).	Write or stamp the received date on the Power of Attorney. Keep the original in the audit file. Send a **copy** to the POA unit via: • Interoffice Mail: Mail Stop F-220. • Fax: 916.845.0523 or 916.845.0524. • Email: **POA_Unit** (under FTB Groups address list). Note: On the routing slip or faxed cover sheet: indicate your name, phone number, mail-stop, and note that the original is in the audit file.
Power of Attorney form is incomplete. A Power of Attorney is incomplete if any of the following is missing:		Get the missing information from the taxpayer, or a new Power of Attorney, if necessary. Once complete: • Write or stamp the received date

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

IF	AND	THEN

• Taxpayer signature.
• Specific tax years.
• Representative **Acts Authorized**.
• Specific FTB Tax Form (540, 100, 100S, 541, etc.), if the taxpayer did not use FTB Form 3520.
		on the Power of Attorney.
		• Keep the original in the audit file.
		• Send a copy to the POA unit via:
		  • Interoffice Mail: Mail Stop F-220.
		  • Fax: 916.845.0523 or 916.845.0524.
		  • Email: POA_Unit (under FTB Groups address list).
		Note: On the routing slip or faxed cover sheet: indicate your name, phone number, mail stop, and note that the original is in the audit file.

Section Revised 7/30/07

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4 Statute of Limitations and Waivers

4.1 Statute of Limitations

The Statute of Limitations (SOL) is a time limit imposed by law on the right of both the state and taxpayer to increase or decrease the taxpayer's self-assessed taxes. The SOL for different circumstances is summarized in a chart below.

When we create a case unit, PASS automatically calculates a Statute date based upon the external accounting systems. When one case involves several case units, with different Statute dates, each case unit's General Information window must show its Statute date.

You must review the returns to verify that the date on PASS is correct. When verifying the Statute date for the case or case unit, consider whether the taxpayer is a fiscal year end taxpayer. Do not assume the Statute date is March 15, April 15, or October 15.

We deem an application, tax return, claim, etc., as filed on the date postmarked. If it is mailed after the due date, it is date stamped with the date that it is received by the department. If the SOL expires on a Saturday, Sunday, or holiday, the statute expiration is effectively extended to the next business day. **Filing an amended return does not change the Statute date.**

The auditor should avoid opening an audit within 6 to 12 months of the expiration of the statute of limitations. The department's practice is to use good judgment, taking into consideration the taxpayer's compliance history, revenue impact, estimated time for completion, etc.

It is the auditor's responsibility to assure that the statute of limitations does not expire. The earliest statute date should be entered into PASS (General Information Window) and the auditor's inventory report. The case should be reviewed on a monthly basis. The auditor should also look ahead to future open years not yet assigned to audit to ensure that the statute is maintained for these years as well.

Audit activities must be planned and carried out so a reasonable effort on the part of the taxpayer can result in the completion of our audit within the normal statute of limitations. **Waivers are not an acceptable substitute for prompt, timely audits.** If the taxpayer's circumstances are such that this would create a substantial burden, the department will generally allow a reasonable extension of the statute of limitations expiration date. Since our objective is to obtain the information necessary to verify or correct the taxpayer's self-assessed tax, this alternative may at times be preferable to closing the case with insufficient information to support the audit conclusion.

Situations Where a Waiver May Be Acceptable:

- The FTB has delayed the audit per the taxpayer's request.
- An audit of earlier years is currently in process and the taxpayer does not wish to allow follow-up cycles to occur simultaneously, or FTB resource limitations exist.
- A federal audit is ongoing.
- There is a failure to adequately disclose information on the return.

Just as our work must be done in accordance with the statute of limitations, we are entitled to expect a reasonable degree of cooperation from taxpayers so that we can complete our work promptly. Taxpayers that are unable or unwilling to comply with legitimate audit requests cannot be allowed postponement just because they are **willing** to sign waivers; there must be a reasonable expectation on the part of the auditor that the necessary data will be forthcoming. If this is not the case, waivers are not a viable alternative. Uncooperative taxpayers should receive

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formal demands for information and, if necessary, penalties for failure to comply with these demands, within the normal SOL period.

Explanation of the Statute in the Workpapers:

For any year being adjusted which the normal statute has expired, application of a special statute or type of extension (open state waiver, federal waiver, etc.) must be explained in the narrative and on any Notices. The explanation must include any dates upon which the statute is based, such as date of final determination of a federal change or date of the renegotiating payment.

The statute date must be entered on FTB 6430 (See MAP Audit Report) and FTB 6833. For all PASS cases subject to TRS Review, you must write the Statute of Limitations date on the notes section of the Batch Control Worksheet (Form FTB 6148) in red and circle it.

You must submit completed cases to the Technical Resource Section at least six months before the Statute of Limitations expires. They need enough time to review the case fully and to contact the taxpayer with any issues.

If the statute expires fewer than six months after the examination is completed, complete the RUSH Action Slip (Form FTB 7011). Circle the Statute date in red, on the Rush tag. Attach this form to the physical file for rush processing. Route the physical file.

Transfer the electronic file to the appropriate Audit Business Support Group Worklist (see MAP Routing the Physical and Electronic Files). Send an email message to the Technical Resource Section group email to tell Audit Business Support that the statute of limitations is pending and that you have transferred the physical file.

Refer also to FTB Legal Division's webpage, which summarizes the various Statutes.

4.2 Statute Of Limitations Charts

Condition:	Notice Of Proposed Assessment Must Be Issued Within:	Notices Of Proposed Overpayment, Credit Or Claim For Refund Filed Within:
Normal	The later of four years after: • Original due date. • Date filed (R&TC Section 19057 R&TC Section 19066)	The later of: • Four years from the date the return was filed, but only if the return is filed by the original or extended due date. • Four years from the original due date, without extensions. • One year from the date of overpayment. (Sec. 19306, effective January 1, 2000, for any taxable years with open Statutes on that date).
State Waiver	Period agreed upon (R&TC Section 19067).	Period agreed upon, if refund was not barred when waiver was signed. (R&TC Section 19308 and

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Condition:	Notice Of Proposed Assessment Must Be Issued Within:	Notices Of Proposed Overpayment, Credit Or Claim For Refund Filed Within:
		R&TC Section 19309).
Omission of 25 percent of gross income	Later of : • Six years after date return filed. • Original due date. (R&TC Section 19058 R&TC Section 19066).	N/A
Bad Debt Erroneous Inclusion of certain recoveries	N/A	7 years from the due date of the return or the date filed (if timely) (R&TC Section 19312)
Involuntary conversion (deficiency attributable to gain on conversion)	4 years after notification by the taxpayer of replacement or intention not to replace. (R&TC Sections 24945 and 19061)	N/A
Involuntary conversion(deficiency attributable to other gain on conversion)	At any time before the expiration of the period within which a deficiency for the last taxable year may be assessed. (R&TC Section 24946)	N/A
Patronage Dividends (noncash dividends elected to be excluded.)	4 years from the date the taxpayer notifies the department that gains from noncash dividends are realized. (R&TC Section 24273.5(f))	N/A
Bankruptcy	Running of statute suspended up to two years or 30 days after FTB receives notice. (R&TC Section 19089	Four years after due date, without regard to any extension of time for filing return. (R&TC Section 18526).
Married Filing Joint individual return, after filing Married Filing Separate	One year, in addition to time period under R&TC Sections 19057-19067, after joint return filed. (R&TC Section 18529)	

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Condition:	Notice Of Proposed Assessment Must Be Issued Within:	Notices Of Proposed Overpayment, Credit Or Claim For Refund Filed Within:
Request fiduciary (See LR 082)	18 months after written request to invoke provisions of R&TC Section 19517 made subsequent to or concurrently.	N/A
Substantially Disproportionate Redemptions	One year after notice by taxpayer of reacquisition of stock. (R&TC Section 17322)	N/A
Fraud; or no return filed	No statute of limitations. May assess at any time. (R&TC Section 19087)	The later of: • Four years from the date the return was filed, but only if the return is filed on time by the due date or extended due date. • Four years from the original due date, without extensions. • One year from the date of overpayment. (R&TC Section 19306, effective January 1, 2000; applicable to any taxable years with open Statutes on that date)
Unreported installment income (Corp.)	Four years after taxpayer ceases to be subject to tax (R&TC Section 24672 - Corp.)	N/A
TRANSFEREE Original Transferee –CORP	One year beyond the normal statute of limitations (R&TC Section 19074)	N/A
TRANSFEREE Transferee of a Transferee – CORP	One year after the expiration of the period of limitation of the preceding transfer. For exceptions see R&TC Section 19074(b), (c), & (d).	N/A

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Federal Waivers and Changes

Condition:	Notice of Proposed Assessment must be issued within:	Notices of Proposed Overpayment, Credit or Claim For Refund filed within:
Federal Waiver signed	Later of: • Normal California statute. • Six months after Federal waiver expires. (R&TC Section 19065).	Later of: • Normal California statute. • Six months after Federal waiver expires. (R&TC Section 19308).
Federal change reported by taxpayer (or State return amended for federal change) **within six months** of federal determination.	Later of: • Normal statute. • Two years from the date the notice or amended return is filed with the Franchise Tax Board. Applies to Federal adjustments only. (R&TC Section 19059)	Later of: • Two years from the date of final federal determination. • Four years from due date of return or one year from overpayment. (R&TC Section 19311)
Federal Change reported by taxpayer (or State return amended for federal change) **more than six months** after the final federal determination.	Four years after the date the taxpayer notifies us. Applicable for Federal adjustments only. (R&TC Section 18622, R&TC Section 19060)	Later of: • Two years from the date of final federal determination. • Four years from due date of return or one year from overpayment. (R&TC Section 19311)
Federal change not reported, or amended State return for federal change not filed.	Any time; Statute of limitations does not expire. (R&TC Section 19060)	Later of: • Two years from the date of final federal determination. • Four years from due date of return or one year from overpayment. (R&TC Section 19311)

Any change resulting to any tax year as a result of the federal change follows the rules above. For example, if the IRS made a change to a 1996 credit amount that was carried over, if the change affected the 2000 tax year, we would adjust the 2000 tax year, even though **norma**l statute of limitations has lapsed.

Protest and appeals to the Tax Court, Circuit Court, etc do not extend the Federal waivers.

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If an RAR or a 100X is included in an audit file, the date the RAR or 100X was received should be stamped on the RAR or 100X.

4.3 Eight Year SOL for ATAT

California Revenue and Taxation Code (R&TC) Section 19755 allows the Franchise Tax Board (FTB) eight years after a taxpayer files a return to mail a proposed deficiency assessment relating to an abusive tax avoidance transaction (ATAT). This extended period is applicable for returns filed on or after January 1, 2000. For purposes of this section, ATAT is defined under R&TC Section 19753(c) as **a plan or arrangement devised for the principal purpose of avoiding tax**, including, but not limited to **listed transactions** as described in R&TC Section 18407(a). (Also, see Chief Counsel Announcement 2003-1, Abusive Tax Shelters – California Listed Transactions.)

- For open or closed years where there is **substantive evidence** that tax benefits claimed relate to ATATs, the auditor can assert the eight-year statute of limitations (SOL). Auditors must obtain supervisor approval before opening otherwise closed years in reliance on R&TC Section 19755.
- For open years where there is no substantive evidence that tax benefits claimed relate to ATATs, auditors should request waivers to extend the normal SOL rather than rely on R&TC Section 19755. Auditors cannot rely on R&TC Section 19755 to open otherwise closed years if there is no evidence that tax benefits claimed relate to ATATs.

A complete discussion of the eight year ATAT SOL is available in the Abusive Tax Shelters & Transaction website.

4.4 Barred Refund

A taxpayer may offset a barred refund (barred because of expired SOL) against a deficiency from:

- A transfer of items of income, deductions, or both, from one year to another for the same taxpayer. (R&TC Section 19314).
- A transfer of items of income, deductions, or both, for the same year for a related or affiliated taxpayer described in R&TC Section 19110.

Taxpayers must file the offset before seven years after the due date of the return on which they find the overpayment. This statute does not extend the SOL for a claim for refund.

If the taxpayers are claiming overpayment pursuant to R&TC Section 19314 and the issues in question deal with straddle investments or tax shelters, the auditor should be aware of the following:

- If the straddles entered into were shams, then R&TC Section 19314 is inapplicable because there was never any item of income to report, let alone transfer.
- If the straddles were disallowed because the transactions were not entered into for profit, then R&TC Section 19314 is inapplicable because the closing of each straddle transaction is considered a separate transaction. (Smith v. Commissioner, 78 T.C. 350 (1982).)

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4.5 Erroneous Refunds

An erroneous refund is any improper payment of government funds. We may assess or collect the amount mistakenly made or allowed as a refund, in whole or part, after we issue a notice and demand for repayment under R&TC Section 19368. For amounts assessable as deficiencies, issue a Notice of Proposed Assessment. An NPA to recover an erroneous refund can be issued before the later of two years after the erroneous payment was refunded or the normal NPA SOL. If the normal SOL for issuing an NPA has expired, the NPA must state on its face that it is being issued within two years of the date of the erroneous refund.

Under R&TC Section 19411, we may bring an action for recovery of an erroneous refund or credit (payment) by the later of the following:

- Until two years after the refund or credit was made.
- During the period in which we may mail a Notice of Proposed Assessment.

R&TC Section 19104(c) provides for the abatement (grace period) of interest assessment on certain recoveries of erroneous refunds where the taxpayer did not in any way cause the erroneous refund. The grace period for interest on the erroneous refund is 30 days after the repayment demand (letter or Notice of Proposed Assessment).

A paid amended referral that is later audited and adjusted should not be treated as an erroneous refund if the normal statute of limitation for issuing assessments is still open.

Refer to http://ftbnet2/documents/PSB/1999/99-27.htm (Public Service Bulletin 99-27) for more information.

4.6 Special Statutes

If the normal four-year Statute is open when a Special Statute becomes effective, the Special Statute will apply. An exception is R&TC Section 19517 (request by fiduciary), which supersedes both the normal statute and the statutes relating to federal waivers (R&TC Section 19056) and federal changes. (R&TC Section 19060 & 19059).

4.7 Carryover Adjustments on Closed Years

We cannot issue a Notice of Proposed Assessment on a year barred by statute. However, adjustments can be made on the barred year to revise any carryover (deductions and/or credits) claimed on an open year. (REV.RUL. 56-285*; Springfield Street Railway Co. v. U.S., 312 F.2d 754; State Farming Co., Inc. v. Comr., 40 T.C. 774 (1963).)*

4.8 Financial Disability – Individual Taxpayers

Statute of Limitations is suspended for individual taxpayers for a refund claim during any period that the individual is **financially disabled**. This provision applies to both original and amended returns as well as claim for refund correspondence, if the statute of limitations had not expired by September 23, 2002 (R&TC Section 19316).

A taxpayer is considered financially disabled if the individual is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either deemed terminal, or is expected to last for a continuous period of not less than 12 months.

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An individual taxpayer is not considered financially disabled if, for any period, the individual's spouse or any other person, is legally authorized to act on that individual's behalf in financial matters.

Taxpayers must complete Form 1564 (Financially Disabled – Suspension of the Statute of Limitations) in order to support their qualification under this provision.

4.9 Waivers

We always want to complete our audits within the normal statute of limitations. In addition, Regulation 19032 requires us to complete our audits in a timely manner. Occasionally, this is not possible. We can extend the statute of limitations by having the taxpayer sign a waiver.

To extend the statute of limitations expiration date for issuing deficiency assessments or refunds, we must get authorization on the Waiver Extending Statute of Limitations, FTB 3570D-PIT/3570-Corp.

4.9.1 FACSIMILE (FAX) WAIVERS AND POWERS OF ATTORNEY

A facsimile or photocopy is acceptable as evidence that the waiver or power of attorney has been signed. However, to avoid evidentiary problems if the authenticity is later questioned, auditors should attempt to obtain the actual document.

Power of Attorney

In its 11/91 revision to Publication 947, Practice before the IRS and Power of Attorney, the IRS announced that it will accept a facsimile (fax) power of attorney.

Waivers

R&TC Section 19067 is based on and substantially similar to Internal Revenue Code Section 6501(c)(4). As explained in Treas. Reg. Section 301.6501(c)-1(d), the extension becomes effective when the agreement has been executed by both parties; i.e., upon signature. There is no requirement in the statute that the waiver be mailed or transmitted to the Franchise Tax Board.

You must try to get a waiver signed if the statute expires within six months. When requesting a waiver, decide if we need waivers for any other years involved.

The waiver should extend the SOL for a length of time sufficient to complete the audit. Generally, we extend the statute for one year, or until the normal SOL expires for the following tax year. However, the length of the extension is determined based on the facts and circumstances of the particular case. Work with the taxpayer to determine an extension date that will allow the audit to be completed in the most efficient manner.

We must record that we have notified taxpayers that they have the right to refuse to sign the waiver and to limit the extension period. Our current waiver forms include this notification. If information regarding taxpayer rights is not on the waiver form, record in the case file the date we informed the taxpayer either verbally or in writing, before each request.

The waiver (FTB Form 3570) should include:

- Your phone number.

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- Reply instructions.
- Taxpayer's name according to the return. Include any transferee or DBA (Doing Business As), if appropriate.
- Account number.
- Tax years to which the waiver applies. Be specific. If the waiver covers a fiscal year taxpayer, indicate **TYE XX/XX/XXXX**.
- Extended statute date.

When you get the waiver, compare the information on it with the information on the waiver originally sent. Consider the following points:

- An authorized representative may also execute the waiver through an executed **Power of Attorney** that specifically provides that agent with the right to extend statutes of limitations. If the representative is listed on the Power of Attorney database, and has the authority to extend the statute, we do not need another original waiver. If a waiver is being signed by a representative who is the designee authorized in a power of attorney, verify that the power of attorney has not expired. In such case, there must be a current, valid power of attorney existing at the time that the waiver is signed. See MAP Power of Attorney.
- Verify the original signatures on the waiver by matching them with the signatures on the original tax returns.
- Make sure the waiver is not altered. A waiver that is altered or accompanied by modifications in a cover letter is invalid. If you cannot get an unaltered waiver before the current SOL expires, you should issue NPAs to protect the audit from running out of time.
- Confirm that the waiver was signed before the current statute of limitations expired.
- Attach the original completed waiver to the tax return to which it applies.

In addition, for PIT taxpayers, FTB 3570D,

- If the waiver is for a joint personal income tax return, the waiver's cover letter must include the husband and wife account number and both husband and wife must sign the waiver. We may obtain separate waivers from each spouse. If only one spouse signs a waiver, that waiver is still valid for the spouse that signed, because each spouse is liable for 100 percent of the liability.
- If one of the spouses is deceased, only the surviving spouse needs to sign, and any NPA will be issued in the surviving spouse's name.

4.10 Corporation Waivers

A principal officer—president, vice-president, secretary, treasurer, or secretary-treasurer—must sign the waiver, unless the corporation has duly authorized another corporate official through a valid Power of Attorney (Form FTB 3520). A Power of Attorney authorizing signature must accompany waivers signed by a representative. The corporate waiver must state the title of the signer, who must be a **current** officer of the corporation, and be executed on or before the default date that the statute of limitations expires.

The waivers must cover all affiliated California taxpayers. Either separate waivers or one waiver covering all corporations (attach list if necessary) must be obtained.

- All waivers should, if possible, have an expiration date that is the same as the statute date on the subsequent year's return. This will minimize the number of odd statute dates to be controlled.

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- The request for a waiver (Form FTB 3570) should not include the statement that the extension will extend the time for claiming a refund unless the period for claiming a refund has not yet expired.
- An appropriate follow-up date on the cover letter must be used. This is necessary to assure that a protective NPA can be issued in the event a signed waiver is not received prior to the statute expiration date.
- If a waiver cannot be secured for a short statute case, please provide an explanation on the work papers and issue a protective NPA. A protective NPA (sometimes called a Provisional NPA) is an NPA that is issued prior to the audit work being completed. The NPA is issued because the SOL for the tax year is about to expire and we are unable to get a signed waiver in time. The audit work can be completed after the NPA is issued and the taxpayer has protested the assessment.

A waiver signed by a corporate official other than a principal officer (president, vice-president, secretary, treasurer, and secretary-treasurer) cannot be accepted unless such official has been duly authorized by the corporation to so act. Moreover, waivers signed by a representative or attorney-in-fact must be accompanied by a power of attorney authorizing such signature. The waiver must indicate the title of the signer and be executed on or before the date the statute would otherwise expire. Make sure that the evidence attesting to such authorization is attached to the waiver, if not previously provided. However, where prior waivers have been signed and accepted in the past, waivers signed by other than a principal officer will continue to be accepted until the years under audit have been closed. A waiver obtained from a corporation where no previous waiver is in force must be signed by a principal corporate officer or authorized official as stated above.

Where the corporation has filed a timely claim, the statute is extended only for the amount claimed. The auditor should **always** request an extension (FTB 3570) to keep the statute open for the state. The supervisor should approve any exception to this.

4.10.1 Combined Return Waivers

Auditors may obtain blanket waivers for taxpayers that were included in an original Schedule R-7 group return. The taxpayer name on the waivers should be shown as **(key corporation) and Schedule R-7 Electing Members**.

As long as a Schedule R-7 was executed, the blanket waiver will generally be acceptable even if the auditor is proposing to de-combine the taxpayers or if one or more of the taxpayers have been sold. Use judgment. If a taxpayer is asking to terminate their R-7 relationship, the auditor should obtain separate waivers to avoid potential problems. (Likewise, single notices can be mailed to taxpayers filing on a Schedule R-7 regardless of whether a taxpayer has been de-combined or sold, but the auditor should consider issuing separate notices if the taxpayer so requests.)

Separate waivers will be needed for taxpayers that did not file as part of the Schedule R-7 group return. If the audit includes returns from more than one R-7 group of corporations, the key corporation of each Schedule R-7 group must execute a separate waiver on behalf of that group.

4.10.2 Former Members of a Combined Return

Since 1992, taxpayers that make a Schedule R-7 election to file a group return agree that the key corporation will act as agent and surety on behalf of the other electing taxpayers. This gives the key corporation authority to sign waivers on behalf of affiliates included on the R-7. The Schedule R-7 authority continues to be valid for that taxable year even if the taxpayers are later disaffiliated unless the taxpayer informs the FTB that they are terminating the R-7 relationship.

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Because there are no instructions for how to terminate the R-7, it's appropriate to use some judgment to determine whether they want to terminate the R-7. But, if the key corporation has indicated that they are not on good terms with the sold subsidiaries and want them to be separately billed, then written confirmation must be obtained as to whether they wish to terminate the R-7 relationship.

When a federal waiver exists, the state SOL is extended under R&TC Section 19065. This provision applies even if the former parent on behalf of the subsidiary signed the federal waiver.

A principal corporate officer must sign a waiver when no previous waiver is in force. However, where prior waivers were signed and accepted in the past, waivers signed by other than a principal officer will continue to be accepted until the years under audit have been closed.

4.10.2.1 Waiver Policy, Prior to 1992

Prior to 1992, the terms of the Schedule R-7 did not include an express authorization by the taxpayers for the key corporation to sign waivers on their behalf. In order to avoid potential controversy, the department's waiver policy was revised to require auditors to obtain either separate waivers, from each taxpayer in the combined report, or powers-of-attorney authorizing the corporation handling the audit to execute waivers on behalf of the other members.

An exception to this policy is permitted if all of the following criteria are met:

- The audit is not expected to result in de-combination.
- All of the taxpayers are still affiliated with the key corporation.
- The key corporation is a California taxpayer qualified with the Secretary of State.
- The key corporation is financially stable, has substantial net assets to pay the affiliates' deficiencies, and has not shown any indication that they would be unwilling to pay the affiliates' portion of the tax.
- The key corporation has acted in good faith in fulfilling its obligations to pay under the terms of the Schedule R-7 in the past (i.e., they have not tried to terminate an R-7 relationship, refused to pay the tax of a combined subsidiary, attempted to disregard a waiver executed on behalf of a subsidiary, etc.).

If all of the above criteria are met, the auditor may accept a blanket waiver signed by the key corporation on behalf of taxpayers included in the Schedule R-7 election. Separate waivers must still be obtained from any taxpayers that have been disaffiliated or are expected to be de-combined. An explanation of how the above criteria were satisfied should be included in the audit narrative. Even if the above criteria applies, auditors should still consider obtaining separate waivers in cases where intrastate apportionment would result in a large potential tax liability being attributed to a taxpayer other than the key corporation.

4.10.3 Suspended Corporations

Although a waiver signed by a suspended corporation will be accepted by the department, there are risks involved, which would cause the waiver to be subject to be void. Therefore, the auditor must ensure that the key corporation that signs the waiver on behalf of itself or a group is not suspended.

4.10.4 Waivers for Corporate Groups in Diverse Business Activities

Situations may occur where corporate groups are involved in diverse business operations. A group of subsidiaries of the grandparent may be unitary, but not with other affiliated segments. State law provides that a waiver is only valid with respect to entities in the combined group. For this reason,

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the waiver should indicate the grandparent's corporate name and state **and Schedule R-7 electing Subsidiaries**.

4.11 Waivers on Delinquent Returns

The normal statute for issuing Notices of Proposed Assessment for **delinquent** returns expires four years from the **date filed**. However, for issuing refunds, the statute expires four years from the **due date** of the return or one year from the date of payment, whichever is later. This, in effect, creates a **gap** between the SOL for refunds and deficiency notices. Therefore, the request for a waiver (Form 3570) should **not** include the statement that the extension will extend the time for claiming a refund unless the period for claiming a refund has not yet expired. If necessary to request a waiver, auditors should request waivers that will keep the statute open for both assessments and refunds, when possible.

A taxpayer must generally file a **refund** claim within the later of:

- Four years of the original due date.
- Four years of the date the return was **timely** filed (including extensions).
- One year of the date of overpayment.
- The one-year from date of overpayment rule limits the amount that may be claimed after the normal statute of limitations has run to amounts paid within one year of the date the claim was filed.

4.12 Federal Waivers

The Internal Revenue Service has two types of statute of limitations waivers. They are:

- **Form 872** provides for specific taxpayers, specific taxable years, and an extended statute date.
- **Form 872A** provides for an open-ended statute with no specific extension date. The IRS uses this form for cases at the appeal level since it eliminates the need to keep track of extended statute dates.

If the normal state SOL has expired for any year and there appears to be a possible adjustment, the auditor should ascertain from the taxpayer or the taxpayer's representative whether there is a federal waiver. If the taxpayer claims there is no federal waiver, inquiry should be made as to whether a federal audit is in progress, whether a federal audit was completed, and whether an RAR was issued. If an RAR was issued, the auditor should ask the taxpayer whether any issues were protested. If an IRS audit is either in progress or if an RAR was issued which the taxpayer contested, a federal waiver will almost always be present.

If the auditor has reason to believe that a federal waiver might be present and the taxpayer is not being cooperative, the auditor should request an IRS IMF or BMF transcript. This transcript will disclose whether a federal waiver is present. To obtain an IRS IMF or BMF transcript, fill out an FTB 6227 and send it to the IRS Coordinator who is in the RAR Unit. The RAR Unit is within the Federal and State Special Audit Section.

The supervisor should always be kept informed of the **earliest** statute date. This is particularly important if an adjustment is being proposed and the normal statute is extended due to an existing Form 872 or 872A. There must be evidence in the file to substantiate that the statute is open before notices can be issued.

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4.12.1 SOL for Federal Waiver

R&TC Section 19065 provides that the state SOL remains open for 6 months after the expiration of the federal waiver. The question arises as to whether the 6-month period begins to run on the stated expiration date of the federal waiver or the date of the earlier final federal determination. SOL remains open for 6 months after the stated expiration date even if there has been an earlier final federal determination. However, to protect the state's interest, it is always best to issue the assessments within the 6 months of the final federal determination. If the 6-month period has passed before you discover that the final federal determination was reached, legal will still defend the assessment as long as it is issued within 6 months after the stated expiration date on the federal waiver. Based on this analysis, claims for refund should be considered timely if they are received within 6 months after the stated date on the federal waiver even if a final federal determination occurred prior to that date.

In all cases involving an overpayment, when the statute would have normally expired prior to the date the Claim for Refund was filed (or the date credit is allowed) but for the existence of a federal waiver, it will be the responsibility of the auditor to have the taxpayer submit a copy of the waiver document.

Summary of SOL for Federal Changes

- Federal changes reported by the taxpayers within six months of federal determination, FTB has two years from the notice or amended return date to issue the NPA. R&TC Section 19059.
- Federal changes reported by the taxpayers after six months of federal determination, FTB has fours years from the notice or amended return date to issue the NPA. R&TC Sections 18622, 19060.
- Federal changes **not** reported by the taxpayers, statute is suspended, FTB can issue the NPA any time. R&TC Section 19060.

4.12.2 Waivers for Consolidated Groups

Corporations filing consolidated 1120's will have one Form 872 for the consolidated group. If there are two or more California qualified corporations in the group, the federal waiver will apply to all corporations in the group. The IRS uses Form 872A for cases that have been appealed. The form precludes the need of keeping track of extended statute dates and provides that the IRS can issue a notice 90 days after final determination at the appeal level. Since the department does not coordinate extended statute dates with the IRS, the auditor should always try to secure a state waiver even though there is an existing federal waiver. If the taxpayer will not execute a state waiver, prompt action should be taken by the auditor to complete the case.

4.13 Receiving the Waivers

When you receive a waiver:

- Determine that the waiver is valid.
- Photocopy the waiver.
- On the copy, write in red pencil the location of the original waiver and the Document Locator Number of the return.
- Put the copy in the Received Correspondence file.

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- Attach the original waiver to the return to which it applies. Fold it so that the **Extended Waiver Date** shows at the top and make sure that it does not cover the name and the DLN on the return. For ELF returns, print the ELF return and attach the original waiver in the same manner as outlined above.
- Revise the Statute of Limitations in PASS.
- Check the **Waiver Indicator** box in the GI window in PASS.
- Record the date that you received the waiver in the Event Log.
- For individual taxpayers, update the TI account. Update BETS for corporate taxpayers. Update by audit support at the end of the audit.

4.14 Modified Waivers

A modified waiver is any waiver that has been altered in any manner from that which was originally sent by the auditor to the taxpayer or representative. The following are examples of modifications.

- Alterations on the waiver form which change the extended statute date.
- Alterations to the waiver outlined in a cover letter and included with the signed waiver.
- Alterations on the waiver form which limit the applicability of the extended statute (i.e. to certain issues or dollar amounts).

Our general policy is **not** to accept a modified waiver. Auditors must obtain an unaltered waiver or complete the case within the normal statute of limitations.

However, it is understood that there may be some factual circumstances where it may be in the state's best interest and the taxpayer's best interest to accept a waiver that limits the applicability of the extended statute. Therefore, in these limited situations, the auditor must follow the approval procedures outlined below prior to accepting a modified waiver.

1. The auditor will inform his/her supervisor that a modified waiver has been proposed and/or received which seeks to limit the applicability of the extended statute and discuss the reasons why the limitations should be accepted.

2. Once the auditor and supervisor agree that it is in everyone's best interest to accept the proposed limitations, the auditor will contact the Technical Resource Section (TRS) member, and provide:

   - All facts, circumstances, and risks associated with accepting the modified waiver.
   - The basis and recommendation as to why the waiver should be accepted.

3. The TRS member will advise the auditor of whether or not the recommendation is appropriate. If it is appropriate, the TRS member will ensure the modified waiver contains the necessary language to sustain challenges of validity. The TRS member will use the facts and circumstances of each contact to monitor the policy for consistency and application of the exception rule.

4. The auditor will complete a memorandum documenting the items as listed in Step #2 above and include all contacts with the taxpayer and TRS.

5. The memorandum will be signed and dated by the supervisor.

6. A copy of the signed and dated memorandum will be provided to the TRS member involved and the original will be kept in the case file.

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5 Pre-Audit

5.1 Pre-Audit Overview

The pre-audit phase is vital to the audit process. This is the phase where you determine whether to proceed with the examination or accept the return as filed. If you decide to proceed, this is also the phase where you plan the audit and perform the preliminary work. Proper attention to the pre-audit procedures will improve the quality of your audit and reduce total audit time.

These are the recommended steps of the pre-audit phase:

- Scope returns.
- Analyze taxpayer accounts.
- Request relevant returns.
- Review prior audit history.
- Review the ownership hierarchy.
- Evaluate the impact to future tax years.

5.1.1 Scope Returns

Scoping is a critical step in the audit process. You must decide if an audit justifies the commitment of resources, considering the materiality of the issues. Consider also whether you should conduct the audit in the field or through correspondence. If you decide there is little or no audit potential, survey the returns (See MAP Survey). If uncertain, you should discuss the issues with your audit supervisor.

There are many facts and circumstances that indicate whether to pursue an examination. Examine each case on its own merit.

Refer to your program's technical manuals and audit tools for help in identifying issues on the returns.

For additional MSA scoping procedures, see the Multistate Audit Technique Manual (MATM) Section 2000 and MSA Scope Guide.

If you are scoping a return that was filed electronically (ELF), see MAP Electronically Filed Returns-Pre-Audit Analysis.

5.1.1.1 Coordination of Comprehensive Audit

One of the goals of the Audit Division is to enhance the audit program to focus on the timing of an audit, why we conduct an audit, or how we conduct an audit to ensure fair and effective tax administration as we move towards the future.

An important step in achieving this objective is to identify all significant issues at the beginning of the audit so we can address them timely and effectively.

Various Audit Program areas have designated supervisors and specialists who will serve as initial contacts to coordinate audit selection modeling and joint audits, and to provide technical direction. If you identified issues involving different Audit Programs, contact the individuals below:

_____

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C Corporation Program

Steve *** .....C Corporation (Central Office)**
Diana ****.....C Corporation (West Covina)**

Multistate Audit Central Office

Rich ******* .....S Corporation**
Jeff ******* .....Partnership**
Broderick ****** / Debby ********* .....C Corporation**

Personal Income Tax Program

Molly ********.....Residency**
Debbie ******.....Tax Shelters/Tax Gap**
Molly ******** / Michelle **** /**
Denise ** / Rory ******* .....PIT**

Pass Through Entities Program

Rick ***** .....S Corporation**
Kathy **.....Partnership**
Carolina ***.....Estates and Trusts**

5.1.1.2 Audit Program Worksheet (Scope Sheet)

You can use the Audit Program Worksheet (scope sheet) to identify the possible audit issues and to index the work paper file. You can find a Word template of the scope sheet in the Preliminary Analysis folder of the PASS work paper file (FTB 6833).

These are the guidelines in completing the scope sheet:

- List material audit issues and potential amounts involved.
- Designate corresponding Audit Issue Section (FTB 6870B) number in Work paper Reference column.
- For each issue listed, specify the conclusion (i.e. adjust or no change) once it has been determined.

5.1.1.3 Tax Shelter

If you have identified the following in the returns you are scoping, refer to Abusive Tax Shelters & Transactions for audit procedures:

- IRS Form 8264 (Application for Registration of a Tax Shelter).
- IRS Form 8886 (Reportable Transaction Disclosure Statements).
- IRS Form 8271 (Investor Reporting of Tax Shelter Registration Number).
- Tax Shelter Advisee list.

For more information on when material advisors are required to file an information return for reportable transactions, see FTB Notice 2005-7.

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The Abusive Tax Shelter Unit maintains a list of taxpayers and investors from IRS Forms 8264 and 8886. Check if a taxpayer is included in this list and register your case.

5.1.2 Treatment of Refund Issues

First, scope the return to determine if the tax potential warrants the resources necessary to perform the audit. Since initial test checks are based on limited information, you may later uncover facts that cause a refund rather than the deficiency projected. Also, new issues may arise that offset the tax from the other pursued issues.

It is never acceptable to limit the scope of your audit to exclude issues that are in the taxpayer's favor. Once you open an audit, you must address potential adjustments that are in the taxpayer's favor. Our goal is to ensure that the taxpayer pays the correct amount of tax. If we do not consider issues in the taxpayer's favor, then our adjustments will cause the taxpayer to pay more than what is fair.

Once you start an audit and contact the taxpayer, you must inform the taxpayer if you discover that the audit may result in an overall refund. Explain to the taxpayer what information you need and give the taxpayer an opportunity to provide the information. Be sure to include the new issue in the scope of your examination.

Limited Scope Audit

If you discover issues that could result in additional tax but the amount is immaterial, your situation may be addressed with a limited scope audit. Excluding these issues from the scope of the audit is beneficial both for the FTB and the taxpayer. It is never acceptable to limit the scope of your audit to exclude issues that are in the taxpayer's favor. Once you open an audit, you must address potential adjustments that are in the taxpayer's favor.

5.1.3 Analyze Taxpayer Accounts

Analyze the taxpayer's account in BETS or TI. These are some items to look for:

- **Taxpayer Address** - Verify the correct taxpayer address.
- **Prior Notices** - Look for and verify the status of all prior year notices. Is the same issue under examination?
- **Comments** - Read all comments posted to the taxpayer's account.
- **Military Data Field (TI)** - If the military data field says **YES**, see MAP Individual Taxpayers Serving In Combat Zones for more information.
- **Amended Returns** - Check for amended returns filed for the years under examination.
- **Statute of Limitations** - Compare the filing dates on the system to the dates stamped on the physical returns.
- **Line Item Amounts** - Compare the specific line item amounts on the system with those on the physical returns.
- **Penalties** - Does the system show penalties assessed after the filing of the original returns?
- **Bankruptcy** - Is the taxpayer account flagged for bankruptcy? Should the account be flagged for bankruptcy? See MAP Bankruptcy for additional information.
- **Refunds** - Were amended returns filed? Were refunds sent?

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- **Corporate Status** - Is the corporation Active, Suspended, Inactive, etc.? Is there a corporate assumer?

For more information on navigating frequently used conversations in BETS, see the BETS Detailed Analysis and Workaids. See also Chapter 1 of the MSA Scoping Guide for additional pre-audit procedures for corporations.

For more information on navigating the TI System, refer to the TI Manual.

5.1.4 Request Relevant Returns and Documents

You may need to request other tax returns in order to complete your scope. Following are some of the relevant tax returns that you may consider requesting:

- Related pass-through entities' returns.
- Shareholders' personal income tax returns.
- Holding or parent company's tax returns.
- The taxpayer's federal tax returns.
- The taxpayer's most current or prior years' tax returns.
- The taxpayer's prior audit report.
- Affiliated companies' tax returns.

See MAP Requesting State Tax Returns and Prior Audit Reports for procedures on how to request tax returns from Data Storage Section.

See MAP Request for Federal Returns and/or Audit Report for procedures on how to request federal tax information.

5.1.5 Review Prior Audit History

One way to identify audit potential is to review the taxpayer's prior audit history for any recurring issues that may apply to the current years. Access the PASS case file to review the prior audit's workpaper file. If the prior audit was not a PASS case, you may request the prior audit report from data storage. See MAP Requesting State Tax Returns and Prior Audit Reports for procedures on how to request prior audit reports from Data Storage.

5.1.5.1 Settlement and Closing Agreements

If the prior audit history indicates there was a settlement agreement, see MAP Settlement. If there was a closing agreement, see MAP Closing Agreement.

5.1.6 Review the Ownership Hierarchy

PASS has useful functions to view ownership relationships between taxpayers. These are:

- **Ownership Hierarchy Window**- allows you to view the owners of the pass-through entity you have selected.

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- **Owner Interests Window**- allows you to view all business entities in which an investor has an interest and the percentage the investor owns.

Refer to PASS Help for details on how to access and navigate these windows.

If necessary, create a workpaper file in PASS to show the ownership structure.

5.1.7 Request Preliminary Information

In some cases, you may need to contact the taxpayer by phone or correspondence to request information necessary to perform test checks. In other cases, you may need to conduct a field visit to prepare the test checks. Performing test checks is more common in MSA cases, but the practice is not limited to this type of cases.

At the scoping stage, limit your request to:

- Public information (such as annual reports or SEC Form 10-Ks).
- Information that could be obtained through third party sources (federal tax returns).
- Information that should have been attached to the California return (missing schedules or supporting information).

It is important that we clearly communicate the purpose of our requests to the taxpayer. Following is the suggested language:

> The taxpayer's returns for TYEs xx/xx - xx/xx are being considered for possible audit. The determination whether to conduct an examination will be made based upon a preliminary analysis of the taxpayer's financial data. Please provide the following information to enable us to perform this analysis:

Preliminary Information Shows No Audit Potential

If the tax potential revealed by the test checks does not warrant pursuit of the audit, and you have contacted the taxpayer, notify the taxpayer of the result of your analysis. Following is the suggested language:

> Based upon staffing limitations and the results of the preliminary analysis, we will not conduct an audit of your TYEs xx/xx - xx/xx returns at this time. We will not issue a **no change** letter since we did not conduct an audit. The returns will remain subject to audit until the expiration of the statute of limitations.

Close the case without any audit recommendation. Do **not** send a no change letter since it implies that you have examined the return.

Preliminary Information Shows Potential Refund

If the tax potential revealed by the test checks is a reasonable possibility of a refund and you have contacted the taxpayer, inform the taxpayer the following:

- You did **not** perform any audit work.
- It is the taxpayer's responsibility to file a claim for refund and provide the documentation necessary to develop the facts.

If you did not contact the taxpayer, you do not need to notify taxpayers of potential refunds revealed by your test checks.

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5.2 Survey

The term **survey** means accepting the return as filed without opening an audit. After you review the return and other relevant information and you determine there is no audit potential, survey the return. In certain situations your supervisor may review your recommendation.

In the upper right-hand corner of the first page of the return, do one of the following:

- Write S/(auditor's initials).
- Stamp Surveyed.

See MAP Transferring Case Units Between PUCs for details on how to close out the case on PASS.

5.3 Referrals

You may refer cases to other audit programs or sections because of:

- Your evaluation of the file.
- A request from another auditor.
- A request from the taxpayer after an examination has begun.

The two forms used to route files are:

- Messenger Service Route Slip (Form FTB 7000) provides delivery from mail stop to mail stop within the Franchise Tax Board.
- Hand Delivery Order (Form FTB 7545-C) provides delivery to a specified individual within a specified period. Use this form only when a package contains sensitive information or if the route slip timeframes do not meet your needs.

5.3.1 Procedure for Auditor Transferring the Case

- Contact the recipient unit or auditor.
- If an examination has begun, notify the taxpayer of the case transfer.
- Complete and print the Audit Report (FTB 6430) (See MAP Audit Report).This form serves as a transmittal document. In the special remarks section, write the reason for the referral and note that there is an associated electronic/physical file. Attach the form to the physical file.
- Assemble the physical file (See MAP Assemble the Physical File).
- If the case includes a Statute of Limitations waiver, attach the original waiver to the face of the return to which it applies (See MAP Statute of Limitations).
- Complete the Messenger Service Route Slip (FTB 7000). Include the correct Mail Stop. In the comments section, write the taxpayer name, TPID, tax years, and reason for the referral.
- Attach the Messenger Service Route Slip to the physical file and route.
- Close or transfer the case on any applicable non-PASS inventory system.

Transfers to PASS Users

For PASS cases, make sure that the electronic file and physical file reach their new owner. Transfer the physical file at the same time as the electronic file. Failure to follow these procedures may result in the delay of transferred cases, expired SOL, and unprocessed NPAs.

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For more information on how to transfer a PASS electronic file between PUCs, see MAP Transferring Case Units Between PUCs.

Transfers to Non-PASS Users

When transferring cases to non-PASS users:

- Contact the recipient by telephone or email.
- Print the case and assemble the physical file. Refer to PASS Help or see MAP Printing for more information on how to print a PASS case.
- Transfer the physical file and the printed PASS file.
- Record in the Event Log your contact with recipient and the transfer of the case.
- Close the electronic PASS file See MAP Closing Cases On PASS.
- Transfer the electronic file to your supervisor's inventory or the appropriate group worklist.

5.3.1.1 Procedure for Auditor Receiving the Case

If you have received a case that was transferred from another auditor, follow these:

1. Notify the taxpayer when you receive the transferred case.
2. Provide the taxpayer with your contact information.

5.3.2 Field Audit Criteria- MSA Cases

After properly scoping the returns and identifying audit issues, decide if the audit should be conducted in the field or through correspondence.

5.3.2.1 When Is a Field Audit Appropriate?

A field audit is appropriate in the following situations:

- When the need for a detailed examination of the taxpayer's books and records appears necessary or practical to properly complete the audit.
- Taxpayer requests that the audit be conducted in the field. We will generally grant the request unless a field audit does not appear warranted, or we can handle the matter satisfactorily by correspondence.
- When an audit of a return is already being conducted in the field, an audit of subsequent years' returns may also be appropriate.
- When the Legal Department requires additional information not contained in the field audit report, and the data cannot be obtained by correspondence.
- When the returns are identified as a major case. Major cases include Fortune 500 and other cases identified by program offices.
- RAR and amended returns when an audit of the corresponding original return is being conducted in the field.
- Claims if:
    - The claim is based on a field audit.
    - The audit of the original return is being conducted in the field and the auditor assigned the case has been contacted and agrees to handle the claim.
    - The original return is unassigned and designated to be audited in the field.

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- The claim amount is large and the claim issues warrant a field examination.
- The claim is for a major case taxpayer.

This is NOT an all-inclusive list. Check with your lead auditor or supervisor.

5.3.2.2 Types of Issues Appropriate for Field Audit

Once the tax potential criteria are met, the following issues are suitable for field audit:

- Foreign parent cases.
- Unitary issues. Cases that have diverse businesses without apparent centralized management (taxpayer filing combined or separately).
- Schedule M-1 and M-2 adjustments that look unusual.
- Business vs. nonbusiness issues that involve large partnership losses, capital gains, interest income, or dividend income.
- Tax Shelter. Refer to Abusive Tax Shelters & Transactions for more information on tax shelter issues.
- Factor issues:
    - Disproportionate factors - deviations of ten percent or more between any apportionment factors.
    - Balance sheet and income statement discrepancy with the apportionment formula.
    - Capitalized rents discrepancy with the property factor formula.

This is **not** an all-inclusive list. Any unusual item can be sent to the field for audit. Check with your lead auditor or supervisor.

5.4 Guidelines for Re-Opening an Audit

The Franchise Tax Board has the statutory authority to examine any books, papers, or other data to confirm the accuracy of any return. There is no statutory limit to the number of audits per return. However, we should not subject taxpayers to unnecessary audits.

5.4.1 Re-Opening an Audit: General Rules

Reopen audited years only in the following limited circumstances:

- Misrepresentation of a Material Fact.
- A Clearly Defined Substantial Error Based on an Established FTB Position.
- A Serious Administrative Omission.

Misrepresentation of a Material Fact

We may reopen audited years if there is misrepresentation of a material fact, evidence of fraud, malfeasance, collusion, or concealment. This does not include development of a new audit perspective. Discoveries of information or issues missed by the prior audit are not misrepresentations of facts unless it can be demonstrated that the taxpayer deliberately withheld requested information.

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A Clearly Defined Substantial Error Based on an Established FTB Position

We may reopen audited years if the prior closing involved a clearly defined substantial error based on an established Franchise Tax Board position at the time of the previous audit. An error is **clearly defined** if it is readily apparent.

Substantial refers to the dollar amount of tax that would not be assessed if we did not reopen the case. **Substantial** is determined on a case-by-case basis, considering all facts and circumstances relating to materiality. Generally, an error may be substantial if the dollar amount of the tax not assessed exceeds ********** on the original return or determined during the previous audit. Use your judgment before relying upon the dollar amount.

An **established Franchise Tax Board position** is one that is clear (not in the developmental stage) at the time of the previous audit. Examples of an established Franchise Tax Board position are an Audit Branch Procedure Statement, a position published in an Audit Program Report, a position taken in a Franchise Tax Board Notice, or a finding in a Legal Ruling (presuming they were not superseded).

A Serious Administrative Omission

A serious administrative omission occurs when failure to reopen a closed audit could:

- Result in serious criticism of our tax law administration.
- Establish a precedent that seriously hampers future attempts to take corrective action.
- Result in inconsistent treatment of similarly situated taxpayers.

5.4.1.1 Re-Opening an Audit: Exceptions to the General Rule

Exceptions to the general rules for re-opening an audit include the following situations:

- Carryover Years.
- Closing Agreements.
- Pass-Through Entity Audits.
- Post NPA Development.
- Surveys.

Carryover Years

We may audit a credit carryover, net operating loss carryover, or similar carryover in the year the carryover is used even though the year in which the credit or loss originated is not within an open statute of limitations. To the extent the carryover is incorrectly reported, we should not allow it to reduce tax in the current audit year or future years.

Closing Agreements

If we have reached an agreement with the taxpayer about the treatment of certain items, we should adhere to this agreement for all tax years specifically stated in the closing agreement, unless there is a material difference in facts or there a change in the relevant statute, regulations, or case law. See MAP Closing Agreement for further discussion.

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Pass-Through Entity Audits

Pass-through entities and their partners/shareholders/members are distinct taxpayers. Therefore, we issue their audit determinations separately. A determination issued to a pass-through entity because of an entity level examination is not the same as an audit of the owners and vice-versa.

A flow through adjustment from a pass-through entity level examination is not an audit of the investors' returns on other issues. To the extent investor level issues, such as basis determination, are included in the entity examination, an audit was conducted on the investor's return, and the investor's return is subject to the same reopening criteria as other audits.

An audit of the books and records of a pass-through entity of which a taxpayer is an owner does not constitute reopening the audit of the owner's return, even though the owner's return was previously examined for other issues.

Post NPA Development

After a proposed assessment or an over-assessment is issued, the audit may be resolved with further factual development or law application (could include hearing officer, settlement or appeal attorney). The gathering of facts related to the assessment does not constitute reopening the audit of the return.

Surveys

When a return is classified as a survey, it merely indicates the return was not selected for audit. Consequently, an audit after a survey does not constitute reopening of an audited year.

5.4.2 Re-Opening an Audit: Non-Audit Contacts

In general, any inspection of relevant books, papers, or other data to confirm the accuracy of any return is an audit. We may contact taxpayers because of the return processing, verification, and correction program. For purposes of these procedures, the following are examples of contacts that are **not** considered audits:

- Information That Must Be Filed.
- Math Errors.
- Nonfilers.
- Preliminary Information Request.
- Return Information Notice.
- Revenue Agent Report.

Information That Must Be Filed

Contacting a taxpayer to request information that must normally be filed or included with the return is not an audit.

Math Errors

Contacting a taxpayer to correct mathematical or clerical errors is not considered an audit.

Nonfilers

Requesting a taxpayer to file a return where none has been filed is not an audit. If the taxpayer subsequently files a return and we examined the books and records to verify the correctness of the returns, then we have performed an audit.

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Preliminary Information Requests

Contacting a taxpayer to get preliminary information to perform test checks while scoping is not an audit if we tell the taxpayer clearly that we want the information to determine whether or not to pursue an audit. For details, see MAP Request Preliminary Information.

Return Information Notice

A contact with a taxpayer to determine the correct tax and applicable payments, or any other adjustment of an unallowable item, for which we issue a Notice, is not an audit. Examples of existing programs are:

- Verifying claimed withholding.
- Verifying/reconciling/correcting estimate payments.
- Recomputing tax liability using correct rates or tables.
- Adjusting for penalties payable upon notice or demand.
- Looking for refund fraud.

Revenue Agent Reports

A contact verifying the correctness of a final federal determination or applying final federal determinations is not an audit. This includes:

- The Automated Underreporter Program (CP 2000).
- Resolution of voluntary Revenue Agent Reports.
- Application of non-voluntary Revenue Agent Reports from the IRS.

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6 Audit

6.1 Purpose of an Audit

The purpose of an audit is to effectively and efficiently determine the correct amount of tax based on an analysis of relevant tax statutes, regulations, and case law as applied to the taxpayer's facts. Experience has shown that we can achieve the best results through cooperation, effective communications, and setting and adhering to goals throughout the audit process.

This section discusses techniques, practices, and procedures that you may need to successfully conduct an audit.

6.2 Working With Taxpayers

Establishing a positive working relationship with the taxpayer is conducive to the effective and timely completion of the audit.

During your interaction with the taxpayer, ensure that:

- The purpose of the audit and the legitimate need for information requested are conveyed to, and understood by, the taxpayer.
- You evaluate the audit data and determine the tax liability fairly and impartially.
- The audit progresses with a minimum of inconvenience to the taxpayer.
- The final audit recommendations are supported by both the facts and the law and are discussed with, and understood by, the taxpayer.
- You always communicate the results of the audit in writing to the taxpayer, and provide the taxpayer with the opportunity to rebut any findings.

The following are suggestions on receiving cooperation from taxpayers and tax representatives:

- Be courteous and professional. Your tone in letters and on the telephone is very important. You want to be treated politely and with respect and so does the tax representative and taxpayer.
- When the taxpayer is verbally abusive and uncooperative, be cooperative and professional. If you respond with an equally abrasive attitude, you will not gain cooperation. If you are cooperative, it is difficult for taxpayers to remain uncooperative.
- Timeliness in your audit sets the tone for all follow-ups in the audit, and your ability to close the audit. For example, if you take six months to reply to the taxpayer, the taxpayer will not give your next request for information a high priority. You should set a comparable response timeframe (same as we require from taxpayers) and stick to it. This shows the taxpayer that the case is a high priority to you, and the taxpayer will respond timely.
- Always set the taxpayer's response date to a specific due date (e.g. June 15, 2006) to reply. A specific due date avoids the confusion that setting the response date at 30 days can cause (e.g. calendar days vs. workdays).

6.3 Audit Plan

6.3.1 Purpose of an Audit Plan

The purpose of the audit plan is to establish open lines of communication and to promote understanding of commitments made and agreements reached. The audit plan is a tool that provides a road map of how the audit begins, how the audit is progressing, where the audit is

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going, and identifies key potential audit issues. It allows the auditor and the taxpayer to work together to resolve problems as early as possible in the audit process and establishes a partnership relationship. The audit plan helps ensure an effective and efficient audit that is less burdensome, less costly and less intrusive.

Although an audit plan is more commonly used in MSA cases, this is a tool that you can use if appropriate in your situation.

6.3.2 When Do You Use an Audit Plan?

All audits will use some type of audit plan, though the complexity of the audit plan will differ based on circumstances. For certain audits, e.g., single-issue audit cases, the audit plan might be a simple Scope Sheet.

Use a formal or detailed audit plan on:

- Cases which are either large or contain sensitive audit issues.
- At the advice of the audit supervisor.
- At the request of the taxpayer.
- As a result, of the auditor's judgment.

6.3.3 When Do You Develop an Audit Plan?

The audit plan sets forth the road map for the audit and therefore would be completed as a preliminary step. Upon completing the preliminary audit procedures and scope, prepare a draft audit plan. These are some items to consider:

- To initiate discussions during the opening conference, you can send the draft audit plan to the taxpayer with the letter confirming the initial appointment.
- Discuss the draft audit plan with the taxpayer during the opening conference.
- Finalize the draft audit plan incorporating changes made as a result of discussions with the taxpayer.
- If there are significant changes to the draft audit plan and the supervisor was not present at the opening conference, submit the audit plan to the supervisor for review and approval before finalizing.

6.3.4 Who Develops the Audit Plan?

The auditor develops the audit plan. In a team audit, the lead auditor prepares a preliminary draft of the audit plan, with team members providing comments, and submits the plan to the immediate supervisor for review and approval. The supervisor and program manager might also provide input on planning, the role of the team members, involvement of the supervisor and/or industry specialist, or anything vital to management's role and approval. In addition, consider the input provided by the taxpayer at the opening conference.

6.3.5 What Should Be in the Audit Plan?

Issues to be included in the audit plan should be based on the materiality of the potential adjustment and balanced with the statutory requirement to determine the correct amount of tax. If potential for an audit adjustment is likely, pursue the issue if the materiality of the potential

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adjustment warrants the audit resources necessary to audit the issue. Materiality is a facts and circumstances test and you should consider the materiality of issues throughout the audit.

The following items are typically included in the audit plan although not necessarily all-inclusive. Additions to or deletions from the audit plan should be done on a case-by-case basis.

1. **Audit Scope** -The audit scope shows the years being examined, office conducting examination (MSA Cases), results of prior years, how examination began.

2. **List of Key Personnel**-Identify key Franchise Tax Board staff and taxpayer personnel, including representatives. Show addresses and telephone numbers. If applicable, explain the role and responsibility of each FTB audit team member. Confirm that the taxpayer personnel identified in the audit plan are authorized to provide the Franchise Tax Board with records or enter into preliminary and final discussions with the Franchise Tax Board.

3. **Timeframes**- Establishing timeframes and adhering to them is critical in completing cases timely. Throughout the audit process, these timeframes serve as benchmarks against which progress can be measured. Establish timeframes for:

   - Estimated starting date and estimated completion date.
   - Expected response timeframes on IDRs, AIPS, and correspondence.
   - Schedule of tentative field appointments.
   - Status Conferences - to periodically meet and discuss audit issues, emerging problems, how the flow of information is progressing, and the general status of the audit.
   - Waivers - Current statute of limitations and policy for managing the SOL throughout the audit.

4. **Status of Federal Audits**- If applicable, include in the plan the status of any federal audit. To ascertain current status of the federal audit, follow-up periodically with the taxpayer.

5. **Amended Returns Filed by the Taxpayer**- Ask the taxpayer whether any amended returns have been filed that you may not be aware of. Also, it may help you manage your audit if you know any anticipated amended returns that the taxpayer may file.

6. **Audit Issues**- Identify known audit issues and the potential tax effect. Inform the taxpayer that additional issues may arise, and that you may make changes during the course of the audit.

7. **Audit Procedures**- Explain procedures for issuing IDRs, AIPS, and closing letter.

8. **Audit Logistics**- Discuss logistic issues with the taxpayer. For example:

   - Location of the audit records.
   - Taxpayer's record retention policy.
   - Availability of photo copying equipment and procedures for photocopying.
   - Adequate accommodations - audit room, storage of taxpayer's records, telephones, rest rooms, cafeteria facilities, etc.

9. **Amendments to the Audit Plan**- If circumstances warrant you can revise the audit plan at anytime during the audit process. Discuss and provide the taxpayer with a copy of the revised audit plan. Be receptive to any suggestions by the taxpayer that would expedite the audit process and facilitate the taxpayer's task of complying with your information requests. Emphasize to the taxpayer that the audit plan is a guide for the examination. It is subject to revision as progress indicates the need for more, less or different work than originally planned.

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Here is an example of an audit plan.

6.3.6 Taxpayer Involvement in the Audit Plan

If possible, involve the taxpayer in developing the audit plan. Be receptive to the taxpayer's suggestions of **what are we doing well**, and **what can we do to make it better**?

The advantages of involving the taxpayer in developing the audit plan are:

- Both parties will efficiently manage the gathering of facts and analysis of the issues.
- Taxpayers can anticipate deadlines and provide alternative solutions to issues, such as alternative documents and sampling.
- It will reduce any concern the taxpayer may have about what to expect, which may foster communication and cooperation in the audit process.

6.3.7 Who Should Sign the Audit Plan?

You and your supervisor should sign and date the audit plan. In some cases, it may also be appropriate to get Program Manager approval.

A senior member of the taxpayer's staff, preferably an officer, the senior tax manager or the representative, should also sign and date the audit plan.

Document the delivery of the plan in the workpaper file. Keep the signed copy of the audit plan in the audit file and provide a copy to the taxpayer.

6.4 Opening Conference

6.4.1 Purpose of an Opening Conference

The purpose of the opening conference is to establish the groundwork necessary to conduct an effective and efficient audit. The opening conference establishes lines of communication and helps build a partnership between the auditor and taxpayer. During the opening conference, you will introduce the participants of the audit; agree on a general audit plan; discuss audit processes and procedures; agree upon expected timeframes; and start developing a rapport with the individuals that will be working on the audit.

You may choose to hold an opening conference on a case-by-case basis, or if taxpayer requested. Your supervisor may attend the opening conference as needed or if taxpayer requested.

6.4.2 What Do You Discuss During an Opening Conference?

Listed below are topics that you can discuss during an opening conference. Choose the topics that are applicable to your situation.

- Introduction of Personnel.
- General Discussion.
- Audit Plan.
- Potential Audit Issues.

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- Tax Return Preparation.
- Status of IRS Audits and Audits by Other States.
- Company Records
- Information/Document Requests.
- AIPS and Position Letter.
- Status Conferences.
- Waivers.
- Scheduling Future Audit Appointments.
- Photocopying.
- Use of Taxpayer's Facility.
- Closing Conference.

Introduction of Personnel

Introduce all FTB staff involved in the audit. Provide the taxpayer the names and telephone numbers of your audit supervisor and program manager and explain the reporting lines.

If applicable, know and understand the taxpayer's tax department. You may find an organization chart helpful if the taxpayer have a large tax department. Obtain the phone numbers of the people involved in the audit.

General Discussion

The general discussion should be relaxed and informal. The purpose of the general discussion is to open communication and to begin forming a professional relationship with the taxpayer's staff. This is an opportunity to:

- Provide a copy of the Statement of Principles of Tax Administration if it was not already provided with the contact letter.
- Provide the taxpayer with a copy of the audit regulation or refer them to it for more detailed information about the conduct of the audit.
- Emphasize our expectation of completing the audit within two years from the initial contact according to the audit regulation.
- If appropriate, discuss questions you have on the general history of the taxpayer. Are there unusual activities during the audit years? Is the taxpayer undergoing current changes that might impact your audit?
- Determine other issues that the auditors should know about such as whether the company is in the process of shutting down their tax department and outsourcing.

Audit Plan

Discuss and provide copy of the audit plan to the taxpayer. See MAP Audit Plan for more details.

Potential Audit Issues

Inform the taxpayer of the potential audit issues identified during the scoping process. Explain that additional issues might arise from the review of information in support of the tax return. Ask the

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taxpayer if they have changes or issues that they want to submit for consideration. The earlier that you discover potential claim issues; the easier it is to adhere to your audit timeline.

If the taxpayer had been audited previously, discuss recurring issues as well. Determine the status of recurring issues if the prior audit determination is being protested or was changed during the protest and appeal process. Discuss if there has been a change to the statutory treatment of these items since the last audit. Consider whether the examination of recurring issues can be limited to agreements to facts developed in prior audits. But, do this only if the prior auditor had comprehensively developed the issue and after you have determined what you need to develop. You need to ensure that the facts in the prior audit are applicable to the current years. If this is feasible, discuss with the taxpayer.

Tax Return Preparation

These are some topics you may want to discuss with the taxpayer:

- Who prepared the return? If they are not the same people you are dealing with, are they still available for questions or information?
- Was the tax return prepared by the taxpayer or outsourced?
- What part did the tax department prepare? If applicable, what part did the divisions prepare?
- What instructions were issued to people who prepared parts of the return? Are the return preparation guidelines available?
- If applicable, how was apportionment information compiled?
- Where are the tax preparation workpapers located and what lead-time is needed to obtain them?
- Are the tax preparation workpapers stored electronically? If so, in what format? Can they be exchanged electronically?
- Have state or federal amended returns been filed? If so, what is the status of these amended returns?

Status of IRS Audits and Audits by Other States

These are some topics you may want to discuss with the taxpayer:

- What years did IRS audit? What is the status? How will the taxpayer convey the final federal determinations?
- Determine whether the RAR for the most recent IRS audit has been submitted to the Department.
- Discuss any outstanding controversies at the federal/state level. Do any of the years/issues affect your audit cycle?
- Have any other states audited the years under examination?
- Have any other states audited the years under examination? You may be able to save yourself, and the taxpayer, time and effort by obtaining copies of audit work performed by other states.

Company Records

Company records provide the foundation for developing facts. These are some topics you may want to discuss with the taxpayer:

- What are the taxpayer's recordkeeping practices? What areas of the taxpayer's organization have responsibility for the records you need to examine?
- What electronic records might be available and in what format are they?

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- What is the taxpayer's record retention policy?
- What documents have actually been retained? It can be helpful to obtain the document that lists the actual records in storage.
- Generally, how long will it take to retrieve documents from storage?

Information/Document Requests

Discuss the general response timeframes and follow-up process for IDRs. Emphasize that it is important to meet timeframes in order to complete the audit timely. Inform the taxpayer of our practice to issue an IDR, one follow-up, and then, if necessary, a formal demand for the information citing possible application of the failure to furnish information penalty.

Establish who will receive the IDRs and whom you may contact to secure additional records or information.

See MAP Information/Document Request for more details.

Audit Issue Presentation Sheet (AIPS) and Position Letter

During the opening conference:

- Explain what the Audit Issue Presentation Sheet (AIPS) and position letter contain. See MAP Audit Issue Presentation Sheets and MAP Position Letter for more details.
- Explain that you expect the taxpayer to respond to the factual write-up as presented in the AIPS or closing letter. The taxpayer may disagree with the application or conclusion of the law but at a minimum, the taxpayer should agree with the facts.
- Discuss the timeframes appropriate for responses. The general timeframe is 30 days.

Status Conferences

Discuss if you expect to hold a status conference. See MAP Status Conference for more details.

Waivers

The Audit Regulation sets forth the expectation that the audit will be completed within the normal statute of limitations or two years of initial contact. However, there may be some situations where waivers are appropriate. It is the auditor's responsibility to assure the statute of limitations has not expired. During the opening conference you should:

- Determine if there is a federal waiver and if so, the status.
- Explain how waivers, if necessary, will be handled throughout the audit. See MAP Statute of Limitations for information on handling waivers during the audit.

Scheduling Future Audit Appointments

To complete the audit timely, plan the entire audit through the expected completion date. Include anticipated field visits that you will need to complete the audit so both parties understand the expectations and resources that will be needed to complete the task.

To keep the timeframe for completion of the audit within the agreed completion date, you need to establish future audit appointment dates with the taxpayer. Work out a timeline identifying future audit appointments, black out dates, review time, etc. to get an understanding of the commitments needed in order to meet the expected completion date.

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Photocopying

You may need photocopies of taxpayer records to support the facts as set forth in the audit report. Photocopy only relevant portions you need for the specific issue. Establish what procedures the taxpayer would like for photocopying. If the taxpayer requests that its staff does all photocopying, address follow-up procedures if there are any problems. In cases where you photocopy documents, provide a second set of copy for the taxpayer, if the taxpayer requests.

Use of Taxpayer Facility

Some taxpayers assign permanent space to auditors until the audit is completed or for the duration of a field visit. If an auditor is provided with an office, the auditor should find out who has access to the office, if keys will be provided and what hours the auditor can enter the office.

If temporary space is assigned, you might want to request a locking file cabinet to store records or make an agreement with the taxpayer that records will be made available at the beginning of the first day of each field visit.

For security reasons, many taxpayers require that an auditor obtain and wear an identification or access badge. The badge might provide entry access into the taxpayer's building and certain office areas. Auditors are not authorized to sign any confidentiality agreements in order to obtain an access or identification badge. You should inform the taxpayer that any information provided is confidential and protected by R&TC Section 19542.

If the taxpayer wishes to take its case to appeal or litigation, it may seek a protective order from the SBE or the courts in order to protect proprietary or otherwise secret information from disclosure to the public. R&TC Section 19504 gives FTB a right to examine the information without precondition or restriction. Therefore, FTB will not enter into any agreement, which could potentially restrict our ability to use information to which we are entitled.

Closing Conference

Discuss with the taxpayer if you are planning a closing conference, so that the taxpayer knows what to expect. See MAP Closing Conference for more details.

6.5 Follow-up and Keeping the Audit Current

When the requested information is not readily available, you should discuss with the representative a reasonable timeframe for a response. You and the representative should agree on a specific date. Generally, this is within 30 days, but this should be determined on a case-by-case basis, as long as the audit is progressing to the scheduled completion date. If the information is not provided by that date, promptly follow up on the request. It is your responsibility to keep the audit process going and prevent unnecessary delays requested by the representative.

As a general rule, field audit activity is not delayed as a result of any of the following pending actions:

- Court decisions on prior years.
- Board of Equalization decisions on prior years.
- Protest decisions on prior years.
- IRS examinations of prior or current years.
- IRS appeals.

If a representative cites one of the above reasons for delaying the audit, explain that we do not delay audits for that reason. If the representative refuses to cooperate in commencing or continuing the audit, consider the use of a formal demand for information. The template is available in PASS

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(Demand Letter, FTB 1513). If the taxpayer still fails to respond to the audit, see MAP Taxpayer Fails To Respond.

Your failure to follow up on deadlines sends a message to the taxpayer that you are not serious about the request and will possibly accept less than what was requested. It also establishes an unacceptable pattern that could impact your credibility and ultimate recommendations.

Keep your supervisor or lead auditor aware of the status of the audit when continual follow-ups are necessary. A verbal follow-up to the taxpayer, with written confirmation of the discussion, is usually the most effective method of obtaining information and providing documentation for the audit file.

Use the Tickler function in PASS to help you manage your follow-up time. Refer to PASS Help or see MAP Ticklers for additional information on setting up ticklers.

6.6 Status Conference

6.6.1 Purpose of a Status Conference

The purpose of the status conference is to measure expectations against benchmarks and to expedite the audit process. Use the status conference to keep the communication open between you and the taxpayer. During status conference, you can discuss any outstanding Information/Document Requests and Audit Issue Presentation Sheets, and scheduling of audit appointments.

Although a status conference is more commonly used in MSA cases, you may find that this is helpful in other more complex cases. In other cases, a telephone call to the taxpayer or representative may be sufficient.

If conducting a status conference is appropriate in your situation, see MAP Planning a Status Conference for details.

6.6.2 Planning a Status Conference

Consider these when planning a status conference:

- Frequency of the Status Conferences.
- Information/Document Request (IDRs).
- Audit Issue Presentation Sheets (AIPS).
- Scheduling of Audit Appointments.
- Resolution of Disputes Related to the Conduct of the Audit.
- Need for Authorization for Single Billing (MSA Cases).

Frequency of the Status Conferences

It is a good audit practice to hold meetings periodically throughout the course of the audit. You may meet with the taxpayer during your scheduled weeklong field audit appointments, or periodically. For MSA cases, it is recommended to hold a status conference no less than twice a month.

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Information/Document Request (IDRs)

Follow-up on IDRs during the status conference. Following are the general guidelines:

- Review outstanding IDRs and new requests. You can accomplish this by providing the taxpayer with a copy of the Master IDR Log (if used).
- Review timeframes for outstanding and new IDRs. If taxpayer is not meeting the timeframes, solicit the taxpayer's cooperation to resolve the problem.
- Materiality – Address any questions the taxpayer has regarding the materiality of an issue that is the subject of an IDR.
- Communicate to the taxpayer the specific timeframes for follow-up IDRs. The taxpayer should understand that noncompliance could lead to a failure to furnish penalty and a request for subpoenas.
- Follow-up any verbal discussion with taxpayer by a written confirmation of what was agreed to during the meeting.

Audit Issue Presentation Sheets (AIPS)

Provide the taxpayer with a copy of the Masters AIPS Log (if used) to facilitate review of outstanding and any new AIPS that have been issued since last discussion. Other aspects of AIPS you can address during status conference:

- Discuss and try to reach agreement on the facts related to the audit issue or describe what facts are still not agreed to, even if you don't agree on the application of the law.
- Discuss follow-up requests on outstanding AIPS, with specific expectations for completion. Inform the taxpayer of the benefits of providing their position to any proposed adjustments. Incorporate the taxpayer's comments or response in the revised AIPS.
- Provide follow-up written confirmation of any agreements or understandings that resulted from the meeting.

Scheduling of Audit Appointments

Review any dates that were previously established and add, delete, or adjust the dates to keep the audit moving towards completion. If you need an appointment at a location other than the corporate office of the taxpayer, direct the scheduling of such appointment with the taxpayer.

Resolution of Disputes Related to the Conduct Of The Audit

Immediately discuss with the taxpayer any disputes concerning the conduct of the audit. If the dispute is not resolved between your and the first line taxpayer representative, request assistance at the next level. If the audit supervisor or next level manager of the taxpayer (identified in the audit plan) is unable to resolve the issue, the taxpayer has the alternative to request assistance from Program Managers to resolve the case. You are not limited in going to the taxpayer's next level or above to resolve any disputes. Explore all possibilities.

Need for Authorization for Single Billing (MSA Cases)

If the taxpayer has filed on a separate return basis or failed to include various subsidiaries in a unitary combined return, and it appears that the audit will be recommending combination of such subsidiaries, you should discuss with the taxpayer the need to obtain a signed Authorization for Single Billing.

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6.7 Taxpayer Fails to Respond

If the taxpayer fails to respond to an initial contact letter (ICL) or Information/Document Request (IDR), you can issue one of the following:

- A failure to furnish information penalty (See MAP Failure to Furnish Information Penalty).
- An administrative subpoena (see MAP Administrative Subpoena).

6.7.1 Failure to Furnish Information Penalty

Generally, these are the steps in issuing the penalty:

1. Send the initial contact letter (ICL) or Information/Document Request (IDR).
2. If the taxpayer does not respond, send a follow-up letter. You may use the Follow-Up Letter PASS templates (FTB 1511, 1512, 1514, or 1522). Attach a copy of the ICL or IDR previously sent.
3. If the taxpayer does not respond, send a formal demand for information. You may use the Demand Letter/Demand to Furnish Information PASS templates (FTB 1506, 1507, 1507A, 1508, and 1513). Modify the template to meet your needs. If you will compose your own letter, make sure to refer to the following:
   - R&TC Section 19133.
   - The unanswered requests.
   - Specific information requested.
   - Necessity of the information.
4. If the taxpayer does not respond to your demand letter, the penalty applies. Send a final letter with a schedule of revised tax and computation of the penalty. Also, see MAP Failure to Furnish Information Penalty.

6.7.2 Administrative Subpoenas

An administrative subpoena may be necessary in some cases where the representative refuses to cooperate in furnishing information. Consider a subpoena for significant issues where failure to furnish information is an issue. For guidance in these cases, your supervisor or manager should consult the designated program specialist in Technical Resource Section.

Identify cases where legal support may be necessary to determine and conduct any necessary depositions to preserve testimony or discover such as subpoenas duces tecum, to preserve documentary evidence.

6.8 Concluding the Audit With the Taxpayer

Before proposing any audit adjustments, discuss the audit results with the taxpayer or representative. If you and the taxpayer disagree, you can discuss the basis for positions and decide if you need more information. Give taxpayers or representatives the opportunity to submit all facts in support of their position. You must evaluate any new information before making a final determination.

Tell the taxpayer or representative about all possible adjustments before you submit the final adjustment schedules for review or release of the NPA If your schedules are changed, either by the

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supervisor or at the technical review level, notify the representative of the revision and provide revised schedules to the taxpayer. This will reconcile the audit adjustments to the NPA.

It is important that you and the representative agree on the facts regarding the audit issues, even if the taxpayer does not agree with your conclusion or adjustment.

If the representative does not agree with the proposed adjustments, explain the protest procedures. Ideally, the representative will provide the auditor a position statement identifying the basis for their disagreement. Note the taxpayer's agreement or disagreement in the Audit Report (FTB 6430) (see MAP Audit Report) and Narrative Report (FTB 6431) (see MAP Reports). Write a summary of the closing discussion and mail it to the taxpayer or representative, seeking agreement to all of the facts. You can use the format for position letter (See MAP Position Letter) or Audit Issue Presentation Sheet (see MAP Audit Issue Presentation Sheet).

6.9 Closing Conference

6.9.1 Purpose of a Closing Conference

You can hold a closing conference to discuss any items not already covered in the Status Conferences and to review the final audit results. It should include an explanation of process for technical review and issuing notices, and rough estimates of timeframes. Discuss how you will notify the taxpayer of any changes from the review process.

You can hold a closing conference on large cases, cases where the taxpayer requests one, or on any other case where you find it to be an effective communication tool with the taxpayer. You can hold a closing conference in person or by phone, depending on the complexity of your case.

This is also an excellent opportunity to obtain feedback on what worked well in the audit process and for obtaining suggestions from the taxpayer on things that could be improved.

6.9.2 Planning the Closing Conference

- **Timing of the Conference** - The timing of the closing conference might vary with the type of audit conducted. You can hold a meeting with the taxpayer on the last day of the fieldwork before you provide the position letter and the revised tax schedules. Or, you can hold a meeting after you have issued the position letter and revised tax schedules and the taxpayer had time to review them.
- **Position Letter** – When possible, issue a position letter prior to the closing conference to give the taxpayer an opportunity to prepare.
- **Audit Issue Presentation Sheets (AIPS)** – Provide copies of the AIPS if requested by the taxpayer for the closing conference. At a minimum, you should plan to discuss any AIPS that the taxpayer has not yet responded to.
- **Preliminary Audit Schedules** – Before the closing conference, prepare and send to the taxpayer any preliminary audit schedules that incorporate all of the proposed audit adjustments.

6.9.3 Agenda for Closing Conference

You can prepare an agenda for the closing conference with input from the taxpayer. Provide copies to each person attending. The items below are suggested topics for the closing conference.

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- **General explanation of proposed adjustments** - The taxpayer should already have a good understanding of the proposed adjustments as communicated through the AIPS and the closing letter. This conference provides an opportunity to clarify any remaining issues the taxpayer might have. If the taxpayer has not responded to the AIPS, at least get the taxpayer to agree to the facts of the issue.
- **Flow of Proposed Adjustments** - The auditor should review the audit schedules to ensure that the taxpayer understands how the adjustments flow through the schedules.
- **Notices** - Explain what the taxpayer can expect in the form of notices. If appropriate for MSA cases, discuss an Authorization for Single Notice (see MAP Authorization for Single Notices).
- **Handling new information that the taxpayer wants to provide** - If the taxpayer makes a request to provide additional information or documentation at this time, address how you will handle the resulting changes.
- **Review Process** - Explain the review process by the audit supervisor and by the Technical Resource Section (TRS). Provide estimates of the dates when you will submit the audit for review to the audit supervisor and TRS, and the expected dates the notices will be issued. The Audit Regulations provide a guideline that any notices should be issued with 90 days of the closing of the case and submission to TRS.
- **Protest, Appeal, and Settlement** - If not already included in the closing letter, provide an explanation of the taxpayer's protest (see MAP Protest); appeal (see MAP Appeals); and settlement rights (see MAP Settlement Process).
- **Status of Federal Audits** - Update any developments on the status of federal audits and the issuance of any subsequent Revenue Agent Reports.
- **Subsequent Audit Cycles** - Discuss subsequent audit cycles that might be pending. Inform the taxpayer if you know that another office will be doing the audit. If appropriate, discuss the estimated start date of the next cycle.
- **Other** - Seek input from the taxpayer on the audit process. Discuss what worked well and what improvements could be made. Provide the taxpayer an opportunity to discuss any items he/she might have.
- **Address** – Obtain confirmation from the taxpayer of where notices should be sent. This address may differ from the **primary** address in BETS.

6.9.4 Goals of the Closing Conference

The auditor should be able to determine the following by the end of the closing conference:

- Whether the taxpayer agrees or disagrees with each AIPS and audit schedules.
- Whether the taxpayer will file a formal protest. If so, attempt to obtain and document a full understanding of the taxpayer's position or request that the taxpayer provide the position in writing, prior to submitting the case for review.
- Whether the taxpayer will need additional time to review the audit findings or audit schedules. You should reach an agreement with the taxpayer as to the amount of additional time the taxpayer needs for review. Consider an extension of time to respond that is consistent with the timing requirements of the Audit Regulations.
- Whether you will need a waiver to provide the taxpayer with additional time for review. If the taxpayer intends to submit additional information or documentation following the closing conference, advise the taxpayer that a statute of limitations waiver might be necessary to review any supplemental information.
- That the taxpayer understands what the process will be for communicating any changes made to the audit adjustments during the review process.

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6.9.5 Who Should Attend the Closing Conference?

- Whenever possible, the audit supervisor should attend with the auditor/audit team. The audit supervisor may want to introduce the lead auditor for the next audit cycle during the closing conference.
- Through the course of the audit, the auditor will have learned the names of the taxpayer's staff that is involved with the audit process. At a minimum, the auditor should request that the person who primarily handled the audit (e.g. tax manager, tax director, CFO) should attend along with his or her direct superior.

6.9.6 Documenting the Closing Conference

Put the summary of the closing conference in writing and include in the audit file. Mail a copy to the taxpayer.

6.10 Correspondence

6.10.1 Composing Letters

PASS provides templates for standard letters that users need. A complete list of available templates is in the **Draft Correspondence Folder.** The templates have set format that conforms to the departmental standards concerning the safeguarding of confidential taxpayer information. Refer to PASS FAQs about correspondence or refer to PASS Help (templates).

When a standard letter or paragraph will not fit a particular situation, write your own letter, or paragraph. Maintain uniformity in presentation, and ensure the product is professional.

The Departmental Writing Guidelines provide guidance for writing both internal documents and correspondence with taxpayers and their representatives. Use this guide to compose your correspondence.

Outgoing Mail

Any outgoing United States mail sent by any state agency, **cannot display the TPID or any other confidential information** on the outside of the envelope. Follow these guidelines:

- Use Franchise Tax Board letterhead only for the first page of the letter. Use blank pages for all other pages. Include a header with the recipient's name, the taxpayer's account number, the date, and the page number. You may include the state seal on the non-letterhead pages.
- Type the date three or four lines below the Department's letterhead.
- Include reply directions in the upper right corner, opposite the date, including your Payroll Unit Code and initials.
- Type the recipient's name, company, and address three to four lines below the date field.
- Type the subject line two lines below the recipient's address using the taxpayer's name, the years under audit, and the taxpayer's identifying number. **Be sure the TPID or any other confidential information is not visible through the envelope window.**
- Begin the body of the letter one to two lines under the subject lines.
- You should state your name, position, telephone number, and fax number three to four lines below the last line of text.

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Margins should be:

- Top: One half (½) inch between top and the header. The text should begin two lines after the header on page two and on subsequent pages.
- Side: One inch on both sides of the text.
- Bottom: No less than one inch.

6.10.2 Initial Contact Letter (ICL)

In the initial contact letter (ICL) you must communicate to the taxpayer the reason for your correspondence. You must state the taxpayer's return is under examination and provide specific direction. The ICL sets the tone of the audit and helps establish a positive working relationship between you and the taxpayer or representative.

Send the following inserts or publications with the ICL:

Types of Cases/Areas	Publication/Inserts
Fed/State Examination Section	• Audit, Contact, and Privacy Notices (Form FTB 1015C).
Residency Case	• Frequently Asked Questions about your Residency Audit (Form FTB 1015R).

MSA Cases	• Mission and Principle Statements (FTB 7899A).
	• Notice of Audit (FTB 1015).
	• Optional:
	  • Frequently Asked Questions About Your Tax Audit (FTB 1015B).
	  • California Taxpayers' Bill of Rights pamphlets (FTB 4058 and 4063).

All Other Cases	• Frequently Asked Questions About Your Tax Audit (FTB 1015B).

In addition, provide the taxpayer the names and telephone numbers of your supervisor and manager.

Where appropriate, you may enclose an Information/Document Requests with the initial contact letter.

For field audit of MSA cases, the initial contact is followed up with a letter confirming the field appointment, the opening conference with the taxpayer's representative, or any request for records.

6.10.3 Confirmation Letters

Always provide a confirmation letter after verbally scheduling an audit appointment, extending a response date, or requesting documents. The letter should confirm the information discussed such as appointment date, extension date, documents requested, and that the taxpayer agreed to provide the documents.

PASS has an available template (**Appointment Confirmation**, FTB 1500), which you may send to the taxpayer.

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6.10.4 Public Contact

Document all contact with the taxpayer. You can use the **Public Contact toolbar button** in PASS or the **Public Contact Memo** (FTB 6622), if the information is more extensive. The Public Contact Memo is available in PASS.

Examples of contacts that you can document:

- Telephone conversations.
- Field Office Visits.
- Visits at taxpayer's or representative's location.

Follow up any conversations with a letter and document the items discussed. See MAP Confirmation Letters for more information.

6.10.5 Information/Document Requests (IDR)

The purpose of an Information/Document Request (IDR) is to gather the relevant facts necessary to address the audit issues timely and efficiently. Written requests provide a record of communication between the auditor and the taxpayer and avoid possible misunderstandings that could result from verbal discussions. Document on an IDR all requests for information.

6.10.5.1 Preparing IDRs

Following are information you may need to prepare IDRs:

- Issuing IDR From Draft Correspondence or Audit Issue Folders.
- Writing Guidelines.
- Request Relevant Information.
- Privacy Notice.
- Timely Follow-up.
- Single Question IDR (MSA Cases).
- Tracking IDR Status.
- Special Language in Follow-Up IDRs (Optional).

Issuing IDRs From Draft Correspondence or Audit Issue Folders

You have the option to issue IDRs from the Draft Correspondence Folder or an Audit Issue Folder. You may prefer to issue IDRs from an Audit Issue Folder on a large case because it provides the ability to segregate IDRs from all other correspondence and make the files more manageable.

If you issued IDRs from an Audit Issue Folder, save a read-only copy of the IDR in the Send Correspondence II folder. To save a copy, right click on the document and select **Archive a Copy** from the popup menu. Using **Archive a Copy** will create a Send Correspondence II folder if it does not exist.

If you issued IDRs from the Draft Correspondence file, you do not need to keep printed copies because a copy is saved in the Correspondence Folder.

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Writing Guidelines

All information and document requests should have:

- A professional appearance. Check spelling and grammar.
- Explanation of all abbreviations.
- Consistent paragraph structure.
- If you number the questions listed under one heading, then list and number the questions under every heading.

Use the PASS template (FTB 1515) to create Information/Document Request. The template is populated with data from the case unit, including the return address, case number, case unit number, regarding field, account number, taxpayer name, your signature information and reply to information. Following are the relevant fields that you should fill out:

- **Taxable Years**- TYE 06/2004 - 06/2005.
- **IDR #**- number the IDR sequentially as you have provided to the taxpayer.
- **Subject**- Examination of NAME OF TAXPAYER Tax Returns.
- **Response Date**- put a specific date.
- **Description of Request**- Identify the item you are questioning as it is shown on the return. Clearly state the reason for the request.

For team audits, coordinate with team members the methods of generating IDRs, numbering and logging IDRs, and presenting the history on unanswered IDRs.

Request Relevant Information

The Audit Regulations specify that we request only relevant information. Requests for information are relevant if the requested information is germane to or applicable to the audit issue. If helpful to the taxpayer, discuss the applicable laws, regulations, and department policies that you need to verify or satisfy.

Discuss the content of the IDR with the taxpayer. Make sure that the taxpayer understands what information or document you are requesting. Discuss whether the taxpayer should provide alternative documentation if the information you are requesting is not available or will not resolve the audit issue. You and the taxpayer or the taxpayer's representative should work together to make information requests relevant and reasonable.

Privacy Notice

When requesting information from a taxpayer about a year for which the taxpayer has not filed a California return, include the following sentence at the end of the letter: **For Privacy Act Notice**, see form FTB 1131. Include the form with the letter.

If you already opened an examination on the taxpayer, and provided a version of the form FTB 1015 with the initial contact letter, you do not need to send form FTB 1131. See MAP Initial Contact Letter.

Timely Follow-up

Normal taxpayer response times to IDRs are a maximum of 30 days from the date of delivery. You can accommodate the taxpayer's requests for extensions of time depending on the applicable facts and circumstances. Keep in mind the benchmarks that you must reach in order to complete the audit timely. Set a reasonable date for the taxpayer to respond to an IDR, but emphasize that the

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taxpayer should respond timely in order for you to complete the case within the two-year expectation set forth in the Audit Regulation.

Work with the taxpayer to arrive at a mutually agreeable date to respond. You are expected to adhere to comparable timeframes for responding to taxpayers. CCR 19032(b)(5)(c)(1) provides that as a general rule the auditor should contact the taxpayer within 30 days of receiving a response to an IDR. At that time (1) issue additional IDRs; (2) issue an AIPS or position letter; or (3) notify the taxpayer that you need additional time to respond, and provide them with a date for future contact.

CCR 19032(a)(6) states that the timeframes in the regulations are intended to provide an orderly audit process and cannot be used to limit the taxpayer's right to provide information. This does not mean that the taxpayer has an unlimited amount of time to provide requested information. However, if the taxpayer does provide information while the audit is still open, even if it is after the time period set in the IDRs, you have to analyze the information and apply the audit findings.

Following are guidelines when following up with taxpayers:

- Follow-up on outstanding items according to the timeframe you agreed upon with the taxpayer.
- Use the **tickler** feature in PASS to help you manage the timeframes for following-up. See PASS Help for additional information on how to use this tool.
- Issue another IDR if there is an incomplete response, no response, or information was not provided by the agreed date. Include the **History** of prior requests at the bottom of the IDR, or attach a copy of the IDR previously issued. Indicate the original issue date, follow-up dates, and other applicable information.
- You can use the templates available in PASS as cover letters for your follow-up IDRs. These are FTB 1511, 1512, 1514, and 1522.
- Document all contact with the taxpayer. You can use the **Public Contact toolbar button** in PASS or the **Public Contact Memo** (FTB 6622), if the information is more extensive.
- Send a brief letter summarizing all telephone contact with taxpayers regarding extensions of IDR due dates, scheduling of field visits, or other matters affecting the progress of the audit.
- When a taxpayer fails or refuses to furnish information timely, a Formal Demand may be required. The Audit Regulation provides for the issuance of the Formal Demand after the second IDR. This is appropriate when a response to a request for information is unreasonably delayed, incomplete, refused or ignored. You need to communicate to the taxpayer in writing the consequences of not providing the requested information. See MAP Failure to Furnish Information Penalty for a full discussion of the steps necessary to issue a formal demand for information.

Single Question Information/Document Request (MSA Cases)

A single question IDR is more commonly used in MSA cases.

In most instances, request information and documents in writing. Where appropriate, your request should only contain a single question per individual IDR. The IDR should specify the agreed date for the taxpayer to respond.

The general format of the IDR is the single question as opposed to single issue IDR. This format assists the taxpayer if the taxpayer needs to distribute the questions to different departments or staff, provides for better organization in monitoring and following up on IDRs, and provides for better organization of the audit work papers. Separate IDRs make it easier to document the history of a request (i.e., date of the original request, follow-up dates, extensions granted, etc.) if you are assessing a penalty.

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Include in your written IDR any verbal requests for documents, including requests you made while you are at the audit location. Prepare single question IDRs for any verbal requests that are still outstanding at the end of the field visit. Provide these to the taxpayer with specific response dates.

Number the IDRs sequentially when you provide them to the taxpayer. Retain the same number when you reissue or follow-up (unless the nature of the information request has changed). You may assign numbers differently in order to facilitate team audits, but it is important that the taxpayer understands the numbering system.

If the taxpayer requests, you can discuss drafts of IDRs before you issue them.

Tracking IDR Status

For more complex cases, such as MSA cases, prepare a Master IDR Log. The log should include, at a minimum, each IDR number, date issued, subject matter of information requested, expected response date from the taxpayer, actual response date and any applicable comments, and IDRs that were re-issued.

In team audits, tracking the status of IDRs is the responsibility of the Lead Auditor.

Special Language in Follow-up IDRs (Optional)

If taxpayers are unable to provide information you requested, they should be able to explain the procedures they used to locate the information. If the taxpayers located the information but are withholding it, then the taxpayers should explain why they are witholding the information. Document this in your workpaper file and in your communications with the taxpayers.

Consider using this language in your follow-up IDRs:

> NOTE: If the requested information could not be located, please provide a description of the search procedures used in the attempt to locate this information. If the requested information was located but was not provided due to a claim of privilege, please provide a privilege log for the documents withheld, including the nature of the privilege claimed, and the names, titles and roles of all individuals who prepared or received the documents (including cc's and bcc's).

If the taxpayer routinely provides the information you request, you may choose not to use this note.

6.10.5.2 Verifying Key Corporations (MSA cases)

If you suspect there is an invalid key corporation (does not meet the requirements set forth in CCR Sections 25106.5 and 25106.5-11) for any return that is deemed audit worthy, you will need to verify the key corporation. You should send an IDR to the taxpayer to verify the key corporation. Once you obtain the corrected information, contact ***** ***** of the Business Entities Section via email with the following information:

- Name of the invalid Key Corporation and number.
- Name of the valid Key Corporation and number.
- Tax years involved.

Business Entities Section will work with you to ensure that any money needing to be moved will be, or any incorrect return information will be updated properly on BETS. **It is imperative that this is done prior to notices being issued.**

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If you determine an audit is not warranted, it is **not** necessary to send an IDR to verify the Key Corporation even if you determine there is an invalid Key Corporation. The Taxpayer Service Center Section (TSCS) or ARM Division will handle any situation that might arise with respect to the invalid Key Corporation if an audit does not take place.

6.10.5.3 Requesting Information in Electronic Format

You can analyze issues more efficiently if you work with data in an electronic format. Often times the taxpayer maintains detail support electronically, but you request the information in hard copy. You then re-enter the data into Excel so you can sort and determine the best approach to audit the information. To be more efficient, request the supporting detailed information electronically early in your audit.

Before issuing IDRs, discuss with the taxpayer what type of records exist, and if the taxpayer uses Excel or other software. Use the standard IDRs below unless you are certain the taxpayer only has the detail you need in hard copy. We do not intend for the taxpayer to create information for us. If the taxpayer refuses to provide information electronically, we will accept hard copies**.** However, work with TRS before assessing the failure to furnish information penalty in these cases.

In follow-up IDRs, consider adding a note in the paragraph. See Special Language in Follow-up IDRs.

Below are four sets of IDRs. The IDRs have highlighted fields for the tax years, due dates, your name, telephone number, etc. Replace these highlights with the appropriate information. Also, remove the **Note to Auditor** from the IDR that you will send to the taxpayer. Use common sense to revise these IDRs according to the information you need, the issue, your taxpayer facts, etc.

IDRs for Any Audit Issue

IDRS for Any Audit Issue (Claims)

IDRs for Enterprise Zone (EZ) Issue

IDRs for Enterprise Zone (EZ) Issue (Claims)

IDRs for Research Credit (R&D) Issue

IDRs for Any Audit Issue

- IDR #1 - The initial IDR. This IDR asks for the information in an electronic (Excel or other comparable worksheet software program) format.
- IDR #1A - Same as #1, except it asks for the information in Excel. You can use this when you know the taxpayer uses Excel.
- IDR #2 - After the taxpayer responds, you may want additional detail support for part of the taxpayer's response to IDR #1. You can use IDR #2 to request additional detail in an electronic format. This IDR asks for the information in an electronic (Excel or other comparable worksheet software program) format similar to IDR #1.
- IDR #2A - Same as #2, except it asks for the information in Excel. You can use this when you know the taxpayer uses Excel.

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- IDR #3 - You can use this IDR when the taxpayer provides the requested information in hard copy, not in soft copy as you requested.
- IDR #4 - This is a follow-up IDR that you can use when the taxpayer does not respond to IDR #1, #1A, #2 or #2A.
- IDR #5 - This IDR is the formal legal demand for electronic information, and explains the failure to furnish information penalty.

IDRs for Any Audit Issue (Claims)

This set of IDRs deals with any issue that is filed with a claim for refund. This set is similar to the above set, except the language discusses a claim. Also, IDR #5, the formal legal demand, does not discuss the failure to furnish information penalty. Instead, it explains that if the information is not provided, the claim may be disallowed in whole or in part

- IDR #1.
- IDR #1A.
- IDR #2.
- IDR #2A.
- IDR #3.
- IDR #4.
- IDR #5.

IDRs for Enterprise Zone (EZ) Issue

- IDR #1 - The initial EZ IDR. This IDR asks for the information in an electronic (Excel or other comparable worksheet software program) format.
- IDR #1A - Same as #1, except it asks for the information in Excel. You can use this when you know the taxpayer uses Excel.
- IDR #2 - After the taxpayer responds, you may want additional detail support for part of the taxpayer's response to IDR #1. You can use IDR #2 to request additional detail in an electronic format. This IDR asks for the information in an electronic (Excel or other comparable worksheet software program) format similar to IDR #1.
- IDR #2A - Same as #2, except it asks for the information in Excel. You can use this when you know the taxpayer uses Excel.

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- IDR #3 – You can use this IDR when the taxpayer provides the requested information in hard copy, not in soft copy as you requested.
- IDR #4 - This is a follow-up IDR that you can use when the taxpayer does not respond to IDR #1, #1A, #2 or #2A.
- IDR #5 - This IDR is the formal legal demand for electronic information, and explains the failure to furnish information penalty.

IDRs for Enterprise Zone (EZ) Issue (Claims)

This set of IDRs is for claim for refund with EZ issue. This set is similar to the above set, except the language discusses a claim. Also, IDR #5, the formal legal demand, does not discuss the failure to furnish information penalty. Instead, it explains that if the information is not provided, the EZ may be disallowed in whole or in part.

- IDR #1.
- IDR #1A.
- IDR #2.
- IDR #2A.
- IDR #3.
- IDR #4.
- IDR #5.

IDRs for Research Credit (R&D) Issue

- IDR #1 – The information you receive in response to this IDR may be in hard copy.
- IDR #2 – The information you receive in response to this IDR may be in hard copy.
- IDR #3 - This IDR asks for the information in an electronic (Excel) format.
- IDR #4 - This IDR asks for the information in an electronic (Excel) format.
- IDR #5 – The information you receive in response to this IDR may be in hard copy.

6.10.6 Audit Issue Presentation Sheets (AIPS)

The purpose of the Audit Issue Presentation Sheet (AIPS) is to communicate to the taxpayer and all other users the issues that are being adjusted. AIPS include discussion of the specific audit

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issue, the facts developed, the relevant law and the audit recommendation on the issue. Issuing an AIPS provides the opportunity to conclude and resolve issues on an ongoing basis. The AIPS is an important tool that keeps the taxpayer fully informed about the FTB's position on each issue.

Following are information you may need or consider in preparing AIPS:

- Issuing AIPS from Draft Correspondence or Audit Issue Folders.
- Preparing and Issuing the AIPS.
- Draft AIPS.
- Numbering AIPS.
- Tracking AIPS.
- Taxpayer Response to AIPS.
- Revising AIPS.
- Withdrawing AIPS.
- AIPS as Exhibit to Position Letter and Narrative.

Issuing AIPS From Draft Correspondence or Audit Issue Folder

You have the option to issue AIPS from the Draft Correspondence Folder or Audit Issue Folder. Issuing AIPS from an Audit Issue Folder may be preferable on a large case because it provides the ability to segregate AIPS from all other correspondence and thereby keep the files more manageable.

If you issued AIPS from an Audit Issue Folder, save a read-only copy of the AIPS in the Send Correspondence II Folder. To save a copy, right click on the document and select **Archive a Copy** from the popup menu. Using **Archive a Copy** will create a Send Correspondence II Folder if it does not exist.

If you issued AIPS from the Draft Correspondence Folder, you do not need to keep printed copies because it is saved in the Send Correspondence Folder.

For MSA Cases, regardless of the method you used, maintain a separate issue folder called **Master AIPS Log**. This folder will contain the Master AIPS Log.

Preparing and Issuing The AIPS

Use the PASS template (FTB 1501 and 1541A). You can modify the format to meet the specific needs of your case. Generally, you should prepare a separate AIPS for each issue. You need to include the following information in the AIPS:

- **Issue** – Describe the issue and how the item was originally reported in the return.
- **Amount of Proposed Adjustment, Year, and Approximate Tax Effect** – Show the specific amount of the proposed adjustment and the approximate tax effect. Include supporting schedules. This adjustment amount will be the source of the number directly transferred to the final audit schedules.
- **Summary of Facts** – Limit the statement of facts to information developed without analysis, commentary or conclusion.
- **Application of the Law/Authority** – Apply relevant statutory, administrative, and case law to the stated facts.

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- **Conclusion** – Base your conclusions on the relevant law and facts.

Issue an AIPS as soon as you have completed developing an issue. If you have a single-issue audit, you may issue the AIPS and position letter at the same time.

The AIPS provide the sole basis for the construction of the Principal Audit Schedules or the Revised Tax Schedule. Therefore, the adjustment amounts in the AIPS should reconcile with the numbers in the Principal Audit Schedules or the Revised Tax Schedule.

Include workpaper references to documents and sources of statements in the factual write-up, and also provided to the taxpayer without redactions.

Draft AIPS

You can use **Draft AIPS** to communicate the **facts** developed on an issue with the understanding that the application of the law and conclusions will be forthcoming. For example, the taxpayer could be asked to confirm the accuracy of the listed facts and whether any additional facts need to be considered. Application of the law and your conclusion would follow any submission of additional facts or corrections.

Numbering AIPS

For more complex cases you may need to issue more than one AIPS. Therefore, it is important to keep track of the dates you issued the AIPS and the expected response dates so you can follow up timely.

Following are ways that you can number AIPS:

- Number AIPS sequentially at the time they are issued.
- If team members will be checking out different pieces of the PASS file, assign AIPS numbers to individual issues during the planning stage. List all the assigned AIPS numbers in the AIPS log and fill in the **Date Issued** when you mail the AIPS to the taxpayer.
- Each team member adds his or her initials next to the sequential numbering (e.g. AA-1, AA-2, CC-1, CC-2.) This methodology often helps the taxpayer identify which team member to respond to on the particular AIPS.

Use the same numbering for the revised AIPS as the original AIPS with some indication that it is a later version. (For example, AIPS #14 becomes AIPS #14 (Revised XX/XX/XXXX)).

Tracking AIPS

Maintain a Master AIPS Log to track the status of AIPS. Use this as a reference during status conferences with the taxpayer.

Create the Master AIPS Log within the issue folder **Master AIPS Log** using the PASS Template FTB 9911a. You may modify this template to meet your needs.

Taxpayer Response to AIPS

Upon issuing the AIPS, give the taxpayer an opportunity to clarify facts and provide rebuttal arguments to the legal analysis and conclusions. Encourage the taxpayers to respond, as this can result in resolving the issue at the lowest level and minimizing time and costs for both the FTB and the taxpayer. At a minimum, attempt to obtain the taxpayer's position with respect to the facts.

Request the taxpayer to indicate agreement or disagreement with the facts, application of the law and the adjustment. On the last page of the AIPS, check-box options are provided for the

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taxpayer's response. If the taxpayer prefers, the taxpayer can respond in a separate letter. Or if the taxpayer prefers not to respond, the taxpayer can check the **withheld** box.

Advise the taxpayer that agreement to the facts and/or interpretation of law does not preclude protest or other administrative rights (the template also contains this statement).

Address the taxpayer's responses either in a revised AIPS, subsequent correspondence, or in the position letter. Do not simply include the taxpayer's responses in the audit package without addressing them.

Response times will vary depending upon the difficulty of the issue and the amount of discussion between the auditor and the taxpayer. Generally, the Audit Regulations provide for a **maximum of 30 days** for a response to an AIPS. However, auditors may use discretion and consider complexity in allowing less or more time than 30 days as set forth in CCR Section 19032(a)(6)(A).

Revising AIPS

Once you have issued an AIPS and the taxpayer has a clear understanding of the proposed adjustment, the taxpayer might provide additional documentation or rebut the legal arguments presented in the AIPS. This may require issuing a revised AIPS and providing a copy to the taxpayer for response. Issue a revised AIPS when:

- Additional material facts are provided.
- A different section of the law is applicable other than the one(s) stated in the original AIPS.
- The adjustment amount is revised due to documentation provided or revised interpretation on the state of the law.

If you determined that a revised AIPS does not need to be issued in regards to a taxpayer's response, address the taxpayer's responses either in subsequent correspondence, or the closing letter. Do not simply include the taxpayer's responses in the audit package without addressing them.

Use the same numbering for the revised AIPS as the original AIPS with some indication that it is a later version. (For example, AIPS #14 becomes AIPS #14 (Revised XX/XX/XXXX)). Note in the Master AIPS Log that you have issued a revised AIPS. Do not delete reference to any original AIPS that you have issued to the taxpayer. Record all copies of AIPS that you have provided to the taxpayer.

Withdrawing AIPS

This generally applies to MSA cases.

While you make every effort to make a correct determination before issuing an AIPS, there are times when you need to withdraw an AIPS. In some cases, the taxpayer might provide additional information after being provided with the AIPS. If the taxpayer fully supports a position, withdraw the AIPS.

You can withdraw the AIPS by sending the taxpayer the original AIPS with a section added at the beginning of the document briefly explaining the reason for the withdrawal.

The withdrawn AIPS would also retain the same number as the original AIPS. Update the Master AIPS Log to reflect that you have withdrawn the AIPS.

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AIPS as Exhibit to Position Letter and Narrative

At the close of the audit, include with the position letter any new AIPS not previously provided to the taxpayer. If the taxpayer requests, provide the taxpayer another complete set of all the AIPS you previously issued. Otherwise, the AIPS provided throughout the audit process are sufficient and you can refer to them in your position letter.

To shorten your narrative, you can refer to the AIPS as exhibits to the narrative.

6.10.7 Position Letter

The purpose of the position letter is to notify the taxpayer that the fieldwork on the audit is complete and provide the taxpayer or representative with the results of the audit. Generally, a position letter summarizes the issues that you examined and your position concerning those issues.

If you resolve an issue before completing the entire audit, you can issue an Audit Issue Presentation Sheet (AIPS) at the time you have resolved the issue. See MAP Audit Issue Presentation Sheets for more information on AIPS. To reduce redundancy, you may include as exhibits to your position letter any AIPS previously issued.

Before issuing a position letter, discuss the audit results with the taxpayer or representative. It is more important that taxpayers agree with the facts than with the application of the law.

Following are information you may need or consider to prepare a position letter:

- Steps in Writing the Position Letter.
- Items to Address in the Position Letter.
- Items to Include with the Position Letter.
- Taxpayer Response Time to Position Letter.
- Responses by the Taxpayer.
- Position Letter as Exhibit to the Narrative.

Steps in Writing The Position Letter

The following steps are recommended when writing your position letter:

1. Define the Problem or Issue- The first step in writing a position letter or answering correspondence is to define the problem or issue. In many instances there is only one problem, even though the taxpayer has raised several questions.
2. Determine the Essential Facts- After the problem has been defined; determine the essential facts that should be given to the inquirer. Be cautious not to include issues that are unrelated to the problem at hand.
3. Organize the Facts- Sort the essential facts into a logical sequence. Present the facts in a concise, well-organized manner. Usually it is best to get to the heart of the problem in the first paragraph. The taxpayer may only skim the rest of the letter and not pay any attention to our explanation.
4. List the supporting laws, regulations, and legal interpretations.
5. Analyze how the law applies to the issues under examination.

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6. Make a recommendation/conclusion based upon the facts, law, and analysis.

Generally, the position letter should also have wording like this:

> This is your opportunity to provide any additional information that you would like us to consider regarding the proposed adjustments. If you disagree with these adjustments, provide specific reasons why you disagree. Include appropriate substantiation, citation of applicable law, and case authority. We will review any additional information submitted by [date]. We suggest that you do not amend the returns under examination, as that will only delay the completion of this audit.
>
> You will have an opportunity to file a protest after the **Notice of Proposed Assessment** (NPA) has been issued. Please file your protest in writing within 60 days of the mailing of the NPA. The NPA will contain specific instructions on how to file a protest.
>
> To ensure proper handling, please mail your response to:
>
> FRANCHISE TAX BOARD
> ATTN: 347:XXX (xxx=auditor's initials)
> Your Office Address

PASS paragraphs contain a similar closing paragraph titled **P25560 – Closing.** To insert PASS paragraphs into correspondence, see **PASS Help** (Topic: Using PASS Paragraphs).

Items to Address in the Position Letter

- **AIPS Issued**- Summarize the Audit Issue Presentation Sheets (AIPS) that you have previously provided to the taxpayer, and those that are enclosed in the final report. Tie the adjustments to the attached schedules.
- **Other Adjustments**- Include an explanation of any adjustments for which no AIPS have been issued, such as adjustments that result from other audit adjustments or Computations. Examples: alternative minimum tax, limitations on tax credits, and NOL carryover.
- **Administrative Items**- If applicable, explain any administrative items, such as identification of suspended corporations, explanation of the application of pending payments, or proposed actions on outstanding claims. Include an offer to the taxpayer to pay the proposed assessments to avoid accruing additional interest on additional tax due.
- **Audit Subject to Review**- State in the position letter that the audit is subject to review both by your supervisor and by Technical Resource Section. The review might disclose the need for more documentation, or changes to your recommendations. If the supervisor or reviewer requires changes to the audit report, notify the representative of the revisions. Include the timeframes for closing the case and issuing any notices.
- **Protest Rights**- Inform the taxpayer and representative of the protest, appeal, and settlement process.
- **Mailing Address**- Confirm with the taxpayer where the notice should be mailed. This address may differ from the **primary** address in BETS or TI. Remember to update the address information in the PASS address book, as well as BETS and TI, when you receive more current information from the taxpayer.

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- **Request for Authorization for Single Billing (MSA Cases)** - If taxpayer has filed on a separate return basis or failed to include various subsidiaries in a unitary combined return, and the audit has recommended combination of such subsidiaries, ask the taxpayer to complete and sign an Authorization for Single Billing, if a single billing is needed or requested by the taxpayer.

Items to Include With the Position Letter

Provide the taxpayer with various documents and information the taxpayer may need to review the final audit schedules and the completed case result. These documents may also assist the taxpayer in making changes to subsequent period returns, with post-audit activities including payment of additional taxes, protest action, and preparation for potential, subsequent audits.

The following is a list of items that you can include with the position letter if not previously provided:

- Schedule of Revised Tax- Enclose a schedule of adjustments detailing the tax effect of all proposed adjustments with the position letter or AIPS. The schedule should reconcile the tax liability as shown on the return with the tax liability shown on the Notice of Proposed Assessment. See MAP Schedules Folder for additional information on preparing schedules.
- Principal Audit Schedules and supporting audit schedules. See MAP MSA Principal Schedules.
- Tax effect by issue.
- Master AIPS Log, if used.
- Copies of any newly issued AIPS, revised AIPS, and, previously issued AIPS (if taxpayer requests).
- Copy of any work papers, reconciliations of as-reported amounts to revised amounts, or any other information the taxpayer will need to understand the proposed adjustments.

Taxpayer Response Time to Position Letter

Provide the taxpayer with a reasonable amount of time to respond to the position letter. You may coordinate the response time with the scheduling of the closing conference, if appropriate. The amount of time will vary with the complexity of the audit and the number of newly issued AIPS included with the position letter. If you issued AIPS throughout the duration of the audit, the taxpayer should already have had an opportunity to address each issue individually.

Discuss with the taxpayer the appropriate amount of time for the taxpayer to respond. The following are general guidelines for response times:

- The Audit Regulation initially sets a response time at a maximum of thirty (30) days. If the position letter includes a significant number of AIPS, you can extend the timeframe to include a 30-day response timeframe on the AIPS and an additional 30-day response time for the position letter.
- You may allow extensions if the taxpayer requires additional time, however, the overall goal is still to complete the case within the prescribed timeframes.
- It is important that you close and submit the case to TRS for review with at least six months before the expiration of the statute of limitations. In this situation, you may need to shorten the general response time or request an extension of the statute of limitations. If a taxpayer requests an extension to reply to the position letter, your agreement to the request may depend on your receiving the signed waiver.

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Responses by the Taxpayer

Ideally, the taxpayer or representative sends you a written statement of agreement or disagreement. However, the taxpayer's agreement does not waive protest rights or other administrative rights.

You must record the taxpayer's position on the Audit Report (Form FTB 6430) (See MAP Audit Report), and in the Narrative Report (See MAP Reports).

- **Written Response Provided** - If the taxpayer provides a written response, you should acknowledge receipt of the response in writing and address the points raised in the response.
- **Additional Information or Documentation Provided** - If the taxpayer provides additional information or documentation with the response, analyze the information to determine if it has an effect on the previously issued AIPS or on any proposed audit adjustments. If it does not have an effect, inform the taxpayer that we have considered the information, but that we are not changing our determination. If it does have an effect, issue a revised AIPS and audit schedules. The individual circumstances will determine whether you would give the taxpayer additional time to review the revised AIPS and audit schedules.
- **Verbal Responses at Closing Conference** - If the taxpayer provides a verbal response at the closing conference summarize the response and provide a written copy to the taxpayer for verification.
- **No Written Response Received From Taxpayer** - If the taxpayer does not provide a written response to the closing letter, note in the audit narrative their understanding of the taxpayer's position on each of the audit issues.
- **Statement Regarding Protest**- Sometimes the taxpayer may respond to a position letter or AIPS with statements like **I protest this assessment**. This does not constitute a protest of the Notice of Proposed Assessment. You should explain to taxpayers that they cannot file a written protest until **after** we issue the **Notice of Proposed Assessment.**

Position Letter as Exhibit to the Narrative

Attaching the position letter, the taxpayer's position letter, and subsequent rebuttal as exhibits to the Audit Narrative may substantially shorten the Audit Narrative. The effectiveness of this technique will depend on the complexity of the case and the number of closing letters and rebuttals.

6.11 Third Party Contact

6.11.1 What Is a Third Party Contact?

R&TC Section 19504.7 and IRC Section 7602 define a third party contact as **any person other than the taxpayer with respect to determination or collection of the tax liability of such taxpayer**.

We follow IRS procedures and define a third party contact as a contact that is:

- Initiated by our employee.
- Made with a person other than the taxpayer.
- Made with respect to the determination or collection of a specific taxpayer’s tax liability.
- Where we reveal the taxpayer’s identity to the third party.

Since the language of R&TC Section 19504.7 does not specifically define third party contacts, here are some examples.

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Example 1: Computer Database/Internet/Electronic Research

Getting information from a computer database is not a third party contact that needs prior notification since no **person** is contacted. This includes getting the taxpayer's annual report or magazine articles from online public resources or searching the Internet.

Example 2: Contacts with Government Officials

Contacting another governmental entity is not a contact within the meaning of the statute. This includes getting information through our partnerships with other federal, state, or local governmental agencies; i.e., tape exchange programs with IRS and Secretary of State, or requesting taxpayer specific information from the Employment Development Department or Department of Motor Vehicles.

Example 3: Employees of the Taxpayer

Contacting the taxpayer's employees who are acting in the scope of their employment during normal business hours on the business premises is not a contact requiring prior notification, since the employees are an extension of the taxpayer. Accordingly, asking the payroll clerk from what bank the paychecks are drawn is not a contact. However, asking a janitor about the corporate officers is not within the scope of the janitor's employment and is a contact requiring prior notification.

Example 4: Scoping Activities

Scoping activities including only contacts with other governmental entities, getting public information, or using in-house records, need no taxpayer notification.

However, we must notify a taxpayer before contacting any third party, regardless of whether the audit is open. If we are gathering information with respect to an identified taxpayer before we have opened an audit in order to determine whether to open an audit, we must notify the taxpayer before we contact any third party.

Example 5: Authorization to Contact Another Party

Contacts authorized by the taxpayer or the taxpayer's representative does not require prior notification to the taxpayer. For example, an interview with a former employee of the taxpayer is a third party contact requiring prior notification unless the taxpayer has authorized us to contact that person. The taxpayer's authorization cannot be **blanket**, or general, and should be in writing. If the taxpayer gives verbal authorization, we must follow up with a confirmation letter.

6.11.2 General Guidelines for Third Party Contact

We must notify respective taxpayers before contacting third parties. This requirement is part of the **Taxpayer Bill of Rights**. By notifying the taxpayer, we give the taxpayer the opportunity to volunteer whatever information we seek (R&TC Section 19504.7). Each notification is effective for contacts made up to 12 months after the notification date.

In summary, you must:

- Notify the taxpayer before contacting any third party.
- Give the taxpayer a reasonable period to answer the notice before you contact a third party.
- If you plan to contact a third party 12 months after the notice date, you must issue another notice.
- Record all third party contacts in the case file.

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- Give a record of contacts to the taxpayer upon request. The taxpayer must request the record from the Disclosure Office within 60 days after the 12-month period.
- Only notify taxpayers of third party contacts if you intend to contact third parties. Do not issue notifications if you do not intend to contact third parties.

Use the following language in your notification:

> We may contact third parties to determine or collect your tax liabilities. Subject to privacy laws and your rights as a taxpayer, you may obtain a list of those contacts. For more information, please contact our DISCLOSURE OFFICE MS A181, PO BOX 1468, SACRAMENTO CA 95812-1468.

6.11.3 Audit Record Keeping Responsibilities

Audit record keeping responsibilities include:

- Documenting the need for a third party contact.
- Documenting that you have properly notified the taxpayer.
- Keeping the needed information in case it's needed to prove that the taxpayer's rights are protected.

Follow these procedures when contacting third parties and documenting your contacts in the workpaper file:

- When contacting third parties, you must provide the following notice in the contact letter to the third party:

  > If you believe there may be reprisal from the taxpayer if your identity is released as a source contacted for information, you must advise the Franchise Tax Board and your identity will not be disclosed, unless otherwise required by law.

- After contacting a third party, record the following information regarding each contact:
  - Name of the third party contacted (Agency or entity name will suffice if applicable. If name not known, use position or title; i.e. neighbor, teller.)
  - Date of the contact.
  - Whether good cause exists to conclude that reprisal may occur if the taxpayer is notified.
  - Whether there is good cause that collection may be jeopardized if the taxpayer is notified.
  - Whether the taxpayer authorized the contact.
  - Name, phone number, and unit of the person contacting the third party.
- The Event Log must show that the third party notice was given to the taxpayer, the date, and how notified. Keep the letter in the Sent Correspondence folder.
- You must set up a separate Issue Folder to hold all the documentation regarding third party contacts. Document clearly each contact within that folder with the information noted above, including whether there is fear of reprisal.
- If the taxpayer or the taxpayer representative gives you written or verbal authorization to contact a third party, document it clearly in the Issue Folder.

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- Establish a tickler to remind you when the 12 months from notification date expires. This will remind you to send another notification to the taxpayer, if you plan to contact third parties after 12 months.

6.12 Affidavits and Declarations

Affidavits and declarations are two different means of providing statements of facts that are admissible in court and binding. The terms affidavit and declaration are sometimes used interchangeably.

Affidavit is a sworn statement in writing made under oath or on affirmation before an authorized magistrate or officer.

A **declaration** is an unsworn statement, which usually include the phrase:

> **I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

We typically use declarations and not affidavits in our audits.

Sometimes, a taxpayer might want to submit a declaration in support of their case (often in residency cases). Typically, the statements are from third parties, and can be used in any tax matter where the taxpayer is relying on material statements that are only supported by written statements.

You can inform the taxpayer that they can submit declarations from third parties anytime during your audit. If the taxpayer submits a declaration during the audit, it is your responsibility to review the declaration. If you need further clarification, follow up with the person that provided the declaration. The purpose of the declaration is to provide additional information that can be useful in understanding a taxpayer's situation or facts.

The Declaration Form (FTB 2153 C1 PC) is available on-line at ftb.ca.gov.

6.13 Audit Workpaper

6.13.1 Purpose of Audit Workpaper

The work papers record permanently that an examination was performed or considered on a taxpayer. It is essential that you maintain an accurate, thorough, and usable record not only of the information developed during the audit but also of the procedures used to obtain and evaluate this information. This record of both what has been done and what has been found is necessary in order to support the auditor's recommendation.

We may not be able to sustain audits with recommendations that we do not clearly support with a good workpaper file. **If you must supplement the work papers with verbal explanations, the work papers are not complete.**

6.13.2 What Do We Include in the Workpapers

A complete workpaper file should include:

- A summary of the work done.
- The audit recommendation.
- All the supporting documents and schedules.

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The volume of work papers will vary from case to case. A general guideline is to include all relevant data and material that you prepared or obtained during the examination. This will involve several distinct kinds of documents both electronic (PASS) and paper, including:

- Index to Audit File.
- Audit Program Worksheet.
- Audit Issue Sections (including verification).
- Event Log.
- Correspondence.
- Information/Document Requests (IDRs).
- Audit Issue Presentation Sheets (AIPS).
- Notes or other narrative material prepared by the auditor.
- Copies of documents obtained from the taxpayer or third parties.
- Other data as needed.
- PASS and Non-PASS Audit Schedules.

6.13.3 Preparing Workpapers

Good work papers ensure that you:

- Perform all necessary audit steps.
- Get all material facts.
- Do not duplicate information and effort.
- Examine all pertinent supporting documents.
- Fully explain assumptions.
- Apply the appropriate law to the facts of the case.
- Know and document the taxpayer's position.
- Make information in the audit file easy to find.

Auditors have considerable latitude in preparing work papers, as long as the following guidelines are met:

- Maintain the workpaper within the primary case unit. If you are auditing more than one year of an entity, the primary case unit is the latest return under examination.
- Work papers must be neat and legible.
- Number, index, and cross-reference all work papers. Show the numbers at the bottom-center of each workpaper.
- Include your initials and date prepared on all pages.
- Label each workpaper with an appropriate heading. Word or Excel templates created in PASS automatically have headers and footers, which include case unit name and number as well as folder where located, document name and page number. You may revise the header and footer information to agree with their cross-referencing scheme.
- Example of header:

TAXPAYER NAME

TAXPAYER ID NUMBER

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- Include notations to identify the source of all data included. Indicate on the documents when you received the documents and who provided them. If necessary for identification, note their position. In large audits, you may receive information from numerous people. Comments like **received from taxpayer** are not sufficient.
- If not self-evident, note the significance of each workpaper. Explain each symbol or tick marks used for indicating the verification of amounts or totals. This applies to copies of taxpayer documents included as audit work papers. See MAP Markings on Documents for additional information.
- Keep work papers current at all times, so no one has to redo work. Remember that a second auditor will only have the work papers to determine what you have done.

The taxpayer may request copies of work papers and other documents. Your work paper and other documentation should reflect an objective and unbiased audit.

Workpaper From Transferred Cases

When you receive a case from a prior auditor, you **must** retain the prior auditor's work papers. Follow these:

- Create a new Audit Issue Section (AIS)/issue file within the same Issue Folder.
- Name the old AIS/issue file and the new AIS/issue file appropriately to keep the previous work without making the completed audit confusing. For example: **Audit Issue - Prior Auditor** and **Audit Issue - Second Auditor**.
- In the Event Log and in the old AIS/issue file, explain why a new AIS/issue file is created and indicate the steps to complete the audit.

6.13.4 Markings on Documents

Do not write on, mark, or highlight any documents received from the taxpayer. The only writing allowed on taxpayer provided documents is:

- Cross-referencing at the bottom of the page.
- Date received by Franchise Tax Board at top of page.
- The word **voluntary** on IRS audit information provided to us by the taxpayer.

If you want to make notations to documents:

1. Copy the document received from the taxpayer.
2. Note on the document that it is a copy.
3. Make your notations on the copy.

6.13.5 Cross-Referencing

Cross-referencing facilitates the review of the audit file and ensures that the information you relied upon for your audit conclusion can be accessed. It is essential that you cross-reference in your Audit Issue Section or narrative the documents you received and examined.

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Cross-reference all related documents to each other. For example, cross-reference an IDR to the taxpayer's response, and cross-reference the response to the IDR. Cross-reference audit schedules to the documents from which you derived the figures, and cross-reference the supporting documents to the audit schedules where the information is utilized. If a figure in the audit schedule represents a sum of more than one number, prepare supporting schedule to show how the figure was added. Cross-reference this supporting schedule to the other audit schedules. When referencing multi-page document, identify the specific pages that are relevant to your analysis.

6.13.5.1 MSA Cases Cross-Referencing

The prefix approach builds upon the PASS cross-referencing system for Word and applies it to other items such as Excel. You can choose either a letter or a number for each prefix corresponding to case unit, workpaper file folders, or document. However, maintain consistency on each case. The flexibility of this approach allows you to use a prefix for case units and multiple pages, where appropriate.

Electronic File

1. The first required level of cross-referencing relates to the PASS workpaper file folders (folders). There are two types of folders for each case unit: static and dynamic folders.

   - The static folders are those nine folders that are created by PASS when the case unit is created.
   - The dynamic folders are those folders that the user manually creates.

   All folders must have a prefix. The static folders will use the first nine values in the prefix numbering system. In the example below, the static folders are numbered one through nine. The dynamic folders will start with the tenth value of the prefix numbering system. In the example, the first dynamic folder is number ten.

Folders	Assigned Prefix	Static/Dynamic
ADMINISTRATION	1	Static
REPORT	2	Static
SCHEDULES	3	Static
PRELIMINARY ANALYSIS	4	Static
DRAFT CORRESPONDENCE	5	Static
SENT CORRESPONDENCE	6	Static
RECEIVED CORRESPONDENCE	7	Static
NOTES	8	Static
AUDIT SUPPORT	9	Static
NET INCOME	10	Dynamic
UNITY	11	Dynamic
FEDERAL RAR	12	Dynamic

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

2. The next required level of cross-referencing is the documents within each file folder. A document is meant to include both Word and Excel workbooks. All documents in each folder will have a prefix. For example, the first document in the folder will have a **1** as the prefix. At this level, the first document in the first issue folder would be cross-referenced as **10-1**.

3. You can expand this required cross-referencing in certain circumstances to include a prefix for the case unit name and/or document page numbers. You can use a prefix for a case unit in situations where work is documented in more than one case unit. An example would be team audits where each auditor is assigned a case unit. It is necessary that team members coordinate with each other to avoid duplicating the use of prefix numbers or letters. You can also expand the use of prefix in situations where there is more than one worksheet in an Excel workbook or in Word documents with multiple pages.

Example

You will reference an Excel workbook containing an analysis on net income before state adjustments. The various cross-referencing components would appear as follows:

Description		**Prefix**
Case unit where work is located	XYZ Corporation IYE 11/06	I
Workpaper file folder	Net Income Audit Issue Section	1O
Excel Workbook containing the analysis	Analysis	1
Excel Worksheet containing the analysis	Rec To Federal	1

- The case unit, file-folder, document, and worksheet are named with prefixes.
- Cross-referencing is achieved by using the various prefixes to denote location of a particular document.
- Hence, the Excel worksheet for MIC Qualified Cost in the XYZ Corporation IYE 11/06 case unit would be cross-referenced as **I-10-1-1**.

I	**-**	**10**	**-**	**1**	**-**	**1**
Case Unit prefix		W/P File Folder Prefix		Document Prefix		Excel Worksheet Prefix or Word Page Number

Paper File

The paper file generally contains correspondence from the taxpayer (e.g., letters and supporting documents), BETS transcripts, Moody's data, and other non-PASS generated documents. Following are the guidelines:

- Arrange the paper file by audit issue section, with documents numbered sequentially within each section.
- The prefixes of the paper file sections should correspond to the prefixes of the electronic workpaper file folders.
- Cross-references to items in the paper file **must** begin or end with the letter **P** to distinguish them from the electronic file.

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- Include the **P** for your cross-reference on the index, in your narrative and workpaper files to assist other users in distinguishing between the paper file and the electronic file.
- While it is preferred that the **P** also be listed on the physical document, this is not mandatory.

See MATM 2490 for additional guidelines for cross-referencing MSA cases.

6.13.5.2 PIT, PTE, Non-Apportioning C-corporation Cases Cross-Referencing

There are several ways to cross-reference electronic and paper files. Use the method that best applies to your situation.

Electronic File- PASS Cross-Referencing

One method of cross-referencing the electronic file is the PASS cross-referencing system. PASS documents contain information in the footer, which we can use to cross-reference in our workpaper. The footer consists of case type, folder name, issue folder name (standard or user created folder names), document name (the name you gave the document at the time you saved the document), and page number.

For Word documents, we generally drop the case type and use the rest of the footer information as cross-reference.

For Excel worksheets, you can specify the footer as filename (the name you gave the workbook) and worksheet name (the name you gave the worksheet).

Example 1: You will reference an Audit Issue Section named **AIS- MIC** within the Audit Issue Folder **MIC** as follows:

MIC Issue Folder / AIS- MIC / Page 1

Example 2: You will reference a two-page document within the Sent Correspondence Folder as follows:

Correspondence / ICL / Page 1

Example 3: You will reference a worksheet named **Qualified Cost** within an Excel workbook named **MIC Schedule** within the Audit Issue Folder **MIC** as follows:

MIC Issue Folder / MIC Schedules / Qualified Cost

Electronic File - Prefix Cross Referencing

Another method of cross-referencing the electronic file is using prefix. You can choose either a letter or a number for each prefix corresponding to case unit, workpaper file folders, or document. Make sure you maintain consistency for each case. The flexibility of this approach allows you to use a prefix for case units and multiple pages, where appropriate.

1. The first required level of cross-referencing relates to the PASS workpaper file folders (folders). There are two types of folders for each case unit: static and dynamic folders.
    - The static folders are those nine folders that are created by PASS when the case unit is created.
    - The dynamic folders are those folders that the user manually creates.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

All folders must have a prefix. The static folders will use the first nine values in the prefix numbering system. In the example below, the static folders are numbered one through nine. The dynamic folders will start with the tenth value of the prefix numbering system. In the example, the first dynamic folder is number ten.

Folders	Assigned Prefix	Static/Dynamic
ADMINISTRATION	1	Static
REPORT	2	Static
SCHEDULES	3	Static
PRELIMINARY ANALYSIS	4	Static
DRAFT CORRESPONDENCE	5	Static
SENT CORRESPONDENCE	6	Static
RECEIVED CORRESPONDENCE	7	Static
NOTES	8	Static
AUDIT SUPPORT	9	Static
NET INCOME	10	Dynamic
UNITY	11	Dynamic
FEDERAL RAR	12	Dynamic

2. The next required level of cross-referencing is the documents within each file folder. A document is meant to include both Word and Excel workbooks. All documents in each folder will have a prefix. For example, the first document in the folder will have a **1** as the prefix. At this level, the first document in the first issue folder would be cross-referenced as **10-1**.

3. You can expand this required cross-referencing in certain circumstances to include a prefix for the case unit name and/or document page numbers. You can use a prefix for a case unit in situations where work is documented in more than one case unit. An example would be team audits where each auditor is assigned a case unit. It is necessary that team members coordinate with each other to avoid duplicating the use of prefix numbers or letters. You can also expand the use of prefix in situations where there is more than one worksheet in an Excel workbook or in Word documents with multiple pages.

Example

You will reference an Excel workbook containing a schedule of qualified cost for MIC purposes. The various cross-referencing components would appear as follows:

Description		Prefix
Case unit where work is located:	XYZ Corporation IYE 11/06	I
Workpaper file folder for the Audit Issue Section: MIC	MIC	10
Excel Workbook containing the analysis	MIC Schedules	1

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Description		Prefix
Excel Worksheet within the Workbook containing the analysis	Qualified Cost	1

- The case unit, file-folder, document and worksheet are named with prefixes.
- Cross-referencing is achieved by using the various prefixes to denote location of a particular document.
- Hence, the Excel worksheet for MIC Qualified Cost in the XYZ Corporation IYE 11/06 case unit would be cross-referenced as **I-10-1-1**.
- If the workpaper file is kept in only one case unit, your reference is: **10-1-1**.

I	-	10	-	1	-	1
Case Unit prefix		W/P File Folder Prefix		Document Prefix		Excel Worksheet Prefix or Word Page Number

Paper File

Since we rarely print workpapers, the physical workpaper file will contain only correspondence and documentation received, and possibly a few items of correspondence sent outside of PASS.

Following are general guidelines:

- Establish logical subdivisions so that workpapers are grouped by topic or issue.
- Arrange the paper file by Audit Issue Section (AIS), with documents numbered sequentially within each section. For example:

Issue	AIS #	Reference on WP File
Bad Debt	1	1/1, 1/2, 1/3, etc
COD Income	2	2/1, 2/2, 2/3, etc

Alternatively, the prefixes of the paper file sections can correspond to the prefixes of the electronic workpaper file folders. For example:

Issue	PASS Folder #	Reference on WP File
Bad Debt	10	10/1, 10/2, 10/3, etc
COD Income	11	11/1, 11/2, 11/3, etc

6.13.6 Standard Workpapers

6.13.6.1 Commonly Used Pass Templates

The following are some of the PASS templates we commonly use.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

FOLDER	TEMPLATE (FTB/PASS Form #)
Reports	Narrative (6431) Free Form (9904) (Word) Blank Free Form Excel
Preliminary Analysis	Audit Program Worksheet (6833) Research Information (9901) Free Form (9904)(Word) Blank Free Form Excel Pre-Audit Schedules
Notes	Public Contact Memo (6622) Research Information (9901) Corp./Sub Relationship (9903) Notes (6871D) Free Form (9904) (Word) Blank Free Form Excel
Draft Correspondence	Appointment Confirmation Letter (1500) Audit Issue Presentation & Cover Ltr. (1501) Demand Ltr. Re: Corporation (1506) Extension of Time (1509) Follow-up Ltr. – Claims (1511) Follow-up Ltr. – General (1512) Information Document Request (1515) Initial Contact Ltr. To Corporations (1516) Letterhead (1520) (freeform) Follow-up Ltr. to Initial Contact Ltr. (1522) Letters (1521) No Change (1524) Power of Attorney and Cover Letter (1532) State Waiver for Corps. (3570) NPACA Letter (1542)

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FOLDER	TEMPLATE (FTB/PASS Form #)
Administration	IDR Log AIPS Log Request for Federal Tax Information (6227) Audit Report (6430) Auditor's Recommendation - Formal claim (6638) BCT NPA Worksheet Audit (6830) Authorization for Single Notices (4523B) Free Form (9904) (Word) Blank Free Form Excel
Issue Folders	Audit Issue Section (6870B) Audit Issue Verification (9910) IDR Log (9911) Information/Document Request (6203) Research Information (9901) Free Form (9904) (Word) MSA Blank Free Form Excel

For a complete listing of templates available in PASS, refer to PASS Help.

6.13.6.2 Audit Program Worksheet or Scope Sheet (FTB 6833)

Use the Audit Program Worksheet to identify the possible audit issues and to index the workpaper file. You can find this document in the Preliminary Analysis folder in the PASS workpaper file.

- List material audit issues and potential amounts involved.
- Designate corresponding **Audit Issue Section** (FTB 6870B) number in Workpaper Reference column.
- Specify the conclusion (i.e. adjust or no change) for each audit issue listed.

6.13.7 MSA Cases Required Workpaper

The uniform format for all MSA cases requires use of the following items:

- Audit Issue Section (FTB 6870B).
- Audit Issue Section- Verification (FTB 9910).
- Event Log.
- Index to Audit File (FTB 6869A).

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6.13.7.1 Audit Issue Section (FTB 6870B)

The Audit Issue Section divides the workpaper file by topic, provides sub-indexes for each Audit Issue Section, and provides a summary and record of the audit process for each Audit Issue Section.

Following are the general guidelines:

- Use the PASS template FTB 6870B.
- Complete the segments as the audit progresses, beginning with the pre-audit activity.
- Cross-reference supporting workpapers within the text of the document.
- The name of the PASS issue folder should reflect the issue under audit.

Complete the following fields:

- Taxable Year.
- Issue.
- Tax Potential.
- Taxpayer Agreed to Disagreed.
- Tax Adjusted.
- Workpaper Reference.

FTB 6871D (Notes) and FTB 9904 (Free Form) are other PASS templates which you can use to summarize and reference groupings of information that do not lend themselves to the **As Reported and Conclusion** format of FTB 6870B. Examples would include the following:

- Background Data.
- Planning.
- Pre-Audit Information.
- Documents that require cross-referencing to more than one program item.

6.13.7.2 Audit Issue Section- Verification (FTB 9910)

The purpose of Audit Issue Section – Verification is to provide auditors with a means of documenting audit activity on specific audit issues. Documenting our activity is the basis for supporting audit determinations as cases move through various stages of the audit lifecycle.

Use PASS template FTB 9910. Complete the following fields:

- **Summary Explanation of Items Reported** – Use this section to explain how the issue was reported (or not reported) on the state return, how it was identified and why the decision was made to pursue (or not to pursue) the issue.
- **Verification Procedures** – Use this section to document steps taken in identifying, developing and reaching the audit conclusion. Mention all sources relied upon such as annual reports, unitary questionnaire or meeting minutes in support of the audit determination. Also mention any research conducted along with the sources and results of the research.
- **Conclusion** – Clearly state the results of the examination. Include references to any law sections, regulations, SBE cases, or District Court decisions in support of your conclusion. Also mention any policy considerations relied on in supporting the audit conclusion.
- **W/P Reference**- Include all workpaper references in the column labeled **W/P REFERENCE**. Workpaper references should agree with Index to Audit Workpapers (FTB 6869A).

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6.13.7.3 Event Log

Use the Event Log to record your progress and events throughout the course of the audit. PASS automatically records some events as you perform certain audit tasks, such as sending correspondence.

Print the Event Log only in extremely unusual situations such as a subsequent user of the file not having access to PASS. If printed, attach the Event Log to the workpaper file under the Index to Audit File (FTB 6869A) and ensure it is properly labeled and cross-referenced.

For additional information on how to print the Event Log, refer to PASS Help. For additional information on the other functions of Event Log, See MAP PASS Event Log.

6.13.7.4 Index to Audit File (FTB 6869A)

The purpose of FTB 6869A, Index to Audit File, is to facilitate cross-referencing between the PASS electronic file and associated paper files of an audit package. PASS static folders are listed on the form. The form gives the auditor the flexibility of adding folders to reflect issue folders created in PASS. The form contains two columns for cross-referencing purposes: (1) PASS File Name, (2) Physical Document File. Enter the appropriate cross-referencing value in each column. In closing audit, print the index form and attach it in front of the workpapers in the paper file.

Here is an example of an Audit File Index.

6.13.8 PIT, PTE, Non-Apportioning C Corp Cases Required Workpaper

The uniform format for PIT, PTE, and non-apportioning C corp cases requires use of the following:

- Audit Issue Section (FTB 6870B).
- Event Log.
- Audit File Index.
- Narrative Report (For all changed cases).

6.13.8.1 Audit Issue Section (FTB 6870B)

The Audit Issue Section divides the workpaper file by topic, provides sub-indexes for each Audit Issue Section, and provides a summary and record of the audit process for each Audit Issue Section. The general guidelines are as follows:

- Use PASS template FTB 6870B.
- Complete the segments as the audit progresses, beginning with the pre-audit activity.
- Cross-reference supporting workpapers within the text of the document.
- The name of the PASS issue folder should reflect the issue under audit.

Complete the following fields:

- **Taxable Year.**
- **Issue.**
- **Tax Potential.**
- **Taxpayer Agreed to Disagreed.**

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- **Tax Adjusted.**
- **Workpaper Reference.**
- **Summary Explanation of Item As Reported**- Explain how the issue was originally reported on the state return.
- **Facts.**
    - Give a clear and concise explanation of the facts and circumstances with enough detail so that a reader unfamiliar with the case can understand the situation as it relates to the audit issue.
    - Differentiate fact from opinion or assertion. Identify clearly any assumptions.
    - Cross-reference your key points to the pertinent documents, schedules, etc., in the audit file.
    - Do not include Event Log items such as, **Called Taxpayer**, **Requested Return**, etc.
- **Law.**
    - Cite the applicable law sections (i.e. code, regulations, case law, and rulings).
    - Do not analyze how the law applies.
    - When copying law citations from on-line research, make sure you copy a text version and not the other graphics.
- **Analysis.**
    - Show how the law sections apply to the facts in your particular case.
    - Explain why the taxpayer does or does not meet the requirements of the law.
    - Include a discussion of applicable case law, regulations, Legal Rulings, and Revenue Rulings to support your position.
    - Discuss your recommendation.
    - Include a copy of research material as needed in the audit file.
    - Address the law or case cites relied upon by the taxpayer. Explain how they support or rebut the taxpayer's or our position.
- **Conclusion.**
    - Discuss your determination based upon the Facts, Law, and Analysis.
    - Discuss the taxpayer or representative's position, and why it does or does not apply.

FTB 6871D (Notes) and FTB 9904 (Free Form) are other PASS templates which you can use to summarize and reference groupings of information that do not lend themselves to the **As Reported and Conclusion** format of FTB 6870B. Examples would include the following:

- Background Data.
- Planning.
- Pre-Audit Information.
- Documents that require cross-referencing to more than one program item.

6.13.8.2 Event Log

Use the Event Log to record your progress and events throughout the course of the audit. Some events are automatically recorded by PASS as you perform certain audit tasks, such as sending correspondence.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Print the Event Log **only** in extremely unusual situations such as a subsequent user of the file not having access to PASS. If printed, attach the Event Log to the workpaper file under the Index to Audit File (FTB 6869A) and ensure it is properly labeled and numbered for cross-referencing purposes.

For additional information on how to print the Event Log, refer to PASS Help. For additional information on the other functions of Event Log, See MAP PASS Event Log.

6.13.8.3 Audit File Index

The Audit File Index makes it easier to review and understand the documentation and other information in the case. Following are the available templates:

- GTA Documents Index (FTB 6869C) – **Required.**
- GTA Audit File Index (FTB 6869A) – **Optional.**
- GTA Index (FTB 6869B) – **Optional.**

GTA Documents Index (FTB 6869C PASS)

This index is required. List the dates the documents were received, source of the documents, issues the documents are related to, description of the document, and the WP reference.

Example:

Date Received/ Date Created	Sender/ Source/ Provider	Issue	Description Of Document	W/P X-Ref
1/15/07	Taxpayer	Bad Debt	Promissory Note	10/1
3/15/07	Taxpayer	Bad Debt	Copy of cancelled checks	10/2-5

GTA Audit File Index (FTB 6869A PASS)

This index is optional. It facilitates cross-referencing between the PASS electronic files and associated paper files of an audit package. You have the flexibility to add folders to reflect issue folders created in PASS.

This is an example of an Audit File Index for Pass Through Entity cases.

GTA Index (FTB 6869B PASS)

The GTA Index is a generic index with many possible uses, such as:

- **Information Received:** List in date order the documentation obtained from the taxpayer, public on-line information, property tax rolls information, third party source documents, etc. List each item as it is received and assign a cross-reference.
- **Documents Examined:** List documents examined at the audit site and not copied. For example, a 200-page Cash Disbursement Journal. This list confirms that you examined the journal but only copied a sample or did not need to make copies.
- **Issue Document Index**: List only the documents pertaining to the issue in question. Prepare an index for each issue examined.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Example:

Date	Sender/ Source/ Provider	Description	W/P X-Ref
3/30/07	Taxpayer	Escrow statement	10/1
5/1/07	Taxpayer	Schedule of Basis	10/2
6/15/07	Taxpayer	Bank statements	10/3

6.14 Audit Tools

6.14.1 Pivot Tables

If you need to evaluate large amounts of taxpayer information, such as credits or deductions, you can use the Pivot Table function in Excel. It allows you to sum, count, and sort detailed data to determine your audit plan.

Once you obtained the detail support for a credit or deduction, you typically have numerous columns of information. Pivoting allows you to sort these columns of information as many times as needed. Once sorted, you can also sum and count the components of the information. For example you can sort by dollar amount, or by descriptions. Other features also include inserting detail into charts and filtering your information. Filtering provides for sorting of the data without summing and counting.

These instructions show you step by step how to pivot your data. It also shows you how to set up this tool in Excel.

6.15 Unfiled Returns Received During an Audit

Occasionally, we receive returns during an audit, including amended or original returns. Follow these procedures:

1. Date the returns when you receive them.
2. If the returns are related to an ongoing audit, make a copy of the return to be included in the workpaper files.
3. Mark the copy in red: **TAXPAYER'S COPY**.
4. Route original returns to Receiving and Data Storage Section, Mailstop A8. Include any specific instructions (For example: Please route returns back after processing).
5. Once the returns are processed and accessible in TI or BETS, update the PASS case unit with the Document Locator Number and any other information available.

6.16 Individual Taxpayers Serving in Combat Zones

Tax relief is available for military personnel deployed overseas or serving in a Presidential declared combat zone. The California provisions mirror the federal relief provisions suspending deadlines for filing certain documents. We automatically extend the period for performing the following acts for 180 days after the taxpayer returns to the United States:

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- Filing a protest.
- Appealing FTB's action on a protest to the State Board of Equalization.
- Filing a claim for refund.
- Appealing FTB's denial of a claim for refund.
- Replacing property under IRC Section 1031.
- Paying tax bills.
- Responding to audit requests.

The extension is free from interest or penalties. If an audit is in progress, we suspend the audit unless the taxpayer designates someone else to take over. The taxpayer must notify us immediately upon return. This relief is for **individual** taxpayers only.

Use the following procedures to update the taxpayer's account upon knowledge they are serving in a combat zone or are stationed overseas.

IF:	THEN:	RESPONSIBILITIES:
Taxpayer contacts employee outside of Audit	Employee forwards contact information to Audit Business Support.	Audit Business Support will forward: • Audit correspondence to the unit/maker. • Correspondence regarding a pending NPA to the Protest Unit, other than notices issued by Unit 348. • Correspondence regarding Unit 348 notices to maker.
Taxpayer calls employee outside of Audit and there is audit activity	Employee will obtain name of audit staff from the caller.	Employee will: • Update TI account. • Notify audit staff of call via email. If employee cannot ascertain the name of the audit staff, the employee will send the email to the manager of the Technical Resource Section. That section will assume the responsibility of identifying the proper audit staff.
Taxpayer contacts audit staff directly, **OR** Audit staff receives taxpayer contact information from Audit Business Support, **OR** Audit staff receives email from FTB	Audit staff obtains from the taxpayer (or person calling on behalf of taxpayer) necessary information to complete responsibilities.	Audit staff will: • Check the taxpayer's TI account to see if the military data field says **Yes** (Audit Business Support can assist with TI transactions). If so, verify the **Begin Date** and **End Date** on the Military Service Display screen (CID **ML**). • Add a comment to the taxpayer's TI account: **Taxpayer is serving in a combat zone**. • Record the caller's name and relationship to the taxpayer. • Suspend audit action on the account until 180 days after taxpayer returns from combat. • If audit is in progress, and the taxpayer requests it, delay any action and provide follow-up dates.

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IF:	THEN:	RESPONSIBILITIES:
employee regarding taxpayer's call		• Add a note to the PASS file and keep the case in your PASS inventory. Follow-up with taxpayer when they return and continue the audit. • Determine if taxpayer will benefit from receiving **Publication 1021 California Tax Information for Military Personnel.** It provides information about filing returns, signing on behalf of a spouse, what to do if owing back taxes, and if military pay is taxable. • Follow up any discussions with a letter documenting status.

6.17 Americans With Disabilities Act - Requests for Alternative Formats

If you receive a request for tax forms or other material in alternative formats (Braille, audiocassette, or large print), contact the Franchise Tax Board ADA Coordinator, Equal Opportunity Employment Office at 916.845.4659.

If a taxpayer contacts you through the California Relay Service or TTY/TDD to respond to an initial letter, you should first verify the taxpayer's identity by asking for:

- Taxpayer name and address.
- Taxpayer identification number.
- Tax years in question.
- Initial letter mail date.

6.18 Adjustments Affecting Future Years

If the audit results in an adjustment that will affect any future year or other taxpayers, such as the disallowance of a bad debt that is deductible in another year, you should request the other returns and make the appropriate adjustments. If tax returns are not yet filed for the years affected, indicate in the position letter how the items are to be treated in the future. Create a reminder for these items using the PASS Follow-up Flag feature (See MAP Follow-up Flag Procedures). Also, see MAP Notice of Proposed Adjusted Carryover Amounts (NPACA).

6.19 Closing Agreement

The taxpayer and the Franchise Tax Board may enter into a closing agreement to close the audit year for further activity (audit, protest, appeal and claims for refund) other than RAR adjustments, fix the proper treatment of an item, and end the factual development of an issue.

R&TC Section 19441 authorizes the Franchise Tax Board or a designated member of its staff to enter into a closing agreement with any person to settle any matter pertaining to tax.

Due to the legal and binding nature of closing agreements, they are drafted by Legal Department staff and reviewed by the Legal Affairs Bureau. The final agreement is generally signed by the FTB's Executive Officer.

The agreement is considered final and conclusive, and except in case of fraud or malfeasance, or misrepresentation of a material fact, the case may not be reopened, modified, annulled, set aside or disregarded.

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For more information on closing agreements, contact Audit Technical Resource Section.

Section Revised 8/31/08

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7 Closing an Audit

7.1 Introduction

This objective of this section is to highlight the steps that are necessary to complete your audit. These are the recommended steps:

- Complete forms for processing notices.
- Prepare Narrative Report.
- Complete Adjustment Schedules.
- Update the PASS workpaper File.
- Assemble the physical file.
- Complete the other necessary PASS functions.

The forms and templates that you need to complete are available in PASS. This section is arranged by the PASS Folders and other PASS functions and features.

When finalizing the case, you will also need to review each of the other PASS workpaper folders to make sure you have properly recorded all information. Update any necessary items giving special consideration to the Audit Index, IDR Master Log and AIPS Master Log. See MAP Audit Workpaper for additional information on preparing the workpaper file.

7.2 Administration Folder

The forms necessary to process your audit are the most common items that will be necessary to complete in the Administration Folder during the closing process. There are several common forms that may be necessary. See the list below and reference to the appropriate MAP section on how to complete them.

FORM	WHEN NEEDED	TO COMPLETE FORM SEE MAP	FOR ADDITIONAL INFORMATION SEE MAP
6430 Audit Report	All Cases	Audit Report (Form FTB 6430)	
6830 NPA Worksheet	Corporation NPA, Claim Revised, Offset and Barred Offset	BCT NPA Worksheet for Corporations (Form FTB 6830 BCT)	Minimum Adjustments on Notice of Proposed Assessments
6831B PAWS NPA worksheet	PIT NPA, Claim Revised, Offset and Barred Offset	PAWS Input Worksheet for PIT (Form FTB 6831B)	Minimum Adjustments on Notice of Proposed Assessments
1542 NPACA Letter	Future Adjustment to Carryover Items	Notice of Proposed Adjustment Carryover Amounts	
6638 Auditor's Recommendation –	Allowing or Denying Claim in Full	Auditor's Recommendation	

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FORM	WHEN NEEDED	TO COMPLETE FORM SEE MAP	FOR ADDITIONAL INFORMATION SEE MAP
Formal Claim		Formal Claims (Form FTB 6638)	
6163 Abatement/Refund	Corporate Over assessment > $*******	Abatement Refund Memo (Form FTB 6163)	
6213A Accounting Instructions Corp.	To Make Account Adjustments for Corporations	Accounting Instructions/Corp (Form FTB 6213A)	
7011 Rush Tag	When Routing Cases Requiring Special Attention	Rush Action Slip (Form FTB 7011)	

The field offices are not required to complete Form 6213A.

For Central Office Apportioning Corporation Auditors it is also necessary to create BETS NPA. See MAP Create a Notice on BETS.

7.2.1 Minimum Adjustments on Notice of Proposed Assessments

NPAs will not usually be issued for less than $****. For most field cases, judgment must be used. Adjustments greater than $**** may not be cost effective depending on the circumstances of each case**.** See MAP Resource Considerations. This is a minimum and does not mean that every potential assessment over $**** should be pursued. Consult your supervisor if in doubt about the cost effectiveness of a particular audit or adjustment.

If the representative expects an adjustment, or if a year must be adjusted for continuity, an exception to the minimum may be warranted.

This minimum adjustment requirement does not pertain to the Zero NPA procedures for tax credit adjustments. See MAP Closing – No Change Issues for additional information.

7.2.2 Limited Liability Fee NPA

To assess the LLC fee, prepare the NPA worksheet (Form FTB 6830-BCT) in the same manner as when you are assessing tax. Note these differences:

1. Add a Sticky Note: Please have Cindy ****** input this notice.
2. Write on top of the BCT NPA worksheet: **LLC Fee Adjustment**.
3. Cross out Total Tax and Penalty and replace with LLC Fee.
4. Cross out $0.00 and replace with fee amount. For example $6,251.00.
5. Add an NPA paragraph stating what caused the fee adjustment. For example,
   - The adjustment to XYZ Partnership had an impact on your Limited Liability Company fee.
6. Fill out the Notice Window in PASS with the Fee amount.

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7.2.3 Corporation Identification Numbers

The 90, 91, 92, 93, or 94 identification numbers assigned by the filing enforcement program do not signify whether a corporation is doing business or deriving income in California. The corporation will be classified as a Nonqualified franchise tax (NQFT) or Nonqualified income tax (NQIT) corporation. The filing enforcement number is not changed unless the corporation becomes qualified with the Secretary of State.

The corporate number remains unchanged in order to identify the corporation as being part of the filing enforcement program. The commencing tax will still be accessed using this identification number if a corporation is determined to be doing business in California. The classification will be NQFT. These cases may be referred to the filing enforcement auditor or may be examined upon audit of the return. It will be determined on a case-by-case basis.

Corporations **doing business** in California and are not incorporated in the state or are not qualified by the Secretary of State are subject to the Franchise Tax. These corporations are identified as **NQFT** and file returns on a voluntary basis. The Business Entity Section, Inventory Control Unit, assigns them an identification number that begins with 95.

Corporations not incorporated in California and are not **doing business** in California, but are deriving income from California sources are identified as **NQIT**. These corporations file returns on a voluntary basis and the Business Entity Section, Inventory Control Unit, assigns them an identification that begins with 97.

7.3 Reports

The Audit Narrative is the most common item that you will complete during the closing process in the Reports Folder in PASS. In the Audit Narrative you will summarize your audit findings and the resulting tax effect. You will focus on the final audit determination, and should point readers to the proper workpapers for further information and analysis. You must write a narrative for all change cases. To eliminate redundancy, you can attach a copy of the written explanation of adjustments or Audit Issue Presentation Sheets (AIPS). There are PASS Templates that provide an outline to use depending on the program you are in.

PIT and C Corp: See MAP GTA Narrative 6431A.

PTE: See MAP GTA Flow Through Narrative 6431B.

MSA: See MAP Narrative Report 6431.

7.3.1 GTA Narrative 6431A (PIT and C Corp)

The Narrative report is usually a summary of the audit including taxpayer and representative information, the issues audited, and other pertinent information regarding the tax years under audit. Include a Narrative report when there is an adjustment to the case, whether or not it is subject to TRS review. The narrative should provide:

- Clear audit recommendations.
- A summary of proposed adjustments and their tax effect.
- Other information that helps overall understanding.

Although only a summary discussion is required for the narrative, use your judgment to determine how much detail to use. In some instances, you may need a detailed explanation to clearly convey the final determination.

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The taxpayer is the audit's focus. This entity's audit resulted in an adjustment, either at the entity level or at the flow-through level.

The narrative report should **cross-reference** the workpapers. Provide a cross-reference to the taxpayer's agreement or disagreement. If you and the taxpayer disagree about the facts at the audit level, you should explain this in the narrative. The narrative report does not replace effective work papers. You must still keep clear and concise workpapers addressing the facts, law, analysis, and conclusion of all issues.

Use the PASS Template GTA Narrative Report 6431A and complete these fields:

Taxpayer's Representatives [Optional]

Complete this field when you need to highlight information such as a change in representation during the audit, an expired Power of Attorney, etc.

List of Related Entities, Partners, or Shareholders

List the entity names and identification numbers (SSN, CCN, FEIN, etc.) that are related and/or impacted by this examination. If you have created a diagram of the relationships instead of a list, provide a cross-reference.

Statute of Limitations

Enter the controlling Statute of Limitations.

Comments [Optional]

Type any material information not involving an audited issue; for example, an unaudited material issue, items requested that the taxpayer did not provide, etc.

Exhibits [Optional]

Cross reference to critical documents supporting the audit position.

Total Tax Effect

Complete the table with the requested information. Complete the table for the primary entity and the table for the flow–through entities (partners and shareholders).

Primary Entity

Taxable Year	Issues	Income Adj.	Tax Effect	Folder-Doc #
Total		$	$	

Cumulative Flow-Through Entities (Partners, Shareholders)

Taxable Year	Issues	Income Adj.	Tax Effect	Folder-Doc #

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Total		$	$	

State other information that helps overall understanding.

Audit Adjustments

See MAP Audit Issue Section (FTB 6870B) for more information.

- **I**ssue.
- **F**acts.
- **L**aw.
- **A**nalysis.
- **C**onclusion.

Taxpayer Position

Rebuttal to Taxpayer Position

You must summarize all issues adjusted, regardless of any current year tax effect. The summary should address:

- The issue audited.
- The reason for the adjustment.
- Any pertinent documentation.
- The net tax adjustment.
- The location of the complete discussion of this issue.
- Taxpayer Position (including cross-reference).
- Rebuttal to taxpayer position.

Unadjusted Issues

Required if audited, but brief.

Federal Audit Adjustments

Required if relevant.

7.3.2 GTA Flow Thru Narrative 6431B (PTE)

The Narrative report is usually a summary of the audit. Include a Narrative report when there is an adjustment to the case, whether or not it is subject to TRS review. When you are auditing a Pass-Thru Entity, your narrative includes information on each entity that is affected.

A PTE (sometime referred to as a **flow-through** entity) is an entity that we adjust because of a primary level audit. Each entity with an adjustment must have a flow-through narrative. The flow-

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through narrative should refer to the primary level audit and the adjustments specific to the entity, such as Alternative Minimum Tax, Passive Activity Losses, Itemized Deductions Limitations, etc.

The Flow-Through Narrative should:

- Refer to the primary entity and the location of the complete audit file.
- Summarize proposed adjustments specific to the flow-through entity and their effects.
- State other information that helps overall understanding.

As with the Primary Narrative, provide a clear summary of the audit in the flow-through narrative report. However, you may need detail to explain an adjustment. This narrative does not replace effective work papers or the schedules that we require at each entity level. See MAP PASS Workpaper Location for Flow Through Examinations for a complete discussion of information required in the shareholder and partner case units.

Use PASS Template GTA Flow Through Narrative Report (6431B) and complete these fields:

Taxpayer's Representatives [Optional]

Complete this field when you need to highlight information such as a change in representation during the audit, an expired Power of Attorney, etc.

Primary Narrative Located in Case Unit

Name -

Taxable Year -

Identify the adjusted entity's name and entity number. Also, include the tax year in which the complete audit file may be found.

Statute Of Limitations

Enter the controlling Statute of Limitations.

Comments [Optional]

Provide any material information about the audit, but not involving an audited issue. For example: an unaudited material issue, items requested that that taxpayer did not provide, etc.

Exhibits [Optional]

Cross reference to critical documents supporting the audit position.

Total Tax Effect

Taxable Year	Issues	Income Adj.	Tax Effect	Folder-Doc #
Total		$	$	

Audit Adjustments at Entity Level

Explain briefly all primary entity level adjustments, if needed, with appropriate cross-references to the audited workpapers.

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Also, summarize issues encountered at the owner-level, such as Passive Activity Losses or Net Operating Loss. The summary should address:

- The issue adjusted.
- The reason for the adjustment.
- Any pertinent documentation, including schedules.
- The net tax adjustment.
- The location of the complete discussion of this issue.
- Taxpayer Position (including cross-reference). Required for owner-level issues and if different from audited entity position.
- Rebuttal to taxpayer position. Required for owner-level issues and if different from audited-entity position.

Unadjusted Issues

Required if audited, but brief.

Federal Audit Adjustments

Required if relevant.

7.3.3 Narrative Report 6431 (MSA)

A narrative report should provide a clear summary of the audit. Use PASS template, Narrative Report FTB 6431. Use good judgment in determining the detail to include. The narrative usually would include at least the following:

Summary of Audit

Provide a brief description that summarizes the audit.

Location of Audit

Identify the address where the audit was performed.

File Organization

Include the name and tax year of the case unit where the audit workpapers are located in PASS. This will ensure that subsequent users of the audit package can easily locate all workpapers. Avoid references to **primary case unit** as the primary case unit can change throughout the audit-protest-appeal cycle.

Taxpayer's Representatives

List names, titles and phone numbers of representatives.

Related California Corporations

List all affiliated California taxpayers and the California number. Indicate whether combined or not combined. Taxable Years: Audited or returns in the file.

Other Related Entities and Affiliates

List all affiliated companies and indicate whether combined or not combined for each year.

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Statute of Limitations

List the earliest statute date. Indicate if extended by state or federal waivers and include an explanation.

Background Information

Indicate if the taxpayer was previously audited and if so, the audit recommendation and the status of those audits (e.g. in protest, appeal, litigation, etc.). Discuss the nature of the corporation's business both within and without California. Discuss any acquisitions and dispositions.

Taxpayer's Records Examined

List the records examined, noting the taxpayer's document title. Although this is optional for narrative purposes, a detailed and specific reference to the taxpayers' and representatives' records used in the audit process must be included in the workpapers.

Exhibits

List documents labeled as exhibits and provide a description of the significance of each. Exhibits may include:

- AIPS or Closing Letters.
- Representative's position letters.
- Subsequent letters of rebuttal.
- Large or cumbersome documents such as Annual Reports, SEC Forms, 10K or documents prepared by the representative in support of an audit issue.

Cross-reference these to the appropriate audit issue section.

Method of Filing

Indicate briefly whether the taxpayer is filing on a totally combined basis (worldwide or Water's-Edge), partially combined basis or separate basis. If the taxpayer is a Water's-Edge filer, indicate the start date of the Water's-Edge contract and whether or not a Notice of Nonrenewal has been filed.

List in an exhibit or in the body of this report, all affiliates in and out of the combined report.

Describe acquisitions and dispositions of corporations during the years covered by audit.

Refer to the workpaper file or exhibits when citing facts relating to the following areas:

- Organizational structure of subsidiaries and affiliates.
- Ownership (acquired or formed).
- Nature of business of each affiliate.
- Line functions: Common interlocking officers and directors.
- Staff functions: Centralized accounting, legal, purchasing, advertising, personnel, sales, and other shared functions.
- Details of all inter-company transactions, including accounts, amounts, percent to total, and other relevant information.

Audit Adjustments

List each audit adjustment and the tax change by year.

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Issue	Year	Amount	Tax Effect	W/P Reference

Proposed Adjustments

List adjustments by issue and tax change for each year. Reference the Audit Issue Section.

The written explanation of adjustments that was provided to the representative must be attached to this summary as an explanation of the proposed adjustments.

Unadjusted Issues

Provide a brief explanation of the unadjusted issues examined. For each item, comment on:

- Issues considered during the audit that were not fully developed.
- Issues developed that resulted in an immaterial or no tax change.
- Future audit issues.

Federal Audit Adjustments

Indicate date of RAR and date submitted to FTB in cases where the RAR is received in the field. Refer to the applicable Audit Issue Section for state adjustments based on the RAR.

Indicate last Taxable years audited, and status of audit for current taxable years. If an audit is in progress, state the years being audited by the IRS.

Taxpayer Position

Clearly state the taxpayer's position to the audit proposals. Explain adjustments to which the taxpayer does not agree, why there is disagreement and what documentation was presented to support the issue. Explain in sufficient detail the reasons so that the protest attorney or the hearing officer will be fully informed of issues and arguments considered during the audit. Whenever possible, the taxpayer's position should be obtained in writing.

If the taxpayer has not provided or refuses to provide information to substantiate an issue, document this fact in the audit file.

7.4 Schedules

The Adjustment Schedules are the most common item that you will complete during the closing process in the Schedules Folder in PASS. You will prepare audit schedules to show the computations supporting any proposed adjustment. You will start with the amounts on the return followed by the applicable audit adjustments. Refer to the relevant documents and supporting schedules from which the figures were derived. The applicable section of the law or regulations may also be referenced. Thorough footnoting, when feasible and thorough cross-referencing of schedules is very important.

The schedules should include:

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- The taxpayer's name in the header.
- The taxpayer's identification number (FEIN, CCN, SSN, etc.) in the header.
- An appropriate title in the header (e.g., Adjustment Schedule, CA Depreciation Schedule, etc.).
- Taxable Years Ending.
- Your name or initials, Payroll Unit Code (PUC), creation date, and schedule number in the upper right corner.
- The name of the source document and possibly the date received and how verified.
- Your additional cross-referencing.

You can convert an existing schedule outside of PASS into a PASS schedule, or copy a PASS schedule from a different case unit to another case unit, using the **save as destination** function. See PASS HELP (keyword: Schedules) for instructions. When copying schedules to different case units, make sure you do not have confidential information of one taxpayer copied to another taxpayer's case unit, as some of the footnotes and links may also be copied.

Refer to the appropriate schedules below for the program you are in:

See MAP Schedules For PIT Cases.

See MAP Schedules For PTE Cases.

See MAP Schedules For Non-Apportioning C-Corporation.

See MAP MSA Principal Schedules.

7.4.1 Schedules for PIT Cases

PASS contains templates that are replicas of FTB tax forms and worksheets. The instructions for completing the templates are included as the first worksheet in the PASS templates. You can use these templates for PIT cases:

PASS Template Name	Similar to FTB Form/Worksheet	Use
GTA- Schedule CA	Schedule CA (540) Schedule CA (540NR)	California adjustments to federal AGI
GTA- AMT Non or Part Year Residents GTA- AMT Resident	Schedule P (540 NR) Schedule P (540)	Alternative Minimum Tax
GTA- Other State Tax Credit	Schedule S	Other State Tax Credit
GTA- Research Credit	FTB 3523	Research Credit
GTA- Exemption Credit Phase Out	Exemption Credit Phase Out Worksheet	Exemption credit allowed
GTA- Itemized Deduction Phase Out	Worksheet For Phase Out of Itemized Deduction	California itemized deduction adjustment

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The GTA- Itemized Deduction Phase Out template starts with the total state itemized deduction. If your adjustment affects federal AGI, you may have to re-compute the federal itemized deduction first before transferring the amount on this schedule. Be sure to show in the worksheet how you arrived at the revised federal AGI. Itemized deductions that may be affected by the change in federal AGI are medical and dental expenses, charitable contribution, and miscellaneous itemized deductions. To add explanation, show computation, or include workpaper referencing to this template, unprotect the worksheet first. For instructions to unprotect the worksheet and additional tips on completing this template refer to **PASS TIPS**.

In addition to the above templates, PASS contains two schedules that you can use to list your audit adjustments. These are **GTA-Resident and Non-Resident Tax Schedules** and **GTA Stand Alone Details of Adjustments**. Both templates have columns for your WP references. The template, **GTA-Resident and Non-Resident Tax Schedule**, shows the taxpayer's revised net tax liability. This template provides an option to generate a schedule for a resident or nonresident/part-year resident taxpayer. You can use the template, **GTA Stand Alone Details of Adjustments**, to list the adjustments and show the amounts per return and per audit. This schedule does not show the revised net tax liability. If you use only the **GTA Stand Alone Details of Adjustment**, you still need to provide the taxpayer a schedule of revised net tax liability.

Finally, PASS provides access to Turbo Tax. The tax year version of the Turbo Tax is only available in the corresponding case unit year. So, you have to create the file in the case unit that you are adjusting. For example, you have to create a TurboTax file for tax year 2004 in the 2004 case unit. The tax return generated will show the revised tax, but not the net tax liability (additional tax due or overassessment). If you use Turbo Tax to compute the revised tax, provide the taxpayer a schedule of revised net tax liability, or explain in your closing letter how much is the additional tax or overassessment. If you provide the taxpayer a printout of the tax return generated from Turbo Tax you must explain to the taxpayer that it is an example of how the return should have been filed based on the audit adjustments. However, it is not meant for the taxpayer to file this return. You will make the tax adjustments using the appropriate notices.

7.4.2 Schedules for PTE Cases

PASS contains spreadsheets allowing adjustments to flow through from entity to owners. The entity for which a schedule is created drives the information needed to complete any given schedule. For example, when creating an S Corporation schedule, you need to enter the ownership percentages of the shareholders. The PASS spreadsheet schedules automatically calculate owner level adjustments for a pass-through entity. The name of the PASS Schedule is GTA-Corp/Partner Details of Adjustments.

This PASS Spreadsheet can:

- Be copied and pasted into multiple case units' Issue folders.
- Compute flow through adjustments for entity and owners.
- Compute owner-only adjustments with flow through adjustments.
- Allow comments.
- Be customized.

This PASS Spreadsheet cannot indicate if a figure is an estimate, itemized, etc., unless the user manually changes the color.

These are additional templates that you can use for pass-through entity cases:

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PASS Template Name	Use
GTA- P/S Basis	Computes partners' outside basis
GTA- S Corp BIG	Computes S corporation's built-in gain
GTA- S Corp AAA Worksheet	Computes S corporation's accumulated adjustments account

Refer to the instructions within the templates to complete the schedules.

When making adjustments to individual shareholders or partners, use the templates available for PIT cases. See MAP Schedules for PIT Cases.

7.4.3 Schedules for Non-Apportioning C-Corporation Cases

You can use the template, **GTA Stand Alone Details of Adjustments**, to list the adjustments and show the amounts per return and per audit. However, this schedule does not show the revised net tax liability. You can use the template, **Blank Excel Document**, to customize a schedule showing the revised net tax liability.

PASS also contains templates that are replicas of FTB tax forms and worksheets. The instructions for completing the templates are included as the first worksheet in the PASS templates.

When making adjustments to individual shareholders, use the templates available for PIT cases. See MAP Schedules for PIT Cases.

7.4.4 MSA Principal Schedules

All Adjustments for MSA cases should be prepared using the MSA Principal Schedules in PASS. Begin with these main schedules and use any of the supporting schedules as needed.

For help on completing the schedules, refer to the Principal Schedule Guide or the MSA User Guide.

7.5 Draft Correspondence and Sent Folders

7.5.1 No Change Letters

It is the practice of the department to issue **No Change** letters on **all** completed audit years that result in an increase in a carryover amount or do not result in additional tax, an over-assessment, or an NPACA. Send the No Change letters directly to the taxpayer. Send a copy of the letter to the representative if requested. You or Audit Business Support may issue the No Change letters. Refer to your specific unit procedures if a lead or supervisor review is required prior to issuance of the No Change Letter.

Issue No Change letters as long as there are no related case units with adjustments. If there are related case units with other than no change adjustments, Audit Business Support will issue the No Change letter.

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If you issue the No Change letter, make sure that the Audit Report - Form FTB 6430 clearly indicates that the letter has already been issued. Make a comment in the Event Log.

If Audit Business Support is to issue the letter, the Audit Report - Form FTB 6430 or Sticky Note must clearly indicate that the letter has NOT yet been issued. Make a comment in the Event Log.

If you are issuing NPAs for audits of multiple tax years, you may inform the taxpayer of the years that are being accepted without any change. You may do this either through the No Change letter, or in a paragraph included on the NPAs that are issued.

In the PASS Notice Window for the case unit the auditor will select **No Change** as the notice name in the Notice Detail section. See MAP Notice Window.

7.5.2 No Change Issues

If an issue is a no change but there are other issues that are being adjusted, you should inform the taxpayer of the conclusion of that particular issue in a position letter. You have the option of issuing an AIPS to inform the taxpayer that a particular issue resulted in a No Change. However, you must prepare the AIPS in accordance with prescribed guidelines (i.e., outline the facts, law, analysis and conclusion), and that AIPS should not be listed in the AIPS log.

7.5.3 NPACA Letter (Notice of Proposed Adjusted Carryover Amounts)

The NPACA letter is available in the Draft Correspondence Folder (NPACA Letter 1542). If your case is subject to TRS review, or if you are issuing other notices, leave the letter in the Draft Correspondence folder. Otherwise, update the template with the appropriate protest date and mail it to the taxpayer. The protest date is 60 days from the date of mailing the NPACA. If the 60th day falls on a weekend or holiday, the protest date is the following working day. Use the Dates Calculator to calculate the protest date. In some cases, your supervisor or lead may want to review your case first before you can send the notice to the taxpayer.

For more information and additional instructions on NPACA, see MAP Notice of Proposed Adjustment Carryover Amounts (NPACA).

7.5.4 PIT Overassessment, FTB PASS 5847 or 5847A

Form 6846 has been removed from the Administration Folder in PASS. Auditors should use either FTB 5847 or 5847A in the Draft Correspondence Folder in PASS for all O/A cases.

For more information and additional instructions on PIT overassessment, see MAP PIT Overassessment Procedures.

7.6 Other PASS Functions

As part of the closing process there are other items that will need to be addressed in the PASS File. For a reminder by Primary Case and Each Case Unit,

See MAP Primary Case.

See MAP Each Case Unit.

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7.6.1 Primary Case (or for All Cases Where Work Papers are Being Stored)

- Update the Preliminary Analysis Folder with the Audit Program Worksheet if applicable.
- Make sure the Total Tax Potential within the GI Window is a positive number. Total Tax Potential is the estimated revenue you expect from the audit. For a claim, Total Tax Potential is the amount of the claim you expect to deny. When you expect to issue an O/A, enter zero in the Total Tax Potential field.
- Check that all letters in Draft Correspondence Folder are either being sent or are deleted There should be nothing in this folder (Except for No Change letters on Water's-Edge cases AND NPACA'S that are sent from Sacramento.).
- Verify the Address Book has the most current information. Be sure to include mailing address information for notices.
- Delete any remaining ticklers that will not be needed.

7.6.2 Each Case Unit

- Add a manual event to cross reference case units to the primary case unit.
- Add and complete the **Notice Window** with the appropriate information. See MAP Notice Window.
- Change status to Review.
- Copy/Paste any letter, research, etc. that you want to save to your Bottom Drawer.
- Transfer the Case/Case Units to Group Work list.
- Return icons should be **returned to file** when transferring a case to your supervisor or another auditor. However, if the return icons are transferred to someone else, you must make sure that the recipient acknowledges receipt on the same day. This will eliminate the in-lieu generated in Data Services.
- Discard items such as Sticky Note reminders do not discard any item that may help the review of the case.

7.7 NPACA (Notice of Proposed Adjustment Carryover Amounts)

There are situations when the tax effect of an audit adjustment will occur in the future rather than the current audit cycle due to a reduction in carryover amounts. In such a situation, we must notify the taxpayer of the reduction in order to give them an opportunity to protest the adjustment currently if they choose. R&TC Section 19043.5 authorizes FTB to issue a Notice of Proposed Adjusted Carryover Amount (NPACA) when an examination results in a reduction of a taxpayer's reported carryover amount. NPACAs are treated as if they are proposed deficiency assessments (NPAs) and the taxpayer receives protest and appeal rights even though the exam does not result in any additional tax. Therefore, we must issue the NPACA prior to the expiration of the statue of limitations. We only issue an NPACA when the adjustment results in a reduction to a carryover amount, not an increase.

The taxpayer may choose to protest and appeal the NPACA currently, or wait until the revised carryover results in an NPA in some later year. The benefit of protesting an NPACA and appealing to the State Board of Equalization (SBE) currently is that the taxpayer timely receives a binding and conclusive determination regarding the carryover item. The SBE decision binds both FTB and the taxpayer to the amount of carryover adjustment with a few limited exceptions available in the statute. If the taxpayer does not follow the SBE decision in subsequent years, the FTB can issue a math error assessment to correct the carryover amount instead of an NPA.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

The NPACA is a letter that contains the amount of the carryover reduction; the revised carryover amount; modified protest procedures and the protest deadline date. Auditors should clearly communicate the process and consequences of issuing NPACAs to taxpayers and their representatives since these notices are unique to California and there is no federal counterpart.

When to Issue the NPACA

- Issue an NPACA when an audit results in no additional tax, but **reduces** a carryover item. Refer to MAP No Change Letters for guidance on what to do when a carryover item increases. Issue an NPACA when the RAR adjustments result in no additional California tax, but reduce a California carryover item.
- When an exam results in an NPA, do not issue a separate NPACA for any reduction in a carryover item for that same tax year. Describe the carryover in an NPA paragraph.
- When an exam of multiple years results in an adjustment to a carryover item in year one (or one or more of the early years within the current audit cycle) and in the subsequent years an NPA is being issued to reflect the carryover adjustment, which results in additional tax, a separate NPACA notice is not needed for year one. The carryover adjustment will be addressed in a paragraph, which will be included in the NPA issued for the subsequent year. Record an event indicating NPACA letter was not issued since the carryover was reflected in the NPA issued for the subsequent tax year, and complete the PASS Notice Window as though an NPACA was issued. Leave status on PASS Notice Window in Pending Release.
- When an exam of multiple years results in an NPA for year one (or one or more of the early years within the current audit cycle, or a combination of NPA and O/A for the earlier yeas within the current audit cycle) and an adjustment to a carryover item in subsequent year(s), issue an NPACA for the subsequent year within the current cycle if the tax effect of that adjusted carryover item will not be realized until a future year that is beyond the current audit cycle.
- When allowing a claim for refund in full, you must also issue an NPACA for any reduction in carryover items associated with that same tax year. See MAP Quick Reference Table for Closing PIT Claims and see MAP Quick Reference Table for Closing Corporation Claims. For MSA cases the NPACA must be issued by audit staff first, then forward the claim to B/E Audit Support to be processed. For all other cases, the letter will be issue by GTA Technical Resources.
- When a claim for refund is denied in whole or in part, issue an NPACA for any reduction in carryover items not associated with the issue on the claim. See MAP Quick Reference Table for Closing PIT Claims and see MAP Quick Reference Table for Closing Corporation Claims. Note that the NPACA protest period must expire before the claim denial is processed.
- If a taxpayer files a claim for refund because of a credit or loss issue and the claim issue is being denied in whole or in part, the denial letter gives the taxpayer appeal rights on the carryover item. It is not necessary to issue an NPACA.
- General Rule of Thumb – Issue when the audit result will not otherwise give the taxpayer protest or appeal rights, but the carryover amount is reduced, such as:
    1. Claim allowed in full
    2. No change to tax liability
    3. Overassessment

When Not to Issue the NPACA

- Do **Not** issue when adjustment increases a carryover amount (See MAP No Change Letters).
- Do **Not** issue a separate NPACA for a year in which the exam results in an NPA; do include a paragraph in the NPA describing the carryover change.

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- Do **Not** issue an NPACA when the carryover is adjusted in a year early in the audit cycle and the carryover adjustment results in additional tax in a subsequent year for which an NPA is issued.

- Do **Not** issue an NPACA if a claim for refund is filed for a credit or loss issue and the claim is denied in whole or in part because the claim denial provides appeal rights on the carryover item.

How to Issue the NPACA

1. A template of the NPACA is on PASS (1542 NPACA Letter, in the Draft Correspondence folder). Include an explanation regarding the carryover item reduction. The template automatically populates the taxpayer's name and address and the auditor's name and number in the signature block. When an examination results in NPACAs for more than one year, issue a separate NPACA for each year in the appropriate case unit.

   Exception for offset cases. You are responsible for completing all the information on the NPACA letter except the mail date and protest date. Since all the notices associated with an offset case need to be sent at the same time, B/E Technical or Audit Business Support will be responsible for updating the mail date and protest date on the NPACA prior to mailing. B/E Technical Support or Audit Business Support will also add the note to BETS or TI.

   Exception for cases with additional notices and NPACAs. You are responsible for completing all the information on the NPACA letter except the mail date and protest date.

   An NPACA and an NOA on a protested NPACA are official notices from the Franchise Tax Board for which the taxpayer has specific protest and appeal rights under the Revenue and Taxation Code. To avoid any problems at the protest and appeal levels regarding proper notification and meeting of time frames for filing a protest or appeal, it is the FTB's policy to mail all original notices to the **taxpayer**. This includes the original NPACA letter and an original Notice of Action on a protested NPACA, with a copy to the representative, if applicable.

   Exceptions for Cases Subject to TRS Review. If the case is subject to TRS review, leave the letter in the Draft Correspondence folder.

2. Update the PASS Notice Window as follows:

   - Notice type = NPACA.
   - **Issue:** Select the issue from the drop down list.
   - **Credit C/O Amt** – Enter the amount of the disallowed credit carryover associated with the selected issue.
   - **Loss C/O Amt** – Enter the amount of the disallowed loss carryover or deductions associated with the selected issue.

3. Flag subsequent years for follow up using the Follow-up Flag in PASS (steps for adding the follow up flag are located in PASS Help). Which years and how many subsequent years, will depend on the facts and circumstances of each case.

4. LIM date the physical file. Length will depend on facts of each case. The LIM date (MM/YY) is done in green on the left hand side of the return or any other document that needs to be LIMed. See MAP Preserving Audit Files (LIM Dating).

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5. Assemble and submit the case for review.

6. For cases submitted to Technical Resource Section follow normal procedures for routing NPACA cases. See MAP Routing the Physical and Electronic Files.

7. For cases submitted to Technical Resource Section: Upon final review of the case, the TRS reviewer will update the protest deadline date, release and mail the NPACA and enter a note on BETS in conversation **** or in TI. When an NPA and an NPACA are being issued at the same time, the reviewer will coordinate the mail date of the NPA and NPACA to ensure that both notices are mailed at the same time.

8. For desk audit cases that are not submitted to Technical Resource Section: Upon review of the case, reviewer will note that the NPACA has been approved for mailing and will return the case back to auditor. The auditor will update the protest date on the NPACA letter and send the letter to the taxpayer. The auditor will also add a note to BETS or TI.

9. The protest date is 60 days from the date of mailing the NPACA. If the 60th day falls on a weekend or holiday, the protest date is the following working day. The protest period can be computed by going to Dates Calculator.

   The BETS note in conversation **** or TI should include the following information:

   Note Topic, add: NPACA mailed on (enter mail date) for (enter year).

   Note, add: NPACA mailed on (enter mail date) with a protest period date of (enter protest date). The NPACA was issued to adjust the (description of the revised carryover amount for the affected year). The NPACA was issued by (name of auditor).

   The information in the note aids employees without access to PASS in providing customer service to taxpayers, as well as serving a historical purpose on the mainframe. The responsibility for adding the note starts with auditors. If someone else mails the notice, then responsibility transfers to him or her to ensure the note is added.

10. Place a copy of the NPACA on top of the case file. This accurately identifies the case as an NPACA case, before it is sent to the to the MSA retention wall. This ensures that the person handling cases on the retention wall can easily see the mail date. (For cases in desk audit, the case will be returned to the reviewer.)

11. If case results in issuing only an NPACA, the final reviewer will transfer the PASS case to the MSA Retention Wall work list and route the physical file to the owner of the work list.

12. If a case results in issuing both NPACAs and NPAs, treat the case file no different than if it only contained NPAs. Follow usual review and routing procedures.

13. If the NPACA is returned as **Returned Mail**, the NPACA will be routed to maker (Desk Audit Staff) and to the reviewer (for cases submitted to Technical Resource). The maker or reviewer will attempt to find a valid address and resend the NPACA. If a valid address is not available, an event will be recorded in the PASS case unit and the case will be returned to files.

Protest Action

- Upon completion of the protest, the NPACA NOA letter will be issued through PASS, FTB 1542a.
- Enter a note in BETS on ****, or in TI **** (comments), regarding the action taken at protest (affirm, revise, or withdraw).

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- Refer to Protest Guide Section 0048.

7.8 Physical File

7.8.1 Assemble the Physical File

The procedures to follow to assemble the physical file for TRS review will depend on the Program you are in.

See MAP PIT, PTE and Non-Apportioning C Corp Procedures.

See MAP MSA Procedures.

7.8.1.1 PIT, PTE and Nonapportioning C Corp Procedures

Usually, we do not print a complete copy of the electronic file when the case is closed. All information is available online. See MAP Closing an Audit of ELF for further information regarding printing electronic file returns. Attach the physical file to the tax return for the most recent audited year. If that year has amended returns, the physical file should be attached to the most recent amended return. Assemble the physical file in the following order:

- Audit Report - Form FTB 6430. See MAP Audit Report (Form FTB 6430) for completing this form.
- Rush tag if needed - See MAP Rush Action Slip. Attach to the Audit Report (Form FTB 6430).
- PAWS/CLAWS Batch Control Worksheet – Form FTB 6148. Optional for Field Auditors. If using it must have the Statute of Limitations date written and circled in red in the notes section.
- Any forms to issue notices - See MAP Forms on how to complete the forms.
- Any correspondence sent outside of PASS.
- Received Correspondence Index or GTA Document Index.
- All received correspondence and documentation. Attach to the back of the return for PIT only. If a corporation, place the correspondence in the corporation folder.
- Tax Returns - Initial and date the upper right hand corner of the tax returns audited.

7.8.1.2 MSA Procedures

Before sending the case to TRS for review, assemble the file as follows:

- Pink Rush Tag (Notifies anyone handling the case that it is a priority).
- Audit Report Cover Sheet (Form 6430).
- Notices. See MAP Closing Forms for instructions to complete forms.
- Abatement/Refund Memo (Form 6163), if needed.
- NPAs and/or O/As (Form FTB 6830) Formal Claim (Form FTB 6638).
- Narrative Report.
- AIPS (If referenced in the narrative).
- Printed Schedules (Final Copy).

The auditor has the discretion on how to assemble the rest of the file and what items to print.

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7.8.2 Exhibits

Discuss and refer to exhibits in the Narrative Report. Cross-reference to the source of the exhibits and the applicable audit issue sections. Exhibits may include:

- Audit Issue Presentation Sheets (AIPS).
- Closing Letter.
- Representative's position letters.
- Subsequent letters of rebuttal as exhibits.
- Large or cumbersome documents such as Annual Reports, SEC Forms 10-K, or documents prepared by the taxpayer or representative in support of an audit issue.
- Label the items as Exhibit A, Exhibit B, etc.

7.8.3 Tax Returns

7.8.3.1 Electronically Filed Returns (ELF)

If a return was filed electronically and you want to LIM (see MAP Preserving Audit Files (LIM Dating)) the return, print a copy of the return and attach to the audit file as if it were an original return. Otherwise, it is not necessary to print the return.

7.8.3.2 Reference Returns

Tax returns associated with the audit for years or entities that we did not audit and where we did not create a case unit are called Reference Returns. Return any tax returns that you used as a reference to Receiving & Data Storage Section (RDSS) after you complete the case. If you want to keep those returns with the audit file, you must create a case unit for each return in PASS. This will help track the physical returns' location.

7.8.3.3 Taxpayer's Copy of Returns

If the auditor used the taxpayer's copy of tax returns at audit, write COPY across the tax returns and assemble the file per MAP Assemble the Physical File.

7.8.4 Routing the Physical and Electronic Files

The procedures to route the physical and electronic file for TRS review will depend on the Program you are in.

See MAP PIT, PTE and Non-Apportioning C Corp Procedures.

See MAP MSA Procedures.

See MAP PIT/Corp Mixed Files.

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7.8.4.1 PIT, PTE and Non-Apportioning C Corp Procedures

Field Office PASS Cases

To transfer a case to Central Office for processing or review, assemble the physical file according to the specific instructions (see MAP Assemble the Physical File). Email the GTA Review group to notify Audit Business Support of the physical file's pending transfer.

Complete a packing slip for every package sent to Central Office.

Be sure to include a list of all cases included in the package and the delivery company's tracking number.

- Attach one copy of the packing slip in the package on top of all returns.
- Email the packing slip to **GTA Review** mail id.

You do not need to send cases using an overnight service unless they are sensitive or high priority because of close Statute of Limitation. However, using regular ground service may delay the receipt by two or three days. Do not send no-change overnight.

Use one of the approved courier services (Federal Express, UPS, or Golden State Overnight) for all cases. The United States Postal Service, USPS, is no longer an approved courier for Confidential Return/Document delivery. Which service is used depends on your office. The important thing is that it has a tracking system in the event cases are lost or misrouted. Send the physical files to:

GTA REVIEW
FRANCHISE TAX BOARD
9646 BUTTERFIELD WAY
SACRAMENTO, CA 95827-1500
ATTN: ********** MS F340

Do **not** address packages to the attention of Receiving. If you have cases to send to Audit Business Support and other cases/returns for someplace else (i.e. surveys need to go to Data Services and Storage Section) in one package, send them to the street address above and Audit Business Support will sort them and route them to the appropriate places.

When sending any returns through courier service, include a transmittal letter specifying how many cases/returns are in the package.

Transfer the electronic file to the **389 Audit Support/GTA Review** group work list. You need to change the case status to **Review** before doing so.

If the case includes a Statute of Limitations waiver, attach the original waiver to the face of the return to which it applies. Remember to submit all cases within review no later than six months before the SOL expires. Remember to close the case on any non-PASS inventory systems.

You can track parcels shipped by overnight mail service through the service's web site, or have the Shipping Desk in Service and Supply track the parcel for you [916.845.3245]. The overnight mail service has a number of drop boxes. To find the nearest drop box, access their website. Enter your address and their search engine will locate the nearest drop box, list the pick up time, and show you a map. If you choose to use a drop box, contact our Shipping Desk to request the necessary shipping material.

Central Office Cases

Generally, you should route all files, physical and electronic, through Audit Business Support (Mail Stop F340).

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You should transfer the physical file when you transfer the electronic file. Failing to do so may cause lost files, expired statutes, unprocessed assessments, etc. Email the GTA Review group to let Audit Business Support know that the physical file's transfer is pending.

7.8.4.2 MSA Procedures

Generally, you should route all physical files to the MSA Technical Resources Section at Mail stop F350. You should transfer the physical file when you transfer the electronic file. Failing to do so may cause lost files, expired statutes, unprocessed assessments, etc. Transfer the electronic file to the Group Work list entitled MSA TRS New Incoming Review Cases**.** You need to change the case status to **Review** before doing so.

7.8.4.3 PIT/Corp Mixed Files

7.8.4.3.1 PIT, PTE and Nonapportioning C Corp Procedures

A Personal Income Tax/Corporation mixed file includes notices for related PIT and corporation taxpayers and generally involves income and deductions transferred from a PIT account to a corporation account, or vice versa. These cases require special handling.

Occasionally, the file consists only of Notices of Proposed Assessment. However, the majority includes Notices of Proposed Assessment for one taxpayer and overassessments for the other. Over-assessments for mixed files are issued as **Notice of Proposed Overassessments**, since we do not generally issue refunds until the related assessment is either paid or final.

Identify PIT/Corporation Mixed files by checking the **MIXED FILE** box on the PAWS/CLAWS Batch Control Worksheet and/or including the words **MIXED FILE** on the Audit Report - Form FTB 6430.

All Notices of Proposed Overassessment should inform the taxpayer that we do not issue refunds until the related Notices of Proposed Assessment are paid or final.

7.8.4.3.2 MSA Procedures

When the audit case includes both corporation returns and affiliated PIT returns, TRS will complete its review of the corporate taxpayers and then forward the entire case to the inventory control desk in Business Entities Support for mixed files (NPAs and overassessments, claims, etc.) only for final processing of the audit case. If only NPAs are being issued, the file is sent to Business Entities for processing.

Before any completed review case leaves TRS, the Technical Resources Control Technician should assemble it as follows:

- The number of notices must be entered on each form FTB 6830BCT by classification, e.g., NPA, O/A, N/A, etc.
- The form FTB 6830BCT with supporting schedules to be mailed are placed on top of the folder with the latest return or other document with the correct name and address of the corporation under the NPA worksheet. The audit report and workpapers are placed inside the folder. All other returns are placed inside the folder in chronological order with the latest year on top.
- Related PIT returns and audit report for the PIT account are placed behind the corporate folder. This group will be forwarded to PIT Audit to complete the processing.
- The route slip, form FTB 7000, is placed as the first document on top of all other documents with routing instructions clearly marked.

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7.8.5 Preserving Audit Files (LIM Dating)

There is a standard retention period for all corporation returns as follows:

- Standard Corp Returns (including LLCs) – 5 years.
- Major Case (as determined by Multi-State Audit Major Case Listing) – 15 years.
- Corp NPAs – 12 years.
- Corp Exempt Packages – active (indefinite).
- Corp Payment Documents – 5 years.
- Partnerships – FTB 565s – 4 years.

For more information, see FTB Policy 8830 – Document & Data Retention Policy for Individual Taxpayers.

For more information, see FTB Policy 8831 - Document & Data Retention Policy for Business Entity Taxpayers.

A **LIM** date is the date, beyond normal destruction, that the tax return is to be maintained in Data Services. The requester determines the LIM date of a return according to individual needs of each case.

LIM date all tax returns and audit files resulting in an assessment or overassessment. If there is no adjustment to the tax year under examination, but there are possible future issues, that return should also be kept in the LIM file.

To LIM-Date a return, write the month (generally October) and year until when the documents should be kept. Write this date in green felt pen as **LIM MM/YYYY** on the top left-hand corner of the return. Choose the date using the facts and circumstances of the examination.

If you have an ELF return, follow the same procedures. ELF returns sent to Data Storage Section will be destroyed unless they are LIM dated. If you want to keep an ELF return as part of an audit file, write **ATTO** and the DLN number of the associated return in blue in the upper right hand corner of the paperwork.

Determine the year to which the return should be saved and write that year in green felt pen, not a green pencil, in the upper left-hand corner of the return. For example, you have an RAR in 1998 where you know that the case is in Tax Court and the taxpayer has stated it will take several years for the case to be resolved. The auditor determines that the return should be preserved until the year 2009. Consequently, you would write **LIM 09 RAR** in the upper left-hand corner of the return. This means the return will be kept until 2009 and was **LIMMED** for RAR.

Other LIM codes are:

MC - Major case

C/A - Corp audit

C/O – Collections

CL – Claims

NPA - Notice of Proposed Assessment

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L – Legal

Revenue Agent Report Procedures

If the taxpayer's returns were filed, but not pulled, for a Revenue Agent Report adjustment, LIM the Report by writing the LIM date in green on the upper left corner of the Report and the Document Locator Number in blue on the upper right corner.

7.9 Review

There are two types of review that can take place one is called informal and the other formal.

7.9.1 Informal Review

At any stage in an audit, you may request that your supervisor/lead review a letter, a workpaper or entire case. This is considered an informal review in PASS and the case status does not change. If the reviewer recommends changes, he or she tells you and enters them in the Event Log.

When the audit is complete the supervisor/lead will conduct a review. They are responsible for the quality of the audit and will indicate concurrence of the audit proposals by initialing the audit file. If as a result of the supervisor/lead review there are changes the auditor's report, you must notify the representative of the revision and provide revised schedules to the taxpayer.

7.9.2 Formal Review

Cases meeting certain criteria are sent to TRS to be reviewed before releasing any notices. End review includes the review of significant technical issues and review of the procedures required to issue the proper notices. This is considered to be a Formal Review in PASS.

Cases with the following Review Criteria may also be assigned to a TRS member:

- MSA cases with ≥ $********** net tax change.
- GTA cases with ≥ $********** net tax change.
- GTA RAR cases ≥ $********** net tax change.
- Any case with the EZ credit – regardless of net tax change amount.

For additional information, see MAP Technical Resource Review.

7.9.3 Receipt of Audit Cases in TRS

As the audit cases are received, the Technical Resources Control Technician will log in the original returns on PASS. The cover sheet, form FTB 6430, will also be date-stamped at the same time to show date of receipt.

7.9.4 Audit Cases Needing Corrections

The auditor is responsible for the mathematical and technical accuracy of the audit case. Cases containing errors of either nature may be returned to you for correction**.**

Sometimes, a reviewer finds that you have not considered enough facts, or that you should further explore some aspect of the case. When the audit is completed, you should tell the taxpayer or representative that a subsequent review might disclose the need for further development or changes to issues already agreed upon. You are responsible for the accuracy of the audit case and

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any resulting corrections and must tell the taxpayer or representative if the reviewer recommended any changes.

7.9.5 Forms Processing

Review is responsible for the accuracy of the forms to permit in-house processing. Upon final review and approval, which will cover policy, technical issues, and any processing requirements, the Technical Resources Control Technician will route the file to the proper unit or section for disposition in accordance with the audit recommendation. The routing will include Claims Control Desk for overassessments, Business Entities Support-Typing on BETS processing for deficiencies, Business Entities Support for combined deficiencies and overassessments, and Business Entities Support for appropriate interest computations

Items that need to be clarified are as follows:

- Suspended corporations – Add NPA Paragraph 54477 to all NPA deficiency notices. Refunds will not be issued. See MAP Closing Forms.
- Dissolved or merged corporations - must establish an active assumer for assessment purposes. Verify NPA heading for correct assumer/transferee name and address.
- Ensure payments received have posted correctly. Enter appropriate payment paragraph on NPA worksheet.
- When a **Walker** letter (see MAP Walker Letter Situations) has been issued, the statement **Do Not issue no change lette**r should be written above the tax years on the audit report cover sheet, form FTB 6430.
- Ensure that the proper audit issue codes have been entered on the NPA worksheet.

7.9.6 Review Notes

The review notes should provide a better understanding of the case at the next level (i.e., Review, Protest, and Appeals). All review notes should stay with the case.

7.10 Payments and Deposits

Let taxpayers know the approximate time before they get the Notices of Proposed Assessment. It will normally take two to four months. Give them the chance to pay proposed assessments at the audit's close. Tell taxpayers to write their account number on the check and the tax years to which we should apply the payment.

Process completed audits promptly. If there is a delay in processing, tell the taxpayer about the delay and note it in the event log.

7.10.1 Payments Received at Audit – Electronic Funds Transfer (EFT)

Taxpayers subject to the Electronic Funds Transfer (EFT) requirements must also pay their NPA through EFT. Do not accept a check from a taxpayer subject to the EFT payment requirements. Advise the taxpayer to remit payment by EFT and use Tax Code **02512**.

California law requires bank and corporation taxpayers who meet the following criteria to make all payments by EFT:

- Any taxpayer with any estimated tax payment or extension payment exceeding $20,000.
- Any taxpayer whose total tax liability exceeds $80,000 for any taxable year.

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Once a taxpayer is declared a mandatory EFT participant, it must remit all corporate income and franchise tax payments through EFT regardless of the type of payment, the amount of payment, or the taxable year to which the payment applies. If the taxpayer remits payment by other means, we assess the taxpayer a penalty equal to ten percent of the amount paid.

7.10.2 Payments Received at Audit - Field Offices

When you receive payment in the field, prepare the remittance forms, FTB 6352 (Corp.) and FTB 6350 (PIT), in duplicate. Give the original form, and the remittance, to the field office Audit Support for routing to Central Office:

Processing Unit
Mail Stop A-8.

Staple the duplicate copy of the form to the front of the Audit Report - Form FTB 6430 to alert the Review staff that the assessment has been paid. These forms are not required for Electronic Fund Transfer (EFT) payments. Make a comment in the Event Log and on the taxpayer's TI/BETS account that we have received the payment, and to which tax years the payment applies.

Taxpayers that are subject to the Electronic Funds Transfer (EFT) requirements must also make NPA payments through EFT. Do not accept a check from a taxpayer subject to the EFT payment requirements. Advise the taxpayer to remit payment by EFT.

7.10.3 Paying by Credit Cards- PIT Taxpayers

PIT taxpayers can pay by credit card prior to the NPA being issued. Refer the taxpayer to the information page on our public website.

Once the taxpayer pays, send an email to Marlene ********, with the following information:

- Taxpayer name.
- Taxpayer SSN.
- Tax year for payment.
- Amount paid.
- Date paid.
- An explanation that payment should be put into suspense pending NPA being issued and going final.

Also, make a comment in TI that there is no current liability and include the information from the email above.

7.10.4 Tax Deposits and Cash Bonds

Taxpayers can no longer make payments as a cash bond. However, they can make payments as a tax deposit. Please see FTB Notice 2005-6 for details on how to process these payments.

7.11 Walker Letter Situations

A **Walker** letter is used in situations in which a possible refund exists after the auditor performs preliminary combination tests based on unity. Since one of the department's primary responsibilities is to perform audits on an equitable basis, the **Walker** letter is a vehicle to officially

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notify the taxpayer that a possible refund exists based on preliminary audit work. Use good judgment in determining whether the refund potential is reasonable. When notifying the taxpayer, it is important to stress that only preliminary audit work has been performed and that it is the taxpayer's responsibility to file a claim for refund and provide documentation necessary to develop the facts.

Revenue Agent's Report (RAR) Considerations

In the case of a **Walker** letter situation with an RAR, process the RAR regardless of the disposition of the case. For example, forward the RAR to the RAR Unit in Central Office for processing in the following situations:

- The representative chooses to pursue the refund.
- The representative chooses not to pursue the refund.
- The auditor proposes adjustments based upon other significant items besides the method of reporting.
- The returns are accepted as filed.

See the following samples of Walker letters. These are examples only. Each case must have a letter designed to cover the situation.

Example 1 – Partial Combination

Example 2 – Worldwide Combination

Example 1

Date
Corporate Name
Corporate Address
Attention:
Taxable Years:

Based on preliminary audit work, it appears that the following companies* may be unitary. If they were included as a part of your unitary business for the years shown above, it might result in a change of the corporation's California franchise tax paid for those years:
* List companies. If only one or two, name them in the above paragraph. Other wording such as **worldwide combination** or **total combination** or **all subsidiaries** may be used.

It appears that extensive work would be required to develop the facts to support a change of these taxes. Due to staff limitations, I am not able to make an exact determination.

If the company desires to pursue a possible refund, a claim for refund, with complete supporting detail, should be prepared and submitted to me for each year that is not barred by the statute of limitations. I will review the information and advise you of the result. Additional audit work may be required, and may result in allowing or disallowing the claim, or in proposing additional tax.

If I do not receive a statement of the corporation's position within 20 days, I will base my audit on available information and recommend whatever tax change is indicated.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

If the corporation does not wish to claim a refund resulting from a combined report, the Franchise Tax Board may make adjustments necessary to properly reflect the California income in any future years.

Auditor

Telephone number

CAUTION: This is a model letter only. It should be written to meet the situation in each case. Time allowed for reply should be extended as required.

Example 2

Date
Corporate Name
Corporate Address
Attention:
Taxable Years:
Based on preliminary audit work, it appears that the corporation and its subsidiaries may be unitary. If they were combined (on a worldwide basis) for the years shown above, it might result in a change of their California franchise tax for those years.

It appears that extensive work would be required to develop the facts necessary to support a change of these taxes. Due to staff limitations, I am not able to make an exact determination.

If the company desires to pursue a possible refund for the years indicated above, a claim for refund, with complete supporting detail, should be prepared and submitted to me for each year that is not barred by the statute of limitations. I will review the information, and advise you of the result. Additional audit work may be required and may result in allowing or disallowing the claim or in proposing additional tax.

If I do not receive a statement of the corporation's position within 20 days, I will base my audit on (a domestic combination, or other basis) only and recommend whatever tax change is indicated. If the corporation does not wish to pursue a tax change for these years, the Franchise Tax Board may make any adjustments necessary to properly reflect the California income in any future years.

Auditor

Telephone number

7.12 Follow up Audit Issues

Audit adjustments often carry over to future tax years. PASS lets you set up a follow up flag on a case unit for a future year. You can also put a Tickler on the case unit asking that the case unit be transferred back to you after the review and notice processes have finished (see MAP Ticklers and and see MAP Follow up Flag Procedures for more information).

7.13 Suspended Corporations

A corporation may lose various rights if it is not in good standing with the FTB or the Secretary of State (SOS). Suspended or forfeited corporations are not able to file protests, appeals, or claims for refund, nor are they entitled to receive refunds (R&TC Section 23301, R&TC Section 23301.5

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and R&TC Section 23301.6). It is important to identify potential problems early in the audit in order to give the taxpayer the opportunity to revive and get into good standing before the audit is completed. Check the status by looking at BETS ****.

After identifying a suspended/forfeited corporation, determine why the corporation was placed in that status. If the suspension/forfeiture is in error, help the taxpayer return to good standing.

Contact the Collection Liaison in the Technical Resource Section to learn why the corporation is suspended forfeited. The Collection Liaison will relay the auditor's request to BE Collections to request their help in obtaining the requested information and returning a corporation to good standing if the suspension/forfeiture is in error. If the liaisons in BE Collections wish to work directly with you, they can do so after you have initially gone through the Collection Liaison in TRS.

If it is determined that a corporation was properly placed in suspended or forfeited status, prepare a separate NPA worksheet. If you determine that a suspend/forfeited corporation has an overassessment, the overassessment can be offset against a balance due. However, any excess cannot be refunded. You and your supervisor need to determine, on a case-by-case basis, how to apply the over assessment. It can be to a balance due in another year for that entity, or to another entity in the combined group within the same year.

You or the reviewer will need to add a comment to the **event log** in PASS informing Technical Support how to process the offset. In addition, include a paragraph informing the taxpayer of the following:

- The entity suspended.
- An offset was done.
- That the corporation will need to be restored to good standing before the expiration of the SOL before the excess, if any, can be refunded.

Inform the taxpayer that in order for suspended/forfeited corporations to have protest rights or receive a refund, it needs to file an application for reviver for each suspended/forfeited corporation (FTB 3557).

Corporations in suspended or forfeited status by the SOS are also treated in the same manner as corporations that are suspended or forfeited by the Franchise Tax Board (FTB). The FTB will usually suspend a corporation, instead of forfeit, for reasons stated in the code sections above. The SOS will either suspend or forfeit a corporation for reasons stated in R&TC Section 23302. You can identify the status of a corporation on BETS, **** (FTB Account Status or SOS Status Code).

Prepare an Intrastate apportionment to determine the separate tax liability of the suspended or forfeited corporation.

7.14 Jeopardy Assesments

We issue a jeopardy assessment when it is determined that tax collection will be jeopardized by delay. Our Chief Counsel must approve all jeopardy assessments in writing. R&TC Sections 19081 - 19083 provide for the issuance of a jeopardy assessment, which is immediately due and payable, and provides rights for the taxpayer.

Collection proceedings may begin at once. See GPM 1420 - 1425, for more information.

Audit Staff

- Designate the case as a priority on PASS.

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- Complete the Corporation NPA Worksheet - Form FTB 6830-BCT, and/or the PAWS Input Worksheet - Form FTB 6831-B. For instructions, see MAP BCT NPA Worksheet for Corporation and MAP PAWS Input Worksheet for PIT.
- Attach a detailed justification for the jeopardy.
- Have the supervisor and program manager review/approve the Notice of Proposed Assessment worksheets.
- When approved, email the following information to the appropriate designee in Legal for approval:
    - User Requesting Assessment.
    - Supervisor Approval.
    - Taxpayer (Entity) Name.
    - Account Number/TPID Number.
    - Tax Years to be assessed.
    - Basis of Assessment.
    - Tax by Year.
    - Total liability, includes tax, penalty, and interest.
    - Reason case is a Jeopardy.
- Supporting documentation must detail that the taxpayer meets one of the criteria as listed in IRS Regs 1.6851-1. A statement like **the taxpayer appears to be leaving the state** is not enough. Documentation must support the assertion that Jeopardy exists.
- Prepare a Rush Action Slip - Form FTB 7011. Attach the Rush Action Slip to the top of the physical file. See MAP Rush Action Slip, for more information.
- Tell the Technical Resource Section about the jeopardy assessment. All jeopardy assessments go through the Technical Resource Section. DO NOT ROUTE THE CASE TO AUDIT BUSINESS SUPPORT.
- Prepare a Tickler to help the Technical Resource staff identify the case as a jeopardy assessment (see MAP Ticklers for additional information).
- Route the audit file to the Technical Resource Section. For MSA Cases follow normal procedures for routing cases. For PIT and C Corp route the physical file to:

  GTA TECHNICAL RESOURCE SECTION
  MAIL STOP F350
  ATTN: JEOPARDY ASSESSMENT UNIT
- Transfer the electronic file to the appropriate Technical Resource group work list. For more information, see MAP Transferring Case Units Between PUCs.

TRS Review

- Review the audit file.
- FAX the approved Corporation NPA Worksheet - Form FTB 6830-BCT, and/or the PAWS Input Worksheet - Form FTB 6831-B, the document with the legal department's approval, and the justification for the jeopardy assessment to the Business Transfers Jeopardy Assessment Desk.
- Complete and route the case according to standard procedures.

Section Revised 3/31/08

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8 Claims

8.1 Introduction

A claim for refund lets a taxpayer request a reduction of a current or prior year tax liability. Taxpayer's claims for refund (claims) are processed through a cooperative effort of the Business Entities Audit Technical Support (BES), and the other areas of the Audit Division. All areas work closely together in managing the corporate claims workload to ensure that claims are resolved according to the Taxpayer Bill of Rights (TBOR).

8.1.1 Valid Claims for Refund

R&TC Section 19322 states, every claim for refund shall be in writing, shall be signed by the taxpayer or the taxpayer's authorized representative, and shall state the specific grounds upon which it is founded. In addition, the amount being claimed must have been paid.

A claim filed for or on behalf of a class of taxpayers must do all of the following:

- Be accompanied by written authorization from each taxpayer sought to be included in the class.
- Be signed by each taxpayer or taxpayer's authorized representative.
- State the specific grounds on which the claim is founded.

A claim for refund generally consists of written notification received from a taxpayer indicating an overpayment of tax. Claims come in a variety of forms. The following are examples of the most common types received by the department:

- The filing of an amended return (Form 100X) disclosing less tax than what was paid upon the filing of the original return (Form 100) including estimate payments and payments made with an extension of time to file.
- A letter received from the taxpayer or representative indicating less tax due than what was paid (correspondence claim).
- Payment of a proposed assessment with or after the filing of a protest or appeal, accompanied by a clear statement that the taxpayer does not agree with the adjustment and a completed FTB Form 3581, Tax Deposit Refund or Transfer Request. See MAP Conversion of Assessment to a Claim for Refund.

8.1.2 Timely Filed Claims for Refund

In order for a refund to be issued, the claim must be timely filed. Effective January 1, 2000, in general, no credit or refund is allowed if the claim is filed after the later of:

- The period ending four years from the date the return was filed, if filed within the extension time prescribed by R&TC Sections 18567 or 18604.
- Four years from the last day prescribed for filing the return, without regard to filing extensions.
- One year from the date of the overpayment, unless the taxpayer files a claim before that period expires, or unless we allow a credit or mail a notice of proposed overpayment on a preprinted form that we prescribe before the period expires.
- Six months after expiration of a federal waiver.

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If a claim is not timely filed, then a refund cannot be allowed. Send a letter (Claim Denial Letter) to the taxpayer explaining why the claim cannot be allowed. Once the untimely claims for refund are denied, the taxpayer is advised of appeal rights.

8.1.3 Claims Withdrawn by Taxpayer

If the taxpayer files a claim for refund and subsequently decides to withdraw the claim, the auditor must follow the procedures as outlined below:

1. Request a written confirmation from the taxpayer of the claim withdrawal.
2. If the taxpayer does not provide a written confirmation, the auditor should send the taxpayer a letter confirming the request to withdraw the claim for refund.
3. In the PASS Notice window, select Claim Withdrawn by Taxpayer and enter the amount withdrawn in the tax field.
4. Prepare form 6213A, Accounting Instructions/Entity to have the claim processed as an information return/correspondence. Under reason add Claim withdrawn by taxpayer.

Since the taxpayer is withdrawing the claim, it is **not** treated as a claim denial and the taxpayer does not receive appeal rights.

8.1.4 Informal and Protective Claims for Refund

At times a taxpayer may file a claim for refund requesting $1 or more on a specific issue prior to the expiration of the statute of limitations and may write **Protective Claim** on the face of the claim for refund. These protective claims are often used in situations where the taxpayer is awaiting the outcome of a related event such as an in-progress federal audit or the ruling of a court case involving a tax issue that may be similar to taxpayer's position. The Revenue and Taxation Code does not expressly recognize a **protective claim for refund**. However, FTB will often announce specific procedures for filing protective refund claims pending the outcome of specific court cases. FTB will hold the claims and act on them after the court case is final case or the event occurs.

A valid claim for refund must be in writing, must be signed by the taxpayer or the taxpayer's authorized representative, and must state the specific grounds upon which it is founded (R&TC Section 19322). A claim for refund filed within the appropriate timeframe must be considered a valid claim for refund. Pursuant to FTB Legal Ruling 386, **informal claims that clearly show that the taxpayer is requesting a refund, but are not specific enough for FTB to act on the claim in some cases** toll the statute of limitations until the claim can be perfected. As long as the FTB is apprised of the fact that the taxpayer is asserting a claim for refund, and the general statutory requirements that the claim is in writing, signed by the taxpayer and generally states the grounds or reason for the claim, the actual dollar amount shown, whether it be $1 or $100,000 is irrelevant.

When an **informal** claim for refund is received, the auditor needs to write a letter to the taxpayer to request further written clarification to **perfect** the claim. Upon receipt of appropriate documentation the correct refund amount is allowed. If the taxpayer does not provide adequate documentation to support the issue for which the refund is requested, the claim for refund is denied.

For claims for refund filed on or after January 1, 2002, R&TC Section 19322.1 provides that a claim for refund of tax that is otherwise valid, but is made before full payment of the disputed tax has been made, shall be sufficient to toll (delay the expiration of) the statute of limitations. This **informal** claim for refund will be **perfected** and deemed filed on the date that full payment of tax

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is made. This perfection date will be the date that the informal claim becomes a formal refund claim for purposes of the administrative claims process.

The six-month **deemed denial** period of R&TC Sections 19324 and 19385 will also begin on the date the claim is perfected. However, no claim for refund may be made or allowed for any payment made more than seven years before the date of full payment of tax (including tax and penalties and interest). The amount of payment needed to perfect a claim will depend on whether any outstanding amounts are due and payable, or are deficiency amounts that have not yet become final at the time payment is made. Refer to FTB Notice 2003-5 for a complete discussion.

When the claim for refund is worked and the dollar amount has been perfected, the Claim Tab in the General Information window in PASS needs to be updated to reflect the proper dollar amount.

For example, Taxpayer X files a claim for refund for $1 or more for the tax year 2005 on 3/15/07, which includes a statement that Taxpayer X is entitled to claim a Manufacturers' Investment Credit (MIC) of $1 or more. The claim for refund is requested in writing, it is signed, and it states the specific grounds for the claim. The claim was filed prior to the expiration of the statue of limitations. The claim for refund is a valid **informal** claim for refund that needs to be perfected. A request for additional information is made to **perfect** the claim amount. In response to FTB's request, Taxpayer X provides appropriate documentation to support that it is entitled to claim a MIC of $153,000. The auditor will revise the Claim Tab of the General Information window in PASS to reflect the **perfected** claim amount of $153,000 and the auditor will allow a refund of $153,000. If the perfected claim is partially denied or denied in full, the GI claim tab will show the perfected amount of the claim, and the notice window will reflect the amount of the claim that was denied.

8.1.5 Steps for Processing of Incoming Claims

Taxpayers should support all claims with the documentation they relied on to substantiate the refund. If the taxpayers do not provide documentation, send a letter requesting taxpayers to provide the documentation. Allow the taxpayer 45 days to respond. If an audit is already in progress on the claim, allow the taxpayer 30 days to respond, to be consistent with audit practices and CCR Section 19032. If the taxpayers did not request the refund on an amended return, request a complete amended return as well.

Example of Letter Requesting Documentation

> We received your claim for refund for the above referenced years. Before this claim can be considered, you must provide the following items within 45 days [or 30 days] to establish your right to a refund.
>
> - Provide a completed amended return (Form 100X).
> - Provide supporting documentation including schedules and working papers used in preparing your claim for refund.
> - See the attached insert.
> - Other.
>
> California Revenue and Taxation Code Section 19322 and the Regulations therein state that a claim must set forth in detail each ground upon which a refund or credit is claimed and facts sufficient to apprise the Franchise Tax Board of the exact basis thereof. Furthermore, the claim should be filed on an amended return with all supporting documentation attached.
>
> Once we receive the requested information, your claim for refund will be considered. If after review of your information, we determine no further information is required, you

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will be notified of our action. Failure to provide the above mentioned items within 45 days [or 30 days] would result in your claim for refund being denied.

Please send all information to:

FRANCHISE TAX BOARD
Attn:
Address

Please note if we allow the claim for refund at this time based on the information provided, we are not precluded from later auditing the basis for this claim for refund. Thank you for your cooperation. Please call me at the telephone number listed below if you have any questions regarding this matter.

The other steps for processing incoming claims vary between the different sections of the Audit Division. For each respective section, see following:

See MAP Steps for Processing of Incoming Claims for Apportioning Corporations.

See MAP Steps for Processing of Incoming Claims for All Other Cases.

Note: See also MAP Procedures for Field Auditors When Claims are Received in the Field.

8.1.5.1 Steps for Processing of Incoming Claims for Apportioning Corporations

The Receiving Section sends all apportioning corporations claims for refund (Forms 100X and Correspondence) to Audit Business Support - MSA Claims.

For All Form 100X Claims For Refund:

The Audit Business Support, MSA Claims Desk will check PASS for field activity within 5 business days.

- If PASS indicates current or prior field audit activity, send to MSA Claims Coordinator who will contact a supervisor from the field office to determine where it makes the most business sense to work the case.
- If PASS does not indicate a field audit activity, follow one of the three steps below:

1) Claims filed on form 100X that are **$150,000 (cumulative) or more** are kept for assignment.

- Audit Business Support MSA Claims will create case unit on PASS in MSA Claims-Newly Created (347:Group) work list within 5 business days.
- Request corporation folder **one time** and wait 10 business days.
- After 10 business days, whether or not you have received the corporation folder, send the physical claims to the MSA Claims Coordinator and transfer the PASS case units from MSA Claims-Newly Created to MSA Claims-Unassigned.

2) Claims filed on form 100X that are **under $150,000** will be sent to MSA Central Office for screening.

- Physical claims will be placed on the shelf in MSA Central Office (coordinates: outside cubicle # **********) for screening. No PASS case unit is created until screening is complete and claim deemed audit worthy.
- After screening, if kept for assignment, claims will be returned to the Audit Business Support - MSA Claims, in which they will follow the same steps in #1 above.

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3) For **ALL Correspondence Claims for Refund**:

- Hand deliver to the MSA Claims Coordinator immediately (as soon as you receive). DO NOT create PASS case units at this point.
- The MSA Claims Coordinator will determine if we will treat the correspondence as a claim for refund, and determine the amount and years, within 5 business days.
- If we deemed the correspondence as valid claim, create PASS case unit in MSA Claims-Newly Created, check for field activity, and create Note on BETS (****: Add):
    - Note Topic: Claims Rec'd TYE _____
    - Note: Correspondence claim received on _____ for TYE _____ in the amount of $_____.
    - All correspondence claims for refund need auditor involvement regardless of dollar amount. Request in writing a complete amended return and supporting documentation regardless of dollar amount, unless you can verify the amount of the claim without this information. See MAP Steps for Processing of Incoming Claims.
- If PASS indicates current or prior field audit activity for a particular taxpayer, send to MSA Claims Coordinator who will contact a supervisor from the field office to determine where it makes the most business sense to work the case.

8.1.5.2 Steps for Processing of Incoming Claims for All Other Cases

In addition to the steps noted in MAP Steps for Processing of Incoming Claims, check with your supervisor for your unit procedures for any additional steps for processing of incoming claims.

8.1.6 BCCLR, Claims Control System for Corporations

The former Claims Control System, commonly referred to as BCCLR, was a recording and tracking mechanism for various corporation claims received by the department. As of July 1, 1999, audit support discontinued to update BCCLR. However, we may continue to access the system for historical/research purposes. BETS and PASS are the current systems we use to record and track claims. BETS conversation **** indicates years in which claims exist for a specific taxpayer. Detailed information regarding a claim is available on PASS. Use the **find** function.

The BCCLR display screen provides the following information:

1	Account Number	Corporation Number
2	XREF	Key Claim Number
3	Claim Year	Year of Claim. If more than one, separate screens for each.
4	Audit Code	**A** for Allocating General, **G** for General Corporation
5	Name	Corporation Name
6	Claim Amount	The amount the taxpayer is requesting as refund
7	$ Allowed/Denied	Amount of claim allowed or denied upon close-out
8	Disposition	**Blank** indicates an open case, **C/O** indicates closed case
9	Issue	Primary issue of the claim

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10	Issue Codes	Issue code for the claim
11	Comment Section	Usually contains location information, associated taxpayers
12	Taxes Paid	Previously assessed tax
13	Date Claim received	Date the claim was received by FTB
14	Referred	Initials of the auditor to which the case was assigned
15	Date Referred	Date case was assigned to the auditor
16	Charged	Tracks location of the case (i.e., BE Audit Technical Support)
17	Date	Date the case was **charged** or sent out to a particular location

8.2 Pre-Audit Procedures

8.2.1 Pre-Audit Procedures for Claims for Refund

8.2.1.1 Pre-Audit Procedures for Claims for Refund for PIT

Follow these pre-audit procedures when auditing a PIT claim for refund:

1. Check the year to which the claim for refund applies:
    a. Was the claim timely filed? Verify the statute of limitations. Is the statute of limitations open for issuing a refund?
    b. Verify the amount of the claim for refund.
    c. If the taxpayer has not paid the original tax return liability, a claim for refund cannot exist. However, analyze the amended return to determine whether the original tax liability requires adjustment.
    d. If PASS shows a CLAIM case unit, change it to an AUDIT case unit. Prior to changing the status from CLAIM to AUDIT delete everything from the CLAIM tab and delete any notices that were created.
    e. If the original tax has been paid, the amended return is a claim for refund.
2. Analyze the claim:
    a. Determine the basis of the claim. Scope the return for any other issues.
    b. Determine whether the claim adjustments actually apply for California tax purposes.
    c. Determine the materiality of the issues. If immaterial, consider allowing the claim.
    d. If the claim can be resolved without taxpayer contact, allow the claim without audit. Use paragraphs 60014 and 60015. These paragraphs explain to the taxpayer that the claim has been allowed without audit and may be subject to examination at a later date.
    e. Determine whether you should send the claim to another section, unit, or program office. If so, route it to the Claims Control Desk to record the transfer on PASS.
    f. Verify that all the proper fields have been completed on the Claims Tab in PASS (i.e., date claim was filed, claim amount, bill of rights date, the primary staff.)

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8.2.1.2 Pre-Audit Procedures for Claims for Refund for Corporations

Follow these pre-audit procedures when auditing a claim for refund:

1. Determine the taxpayer's status under BETS, conversation ****. If **suspended** or **forfeited** and the audit has not been opened, forward the claim for refund to **Audit Business Support- Attn. Steven** ****. Business Support will contact the taxpayer. If taxpayer contact has been made, see your lead auditor. Check BETS conversations ****, ****, or **** to determine if there are prior amended returns, NPAs, or other activities that will affect the claim.
2. Check the year to which the claim for refund applies:
    a. Was the claim timely filed? If not timely filed, issue a Claim Denial Letter.
    b. Verify the amount of the claim for refund. Does the amount of the claim coincide with the income adjustments discussed per Taxpayer statement? Also, verify tax previously assessed per BETS.
    c. If the taxpayer has not paid the original tax return liability, then the claim is deemed an **informal claim** and must be **perfected** by Taxpayer (by paying original liability due) before claim can be examined and/or processed. See MAP Informal Claims for Refund.
    d. If the original tax has been paid, the amended return is a valid claim for refund. Verify that **CORP CLAIM** has been stamped on the claim for refund and that a CLAIM case unit has been created in PASS.
3. Analyze the claim:
    a. If the claim does not have statements or documentations, consider sending a letter if you have not already done so. Allow the taxpayer 45 days to respond. See MAP Steps for Processing of Incoming Claims.
    b. Verify the corporate folder and all the necessary tax returns are available. Verify through audit support that the returns have been logged in though the Corporate Document Tracking System (CDTS).
    c. Determine the basis of the claim. Scope both the original and amended returns for any other issues. Even if the SOL for NPA has expired, we can still make other adjustments to reduce the refund.
    d. Determine whether the claim adjustments apply for California tax purposes, particularly considering federal differences.
    e. Consider if the adjustments claimed by the taxpayer would have material effect on prior or subsequent years. For example, if the taxpayer makes adjustments to eliminate AMT reported on original return, check the subsequent years to see if the taxpayer reported a credit for prior years' AMT.
    f. Determine the materiality of the issues. If immaterial, consider allowing the claim.
    g. If the claim can be resolved without taxpayer contact, allow the claim without audit. Use paragraphs 60014 and 60015. These paragraphs explain to the taxpayer that the claim has been allowed without audit and may be subject to examination at a later date.
    h. Determine whether you should send the claim to another section, unit, or program office. If so, notify Audit Business Support of the transfer for CDTS purposes. Additionally, record an event in PASS explaining the reason for transfer.
    i. Your decision to deny a claim must have proper analysis of the facts with a correct application of the law.

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j. Verify that all the proper fields have been completed on the Claims Tab in PASS (i.e., date claim was filed, claim amount, bill of rights date, the primary staff.)

8.2.2 Statute of Limitations for Claims for Refund

The statute of limitations (SOL) for claims effective January 1, 2000, is generally the same as the SOL for deficiency assessments as long as the tax return was timely filed. The SOL for all open refund claims is determined as the later of the following dates:

- Four years from the original due date of the return.
- Four years from the date the return was filed (if filed by the due date or within the extension period).
- One year from date of overpayment.
- Six months from the expiration of a federal waiver.

If the return was filed after the extended due date, item number 2 above does not apply and the SOL is determined by reference to the original due date of the return. This rule is different than the SOL rule for deficiency assessments since an NPA may be issued up to four years after the date the return was filed regardless of whether it was timely filed.

The law became effective on January 1, 2000, to any taxable year with an open statute on that date. It does not apply to re-open the SOL on a year in which the SOL has expired under the old law. Under the old law, the SOL for claims was determined as the later of the following dates:

- Four years from the original due date of the return.
- One year from date of overpayment.

Claim Examinations Beyond SOL

If a claim audit is started after the expiration of the SOL for issuing an NPA, the auditor may continue to pursue adjustments for audit issues as well as the claim issues to offset the claim. However, tax can be increased only to the extent of the claim.

8.2.3 Procedures for Field Auditors When Claims Are Received in the Field

Claims received by an auditor can come in two forms, an amended return or correspondence letter requesting a refund. Follow the procedures below for each type.

Amended Return

When you receive an amended return from the taxpayer you are auditing, requesting a claim for refund, follow these steps:

1. Determine if you will treat the amended return as correspondence or accept as amended return. If the amended return is treated as correspondence, write "TAC" in blue across the front of the return and attach it to the original return.
2. Date stamp the amended return upon receipt. Reflect the actual received date on top of the amended return to prevent problems with the statute of limitations.
3. Copy the amended return for your records and write **copy** in red.
4. Route the amended return to Audit Business Support of your respective section. Attach a cover sheet stating the return needs to be processed. Include any instructions, account notes in BETS, or any special needs. If you want the return back, indicate in the cover sheet

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and include your name and mail stop. When you receive back the amended return, you can destroy the copy that you made.

5. Determine if you will audit the claim with the returns you are currently auditing, or you should refer the claim to different staff. See MAP Procedure for Auditor Transferring the Case to details on how to transfer the case.
6. Perform an immediate cursory review of the return. If necessary, send a letter to the taxpayer requesting the document that the taxpayer relied upon to substantiate the amount of the refund. Allow the taxpayer 30 days to respond.
7. Create a case unit in PASS or add a case unit to an existing PASS audit file. Leave the DLN blank on the General Information window. Audit Business Support of the respective section will make sure the amended return receives a DLN and is added to TI for PIT taxpayers and BETS, Conversation ****, for corporations. **For apportioning** corporations, when a DLN is available for the amended return, Audit Business Support will update the DLN on the PASS case unit and route the original amended return back to the field auditor. **For all other cases**, the auditors will update the PASS case unit with the new DLN.
8. If you do not receive a response to your original request for information, send a follow up letter. This letter should include the Demand for Information language. However, we will not issue a demand penalty unless there is a tax deficiency. See MAP Failure to Furnish Information Penalty for more information.
9. Deny the claim if the taxpayer does not provide information within the time requested, including reasonable extensions. For a claim denial on a tax year where an audit, protest, or appeal is ongoing, you must coordinate the closing of that claim with the pending FTB action. If an audit, protest, or appeal is in progress on the same tax year, do not close the claim case.

Correspondence Claim for Refund

When you receive a correspondence claim for refund directly from the taxpayer, follow these:

1. Date stamp the correspondence upon receipt. Reflect the actual received date on top of the correspondence to prevent problems with the statute of limitations.
2. Determine if you will audit the claim with the returns you are currently auditing, or you should refer the claim to different staff.
3. If you will work the correspondence claim with your audit, write **CLAIM** on top of the correspondence and the **date** you received it. Create a case unit in PASS or add a case unit to an existing PASS audit file. Use the same DLN as the original return.
4. Send a letter to the taxpayer requesting the documents that the taxpayer relied upon to substantiate the amount of the refund. Allow the taxpayer 30 days to respond.
5. If you do not receive a response to your original request for information, send a follow up letter. This letter should include the Demand for Information language. However, we will not issue a demand penalty unless there is a tax deficiency. See MAP Failure to Furnish Information Penalty for more information.
6. Deny the claim if the taxpayer does not provide information within the time requested, including reasonable extensions. For a claim denial on a tax year where an audit, protest, or appeal is ongoing, you must coordinate the closing of that claim with the pending FTB action. If an audit, protest, or appeal is in progress on the same tax year, do not close the claim case.
7. If you and your supervisor determine it makes the most business sense for the claim to be worked in Central Office:
   - Send the claim to Audit Business Support of the respective section in Central Office.

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- Attach a cover sheet stating the claim should be processed and assigned to be worked.

8.2.4 Claims for Refund When the Entity Status Is Suspended or Forfeited

Suspended or forfeited corporations cannot file protests, appeals, or claims for refund, nor are they entitled to receive refunds (R&TC Sections 23301, 23301.5, and 23301.6). If the claim for refund was filed after the entity was **suspended** or **forfeited**, the claim is not valid. The Suspended/ Forfeited Coordinator for the Audit Division will send a letter to the taxpayer with instructions as to what it needs to do to revive and file a valid claim. The amended return is treated as an information return and sent to files.

If you have a claim for refund and the audit is unopened, route the claim to the Suspended/ Forfeited Coordinator (Audit Business Support- Attn. Steven ******). If Taxpayer contact has already been established, speak to your lead or supervisor regarding the best way to proceed.

The Collection Program or Accounts Receivable Management Division may, on a case-by-case basis, refer invalid claims to the MSA Collection Liaison for an informal review of the claim issues. If the liaison can easily determine that an overpayment exists, the collection representative will credit the overpayment against a balance due to facilitate the reviver process, per R&TC Section 23305.

8.2.5 Claims for Refund Filed Prior to Suspension

Claims for refund filed prior to suspension are valid claims for refund. However, FTB will not issue a refund until the corporation is revived. Audit Business Support of the respective section will send a letter to the taxpayer with instructions as to what to do to revive to receive the refund. If you examined and denied a claim for refund, send a formal denial letter to the taxpayer. However, include a paragraph stating that the taxpayer cannot file an appeal until it is in good standing. If you allow the claim for refund, send it for processing. The overpayment is credited to the account but it is not refunded. Once the corporation is in good standing, the refund will be released.

8.2.6 Pass Case Type: Claim V. Audit

When an examination includes both claims and original returns, the reporting of time and PASS case type varies based upon the scenario. See MAP Claim Filed Subsequent to Audit in Progress.

8.3 In-Progress Audit Procedures

Follow these audit procedures when auditing a claim for refund:

1. The normal work papers are required on every claim audit. See MAP Standard Workpapers.
2. Audit the claim as necessary using general audit guidelines.
3. If during the course of an audit, you discover an adjustment reducing a deficiency or resulting in a refund, the auditor should consider incorporating the adjustment into the audit, rather than requiring the separate filing of an additional claim for refund. You should consult with the taxpayer to determine the best course of action. See MATM 3595 on how to proceed when a refund is detected. This does not include **WALKER LETTER SITUATIONS**.

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8.4 Closing Procedures for Claims for Refund

8.4.1 Quick Reference Table for Closing PIT Claims

Situations (select applicable link):

1. Fully allowed without audit - **no** other notices
2. Fully allowed with audit - **no** other notices
3. Fully allowed with increased refund (due to audit-initiated overassessment or increase in claim issue) - **no** other notices
4. Fully allowed with increased refund (due to audit-initiated overassessment) with related NPA in different year
5. Fully allowed with audit adjustment(s) for same year
6. Fully allowed & NPA for different year - Related Issue
7. Fully allowed & NPA for different year - Unrelated Issue
8. Fully denied with **no** other notices different years
9. Fully denied with other notices on different years
10. Fully denied & NPA - same year
11. Partially denied
12. Partially denied & NPA for different year

The instructions below are intended as general guidelines. These instructions assume audit results have already been communicated to the taxpayer (i.e., in an AIPS/Position Letter). Contact TRS for assistance with situations not on this list.

Refer to PIT Overassessment Procedures, FTB 5847 or 5847A for more information and instructions to complete FTB 5847 and 5847A.

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
1. Fully Allowed W/O Audit **No** Other Notices	**If less than 6 months:** Complete Golden Half Sheet, FTB 6038, and return the case to Audit Support to close. Within Event Log, if required, record **Claim allowed without audit** and document why the claim was allowed. **If more than 6 months:** Complete Golden Half Sheet, FTB 6038 Within Event Log, if required, record **Claim allowed without audit** and document why the claim was allowed. Audit Business Support will prepare an FTB 5847A, Notice of Overassessment, Credit or Refund (no appeal rights) and send it to the taxpayer.	Claim allowed No figure needed in tax field Add Drop Down List. Select Issue and under tax field enter 0	No figure needed in Amount Denied field
2. Fully Allowed With Audit **No** Other Notices	Complete Golden Half Sheet, FTB 6038 Auditor prepares FTB 5847A (no appeal rights) in draft correspondence. Auditor will complete the form through net tax liability and leave in draft. Paragraph(s) required. Audit Business Support will complete the form and send it to the taxpayer. If processing a 540NR claim, attach a schedule showing the ratio calculations and adjustments to the form. **Audit Report, FTB 6430:** Def (O/A) – Claim allowed in full	Claim allowed No figure needed in tax field Add Drop Down List. Select Issue and under tax field enter 0	No figure needed in Amount Denied field
3. Fully Allowed W/ Increased Refund (Increase Due To Audit-Initiated Overassessment	Complete Golden Half Sheet, FTB 6038 Auditor prepares FTB 5847A (no appeal rights) in Draft Correspondence. Incorporate the increase in claim issue within the	2 Notices Claim Allowed; No figure needed in tax field Add Drop Down List. Select Issue	No figure needed in Amount Denied field

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
(Requires Open SOL) or Increase In Claim Issue) **No** Other Notices	5847A. Paragraph(s) required. Auditor will complete the form through net tax liability and leave in draft. Audit Business Support will complete the form and send it to the taxpayer. If processing a 540NR claim, attach a schedule showing the ratio calculations and adjustments to the form Auditor should add a comment to TI and PASS sticky note: **Claim filed xx/xx/xxxx for tax year xxxx fully allowed and increased due to _____ (provide explanation).** **Audit Report, FTB 6430:** Def (O/A) – Claim allowed in full + O/A (amount of increase in O/A)	and under tax field enter 0 O/A; Tax amount allowed in tax field Add Drop Down List. Select Issue and under tax field enter additional refund	

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
4. Fully Allowed W/ Increased Refund Due To Audit-Initiated Overassessment (Requires Open SOL) **With** Related NPA In Different Year (See MAP 13.4.6.1)	Complete Golden Half Sheet, FTB 6038 **Refund Year:** Auditor prepares FTB 5847A (no appeal rights) in Draft Correspondence. Paragraph(s) required. Auditor will complete the form through net tax liability and leave in draft. Audit Business Support will initially send an FTB 5851, Computation of Proposed Overpayment (NPO), upon issuance of the NPA to inform the taxpayer of the pending overassessment. Audit Business Support will send the 5847A when the NPA is final. If processing a 540NR claim, attach a schedule showing the ratio calculations and adjustments to the form **NPA Year:** 6831B PAWS Input Worksheet or GTA – PAWS Input Nonresident is prepared by auditor. Auditor should add a comment to TI and PASS sticky note to all applicable case units: **Claim filed xx/xx/xxxx fully allowed and increased due to _____ (provide brief explanation). Refund awaiting final action on related NPA for tax year xxxx.** **Audit Report, FTB 6430**: Def (O/A) - Refund Year – Claim allowed in full + (amount of increase in O/A) Def (O/A) - NPA Year – Additional tax + Penalties (if applicable) Special instructions: Indicate "NPA and Claim are related" **Do not separate case files**	3 Notices (one for each notice type): 1. Claim Allowed; No figure needed in tax field Add Drop Down List. Select Issue and under tax field enter 0 2. O/A; Tax amount allowed in tax field Add Drop Down List. Select Issue and under tax field enter additional refund 3. NPA- Tax amount in tax field. Add Drop Down List. Select Issue and enter amount in tax field.	No figure needed in Amount Denied field

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
5. Fully Allowed With Audit Adjustment(s) For Same Year (Different issue(s), Same year)	Complete Golden Half Sheet, FTB 6038. 2 separate notices are needed – one for the audit adjustments (NPA) and one to allow the claim issues. This ensures protest process occurs before appeal period and revenue is properly recorded. **NPA:** 6831B PAWS Input Worksheet or GTA – PAWS Input Nonresident is prepared by auditor. Use net income and previously assessed from amended return. Add paragraph stating **The above calculation does not include the refundable amount of $----, as reflected in your amended return filed xx/xx/xxxx.** *Note: Auditor should not include interest amount.* If TI figures do not reflect the amended return amounts, a Technical Support Request, FTB 7053, is required to have the amended return posted. **Claim Allowed:** Auditor prepares FTB 5847A (no appeal rights) in draft correspondence, **using original return amounts as starting figures.** Auditor will complete the form through net tax liability and leave in draft. Audit Business Support will include the final NPA adjustments and claim amounts and send the 5847A when the NPA is final. If processing a 540NR claim, attach a schedule showing the ratio calcu-lations and adjustments to the form. Auditor should add a comment to TI and PASS sticky note to all related case units: **Claim allowed in full with an NPA for the same year. Awaiting resolution of NPA.** **Audit Report, FTB 6430:** Def (O/A) – Claim Allowed in full + NPA (include NPA amount only)	2 notices 4. Claim Allowed – no amount needed in in tax field Add Drop Down List. Select Issue and under tax field enter 0 5. NPA- Tax amount in tax field. Add Drop Down List. Select Issue and enter amount in tax field.	No figure in Amount Denied field

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
6. Fully Allowed & NPA For Different Year – Related Issue (Different Years, Related Issues – See to MAP 13.4.6.1)	Complete Golden Half Sheet, FTB 6038 **REFUND YEAR**: Auditor prepares FTB 5847A in draft correspondence (no appeal rights) through net tax liability. Paragraph(s) required. Audit Business Support will initially send an FTB 5851 (NPO) upon issuance of NPA to inform the taxpayer of the pending overassessment. Audit Business Support will send 5847A when the related NPA is final. Comment TI and PASS with a sticky note on all related case units: **Claim filed xx/xx/xxx fully allowed and related NPA for different year. Refund held pending resolution of NPA.** If processing a 540NR claim, attach a schedule showing the ratio calculations and adjustments to the form. **NPA Year:** 6831B PAWS Input Worksheet or GTA – PAWS Input Nonresident is prepared by auditor. **Audit Report, FTB 6430**: Def (O/A) - Refund Year – Claim allowed in full Def (O/A) - NPA Year – Additional tax + Penalties (if applicable) Special instructions: Indicate "NPA and Claim are related". **Do not separate case files**	2 notices (one in each year) 1. Claim allowed- no figure in tax field needed in tax field. Add Drop Down List. Select Issue and under tax field enter 0 2. NPA- Tax amount in tax field. Add Drop Down List. Select Issue and enter amount in tax field	No figure in Amount Denied field

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
7. Fully Allowed & NPA For Different Year – Unrelated Issue (exception to general rule) (Different Years, Un-Related Issues) (See MAP 13.4.6.1)	Complete Golden Half Sheet, FTB 6038 **Refund Year**: Auditor prepares FTB 5847A in draft correspondence (no appeal rights) through net tax liability. Paragraph(s) required. If processing a 540NR claim, attach a schedule showing the ratio calculations and adjustments to the form. Audit Business Support will initially send an FTB 5851 (NPO) upon issuance of NPA to inform the taxpayer of the pending overassessment. Audit Business Support will send 5847A when the NPA is final or protested, whichever is earlier. Auditor should add a comment to TI and PASS sticky note to all applicable case units: **Claim filed fully allowed; unrelated NPA for xxxx.** **NPA Year**: 6831B PAWS Input Worksheet or GTA – PAWS Input Nonresident is prepared by auditor. **Audit Report, FTB 6430**: Def (O/A) - Refund Year – Claim allowed in full Def (O/A) - NPA Year – Additional tax + Penalties (if applicable) Special instructions: Indicate: NPA and Claim are unrelated.	2 notices (one in each year) 1. Claim allowed- no figure in tax field needed in tax field. Add Drop Down List. Select Issue and under tax field enter 0 2. NPA- Tax amount in tax field. Add Drop Down List. Select Issue and enter amount in tax field	No figure in Amount Denied field
8. Fully Denied With **No** Other Notices On Different Years	Complete Golden Half Sheet, FTB 6038 Denial: Auditor writes claim denial letter (PASS 1502) and sent by: • **Non-TRS Review:** Auditor,	Claim denied Denied amount in tax field Add Drop Down List. Select Issue	Denied amount in Amount Denied field

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
	Supervisor, or Reviewer. • **TRS Review:** TRS Reviewer. **Audit Report, FTB 6430:** Def (O/A) – Claim denied in full	and enter amount denied in tax field	
9. Fully Denied With **Other** Notices On Different Years	Complete Golden Half Sheet, FTB 6038 Denial: Auditor writes claim denial letter (PASS 1502) and leave in Draft. Audit Business Support will send the claim denial letter when other notices are final, if not protested. If protested, the denial letter will be sent by Audit Business Support upon issuance of Notice(s) of Action (NOA) for other years. Auditor should: 1. Add a comment to TI: **Claim for tax year xxxx filed xx/xx/xxxx fully denied**; **related NPA for tax year xxxx. See PASS (puc/init).** 2. Add a PASS sticky note on all related case units: **Claim filed xx/xx/xxxx fully denied. Do not send claim denial until NPA is final (if not protested) or until NOA is issued (if protested).** **Do not separate case files.**	Claim denied Denied amount in tax field Add Drop Down List. Select Issue and enter amount denied in tax field Enter other notices for other years, as applicable	Denied amount in Amount Denied field

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
10. Fully Denied & NPA – Same Year	Complete Golden Half Sheet, FTB 6038 **Denial:** Auditor writes claim denial letter (PASS 1502) and leaves in Draft for Audit Business Support to send. Audit Business Support will send the claim denial letter when NPA is final, if not protested. If protested, the denial letter will be sent by Audit Business Support upon issuance of Notice(s) of Action (NOA). **NPA:** 6831B PAWS Input Worksheet or GTA – PAWS Input Nonresident is prepared by auditor. Use starting taxable income and previously assessed from original return. If TI figures still reflect the amounts from the amended return, a Technical Support Request, FTB 7053, is required to reverse it back to the original return amounts. Auditor should: 1. Add a comment in TI: **Claim for tax year xxxx filed on xx/xx/xxxx has been denied in full. NPA for same year. See PASS (puc/init)** 2. Auditor should add a Sticky Note to PASS on all related case units: **NPA & claim denial in the same year. Denial letter in DRAFT to be sent after NPA has gone final if not protested. If protested, denial letter will be sent by Audit Business Support when NOA is issued.** **Audit Report:** Def (O/A) – Claim denied + NPA (include amount of NPA)	2 notices 1. Claim denied- Denied amount in tax field. Add Drop Down List. Select Issue and enter amount denied in tax field 2. NPA- Tax amount in tax field. Add Drop Down List. Select Issue and enter amount in tax field.	Denied amount in Amount Denied field

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
11. Partially Denied	Complete Golden Half Sheet, FTB 6038 Auditor prepares FTB 5847 (with appeal rights) in Draft Correspondence. Paragraph(s) required. Specify amount denied in the paragraph(s). Auditor will complete the form through net tax liability and leave in draft. Audit Business Support will complete the form and send it to the taxpayer. If processing a 540NR claim, attach a schedule showing the ratio calculations and adjustments to the form. Use net income and previously assessed from original return or previously filed amended return or prior NPAs, if applicable, whichever is later. **Audit Report, FTB 6430:** Def (O/A) – Claim Revised (include amount denied)	Claim Revised Denied amount in tax field Add Drop Down List. Select Issue and enter amount denied in tax field	Denied amount in Amount Denied field
12. Partially Denied & NPA For Different Year	Complete Golden Half Sheet, FTB 6038 **Refund Year**: Auditor prepares FTB 5847 in draft correspondence (with appeal rights) through net tax liability. Paragraph(s) required. Audit Business Support will initially send an FTB 5851 (NPO) upon issuance of NPA to inform the taxpayer of the pending overassessment. Audit Business Support will send the 5847 when the related NPA is final (if not protested) or upon issuance of the NOA (if protested). If processing a 540NR claim, attach a schedule showing the ratio calculations and adjustments to the form.	2 notices (one in each year) 1. Claim revised- Denied amount in tax field. Add Drop Down List. Select Issue and enter amount denied in tax field 2. NPA- Tax amount in tax field. Add Drop Down List. Select Issue and enter amount in tax field.	Denied amount in Amount Denied field

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
	NPA Year: 6831B PAWS Input Worksheet or GTA – PAWS Input Nonresident is prepared by auditor. Auditor should: 1. Add a comment to TI: **Claim for tax year xxxx filed on xx/xx/xxxx partially denied. NPA for xxxx. See PASS (puc/init).** 2. Add a PASS sticky note to all related case units: **Claim filed xx/xx/xxx partially denied; NPA for xxxx. Do not send 5847 until NPA is final (if not protested) or NOA is issued (if protested).** **Audit Report, FTB 6430**: Def (O/A) - Refund Year – Claim Revised (include amount denied) Def (O/A) - NPA Year – Additional tax + Penalties (if applicable) Special instructions: Indicate: NPA and Claim are related. **Do not separate case files.**		

8.4.2 Quick Reference Table for Closing Corporation Claims

SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
Fully Allowed w/o Audit	• On the top right corner of the claim (in pencil): Initial and write **Accept as Filed**. • Fill out Form 6638 (Auditor's Recommendation Formal Claim) Include paragraphs 60014 & 60015. • If the claim amount is greater than $*******, fill out FTB 6163 (Abatement / Refund Memo). • Within Event Log, record **Claim allowed without audit** and document the issues in the claim (if credits, amount generated and used) and why the claim was allowed.	• Name: Claim Allowed. • Tax Field: 0. • Add Drop Down List. Select Issue & Under Tax enter 0.	Amount denied field: No figure is needed
Fully Allowed with Audit	• On the top right corner of the claim (in pencil): Initial & write **Accept as Filed**. • Fill out Form 6638 (Auditor's Recommendation Formal Claim) Crossout ¶ 60014 & 60015 and use appropriate paragraphs. • If the claim amount is greater than $*******, fill out Form 6163 (Abatement / Refund Memo). • If the audit resulted in a reduction in the carryover, Auditor will create an NPACA. The NPACA will be sent by BES. Include Sticky Note in PASS stating so. Form 6638 is not needed. No NPACA is needed for increases in carryover and should be communicated to the taxpayer in the AIPS.	• Name: **Claim Allowed**. • Tax Field: **0**. • Add Drop Down List. Select Issue & under Tax enter **0**. • If applicable, on separate notice window - Name=Loss/CO. Tax Field=**0** Add Drop Down List. Select Issue Tax: Enter NPACA amount	Amount denied field: No figure is needed

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
Fully Allowed w/ Increased Refund	• On the top right corner of the claim (in **pencil**): Initial and write **Revised**. • Fill out Form 6830 BCT NPA Worksheet Audit (PASS Admin Folder). • -Ensure proper paragraphs. • Include ¶ explaining income is from amended return and previously assessed is from original return.	Two Notices: 1. Name: **Claim Allowed**. Tax Field: **0** Add Drop Down List: Select Issue & under Tax: enter **0** 2. Name: **O/A**. Tax Field: Amount of additional refund Add Drop Down List: Select Issue & Under Tax: enter the amount of additional refund	No figure needed in Amount Denied field
Fully Allowed & NPA issued on **different** years	• 6830 for refund (authorized offset or regular offset) • NPA on BETS	• Name: Claim Allowed. • Tax Field: **0** • Add Drop Down List: • Select Issue & under Tax: enter **0**	No figure needed in Amount Denied field

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
Fully Denied with **NO** other notices (N/C, NPA, O/A) on different years	• On the top right corner of the claim (in **pencil**): Initial & write **Denied**. • Write a claims denial letter in PASS Draft Folder. • Fill out Form 6638 (Auditor's Recommendation Formal Claim). Include the appropriate paragraph(s) that explain why the claim is being denied. • **Non-TRS Review Cases:** With Supervisor agreement, Auditor sends the denial letter. Enclose Form 1087. • **TRS Review Cases**: TRS Reviewer sends denial letter and encloses Form 1087. Create sticky note stating so.	• Name: **Claim denied**. • Tax Field: Enter amount denied. • Add Drop Down List: Select Issue & enter amount denied.	Enter the denied amount in Amount Denied field
Fully Denied with **other** notices (N/C, NPA, O/A) on **different** years	• On the top right corner of the claim (in **pencil**): Initial and write **Denied**. • Fill out Form 6638 (Auditor's Recommendation Formal Claim). Include the appropriate paragraph(s) that explain why the claim is being denied.	• Name= Claim denied. • Tax Field= Amount denied. • Add Drop Down List: Select Issue & enter amount denied.	Enter the denied amount in Amount Denied field

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
Fully Denied w/ NPA or NPACA in **same** year	• On the top right corner of the claim (in **pencil**): Initial & write **Denied**. • Fill out Form 6638 Auditor's Recommendation Formal Claim. Fold bottom right of Form 6638 & write in **red DO NOT MAIL UNTIL NPA IS FINAL**. Include sticky note. • NPA: 6830 BCT NPA Worksheet Audit (Administration Folder). • Use net income & previously assessed from original return or use latest info from BETS (**** Period Summary Detail Screen). • If the audit resulted in solely a reduction in carryover, Auditor will create an NPACA. BES will send the NPACA. Create Sticky note stating so. No NPACA is needed for increases in carryover and should be communicated to the taxpayer in the AIPS.	Two Notices 1. Name: **Claim denied**. Tax Field: Denied amount Add Drop Down List: Select Issue & enter amount denied 2. Name: NPA. Tax Field: Tax amount Add Drop Down List: Select Issue & enter tax amount If applicable, on separate notice window Name: Loss/CO Tax Field: **0** Add Drop Down List: Select Issue Enter: NPACA amount	Enter the denied amount in Amount Denied field
Partially Denied	• On the top right corner of the claim (in **pencil**): Initial & write **Revised**. • 6830 BCT NPA Worksheet Audit (Administration Folder). Use net income & previously assessed from original return or use latest info from BETS **** Period Summary Detail Screen).	• Name: Claim Revised. • Tax Field: Denied amount. • Add Drop Down List: Select Issue & enter amount denied.	Enter the denied amount in Amount Denied field

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
Agree with Claim Issue. Audit Adjustment more than Claim Adjustment (different issue,same year) Note: Claim adjustment should be incorporated within NPA	• On the top right corner of the claim (in **pencil**): Initial & write **Denied**. • NPA: 6830 BCT NPA Worksheet Audit (Administration Folder) include this ¶ **This notice takes into consideration the amended return filed on xx/xx/xxxx**. • Use net income & previously assessed from original return or use latest info from BETS (**** Period Summary Detail Screen) Please be aware that exceptions may apply. • A refund will not be generated to the taxpayer since the overpayment of tax will be applied to the NPA. Thus, Form 6638 must be filled out to disallow the refund. Fold bottom right of Form 6638 & write in **red** **DO NOT MAIL UNTIL NPA IS FINAL.** **Also include sticky note. Include this: The refund is disallowed; however, credit for the claim for refund is reflected to the extent allowable in the NPA number xxx, dated xxx.** • Auditor does not create denial letter.	Two Notices 1. Name: Claim denied. Tax Field: Denied amount Add Drop Down List: Select Issue & enter amount of tax denied. 2. Name: NPA. Tax Field: Tax amount Add Drop Down List: Select Issue & enter amount of additional tax.	Enter denied amount in Amount Denied field

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SITUATION	FORM	PASS NOTICE WINDOW	PASS GI WINDOW
Agree with Claim Issue: Claim Adjustment more than Audit Adjustment (different issue, same year) **Note: Audit Adjustment should be incorporated within O/A**	• On the top right corner of the claim (in pencil): Initial & write **Revised**. • O/A: 6830 BCT NPA Worksheet Audit (Administration Folder) & include this ¶ **This notice takes into consideration the amended return filed on xx/xx/xx and incorporates the audit adjustment. Therefore, your requested refund amount of $XXX is reduced to $XX.** • Use net income & previously assessed from original return or use latest info from BETS (**** Period Summary Detail Screen). Please be aware that exceptions may apply.	Name: Claim Revised Tax Field: Denied amount	Enter denied amount in Amount Denied field

8.4.3 Routing Completed Claim Cases

These are routing procedures for completed claim cases.

8.4.3.1 Routing PIT Completed Claims Cases - Central

- If the PIT Claims case results in at least one NPA and/or NPACA (a Mixed File) and the supervisor **has** already released the NPA, transfer the PASS case to the 389 Group Worklist called **NPA edit desk**. Place the physical workpaper file in the basket for cases to be routed to the NPA edit desk with the Batch Control Worksheet on the top of the audit file.
- If the PIT Claims case results in at least one NPA and/or NPACA (a Mixed File) and the NPA **has not** been released because it needs TRS review, transfer the PASS case to the 389 Group Worklist called **Audit Support/GTA Review**. Place the physical workpaper file in the basket for cases to be routed to ***** ****** with the Audit Report on top of the audit file.
- If the PIT Claims case has a Corp NPA, transfer the PASS case to the 389 Group Worklist called **Audit Support/GTA Review**. Place the physical workpaper file in the basket for cases to be routed to ***** ****** with the Audit Report on top of the audit file.
- If the case is a PIT Claims only case (no NPA or NPACA will be issued), transfer the PASS case to the 389 Group Worklist called **Audit O/A Offset/Consent PIT (ALL Incoming)**. Place the physical workpaper file in the basket for cases to be routed to **Claims Desk** with the Audit Report on top of the audit file.

8.4.3.2 Routing Corporations Completed Claims Cases – Central

Generally, you should route all **physical files** to the **MSA Technical Resources Section at Mail Stop F350**, **ATTN:** ***** *******.

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Transfer the **electronic PASS file** to the **Group Work list** entitled **MSA TRS New Incoming Review Cases.** You need to change the case status to **Review** before doing so.

Note: You should route the physical file when you transfer the electronic file. Failing to do so may cause lost files, expired statutes, unprocessed assessments, etc.

8.4.4 Conversion of Assessment to a Claim for Refund

A taxpayer with a tax deposit amount on account may wish to convert a protest or appeal to a claim for refund. In these cases, the taxpayer must provide a statement in writing asking us to convert the administrative deficiency dispute to an administrative claim dispute (preferably on the Form 3581). When we receive the form, we will finalize the deficiency, and apply the tax deposit amount to the final deficiency amount, including interest and any amnesty penalty (if applicable).

If there is an overpayment after all amounts due for the year have been paid, the balance will be refunded unless the taxpayer has designated on the FTB 3581 that excess amounts should be retained, or applied differently. At this time, the protest converts to a perfected claim, and FTB will continue to consider the issues presented in the protest, and will take action on the claim.

If the tax deposit amount is not enough to pay the final deficiency amount, including penalties, fees, and interest, the claim becomes an informal claim. The taxpayer will receive a bill for the remaining amount due, and FTB cannot act on the claim until it is perfected by full payment. The six-month "deemed denial" period does not start to run until the claim is perfected by full payment.

These same procedures apply if the taxpayer has appealed the denial of a protested proposed assessment to the Board of Equalization, and wishes to convert the deficiency appeal to an appeal from the denial of a refund claim.

8.4.5 RARs and Pending Federal for Corporations

All apportioning corporation claims for refund, amended returns and correspondence claims, containing RAR adjustments are to be worked in the office that makes the most business sense. Each amended return is reviewed to determine if the applicable California adjustments were made, if so the amended return is accepted as filed. If revisions are necessary, a notice of proposed assessment (NPA) or overassessment (O/A) reflecting the changes will be issued.

1. A screening auditor reviews claims under $****** (per taxpayer, total all years), prior to requesting the corporation folder. If the amended return appears reasonable and no state issues are discovered, the amended returns are forwarded to the Technical Support section to allow as filed. If audit issues are identified, the claims are forwarded to the IRS coordinator to process as claims over $****** (see below).

2. Claims over $****** are forwarded to the IRS coordinator to pull the corporation folder and associate with the original and any prior amended returns, audit and/or protest reports etc., and to create a PASS file. When completed, the case is put in the RAR room for the auditor to work. If five months pass (from the date the claim was received at FTB) and the complete file cannot be located, the IRS coordinator will enter a comment in the event log to state **Unable to locate the complete file due to Bill of Rights (BOR) date – transfer to MSA RAR Ready to Work**.

3. To the extent possible, all RAR's are worked on the basis of when the RAR was received at FTB (First-in, First-out). Exceptions are made for statute (SOL) cases and BOR date. The RAR ready to work workload will be maintained by two types: 1) RAR - Claims filed by BOR date, 2) RAR - Other filed by date received, except statute cases will be moved to the front

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

of the line. It is the auditor's responsibility to check both files and pull by date the claim that will expire first.

Claims – Pending Federal

1. California claims which are filed on a similar basis as a claim filed with the IRS (federal 1120X) and do not have any state issues are treated as follows:

    a. The auditor will request a BMF transcript (FTB 6227) to determine if the IRS has allowed the federal amended return (1120X). If the IRS amended has been allowed the auditor will allow the California claim.

    b. If the IRS amended has not been allowed, the auditor will send an initial contact letter to the taxpayer using PASS form FTB 1535.

    c. If the taxpayer replies that IRS action has been taken on the amended filed with IRS, the auditor will ask the Taxpayer to provide a copy of the federal audit report (RAR), or other documentation detailing the outcome of the federal audit. Taking into consideration the federal / state differences, the audit will then proceed following normal audit guidelines.

    d. If the taxpayer replies that IRS action is still pending or in process, transfer the PASS file to the group work list MSA/CLAIMS INVENTORY P/F and transfer a separate folder containing all information relating to the claim years only to the P/F Coordinator (coordinator). The remainder of the file will be returned to Data Services (DSS). The coordinator will access the **Event Log** and at the first event, which is **Create Case Unit**, double click until the **Comment** box appears. The coordinator will then enter **PF Status – mo/day/yr**. The bill of rights date (BOR) will not be entered in the **General Information Window** at this time. The BOR date will begin running when the taxpayer notifies FTB that action has been taken on the Federal amended return. The coordinator updates the P/F tag and the PASS sticky note with a one-year follow-up and holds the case on the follow-up wall/shelf. After one year, the coordinator will send a series of P/F letters to the taxpayer requesting the status of the federal amended return (1120X). If a response is not received to the series of letters, the case is transferred to the P/F lead auditor for assignment to the audit staff.

    e. If (after case has been placed on a pending federal hold) the taxpayer replies that IRS action has been taken on the amended filed with IRS, the P/F coordinator will update the event log with the following – **Information received from t/p – claim is ready to be worked**. Additionally, the **General Information** window will be updated to reflect the BOR that begins from the date the information was received at FTB (the date stamped by Receiving Section). The coordinator then returns the PASS case and paper file to the auditor or audit supervisor.

2. If there are material state issues, which warrant an audit, the audit should be opened immediately. In the initial contact letter, the auditor should request the status of the federal amended returns (1120X) and follow-up during the course of the audit as necessary. The audit should not be closed until all state issues are resolved and the IRS has taken action on the 1120X.

An MSA RAR auditor screens all RAR claims under $****** for potential audit issues and for overall accuracy of the claim. If no material audit issues or errors are found, the claim is allowed without audit. If the claim requires audit work, it is forwarded to the RAR Coordinator for entry onto the RAR inventory system. All RAR claims over $****** are entered onto PASS and the RAR inventory, and assigned to be worked in the office which makes the most business sense to audit the RAR.

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8.4.6 Multiple Issue Claims

Often, a claim for refund involves multiple issues and both positive and negative changes. If audit proposes to change the claim, it is important to issue the correct notice.

For example, a taxpayer files a claim for refund, based upon multiple issues that are both positive and negative. Issue #1 is based upon a Revenue Agent Report adjustment. The additional tax resulting from the Report issue is $100. Issue #2 is a California only adjustment. The tax effect of the California only adjustment is $<200>. The net tax effect is a claim for refund of $<100>.

If the Report issue is allowed and the California only adjustment is denied, we issue a Notice of Tax Due for the Report issue instead of a Notice of Proposed Assessment. We would issue an Assessment if we got the Report from the taxpayer without an amended return. The Notice of Tax Due gives the taxpayer no appeal rights since filing the amended return makes the Report issue a self-assessed tax.

We also issue a Claim Denial Letter for the California only adjustment. The Claim Denial Letter (with the Appeal Procedures - Form FTB 1084) gives the taxpayer appeal rights.

- For corporate taxpayers, we issue the Notice of Tax Due by preparing the Accounting Instructions/Corp. - Form FTB 6213A.
- For individual taxpayers, we issue the Notice of Tax Due by preparing the Technical Support Request - Form FTB 7053.

8.5 Post-Audit Procedures

8.5.1 Appeal of Denied Claim

Once a claim for refund is denied, the taxpayer's next available option is to file an appeal with the State Board of Equalization (SBE) (or to bypass the SBE appeal provess and bring an action directly in Superior Court.). When the SBE decides a case, it sends a copy of its decision to Legal. Legal then sends a copy of the decision and appeal file to Technical Resource Section (TRS) for analysis and processing purposes. TRS will review the decision and determine whether the department was sustained in its position or whether the taxpayer is due a refund.

- If the SBE sustained FTB's position, insert the written SBE decision inside the first page of the return for the latest year appealed. Return any appeal folders included in the file to Legal. Return the taxpayer’s files (i.e., tax returns and audit files) to Data Services.
- If the SBE did not sustain FTB's position and the taxpayer is due a refund, route both the appeal folder and the taxpayer’s files to Audit Support for the necessary action.

If FTB denies or partially denies a claim for refund, the taxpayer has 90 days after the notice of denial is mailed to file an appeal in writing with the Board of Equalization or bring action in California Superior Court.

In addition, if FTB fails to act on the claim within six months, the taxpayer can deem the claim denied, and file an appeal with the Board of Equalization or bring action in California Superior Court as if the claim was formally denied.

Once the Board of Equalization renders a decision, it is final and binding on FTB, but not on the taxpayer.

Either the taxpayer or FTB can appeal a Superior Court decision to the California Appellate Court or the California Supreme Court, and ultimately to the U.S. Supreme Court.

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8.5.2 Erroneous Refunds

A refund that was not claimed by the taxpayer, but was issued due to an FTB error is considered an erroneous refund. See MAP Erroneous Refunds for more information.

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9 Requesting Return

9.1 Requesting Tax Returns and Prior Audit Reports

This section discusses methods and information needed to request state tax returns and federal tax information.

9.2 Document Locator Number (DLN)

The Document Locator Number (DLN) is a unique number assigned to a state tax return. Sometimes, the DLN includes a letter at the end, called DLN suffix, which represents electronically filed returns (See MAP Electronically Filed Returns). The DLN shown on BETS (Business Entity Tax System), PASS (Professional Audit Support System), and TI (Taxpayer Information System) are different.

BETS

The DLN found on BETS is a 13-digit number, comprised of the following:

Digits 1-2 are the source input code

(30= EFT payments, 40= regular payments, 50= paper returns, 52= ELF return)

Digits 3-4 are the process year

Digit 5 is a filler (zero)

- For C corporation and S corporation returns
- There is no **zero** filler in that position on Partnership returns. Partnership returns have a six-digit DLN block series number.

Digits 6-10 are the DLN block series

Digit 11 is a placeholder for a possible suffix if needed later

Digits 12-13 are the item/sequence number

Example: 5097016741007.

50 = source input document was a paper return

97 = process year

0 = filler

16741 = DLN block series

0 = placeholder

07 = item number

PASS

The DLN found on PASS is twelve spaces (only ten digits are visible), comprised of the following:

Digits 1-2 are the process year

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Digit 3 is a filler (zero)

Digits 4-8 are the DLN block series

Digits 9-10 are the item/sequence number

Digits 11-12 are spaces used as a placeholder for a possible suffix if needed later

Example DLN: 9701674107

97 = process year

0 = filler

16741 = DLN block series

07 = item number

TI

Digits 1-2 are the return process year

Digits 3-8 are the DLN block series or type

Digits 9-10 are the item/sequence number

Digit 11 is for block suffix

Digit 12 is for item suffix assigned only if there is a duplicate return within a block

Example DLN: 9701674107

97 = process year

016741 = DLN block series

07 = item number

DLN Suffix

The relevant DLN suffixes are

E - e-Filed using personal software by a taxpayer or tax practitioner

M – IPACS (Image Processing and Cashiering System)

T - Telefile

W - CalFile using FTB website

General Guidelines

State tax returns are filed in DLN order, except tax returns of corporations. Consequently, it is important that the DLN be clearly located on the face of the return. Follow these general guidelines:

- Do not cover the DLN with holes and fasteners.
- If the DLN becomes covered, rewrite the number in the same color as that stamped on the return.

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9.3 Requesting State Tax Returns and Prior Audit Report

These are the methods of requesting state tax returns and prior audit report:

- PASS Request.
- BETS Request (Corporations, Partnerships and LLC).
- TI Request (Individuals and Fiduciaries).
- Paper Request.
- Telephone Request.
- Outsearch Request.
- R&S Sample.
- Email Request.

Refer to FTB General Procedures Manual (GPM 0630) for the turn around time for each method listed above.

General Guidelines

- Receiving & Data Storage Section (RDSS) prefers that we request returns using PASS.
- Do not request returns from BETS or TI and PASS simultaneously as this will cause duplicate searches.
- RDSS will notify you if your request is not in files (NIF).
- Wait 30 days to re-request the return.
- If you still get the same result, you may request an **Outsearch**. See MAP Outsearch Request for procedures.

Large Volume Requests

When generating requests for a large volume of returns, such as group scoping, notify RDSS to expect the workload.

1. Send RDSS email addressed to **790mgrs**.
2. Indicate the number of items requested and the date you need them.

You will receive a confirmation from or be contacted by RDSS staff, if further information is needed.

Audit File Without DLN

Sometimes, we have a file that does not have DLN. An example is when we issue an NPA without a return. RDSS files the NPA and corresponding physical audit file in alphabetical order (ALPHA LIM file). These are items to consider:

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- Make sure the face of the physical audit file clearly shows the taxpayer's name, tax year, and taxpayer's identification number.
- If this information is missing, write it in red in the upper right hand corner.

If you need to preserve the file beyond the normal retention period (LIM), see MAP Preserving Audit Files (LIM Dating).

If you need to request the prior audit report from RDSS, follow the procedures for requesting returns discussed in this section, and add in the comment or special instruction line:

- Prior Audit Report.
- Please check the e File Correspondence or Alpha LIM file.

9.3.1 PASS Request (Professional Audit Support System)

Request returns from various windows in PASS, including, but not limited to the Work Area window, the Case Unit window and the Inventory window. See **PASS Help** for specific instructions.

9.3.1.1 General Guidelines

- Before requesting individual (PIT) returns from PASS, make sure the tax returns are not in R&S PIT Sample. See MAP R&S PIT Sample for procedures on how to verify this information.
- Do not request returns from BETS or TI and PASS simultaneously as this will cause duplicate searches.

9.3.1.2 Requesting Forms 541-A and 541-B (Estates and Trusts)

To request Estates and Trusts tax returns (Forms 541-A and 541-B) on PASS, you must first retrieve the DLN of the returns. You need the FEIN to retrieve the DLN. Anyone with modeling access can retrieve the DLN following these steps:

- In PASS, double click on the **Models** icon.
- The **Model List** window will open. Select:
    - Program: GTA.
    - **Entity Type**: ESTATE_TRUST.
    - Model Type: TEST.
    - **Tax Year**: tax year you are looking for.
- Open the model for the return you are looking for. The model name should be **99000TY-541(A or B) – TY** (**TY** = two digit tax year you want to request).
- Right click on the model name and select **Candidate List** from the pop-up menu.
- The **Sort Candidate List** window will open. Select:
    - Element: FEIN.
    - **Comparison**: EQUAL TO.
    - **FEIN 1**: Input the FEIN.
    - Click **OK**.

Request trust returns from the Work Area. You must create a new candidate to request returns. Follow these:

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- Open the **Work Area**.
- Click on the **New Candidate icon** from the tool bar.
- Double click on the **new candidate** to open the New Candidate Window.
- In the **New Candidate** window, enter the DLN, FEIN, name, entity type, etc.
- Save and close the **New Candidate** window.
- In the **Work Area** window, highlight the candidate you just created.
- Click on the **Request Tax Return** icon, or right click on the candidate name and select **Request Return** from the pop-up menu.

From this point you can either create a case by dragging the candidate into your inventory or close the work area and the candidate will be deleted if you only want the returns.

9.3.2 BETS Requests (Business Entity Tax System)

You can request returns of these entities through BETS:

- C corporation (Entire folder or individual tax year).
- S corporation (Entire folder or individual tax year).
- Partnership (Individual tax year).
- LLC (1999 and later years) (Individual tax year).

Use conversation ****. Following is the information you will need:

- Entity ID Type: Corporations= 03, Partnerships (FEIN)= 01, LLC (SOSL)= 05.
- Entity ID number.
- Account Type: Corporations= 10, Partnerships= 20, LLC= 25.

These are the steps in requesting returns through BETS:

1. Enter entity ID and account type. A list of the entity's posted tax returns will show.
2. Type **X** next to the selected account period and press *** (REQUEST) to select a specific return. Those listed with no year displayed are estimate payments. Do not select these items.
3. To request a whole folder, change the default from **N** to **Y** in the Request Folder field.

You will see a confirmation message at the bottom of the screen.

Do not request returns from BETS and PASS simultaneously as this will cause duplicate searches.

Partnerships and LLC

Partnership and LLC returns are not filed in folders. You have to request the returns by individual tax year.

Business Entities e-file (BEeF)

BETS will reject the request for copies of electronically filed returns. The DLN for BEeF starts with **52**. See MAP How to Access the eView Application for procedures to request copies of BEeF returns.

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9.3.3 TI Request (Taxpayer Information System)

You may use TI to request individual (PIT) and fiduciary returns. Refer to TI Manual Section 18100 for details on completing the request.

9.3.3.1 General Guidelines

- Before requesting individual (PIT) returns from TI, make sure the tax returns are not in R&S PIT Sample. See MAP R&S PIT Sample for procedures on how to verify this information.
- Do not request returns from TI and PASS simultaneously as this will cause duplicate searches.

9.3.3.2 Recharge the Returns

For TI to accurately reflect the location of returns, the returns need to be **recharged** in the following situations:

- Upon receiving the returns from Receiving and Data Storage Section (RDSS).
- When sending the returns back to RDSS.
- When sending the returns to another auditor or unit.

Refer to TI Manual Section 18200 for detailed procedures on recharging returns.

9.3.4 Paper Request

Individuals, Fiduciaries, Partnerships (Forms FTB 540, 541, and 565)

Use form FTB 6180 to request forms FTB 540, FTB 541, and FTB 565. Fill-in as much information as you know.

Before requesting individual (PIT) returns, make sure the tax returns are not in R&S PIT Sample. See MAP R&S PIT Sample[85] for procedures on how to verify this information.

Corporations (Form FTB 100)

Use form FTB 6237 to request corporation returns and folders. Follow these:

- Include the requester's unit number (PUC), initials and telephone number, date, corporate name and number, classification (i.e., general, financial, allo-general), and status (i.e., active, suspended).
- If you are requesting more than one corporation, list the corporations' number in ascending order. Receiving & Data Storage Section (RDSS) will reject your request if it is not in this order. Include the tax year ending (TYE) and DLN for each return.
- If you are requesting individual tax years, include the TYE, DLN, and posting date.
- If you are requesting corporation folders, write **folder** in the TYE field of the form.

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Methods of Sending Request

- Interoffice Mail, MS C-2.
- Fax the list to:
  - 916.845.4422 for individual, fiduciary or partnership returns.
  - 916.845.0297 for corporation returns.
- Send the form as an attachment to an email, addressed to **790DSSREQ**.

9.3.5 Telephone Request

Call Receiving & Data Storage Section (RDSS) **only** for RUSH request. The FTB General Procedures Manual (GPM 0630) lists the RUSH criteria under Telephone **Rush** Requests and Outsearch.

If you need to make a rush telephone request, please contact the sections listed below:

Central Office **Rush Request Line: 916.845.**** **Mail Stop: C-2**	**Depot Park** **Rush Request Line: 916.845.**** **Mail Stop: C-2**
PIT Process Year 2003(Tax Year 2002)	PIT Process Year 2005(Tax Year2004)
PIT Process Year 2004 (Tax Year 2003)	Corporation Returns & Folders
PIT Payment Documents – all	BE Payment Documents – all
565 Partnership	BE Returns – all
541 – Fiduciary (Estates and Trusts)	LLC
HRA Claims	BE NPA, Jeopardy Assessments, Exempts, etc.
PIT Current Process year	LIM
	PIT NPA

If RDSS staff indicates your rush request is not in files, you can do one of the following:

- Send RDSS an email to outsearch the returns. Use the email address **DSS Outsearch**.
- Call 916.845.**** (Outsearch Desk).
- If you happen to speak to an RDSS representative, you can ask them to forward the request to the Outsearch Desk.

9.3.6 Outsearch Request

Use good judgment in requesting an outsearch, as it can be a time-consuming process. To outsearch, Receiving and Data Storage Section (RDSS) staff looks through stacks of returns located in various units or uses detective work to locate the return.

Prior to requesting an outsearch, you must have requested the returns or documents from RDSS through one of the methods listed on MAP Requesting Tax Returns and Prior Audit Reports.

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To request an outsearch, use these forms:

- Form FTB 6237 (for corporation returns).
- Form FTB 6180 (for individual, fiduciary or partnership returns).
- The form returned by RDSS (including any **CHARGE TO** or **OUT TO** information).

Write **Please Outsearch** on the form and make sure your supervisor approves and signs the request.

9.3.7 R&S Sample

Statistical Research (R&S) requests current year returns to gather various statistical data each year. The standard requests are **PIT Sample** and **Corp Sample**, but R&S may request other business entities' returns also.

9.3.7.1 R&S PIT Sample

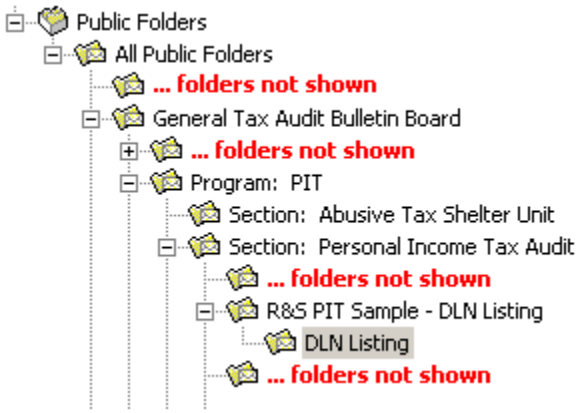
Before requesting individual (PIT) returns, make sure the tax returns are not in R&S PIT Sample. Generally, R&S samples PIT tax returns for a tax year that is two years prior to the current year. For example, in 2006, R&S samples the 2004 tax year returns.

Our agreement with R&S allows us to obtain returns only under certain circumstances. It is very important that we do **not** contact R&S directly. We have to make sure that we follow the procedures below, so as not to jeopardize our arrangement with R&S:

Procedures for Ordering Individual (PIT) Returns

Generally, R&S samples PIT tax returns for a tax year that is two years prior to the current year. For example, in 2006, R&S samples the 2004 tax year returns.

1. Before ordering any PIT return, check the R&S PIT SAMPLE DLN listing in the outlook public folder highlighted below. If the return is on the list, do **not** request it on TI or PASS. The tax returns that are in the R&S PIT Sample are currently unavailable and ordering them creates unnecessary work for Data Storage and Services. (See instructions below on how to search the DLN Listing.)



2. Reservation List.

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If you wish to be placed on a reservation list for an R&S PIT Sample return, send an email to Steve ***** (PIT Program Liaison), with a cc to Michelle **** (PIT Modeling Administrator). Include the DLN, FTB ID, and tax year of the return you are requesting. When the R&S returns become available, the return will be ordered and sent to you.

3. Exceptions.

   If an auditor needs a copy of the R&S return to facilitate an audit currently open on PASS, the auditor's AD2 should email a request to Steve ****** (PIT Program Liason), with a cc to Michelle **** (PIT Modeling Administrator). Include the DLN, FTB ID, and tax year of the return you are requesting. Only AD2 requests will be processed.

DLN Listing Search Instructions

1. Open the Excel worksheet and place the cursor in the cell **A-1** (the spreadsheet should default to this cell when opened). Click on the **Edit** drop-down menu and select the **Find** option.
2. The **Find** window appears. Type the DLN in the **Find What** text box and click on the **Find Next** button.
3. If the DLN is located, click on the **Close** button. Do **NOT** order the return because it is not available.
4. If the DLN is not located, this message will appear, Microsoft Excel cannot find the data you're searching for. If you are certain the data exists in the current sheet, check what you typed and try again. If you receive this message, the DLN is not in the R&S PIT SAMPLE (or has been released by the R&S Bureau). You may order the return on TI or PASS.

9.3.7.2 R&S Corporation Sample

If you received out information indicating that a return is out to R&S Request, Econ Stats, or 516, contact R&S at 916.845.****. Provide this information:

- Entity name.
- Entity identification number.
- DLN.

9.3.8 Email Request

If you have exhausted all the resources in requesting a return listed in MAP Requesting Tax Returns and Prior Audit Reports, you may try to search for the return via email. However, you must use email addresses for areas where there is a reasonable probability of finding the return. For more information, see MAP Outlook Email to Locate Returns or Audit Files.

9.4 Electronically Filed Returns (ELF)

You may use TI (individuals) or eView (individuals and corporations) to request copies of tax returns that were filed electronically. For individuals, only tax years 2002 and later returns are available through eView. For corporations, only 2005 and later returns are available through eView.

To request returns using TI, see MAP TI Request.

To request returns using eView, see MAP How to Access the eView Application.

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9.5 Requesting Federal Tax Information

To request federal tax information, see MAP Request for Federal Returns and/or Audit Report.

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10 Tax Research

10.1 Introduction

The objective of this section is to provide information that will help you conduct an efficient and effective tax research, so that you will apply the correct law to your case. The focus of this section is the discussion of California and federal tax source and references. This section also includes discussion of citeable and nonciteable sources.

10.2 Tax Research Sources

The Department provides access to Internet research services. In addition, various printed resources are available in your office. For efficiency, use online research as the first research source. Use the printed tax resources to complement the online research services.

Listed below are the more common Internet sites. You may need authorization to access some of the online tax research sites. Contact your supervisor.

Internet Sites	********	*********
BNA Tax Management	******** ******** ******** ********	**********
Lexis/Nexis Exchange	********** ********** ********** **********	********** ********** **********
Spidell Publishing Inc	******	******
RIA Checkpoint	********** ********** **********	N/A
Securities and Exchange Commission (SEC)	N/A	N/A
All California Codes	N/A	N/A
Board of Equalization Published Decisions	N/A	N/A
California Bills	N/A	N/A
California Court Opinions	N/A	N/A
California Legislative Home	N/A	N/A
California Regulations	N/A	N/A

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Internet Sites	********	*********
California Revenue and Taxation Code	N/A	N/A
California Secretary of State	N/A	N/A
Internal Revenue Service	N/A	N/A
Title 26- Internal Revenue Code	N/A	N/A

10.2.1 ******** Search Tools

The ******** has an extensive amount of information that could be useful in researching your technical issues. As with any research tool, to ensure proper application of the technical law analysis, you should be fully aware of the facts and circumstances of your case.

There are two ways to search the ********:

- ******** Search Tool will automatically allow you to search the entire ******** including appeal briefs, court briefs, TAMs, FTB Notices, etc.
- ******** Search Page will allow you to access the ******** by clicking on the radial button marked "Legal" and then you can select your search limitations so you only search Appeal Briefs, or TAMs, or whatever you select.

If you are reviewing appeal briefs, you may cite to the authority cited in the briefs, but you cannot cite the brief itself. If BOE issued a published opinion in the Appeal, you can cite the published opinion. Generally, appeal briefs are public documents and taxpayers can obtain them by contacting the Board of Equalization.

10.3 Steps in Conducting Tax Research

Your research steps may vary depending on your audit issue. It is important that you understand the issue and the facts relevant to the issue. Understanding the facts will help you refine your research so that you can identify the relevant sources and references.

Once you have identified the tax issue, following are the general steps in conducting tax research:

1. Read the codes and regulations relating to your issue.
2. Review available Audit technical manuals. Although you cannot cite these as authority, you can use these as guides in your research, or use the reasoning or explanation to support your position, or use these as tools in identifying other sources.
3. Determine if the issue is a California only issue. If so, concentrate on researching these sources:
   - California Revenue and Taxation Code (See MAP California Revenue and Taxation Code).
   - California Regulations (See MAP The California Regulations).
   - FTB Legal Rulings (See MAP FTB Legal Rulings).

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- California Court Cases (See MAP California Court System and the Board of Equalization).
- Board of Equalization Decisions (See MAP The Board of Equalization).
- Technical Manuals.
- Audit Branch Procedure Statements (ABPS) and Audit Program Report (APR)- these are Audit Division's interpretation of certain tax issues.

4. Determine whether the California law conforms to the federal law. See MAP California Conformity to Federal Law.

5. If the California law conforms to the federal law and there are no California modifications or exceptions, concentrate on researching these sources:

   - Internal Revenue Code (See MAP The Internal Revenue Code).
   - Treasury Regulations (See MAP Treasury Regulations).
   - Revenue Rulings and Procedures (See MAP Revenue Rulings and Revenue Procedures).
   - Letter Rulings (See MAP Letter Rulings).
   - Federal Court Cases (See MAP Federal Judicial Authority).

10.4 California Statute and Administration

10.4.1 California Revenue and Taxation Code

The California Revenue and Taxation Code is one of the 29 codes that are part of the California law. The relevant income tax laws we often deal with are in three different parts of the California Revenue and Taxation Code: Personal Income Tax Law (PITL), Administrative Law (AFITL), and Corporation Tax Law (CTL).

Organization

The California code is organized as follows:

Title

Division

Part

Chapter

Article

Section

Subdivision

Paragraph

Subparagraph

Clause

Subclause

Example: R&TC Section 23649(d)(4)(C)(i)

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Title		Revenue and Taxation Code
Division	2	Other Taxes
Part	11	Corporation Tax Law
Chapter	3.5	Tax Credits
Article	--	
Section	23649	Credit for manufacturing and research property
Subdivision	D	Qualified property
Paragraph	4	
Subparagraph	C	Special purpose building and foundation
Clause	I	
Subclause	--	

It is important to understand the organization of the code so that when the statute says, **...for purposes of this part [or chapter, or section, etc.]**..., you will know what area of the code applies.

When citing a particular area of the code you do not need to include the terms that are listed above **Section**.

Income Tax Laws

The relevant income tax laws we often deal with are in three different parts of the California Revenue and Taxation Code, under Division 2 (Other Taxes):

Part	Name	Sections Included in This Part
Part 10	Personal Income Tax Law (PITL)	17001-18180
Part 10.2	Administrative Law (AFITL)	18401-21028
Part 11	Corporation Tax Law (CTL)	23001-38021

Each part has its own topical index, cross-reference chart, and detailed law table of contents. Prior to 1993, administrative provisions were contained in both Parts 10 and 11. Beginning in 1993, a new Part (Part 10.2) was created to omit duplication of administrative provisions under both the PITL and CTL. As a result, repealed sections were renumbered and placed in Part 10.2. You may encounter references to these old section numbers in older cases. *CCH - California Income Tax Laws and Regulation Annotated* contains a cross-reference table for former and current administrative law sections.

Individuals, trusts, estates, and partnerships are subject to the PITL while banks and corporations are subject to the CTL. Limited Liability Companies may be treated as partnerships or as corporations, and will file accordingly.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Citations

The various ways to cite any section in Part 10 (PIT), Part 10.2 (Administrative), or Part 11 (Corporation) are:

- R&TC Section (recommended FTB standard).
- Revenue and Taxation Code Section.
- Rev. & Tax. Code Section.
- CR&TC Section.

You may replace the word **section** by the symbol **§**.

10.4.2 The California Regulations

State agencies adopt regulations to implement, interpret, or make specific the law that the agency enforces or administers. Regulations also help to explain the code in greater details.

The California Code of Regulations (CCR) are organized as follows:

Title

Division

Chapter

Subchapter

Article

Section

There may not always be a subchapter or an article for the regulation. The regulation numbers generally parallel the related code section numbers.

Example: CCR Section 23649-5

Title	18	Public Revenues
Division	3	Franchise Tax Board
Chapter	3.5	Bank and Corporation Tax
Subchapter	3	Corporation Income Tax
Article	3	Tax Credits
Section	23649-5	Qualified Property

You can access the California regulations in any on-line research services to which the department subscribes (see MAP Tax Research Sources), or the California Office of Administrative Law website. The California Code of Regulations was formerly called California Administrative Code and you may encounter references under this name.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Franchise Tax Board Regulations

The Franchise Tax Board (FTB) adopts regulations for the R&TC. FTB Regulations are in Title 18 (Public Revenues) Division 3 (Franchise Tax Board) of the California Code of Regulations. You can also find the regulation text following the code text in *CCH - California Income Tax Laws and Regulations Annotated.*

Treasury regulations (see MAP Treasury Regulations) are deemed to be applicable for state purposes to the extent that they do not conflict with state law, except where the FTB has adopted its own regulations.

Citations

- Cite the regulations by section number. Example: CCR §23649-2.
- Some official citations also include the title number. Example: 18 CCR §19032.

10.4.3 FTB Legal Rulings

Legal Rulings are issued to publish FTB's official conclusion on how the law is applied to a specific set of facts. Legal Rulings are state equivalents to the IRS Revenue Rulings (see MAP Revenue Rulings). They are interpretation of existing tax law and therefore have retroactive effect, unless otherwise stated in the ruling. The Legal Rulings are available in the FTB public website.

If a Legal Ruling is published, you can cite the ruling as an interpretation of the tax law.

Legal Rulings are not authoritative; however, they can be cited as FTB's official interpretation of the tax law.

The Board of Equalization, as well as the California court system, may consider and attribute some weight to Legal Rulings in their decisions. For example, in *Tenneco West, Inc. v. Franchise Tax Board, (1991) 234 Cal. App. 3d 1510*, the court relied on FTB Legal Ruling 413, concluding that the apportionment factor in the year of the installment sale should be applied against subsequent receipt of the installment payments, rather than the apportionment factor in the year of receipt for installment payments.

Cite Legal Rulings as one of the following:

- Legal Ruling 0x-03.
- FTB Legal Ruling 200x-03.

10.4.4 FTB Notices

FTB Notices are generally issued to provide information concerning procedural compliance issues, well-established principles, statutory changes, court decisions, new or revised FTB publications, proposed regulations, or other matters of an administrative nature. FTB Notices are state equivalents to the IRS Revenue Procedures and Notices (See MAP Revenue Procedures). The FTB Notices refer to the law and tell taxpayers what we are requiring them to do under the law and other authorities. During your audit you can state what the law is and refer to the FTB Notice to tell

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the taxpayer what our interpretation is and what they need to do to comply. The FTB Notices are available in the FTB public website.

Refer to FTB Notices as:

- FTB Notice 200x-6 (for years after 2000).
- FTB Notice 9x-1 (for years before 2000).

10.4.5 Chief Counsel Rulings

A Chief Counsel Rulings, a type of FTB private advance ruling, is a written statement that interprets and applies California tax law to the taxpayer's specific set of facts. Chief Counsel Rulings are the FTB counterparts to the IRS Letter Rulings (See MAP Letter Rulings).

Only the taxpayer making the request will be entitled to rely on these rulings, and can be relieved of tax, penalties, interest, and additions as long as all the conditions set forth in R&TC Section 21012(b) are met. For additional information, refer to FTB Notice 89-277.

The FTB Chief Counsel Rulings are available in the FTB public website.

10.4.6 Opinion Letters

An Opinion Letter is a written statement that applies the principles and precedents previously announced by the FTB to a specific set of facts. Opinion Letters are the FTB counterparts to the IRS Determination Letters (See MAP Letter Rulings). It is issued when a determination can be made based on clearly established rules in a statute, regulations, or based on a conclusion in a Legal Ruling, Board of Equalization opinion or court decision that specifically answers the question presented.

Only the taxpayer making the request will be entitled to rely on these rulings and can be relieved of tax, penalties, interest, and additions as long as all the conditions set forth in R&TC Section 21012(b) are met. For additional information, refer to FTB Notice 89-277.

10.4.7 Information Letters

Information Letters are taxpayer-specific rulings furnished by the Franchise Tax Board in response to requests made by taxpayers and their authorized representatives. Information Letters are only advisory and have no binding effect on the FTB; therefore, taxpayers cannot rely on these to obtain relief of tax, penalty, and interest, under R&TC Section 21012.

Redacted FTB Information Letters are available in the FTB public website.

10.4.8 Technical Advice Memorandum (TAM)

FTB Legal Department issues a TAM when department staff requests legal assistance on issues involving the Personal Income Tax Law, the Administration of Franchise and Income Tax Laws, and the Bank and Corporation Tax Law, to be referenced as authority for a position.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Although we can use the TAM's analysis, logic, and conclusions to support an audit determination, we do not cite the TAM to the taxpayer.

You can access the FTB TAM's at the Legal Department's webpage. Redacted TAMs are also available in the FTB public website.

10.5 California Conformity to Federal Law

In general, the California Corporation Tax Law and Personal Income Tax Law, conform to the Internal Revenue Code either by a **stand-alone** language that parallels the federal provision or by incorporating the Internal Revenue Code (IRC) by reference.

You can use the Federal-California Cross-Reference table in the *CCH - California Income Tax Laws and Regulation Annotated* (after topical index) to find sections of IRC that are comparable to sections of the R&TC. Be sure to read the comparable R&TC Sections to verify whether California conforms with, or if there are any modifications or exceptions to, the IRC.

Stand-Alone Language

Stand-alone language provisions are sections that do not rely upon the IRC to determine California law. Examples are R&TC Sections 17041 and 24357. If the code uses this type of language, your issue would be California only issues. Focus on researching the California sources discussed in MAP California Statute and Administration.

Incorporation of Federal Law By Reference

Incorporating the IRC by reference is not automatic. The incorporation process requires specific language in state law. In some instances, large portions of federal law are incorporated, such as an entire subchapter. In other cases, an individual section or subsection may be incorporated by reference. Examples are R&TC Sections 18031 and 23609, respectively.

When California law incorporates federal law, California uses a **relating to** clause that describes the subject area. This clause is for description and not meant to limit the code sections specified in the clause. Generally, the **relating to** clause is the title of the section (or subsection) of federal law being incorporated. An example is R&TC Section 17071, which states, **Section 61 of the Internal Revenue Code, relating to gross income defined, shall apply, except as otherwise provided**.

Follow the steps below to research R&TC Sections that conform to the IRC.

1. Determine what IRC Section California law conforms with.

   You can find the general rules for incorporation of IRC in R&TC Sections 17024.5 and 23051.5. You can also use the Federal-California Cross-Reference table in the *CCH - California Income Tax Laws and Regulation Annotated* (after topical index) to find sections of IRC that are comparable to sections of the R&TC. Be sure to read the comparable R&TC Sections to verify whether California conforms to the IRC. The specific IRC that California conforms to is generally stated within the language of the conforming R&TC.

2. Determine what version of the IRC California law conforms with.

   When researching a California code that includes references to the IRC, it is important that you know the **specified date** to determine which version of the IRC is applicable to which taxable

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year. **Specified date** freezes state laws to what is already known, and prevent unintended conformity to subsequent changes in federal law.

Changes in federal law do not automatically change state law. The State legislature must first review the federal changes and modify the **specified date** before any federal changes can become effective. For example, Assembly Bill 115 (Stats. 2005, Ch. 691) as enacted, changed the date California law conforms to the IRC from January 1, 2001 to January 1, 2005 (specified date), for taxable years beginning on or after January 1, 2005. By changing this date, California automatically conforms state law to all changes from January 1, 2001, through December 31, 2004 to IRC sections that have been previously incorporated by reference.

You can find the **specified dates** in R&TC Sections 17024.5(a)(1) and 23051.5(a)(1).

3. Identify any California modifications.

   When California law refers to a provision of the IRC which has been incorporated by reference, but has been modified for state purposes, such a reference includes the state modification (R&TC Sections 17024.5(i) and 23051.5(i)). You can find the state modifications within the language of the California code. Generally, you will find these phrases: **...shall be modified as follows... or except as otherwise provided or is modified as follows....** For example, subdivision (a) of R&TC Section 23609 modifies the percentages listed in IRC Section 41(a) for California purposes.

   When California law refers to a provision of the IRC which has not been incorporated by reference, the reference provision of the IRC is brought into state law, but only for the purpose of that particular reference. For example, when IRC Section 267(f)(1) refers to a definition in IRC Section 1563(a), which has not been incorporated into state law, the definition in IRC Section 1563(a) shall apply, but only for purposes of IRC Section 267(f)(1).

California Exceptions

R&TC Sections 17024.5(b) and 23051.5(b) contain a partial list of federal provisions that are not applicable for state purposes. In addition, you can find California exceptions within the language of the R&TC. For example, R&TC Section 17143 specifically states that IRC Sections 103 and 141 to 150, inclusive, relating to interest on governmental obligations, shall not apply.

Elections and Applications

State law presumes that a valid federal election is also an election for state purposes. However, state law generally permits a taxpayer to make a separate election for state purposes (R&TC Section 17024.5(e)). Where separate, state elections are not allowed, specific language in state law is required.

The rules relating to elections also apply to applications and consents (R&TC Section 17024.5(f)).

Technical Corrections

When a Federal Act makes technical corrections to provisions of the IRC which have been incorporated into state law, those changes are incorporated into state law by changing the **specified date**, but only with respect to the taxable year covered by the change in the **specified date**.

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10.6 Federal Statute and Administration

Statutory sources include the Constitution, tax treaties, and tax laws that have been passed by Congress. Statutory authority is the basis for all tax provisions.

Administrative authority functions to interpret and explain the applicable provisions of the IRC and the intent of Congress. These are the various rulings of the Treasury Department and IRS Regulations, Revenue Rulings, and other pronouncements.

10.6.1 Hierarchy of Federal Tax Authorities

This table lists federal tax authorities ranked in the order of strength of the cite.

If a higher authority contradicts the lower authority, the higher authority prevails.

STATUTORY/ ADMINISTRATIVE AUTHORITIES	ISSUED/MADE BY	RELIABILITY
IRC	Congress	Most reliable
Final Treasury Regulations	Treasury	Most reliable statements of position
Temporary Treasury Regulations	Treasury	Binding on all taxpayers
Proposed Regulations	Treasury	Not binding until final
Revenue Rulings	Assistant Commissioners of Internal Revenue	Intended to be relied on by IRS employees & taxpayers whose circumstances are substantially the same as described in the ruling
Revenue Procedures	Assistant Commissioners of Internal Revenue	Same reliability as revenue rulings
Letter Rulings	Assistant Commissioners of Internal Revenue	Binding on IRS only as to party to whom issued
Technical Advice	Assistant Commissioners of Internal Revenue	Same as letter rulings
Determination Letters	District Offices in most cases	Binding only as to requesting taxpayer
Internal Revenue Manual	National Office	Generally not binding on IRS
Information Releases	National Office	May be binding on IRS
Information Letters	National Office/ District Offices	Not binding

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

STATUTORY/ ADMINISTRATIVE AUTHORITIES	ISSUED/MADE BY	RELIABILITY
IRS Publications	National Office	Not binding
Oral Communications	Any IRS official	Generally not binding on IRS

10.6.2 The Internal Revenue Code (IRC)

The Internal Revenue Code (IRC) is part of the United States Code (USC), which is a codification of all of the federal laws of the United States. The USC is organized alphabetically and assigned title numbers. The IRC is Title 26 of the USC.

Organization of the Internal Revenue Code

Title

Subtitles

Chapters

Subchapters

Parts

Subparts

Sections

Subsections

Paragraph

Subparagraph

Clause

Subclause

Example: IRC Section 1031(a)(3)(B)(i)

Title	26	Internal Revenue Code
Subtitles	A	Income Taxes
Chapters	1	Normal Taxes and Surtaxes
Subchapters	O	Gain or Loss on Disposition of Property
Parts	III	Common Nontaxable Exchanges
Subparts	-	
Sections	1031	Exchange of property held for productive use or investment
Subsections	A	Nonrecognition of gain or loss from exchanges solely in kind

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Paragraph	3
Subparagraph	B
Clause	I
Subclause	-

It is important to understand the organization of the code so that when the statute says, ...**for purposes of this chapter [or title, or part, or section, etc]**..., you will know what area of the code applies.

When citing a particular area of the code you do not need to include the terms that are listed above **Section**.

Citation

- IRC Section 1031, or
- IRC §1031

10.6.3 Treasury Regulations

The Internal Revenue Service (IRS), a division of the Treasury Department, issues tax regulations, officially known as Treasury Regulations. Its regulations are the Treasury Department's official interpretations of the Internal Revenue Code. The source of authority for a regulation determines its precedential value and the formality with which it must be adopted. There are three types of treasury regulations:

- **Proposed Regulations** do not have the effect of law. It is not citable.
- **Temporary Regulations** have the same force and effect as final regulations until final regulations are issued. Taxpayer can rely on the temporary regulation while the proposed regulation is undergoing comment and possible revision. They are effective immediately upon publication, but expire three years after issuance (IRC Section 7805(e)). They are treated as though they are final until Final Regulations are issued and must be followed until they are superseded.
- **Final Regulations** have the same force and effect of law and are binding upon the taxpayer to the same extent as the statute itself when authorized by statute.

Federal regulations are deemed to be applicable for California purposes to the extent that they do not conflict with state law, except where FTB has adopted its own regulations.

Citation

The section numbers of the Treasury Regulations are numbered in the same manner as the code section to which they relate, preceded by a numerical prefix indicating which tax is involved. The following table lists the major prefixes:

Type of Regulation	Prefix
Income Tax	1
Generation Skipping Tax	26

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Type of Regulation	Prefix
Estate Tax	20
Procedure and Administration	301
Gift Tax	25
IRS Procedural Rules	601

Thus, any citation of an income tax Regulation begins with the part number **1**. and is followed by the number of the Code section to which it pertains.

Reg. §1.61-2(a)(1)

1. Type of Regulation
61 Related Code Section
-2 Regulation Number
(a) Regulation Paragraph
(1) Regulation Subparagraph

You can cite regulations as follows:

- Treas. Reg. §1.61-2(a)(1), or
- T.R. §1.61-2(a)(1), or
- Reg. §1.61-2(a)(1)

10.6.4 Revenue Rulings

Revenue Rulings are official pronouncements of the national office of the IRS in which the Code and Regulations are applied to specific factual situations for the purpose of informing and advising taxpayers. Revenue Rulings do not carry the force and effect of a Regulation. A ruling is an informal statement of the Service's position.

Following are general guidelines in citing Revenue Rulings as authority:

- You may rely on and cite a Revenue Ruling if the facts and circumstances in your case are **substantially the same** as those described in the revenue ruling.
- A regulation has priority over a revenue ruling in the event of conflicting positions.
- Court cases may be cited which support a reporting position that opposes the government's position as reflected in the revenue ruling.
- Verify the ruling has not been superseded or revoked.

Citation

- In bound form, cite as: REV.RUL. 82-11 1982-1 CB 51.

This cite tells us that the eleventh ruling of 1982 can be found in the 1982 Cumulative Bulletin, volume one, at page 51.

- In unbound form, cite as: REV.RUL. 82011 1982 2 IRB 7.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

This cite tells us that the eleventh ruling of 1982 can be found in the second Internal Revenue Bulletin issued in 1982, at page 7.

Terminology Used In Revenue Rulings

Amplified - describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to **A**, and the new ruling holds that the same principle also applied to **B**, the earlier ruling is amplified (compare to modified, which is described below).

Clarified - is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, confusion. It is not used where a position in a prior ruling is being changed.

Distinguished - describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified - is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to **A** but not to **B**, and the new ruling holds that it applies to both **A** and **B**, the prior ruling is modified because it corrects a published position.

Obsolete - describes a previously published ruling that is not considered determinative with respect to future transactions.

Revoked - describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Superseded - describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published rulings.

Supplemented - is used in situations in which a list, such as a list of names of countries, is published in a ruling and that list is expanded to include additional names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes an aggregate list as contained in the original and all subsequent rulings. The new ruling supersedes all prior rulings in the series.

Suspended - is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

10.6.5 Revenue Procedures

Revenue Procedures deal with the internal practice and procedures of the IRS in its administration of the tax laws. They are statements of procedure that affect the rights and duties of taxpayers or other members of the public under the Code, or information that should be a matter of public knowledge. While they have less force and effect than Treasury Regulations, the IRS is bound by them and taxpayers may rely upon them.

Revenue Procedures are cited the same way as Revenue Rulings, except that REV. PROC. is substituted for REV. RUL.

Example

- In bound form, cite as: REV.PROC. 82-11 1982-1 CB 51.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- In unbound form, cite as: REV.PROC. 82011 1982 2 IRB 7.

Terminology Used In Revenue Procedures

Amplified - describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to **A**, and the new ruling holds that the same principle also applied to **B**, the earlier ruling is amplified (compare to modified, which is described below).

Clarified - is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, confusion. It is not used where a position in a prior ruling is being changed.

Distinguished - describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified - is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to **A** but not to **B**, and the new ruling holds that it applies to both **A** and **B**, the prior ruling is modified because it corrects a published position.

Obsolete - describes a previously published ruling that is not considered determinative with respect to future transactions.

Revoked - describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Superseded - describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published rulings.

Supplemented - is used in situations in which a list, such as a list of names of countries, is published in a ruling and that list is expanded to include additional names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes an aggregate list as contained in the original and all subsequent rulings. The new ruling supersedes all prior rulings in the series.

Suspended - is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

10.6.6 Letter Rulings

Letter Rulings are issued in several forms:

- Private Letter Rulings (PLR).
- Determination Letters.
- Technical Advice Memoranda (TAM).

IRC Section 6110(k)(3) specifically limits the precedent use of any of these written determinations - **written determinations may not be used or cited as precedent**. They cannot be cited as authority in a tax matter, but can be used as guidelines in respect to a tax problem. Although these Letter Rulings cannot be cited as precedence in defending a tax position, you can present the analysis and conclusion on these rulings.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

The FTB generally follows federal regulations, procedures, and rulings where provisions of the California tax law substantially conform to provisions of the IRC. (FTB Notice 89-277; R&TC Sections 17024.5(d) and 23051.5(d)) However, federal rulings and procedures are not binding on FTB for California tax purposes if an authorized FTB officer or employee publicly indicated in writing that the FTB would not follow a particular ruling or procedure (FTB Notice 89-277).

While there is no official publication that maintains Letter Rulings, Private Letter Rulings are available on most on-line tax research services and on the IRS website.

Private Letter Rulings (PLR)

The IRS National Office issues Private Rulings or Letter Rulings (PLR) in response to a taxpayer's request for the Service's position on a specific tax issue. A PLR is issued only to the taxpayer who requested the Ruling. However, this Ruling can be used as **substantial authority** upon which the taxpayer (any taxpayer, not just the taxpayer requesting the PLR) may rely to avoid certain statutory penalties.

Although PLR's are an important source of IRS information, you **cannot** cite them as authority. However, you can use the reasoning and analysis in the PLR's to arrive at your audit recommendation.

PLR's many times serve to inspire the issuance of Revenue Rulings describing similar situations. The IRS will issue Revenue Rulings in situations where they determine a need. For example, increased public interest in a particular issue, or numerous PLR requests.

- Example of citation: P.L.R. 199209115.

This means that this is the 5th ruling issued the week of September 11, 1992.

Determination Letters

The office of the local IRS District Director issues determination Letters. These letters generally deal with issues and transactions not overtly controversial, but are completed transactions rather than proposed. Generally, determination letters concern inquires regarding employee plans and exempt organizations.

Only the taxpayer to whom it is issued may rely on a determination letter, and may be revoked or modified if found to be in error.

Technical Advice Memoranda (TAM)

The IRS National Office issues a Technical Advice Memoranda (TAM), which makes it similar to a PLR but not a Determination Letter. An IRS agent requests a TAM during the course of an examination. The request, based on a completed transaction, is made in situations where the agent's local office cannot provide satisfactory technical guidance. Like PLR's, a TAM may be relied on **only** by the taxpayer for whom the technical advice was requested. Other taxpayers cannot rely upon the TAM. TAM's can lead to the creation of a Revenue Ruling.

Although we can use the TAM's analysis and conclusions to support an audit determination, you cannot cite it as authority.

10.7 California Court System and the Board of Equalization

The California court system for tax cases is generally comprised of three tiers:

- Superior Court (See MAP Superior Court).
- Court of Appeals (See MAP Court of Appeals).

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- Supreme Court (See MAP California Supreme Court).

Any case issued for publication within the California court system is citeable. However, the higher the court, the more precedence the case will have.

As an alternative to the California court system, taxpayers in a tax case can appeal the findings of the FTB to the State Board of Equalization (BOE), as long as taxpayers exhaust all administrative remedies. See MAP The Board of Equalization for more information.

10.7.1 Superior Court

Superior Courts have exclusive original jurisdiction over tax cases (Cal. Civ. Proc. Code Section 86(a)(1)). If a taxpayer is subject to an audit examination by the FTB and a tax assessment was issued and affirmed by the Protest Unit, the taxpayer has the option of taking its case directly to Superior Court or to the Board of Equalization (See Cal. Civ. Proc. Code Section 6-6(d) for Board of Equalization proceedings). If a taxpayer chooses to take its case to the Superior Court, they must first pay all amounts due for the tax year, including the tax assessment, any other final amounts, penalties, fees and interest, and file a claim for refund (California Constitution, Article 29III, Section 32). In *Dan J. Agnew v. State Board of Equalization, (1999) 21 Cal.4th 310*, the court held under prior law that the payment of accrued interest and penalty was not a prerequisite to either an administrative refund claim or a subsequent action for refund of taxes; the only requirements are that the tax be paid and a claim for refund be filed. The California income tax statues were subsequently amended to require the payment of all amounts due for the year. See FTB Notice 2003-5.

The Superior Court will generally hear arguments of the case and review the facts submitted to the court before reaching its decision. Once the decision is reached, either party can appeal the decision to the Court of Appeals.

Superior court cases are not citable, as the decisions are generally not published.

10.7.2 Court Of Appeals

All tax cases decided by the Superior Court can be appealed to the Court of Appeals for further review. The Court of Appeals will determine if the Superior Court reached the correct decision by generally affirming or reversing the Superior Court's decision (Cal. Civ. Proc. Code section 904.1). The Court of Appeals will generally make its decision based on correct legal standards and evidence provided during the Superior Court, and rarely will they hear new evidence at the appeals level. Once the Court of Appeals issues its decision, either party can petition for review to the Supreme Court.

Citations

The following abbreviations relate to the publication sources for California Court of Appeals cases:

- Cal. App. = California Appellate Reports.
- Cal. Rptr. = California Reporter.
- P. = Pacific Reporter.

Cite as follows:

	Cases Published by CCH	**Cases Published by RIA**

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Citation	Name, Volume, Publication Source, Series, Page, Year	Name, Year, Volume, Publication Source, Series, Page
Example	*Tenneco West, Inc. v. Franchise Tax Board, 234 Cal.App.3d 1510, (1991)*	*Tenneco West, Inc. v. Franchise Tax Bd. (1991) 234 Cal.App.3d 1510*

10.7.3 California Supreme Court

California Supreme Court has sole discretion as to whether or not they will review the Court of Appeals' decision (California Constitution, Article VI, Section 12).

Citations

The following abbreviations relate to the publication sources for California Supreme Court cases:

- Cal. = California Reports.
- Cal. Rptr.= California Reporter.
- P. = Pacific Reporter.

Cite as follows:

	Cases Published by CCH	**Cases Published by RIA**
Citation	Name, Volume, Publication Source, Series within the Volume, Page, Year	Name, Year, Volume, Publication Source, Series within the Volume, Page
Example	*Barclays Bank International. Ltd. v. Franchise Tax Board, 2 Cal 4th 708 (1992)*	*Barclay's Bank International Ltd. v. Franchise Tax Bd. (1992) 2 Cal. 4th 708*

10.7.4 The Board of Equalization

As an alternative to the California court system, taxpayers in a tax case can appeal the findings of the FTB to the State Board of Equalization (BOE) as long as taxpayers exhaust all administrative remedies. The BOE is comprised of five elected Board Members, serving as the appellate body in final actions of the FTB. The five elected members issue opinions and render decisions interpreting California's income tax laws after obtaining all relevant facts about the case.

Once the elected members render a decision, either party can petition the BOE for a rehearing within 30 days of the decision. If the rehearing is denied, then the proceeding at the BOE ends. FTB has no other recourse once the proceeding ends with the BOE. However, taxpayers who are not satisfied with the decision reached by the BOE can find additional relief by going through the State court system as discussed above.

The published formal legal opinions are available at the BOE website for decisions from 1930 to current year. Mini-decisions or unpublished decisions are also available at Legal Department's Manuals and References for decisions from 1995 to current year. Although these are not citable, you can use the reasoning in these decisions if applicable in your situation.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Citations

All citations to SBE opinions rendered in 2000 and after should be in the following format:

- Appeal of Jane Doe, 2001-SBE-001, May 1, 2001.

All citations to SBE opinions rendered in 1999 and prior should be in the following format:

- Appeal of Jane Doe, 99-SBE-001, June 10, 1999.

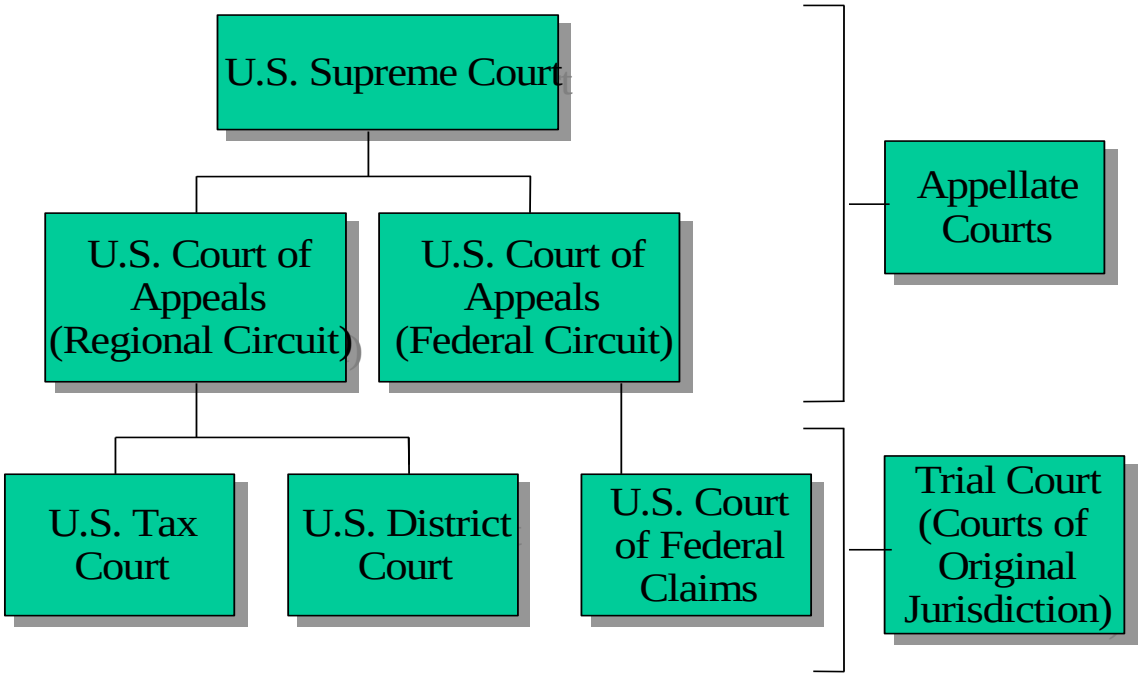
10.8 Federal Judicial Authority

10.8.1 Introduction

Federal judicial authority consists of the collected rulings of the various courts. When additional issues regarding the proper interpretation or intended application of the law, which are not answered either in the law itself or in the administrative pronouncements, the judicial system is left with this task.

In the federal system, all litigation between the taxpayer and the government begins in a trial court.

Following is a pictorial elaboration of the federal court system.



Lowest Level (carries the least weight)- All decisions can be appealed to the next level.

- Tax Court (national court).
- District Court.
- U.S. Claims Court, formerly Court of Claims (national court).

Middle Level- All decisions can be appealed to the Supreme Court if there is a constitutional issue involved.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- Court of Appeals.
- Court of Appeals for Federal Circuit (hears appeals only from the U.S. Claims Court).

Highest Level (carries the most weight)- Final appeals may be granted when there is a conflict between two or more circuit court of appeals. That a higher court denies a hearing does not necessarily mean that it agrees with the lower court's decision.

- Supreme Court.

10.8.2 U.S. Tax Courts (TC)

The Tax Court (TC), formerly referred to as the Board of Tax Appeals (BTA), hears only tax cases. There are 13 circuits in the U.S.; the state of California is in the **9th Circuit**. The TC would follow the Court of Appeals that have jurisdiction over the taxpayer whose cases is before the TC. *(Jack E. Golsen and Sylvia H. Golsen vs. Commissioner, 54 TC 742(1970))*. If the Court of Appeals that has jurisdiction over the taxpayer has not ruled on the matter, the TC will decide the case based on its own interpretation of the item under dispute. This **Golsen** rule means that the TC may issue opposite rulings based on identical fact patterns for taxpayers who can be differentiated solely by the geographical area in which they live. California follows 9th circuit decisions, therefore, we are not obligated to follow decision rendered in other Circuits. Distinguishing between the circuits is one point of reference that can be used in arriving at a tax recommendation, but it should not be used as a stand-alone point of reference.

IRS Acquiescence and NonAcquiescence

When the IRS loses a regular decision in the Tax Court (TC), the Commissioner of the IRS may acquiesce or nonacquiesce to the decision. If the IRS prevails in a regular TC case, the IRS will not issue an acquiescence or nonacquiescence.

If the Commissioner **acquiesces**, this indicates that the TC decision, although it was adverse to the IRS, will be followed in similar situations. But, it does not necessarily mean that the IRS agrees with the adverse decision. Rather only that it will not pursue the matter. An **A** or **Acq** is contained in parentheses after the citation to indicate acquiescence.

If the Commissioner **nonacquiesces**, the IRS disagrees with the adverse decision in the case and will follow it only for the specific taxpayer whose case resulted in the adverse ruling. Nonacquiescence may indicate to the tax practitioner that the IRS is likely to challenge a similar decision for the taxpayer in a case that has a similar fact situation. **NA** or **Nonacq** is contained in parentheses after the citation to indicate nonacquiescence.

Citations for Tax Court Cases

Only the U.S. Government Printing Office publishes Tax Court cases. Cite as:

- Citation: Name, Volume Number, TC, Page and Year.
- Example: Gator Oil Co., 66 TC 145 (1976).

Citations for Tax Court Memorandum

The U.S. Government Printing Office does not officially publish Tax Court Memorandum Decisions. CCH publishes these. Cite as:

- Citation: Name, Volume Number, TCM, Page, TC MEMO, Year, and Decision Number.
- Example: Andrew Crispo Gallery, Inc., 63 TCM 2152, TC Memo. 1992-106.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Under the California citation method, cite as:

- Citation: Name, Year, Volume Number, **T.C.M.**, Publication Source, and Page.
- Example: Male v. Commissioner (1971) 30 T.C.M. (CCH) 1282.

10.8.3 The District Courts

Federal District Courts hear cases involving legal issues that are based upon the entire body of federal law and the U.S. Constitution, not just the IRC. Therefore, these judges are typically generalists.

Citations

Publisher	Publication	Example
West Publishing	Federal Supplement Series (Fsupp)	*Simons-Eastern v. U.S., 354 FSupp 1003 (D.Ct. Ga., 1972)*
RIA	American Federal Tax Reports (AFTR). The second series of this reporter is in use where **2d** will follow AFTR.	*Simons-Eastern v. U.S., 31 AFTR 2d 73-640 (D.Ct. Ga., 1972)*
CCH	U.S. Tax Cases (USTC)	*Simons-Eastern v. U.S. 73-1 USTC 9279 (D.Ct. Ga., 1972)*

10.8.4 The Court of Federal Claims

The U.S. Court of Federal Claims is located only in Washington, D.C. but is authorized to hold sessions throughout the country. While the judges do hear a large number of tax refund cases, they generally are not specialists in technical tax law.

The Court of Federal Claims must follow the decisions of the former Court of Claims, the U.S. Court of Appeals for the Federal Circuit and the U.S. Supreme Court. Unlike the TC or federal district courts, the U.S. Court of Federal Claims is not bound by the regional Circuit Courts of Appeal that have ruled on similar issues or by the Court of Appeal for the Circuit in which the taxpayer works or resides (**Golsen** rule). This may be important to a taxpayer whose Circuit has held adversely to his or her position on the disputed issue.

Citations

Publisher	Publication	Example
West Publishing	U.S. Claims Court Reporter	*Ambrose v. U.S., 4 ClCt 352 (1984)*
RIA	American Federal Tax Reports (AFTR). The second series of this reporter is in use where **2d** will follow AFTR.	*Ambrose v. U.S., 53 AFTR2d 84-650 (ClsCt)*
CCH	U.S. Tax Cases (USTC)	*Ambrose v. U.S., 84-1 USTC 9185 (ClsCt)*

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

10.8.5 U.S. Court Of Appeals

This is the first level of the federal appellate courts. It considers both tax and nontax litigation. The 11 Courts of Appeal are organized geographically into circuits.

Citations

Publisher	Publication	Example
West Publishing	Federal Supplement Series (Fsupp)	*D.C. Crummey v. U.S., 397 F2d 82 (CA-9, 1968)*
RIA	American Federal Tax Reports (AFTR). The second series of this reporter is in use where **2d** will follow after **AFTR**.	*D.C. Crummey v. U.S., 22 AFTR**2d** 6023 (CA-9, 1968)*
CCH	U.S. Tax Cases (USTC)	*D.C. Crummey v. U.S., 68-2 USTC 12,541 (CA-9)*

10.8.6 U.S. Supreme Court

The U.S. Supreme Court is an appellate court and the highest court in the nation. This is the final level of appeal and the sovereign legal authority. The cases are heard in Washington, D.C. A U.S. citizen does not have an automatic right to have his or her case heard by the Supreme Court. The Court's permission to present the case is petitioned by a Writ of Certiorari. Under this procedure, **certiorari is granted** when the Court decides to hear the case; **certiorari is denied** if the Court refuses to hear the case. Neither the citizen nor the government can appeal a Supreme Court decision.

If the Court denies the petition for certiorari, the Supreme Court is not **upholding**, or in any way confirming, a lower court decision. Only about a dozen tax cases are heard each year.

The following publishers make U.S. Supreme Court citations: West, RIA, CCH, Lawyer's Cooperative, and GPO. These are example citations for finding U.S. Supreme Court citations by these publishers:

- (West) *Helvering v. Clifford, 60 SCt 554 (1940)*
- (PH) *Helvering v. Clifford, 23 AFTR 1077 (USSC, 1940)*
- (CCH) *Helvering v. Clifford, 40-1 USTC ¶ 9265 (USSC)*
- (Lawyer's Cooperative) *Helvering v. Clifford, 84 L.Ed. 788(1940)*
- (GPO) *Helvering v. Clifford, 309 US 331 (1940)*

10.8.7 Using Federal Citators

A federal citator lists all federal court cases involving matters of taxation under Title 26 of the U.S. Code. It provides the court in which the case was heard, whether the IRS acquiesced (See MAP U.S. Tax Courts), and subsequent cases that cited and followed such case. In general, the case being analyzed is identified as the **cited case**; the case being referred to is identified as the

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

citating case. The Citator is helpful in finding court cases that have precedence and in determining the strength of a holding in a particular case. Citator is available in RIA.

10.9 Citable vs. Not Citable Sources

This table lists citable and not citable sources of tax law and analysis. Citable sources can be used as authority to support an audit determination.

Noncitable sources cannot be used as authority to support an audit determination. Although sources may not be citable, they are worthwhile to review because they can be useful for starting or further developing your research and analysis. In addition, you can't ignore representatives' arguments when they use uncitable sources to support their positions. Citable sources must be found to address the representative's arguments and to resolve the case. Further, the rationale in uncitable sources can generally be useful and can be supported by a recognized/citable authority.

ITEM	CITABLE	NOT CITABLE
Audit Branch Procedure Statement (ABPS)		x
Audit Program Reports (APR)		X
Board of Equalization Decisions		
Published decisions	X	
Unpublished decisions (mini decisions)		X
California Regulations	X	
California Tax Handbook (RIA)		X
Committee Reports		X
Court Cases (See MAP Judicial Authority)	X	
Determination Letter		X
Federal Tax Coordinator (RIA)		X
Federal Tax Handbook (RIA)		X
FTB Legal Memos		X
FTB Legal Rulings	X	
FTB Newsletters		X
FTB Notices (See MAP FTB Notices)	X	
FTB/IRS Audit Manuals		X
General Council Memorandum		X
Generally Accepted Accounting Principles (GAAP)		X
Guidebook to California Taxes (Bock/CCH)		X
Internal Revenue Code	X	

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

ITEM	CITABLE	NOT CITABLE
IRS Announcements		X
Law of Federal Income Taxation (Mertens)		X
Oral Advice		X
Practitioners Guide		X
Private Letter Rulings		X
Professional Journals & Publications		X
Public Service Bulletins		X
Revenue Procedures	X	
Revenue Rulings	X	
Spidell's California Tax letter		X
Standard Federal Tax Reporter (CCH)		X
Tax Forms and Instructions		X
Tax Management Portfolios (BNA)		X
Tax Planning Guide		X
Technical Advice Memorandum (TAM)		X
Training Manuals, Handouts or Packages		X
Treasury Regulations Proposed Temporary Final	 X X	X
U.S. Master Tax Guide (CCH)		X

10.10 Strength of the Cite Summary

This section discusses the ranking of statutory, administrative, and judicial authorities in the order of strength or weight of authority.

10.10.1 Statutory and Administrative Authority

This is a list of statutory and administrative authorities ranked in the order of strength of the cite.

1. California Revenue and Taxation Code.
2. CA Regulations.
3. Internal Revenue Code.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

4. Final Regulations.
5. Temporary Regulations.
6. Proposed Regulations.
7. Revenue Rulings.
8. Revenue Procedures.

10.10.2 Judicial Authority

This is a list of courts that primarily hear tax cases ranked in the order of weight of authority.

1. U.S. Supreme Court.
2. U.S. Circuit Court of Appeals* and Federal Circuit Court of Appeals.
3. CA Supreme Court.
4. Other state Supreme Courts.
5. CA Court of Appeals.
6. Other state Courts of Appeal.
7. U.S. Tax Court, U.S. District Court, U.S. Court of Claims, and Bankruptcy Court.
8. Superior Court (Generally are not citable.).
9. Board of Equalization (May or may not be citable.).

*9th Circuit opinions generally carry more weight than opinions in other circuits.

Additional Information About Court Cases and BOE Decisions

- In general, only opinions certified for publication or ordered published may be cited or relied on by courts and parties.
- Superior court cases are not citable, as the decisions are generally not published.
- The Board of Equalization and California courts are not necessarily bound by other non-California district court case opinions. Other state (district) court decisions can be used as an interpretation of the law, but you do not have to follow the interpretation. Generally, you follow the other district decisions unless you can show the decision is unreasonable or unfounded. Deviation from a published decision should not be arbitrary and should be done only with, and agreement from, a supervisor and our legal staff.
- Check the date of the authority cited and the tax year at issue. Be aware of subsequent law changes, interpretations, and court and Board decisions that may affect your authority.

Section Revised 8/31/08

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11 Penalties

11.1 Introduction

The California Revenue and Taxation Code (R&TC) contains numerous provisions for the assessment of penalties in various situations where taxpayers have failed to comply with the law. There are several types of penalties that we may impose based on a taxpayer's tax liability. Familiarize yourself with the penalty sections of the law and apply the penalties uniformly. It is our practice to consider the imposition of any penalty in each case where the penalty is applicable.

Some penalties are automatically imposed by our software systems, and the auditor develops others as appropriate during the audit.

Penalties determined at the audit level include:

- Accuracy Related Penalty (See MAP Accuracy Related Penaty).
- Failure to Furnish Information Penalty (See MAP Failure to Furnish Information Penalty).
- Fraud Penalty (See MAP Fraud Penalty).
- Tax Shelter Penalties (See MAP Tax Shelter Penalties).

Any penalty that is considered by the auditor must be documented in the workpapers by creating an issue folder for each penalty. Include reasons why the penalty is or is not assessed (including whether or not various defenses to the penalty apply). All Notices that contain a penalty must include an explanation of the penalty in the Notice, including the Code section that imposes the penalty. In addition, supervisor approval of the penalty needs to be documented in the case. (See MAP Supervisor Approval of Penalties).

Automatic penalties (imposed by the system, auditor does not need to make the determination of whether or not they apply) include:

- Amnesty Penalty.
- Failure to File Annual Statement (SOS Penalty).
- Failure to File Return/Delinquency Penalty.
- Underpayment of Estimated Tax.
- Underpayment Penalty.

Do not create issue folders for automatic penalties, unless the taxpayer or the auditor raises the issue of waiving the penalty. In those cases, document the defenses raised, and whether or not we are waiving the penalty.

The Large Corporate Understatement Penalty is imposed when the liability becomes final and will generally be imposed by BES.

- Large Corporate Understatement Penalty.

11.2 Supervisor Approval of Penalties

Supervisors must approve imposition of any Accuracy Related Penalty, failure to furnish penalty, fraud penalty, or tax shelter penalties on all notices. Documentation of their approval must be in the case file.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

In the case of the fraud penalty, auditors should contact Technical Resource Section before assessing the fraud penalty.

Supervisor's approval is not necessary in the following circumstances:

- Any penalty calculated through electronic means, including Automated Audits.
- Any penalty as a result of a Revenue Agent Report (except for fraud).

In the absence of the immediate supervisor, another supervisor of equal or higher authority may also approve the penalty.

The supervisor reviewing the case must do one of the following:

- Make an entry in the PASS Event log approving the case.
- Sign the Audit Report (FTB 6430) or the Narrative Report.

Because of the language of the law, a **lead** or another auditor who is acting in a review capacity will not meet this requirement.

11.3 Accuracy Related Penalty

The Accuracy Related Penalty is found in R&TC Section 19164.

Details regarding the Penalty, when to impose it, and defenses to its imposition are found at Accuracy Related Penalty website.

11.4 Failure to Furnish Information Penalty

R&TC Section 19133 states that if any taxpayer fails or refuses to furnish any information requested in writing, through a formal legal demand, we may add a penalty of 25 percent of the additional tax.

Before making a formal demand, examine the relevance of the request. Ask yourself:

- Is the request reasonable?
- Have I allowed a reasonable amount of time to gather the requested information?
- Has the information already been provided, but in some alternative format?
- Are other alternatives available?
- Is the requested information relevant to the issue under examination?
- Is the failure to provide the requested information due to reasonable cause? See MAP Waiver of Failure to Furnish Information Penalty.

If a formal demand is necessary, it must refer to:

- The prior requests (initial request, & any follow-ups to the initial request).
- The specific information requested.
- The need for the specific information.

You must also refer to the Failure to Furnish Information Penalty under R&TC Section 19133.

The failure to furnish information penalty should be assessed in cases where a formal demand is refused or ignored. The penalty is to be applied uniformly where (1) the information has been clearly

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requested in writing along with an explanation of the need for and relevance of the information, and (2) a formal demand has been served.

You should assess penalties unless there is reasonable cause for the failure to provide information. Reasonable cause requires the taxpayer to exercise ordinary business care and prudence. If a taxpayer has exercised such ordinary care and prudence and is nevertheless unable to provide the information, then the failure is due to reasonable cause. Use judgment when determining the applicability of the Failure to Furnish Information Penalty, and, if necessary, seek guidance on the matter.

If the audit requests are not documented or the appropriate request and demand for information have not been made, any recommendations to assess the penalty based on a lack of taxpayer cooperation or refusal to furnish information will not be accepted.

The immediate supervisor's approval is required anytime a failure to furnish information penalty is assessed. (See MAP Supervisor Approval of Penalties) For significant or large audits, the supervisor may want to keep the Program Manager informed. The auditor needs to prepare the Audit Issue Section (6870B) in PASS when the Failure to Furnish Information Penalty is assessed.

11.4.1 Waiver of Failure to Furnish Information Penalty

This penalty can be waived if the taxpayer submits a written statement listing the facts that support reasonable cause for failing to provide information upon notice and demand. In order to waive the penalty, the taxpayer or representative must show that the failure is due to reasonable cause and not willful neglect. The following items are intended as a guide for purposes of uniform treatment and clarification. Auditors must use their judgment in borderline and exceptional cases and, if necessary, should refer the matter to their supervisor or other designated reviewer.

Generally Acceptable Reasons:

- When the representative is able to furnish evidence that the notice and demand was not received; however, an unsupported statement by the representatives that they did not receive the notice and demand will generally not be considered a reason for waiving the penalty.
- The destruction or impounding of records so that a return cannot be prepared and filed.

Similar circumstances that warrant waiving penalties may be considered in this category. However, undue delay after a taxpayer has been contacted may not be considered as reasonable cause.

11.5 Fraud Penalty

R&TC Section 19164 provides for the imposition of a fraud penalty. This penalty is determined in accordance with Internal Revenue Code (IRC) Section 6663.

IRC Section 6663 provides for the imposition of a fraud penalty if any part of any underpayment of tax is due to fraud. The penalty is equal to 75 percent of the portion of the underpayment that is attributable to fraud.

The courts have defined fraud as the intentional wrongdoing on the part of the taxpayer with the specific intent to avoid a tax known to be owed (*O.C. Akland, CA-9, 85-2 USTC 9593*). Negligence or ignorance of the law does not constitute fraud.

We may impose the fraud penalty where the taxpayer:

1. Knew the contents of the return when he or she signed it.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

2. Knew the return to be false.
3. Made the return with the fraudulent intent to evade tax.

You should examine the taxpayer's entire course of conduct to establish intent. The FTB has the burden of proof when applying the fraud penalty. The FTB must prove fraud by clear and convincing evidence, but we can infer intent from strong circumstantial evidence. Because fraudulent intent is rarely established by direct evidence, the courts have inferred intent from various kinds of circumstantial evidence. These **indications** of fraud include:

- Understatement of income.
- Inadequate records.
- Failure to file tax returns.
- Implausible or inconsistent explanations of behavior.
- Concealing assets.
- Failure to cooperate with tax authorities.

Unlike criminal fraud, civil fraud need not be proved beyond a reasonable doubt.

Ordinarily a taxpayer is not liable for fraud penalties if the taxpayer acts on the advice of counsel. However, the taxpayer must show that complete and accurate information was provided to the attorney. A taxpayer cannot escape the penalty by delegating preparation of the return to someone else.

If the penalty is assessed, the audit file must contain a workpaper section discussing the facts upon which the penalty is based. Include the taxpayer's statement as to why they feel that the penalty does not apply (if applicable), and why the penalty should apply.

For assessments based upon Revenue Agent Reports (RAR), if the IRS has assessed the fraud penalty, we will not automatically assess the penalty. This is because the presumption of correctness is not present. The FTB must independently prove fraud in order to assess the penalty.

An auditor is required to obtain supervisor's approval for all fraud penalties. The auditor should contact Technical Resource Section before assessing the Fraud Penalty.

See MAP Supervisor Approval of Penalties.

11.6 Tax Shelter Penalties

Various penalties are imposed on participants and promoters of abusive tax shelters and transactions.

Tax shelter penalties include:

- Interest-based.
- Non-Economic Substance Transaction Understatement.
- Changes to Accuracy Related Penalty.
- Reportable Transaction Understatement.
- Failure to Disclose Reportable and Listed Transaction.
- Frivolous Return.
- Frivolous Submissions.
- Failure to Maintain Investor List.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- Failure to Register.
- Preparer Penalty.
- Promoter Penalty.

Details on these penalties and procedures to impose them are found at:

Audit Procedures - Tax Shelter Penalties.

11.7 Amnesty Penalty

An amnesty penalty may apply to 2002 and prior tax years. It is imposed for tax years that a taxpayer had the opportunity to participate in the amnesty program, didn't do so, and a subsequent Notice is issued. A description of the Amnesty Penalty is in the FTB Public website.

Answers to frequently asked questions regarding the amnesty penalty are found at California Tax Amnesty FAQ.

11.8 Failure to File Annual Statement (SOS Penalty)

Corporations are required to file an annual statement identifying its officers (Form SS100) with the Secretary of State. See R&TC Section 19141.

If the officers fail to file an annual statement for two consecutive years, the following actions are taken:

- The Secretary of State (SOS) notifies the corporation of the possibility of suspension if a statement is not filed within 60 days.
- SOS suspends the corporation if the corporation does not comply within the 60 days.
- SOS notifies the FTB that the corporation is suspended.
- FTB assesses the penalty against the corporation and sends the billing.
- The penalty amounts are $250 for general, and foreign corporations, and $50 for domestic nonprofit corporations.
- Interest is not charged on the penalty.

As a condition of reinstatement, a suspended corporation must furnish proof that the officer statement was filed with the SOS. The FTB is only the collection agency for this penalty. It does not have the authority to cancel or waive the penalty unless notified to do so by the SOS.

Questions regarding the assessment should be directed to the Office of Secretary of State, telephone number 916.657.3537.

Taxpayers may access the Secretary of State via Internet at Secretary of State.

11.9 Failure to File Return/Delinquency Penalty

R&TC Section 19131 imposes a delinquent penalty on any taxpayer that fails to file a return on or before the due date or extended due date. The penalty is assessed on the net amount of the tax due on the return.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Normally, this penalty is automatically assessed by the system. However, the auditor may have to assess it manually in circumstances such as when the taxpayer has not filed a return for that year.

For Personal income tax, a first time nonfiler will receive a **Request to File** letter. If there is no response after 30 days, we issue a Notice that includes tax and late filing penalties. A repeat nonfiler will receive a **Demand to File** letter. If there is no response after 30 days, we issue a Notice that includes tax, demand penalty, late filing penalty, and a filing enforcement fee.

A repeat nonfiler is defined as anyone who, in the past four years, was assessed a nonfiler Notice of Proposed Assessment.

Amount of Penalty

The penalty is assessed at the rate of 5 percent of the tax for each month, or a fraction of a month, elapsing between the due date of the return (determined without regard to any extension of time for filing) and the date on which filed, but the total penalty shall not exceed 25 percent of the tax.

In the case of a commencing corporation, the penalty shall apply to all tax accruable on the due date of the return.

If the taxpayer is an individual or fiduciary, and fails to file a return within 60 days without regard to extensions, the penalty is no less than the smaller of:

- One-hundred dollars ($100).
- One hundred percent (100 percent) of the tax required on the return.

The delinquent penalty may be increased or decreased based on adjustments to tax after the original return is filed.

Waiver

This penalty can be waived if the taxpayer submits a written statement listing the facts which support reasonable cause for failing to file the return by the original due date. (See MAP Waiver of Failure to File Return/Delinquency Penalty)

Exception

This penalty should not be assessed if an underpayment penalty is being assessed which results in a larger penalty. (See MAP Underpayment Penalty)

11.9.1 Waiver of Failure to File Return/Delinquency Penalty

The delinquency penalty is assessed unless there is reasonable cause and no willful neglect. Reasonable cause requires the taxpayer to exercise ordinary business care and prudence. If a taxpayer has exercised such ordinary care and prudence, and is nevertheless unable to file the return within the prescribed time, then the delay is due to reasonable cause. Forgetting to file or assuming someone else will file is not reasonable cause.

The following acceptable/unacceptable reasons are a guideline for purposes of uniform treatment and clarification. Auditors will continue to use their judgment in borderline and exceptional cases and, if necessary, should refer the matter to their supervisor or other designated reviewer.

Generally, information submitted by the taxpayer for reasonable cause will be acceptable in letter form; but, in cases of doubt or where evidence of mailing is required, an affidavit should be requested setting forth reasons for late filing.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Generally Acceptable Reasons

- Death, or severe illness of the taxpayer, officer, or qualified representative or employee responsible for submitting or completing the return.
- California return sent on time to the Director of the Internal Revenue Service.
- Request for exemption from tax is in process.
- Records are in litigation.

Generally Unacceptable Reasons

- Confusion of the due date because of the State income tax filing date.
- Belief that a return was not required because of inactivity or operation at a loss.
- Payment of the tax by the due date but failure to file a return.
- Thought the corporation was exempt or dissolved.
- Failure to receive forms because of change of address or otherwise.
- Change of fiscal year caused filing of delinquent return.
- Confusion as to the correct incorporation date.
- Lack of funds to pay the tax.

11.10 Underpayment of Estimated Tax

A penalty is imposed on the underpayment of tax if an installment is not paid in the correct amount, or in a timely manner (R&TC Section 19142). The penalty is computed on the underpayment of estimated tax from the date of the payment to the earlier of the date of payment, or the original due date of the return.

The underpayment of estimated tax is the difference between the amount due for each installment of the estimated tax and the amount actually paid or credited on or before the due date of that installment.

In the case of any underpayment of estimated tax, an addition to tax is imposed based on the interest rate, for the amount of underpayment, for the period of the underpayment.

An auditor rarely assesses this penalty, as it is normally automatically assessed, when applicable.

11.11 Underpayment Penalty

The underpayment penalty is assessed if a corporation fails to pay the amount of the tax due by the original return due date (R&TC Section 19132). The automatic seven-month extension of time to file a return is not an extension of time to pay the tax due.

The underpayment penalty will not be assessed if ALL of the following requirements are met:

- An extension of time to file has been granted.
- At least 90 percent of the tax due is timely paid by the original return due date.
- The remainder of the tax due is paid by the extended due date.

The underpayment is five percent of the unpaid tax due on the original return due date, plus .05 percent per month of the remaining tax, not to exceed 40 months during which the **remaining tax** is greater than zero. The aggregate amount of penalty imposed by this subdivision shall not exceed 25 percent of the total unpaid tax.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Once the underpayment penalty is assessed, it may be decreased in conjunction with any decrease in the assessed tax, but it may not be increased.

An auditor rarely assesses this penalty, as it would normally be assessed automatically, when appropriate. An auditor may encounter the issue on a claim for refund.

11.12 Large Corporate Understatement Penalty

Revenue and Taxation Code (R&TC) Section 19138 is effective December 19, 2008. This statute created a new penalty that applies to corporations for taxable years beginning on or after January 1, 2003, where the corporation has an understatement of tax in excess of $1 million. The penalty is 20% of the understatement, which is measured by the difference between correct amount of tax and the tax reported on the original return or on an amended return filed on or before the extended due date.

Those subject to this penalty include: Banks, corporations, and any other entity subject to tax under Part 11 of the R&TC (e.g., corporations, S corporations, and limited liability companies that elected to be treated as corporations).

Effective immediately, the following EPAL paragraphs should be included on certain NPAs:

- Notices issued **prior** to 05/31/09, use ¶53993
- Notices issued **after** to 05/31/09, use ¶53992

For more information on this penalty, see the link below:
http://www.ftb.ca.gov/businesses/large_corporate_understatement_penalty.shtml

Section Revised 4/30/09

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12 Interest

12.1 Interest Defined

Interest is charged on balances due to the Franchise Tax Board and paid on balances due from the FTB. Interest is not a penalty, but is considered a charge for the use of money.

12.2 Interest Charged

Taxes are due and payable as of the original due date of the taxpayer's return (without regard to extension). If the tax reported on the taxpayer's return is not paid by the original due date, or if the Franchise Tax Board assesses additional tax, interest must be computed and charged on the balance due, including penalties, if any (R&TC Section 19101). Interest is compounded daily (R&TC Section 19521) and begins accruing from the date payment is due (R&TC Section 19104).

Interest is assessed, collected, and paid in the same manner as the tax. Compute interest from the date payment of tax is due (usually coincides with the original due date of the tax return) until the date the deficiency is paid. If the tax is paid in installments, interest accrues on the unpaid portions of the liability until the entire balance due is paid (R&TC Section 19104(a)); also *Appeal of Richard E. and Geraldine Goodman, 84-SBE-145, October 10, 1984.*

If certain erroneous refunds caused by FTB error are issued to a taxpayer, interest is not charged to the taxpayer until 30 days after the taxpayer is notified of the erroneous refund. If the refund check is returned, no interest accrues (R&TC Section 19104(b)). See MAP Erroneous Refunds.

Interest may be suspended for PIT taxpayers for some tax years. See MAP Suspension of Interest.

12.3 Interest Paid on Overassessments

Interest is paid on overpayments resulting from an audit. It is compounded daily and computed from the date of overpayment to the date paid, taking into account a 30-day grace period for processing (R&TC Section 19340). In other words, interest will be paid for the computed period except for 30 days to allow for processing.

12.4 Interest Rates

The rate of interest is provided by statute and is adjusted periodically by the Legislature. We cannot impose interest at any other rate than the **adjusted annual rate**. Interest, at the rate specified by law, is compounded and accrues on the balance due until the date the liability is completely paid. This means that interest accrues not only on the tax and applicable penalties, but also on the interest balance due (R&TC Section 19521; Internal Revenue Code Section 6621).

We compute the interest rate semi-annually. Interest accruing after June 30, 1983 is compounded daily on:

- Unpaid tax.
- Interest.
- Certain penalties.
- Unpaid Water's-Edge fees, when applicable.

We compute interest on tax from the original return due date to the date the tax is paid. We compute the interest on delinquent, underpayment, and accuracy-related penalties from the return

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due date, including extensions. We compute all other penalties from the notification date (the transaction date on the video) to the date paid.

If the taxpayer pays the entire assessment within 15 days of the original notification, we charge no additional interest.

Suspension of interest may apply to some PIT taxpayers for some tax years. For details, see MAP Suspension of Interest.

12.5 Interest Calculations

ADINT

You can use the ADINT program (available on the Mainframe system) to compute interest automatically on a debit or credit balance. You can also compute the estimate penalty using ADINT.

If you use the ADINT program to give estimates of interest due, you must notify the taxpayer that it is an estimate only.

PASS Template

A template is available on PASS. It is available in the Schedule, Bottom Drawer, and Audit Support Folders entitled **Manual Computation**.

Requesting an Interest Computation for Business Entities

Request an interest computation from Audit Business Support when:

- An Avon Interest Adjustment is necessary (see MAP Avon Interest Adjustment).
- You need an exact figure.

The fastest way to get a corporate interest computation is to request an interest calculation from BES. You should receive the computation within 48 hours.

12.6 Additional Two Percent Interest

In certain circumstances, an additional two percent interest rate is applicable for some C corporations. It applies for:

- C corporations.
- If the cumulative unpaid tax exceeds $******* for a taxable year.
- Taxable years beginning on or after January 1, 1992.

It will be due on any unpaid amount for that taxable year if the cumulative unpaid tax exceeds $*******. Once the corporation meets the cumulative **threshold amount** of $******* in unpaid tax, all underpayments for that year are subject to the additional two percent interest from the later of January 1, 1992, or the earliest applicable date occurring for that year.

The **threshold amount** includes regular tax, Notices of Proposed Assessment and alternative minimum tax, but not penalties and interest.

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12.7 Avon Interest Adjustment

The Avon decision is based on the **use of money** principle. This principle states that for any period during which the government has use of the taxpayer's money, interest on a subsequent assessment should not be charged if during the same period the government had use of an overpayment for the same tax year.

When a taxpayer's original return reflects an overpayment that was credited to another year or refunded without interest, and there is a subsequent assessment, interest is charged only when the tax (to the extent of the overpayment) is considered due and unpaid. (Revenue Ruling 88-98).

The Avon decision applies to timely and delinquent filed returns. It does not apply to overpayments transferred as the next year's first estimated tax payment.

An Avon interest calculation is required when the following requirements are met:

- An overpayment of $****** or more on the original return for any year on which a deficiency is being issued.
- The overpayment was refunded or applied to another balance owing without allowing for interest.
- We issue a Notice of Proposed Assessment of $****** or more for the same tax year that had the overpayment of $****** or more.
- The taxpayer brings up the issue, regardless of the amount. Refer any case meeting the above criteria to the Audit Business Support Unit.

In addition, whenever a taxpayer brings up the issue, you should review the account to determine whether to use the Avon method regardless of the dollar amount involved.

12.8 Interest Abatement

The imposition of interest upon a deficiency is mandatory (*Appeal of Amy M. Yamachi, Cal. St. Bd. Of Equal., June 28, 1977*). The requirement that mandatory interest be charged to the date of payment is not changed by a delay in the issuance of a proposed assessment, or in the subsequent administrative review process (*Appeal of Patrick J. and Brenda L. Harrington, Cal. St. Bd. of Equal., January 11, 1978*).

Interest is not a penalty imposed on the taxpayer. It is simply compensation for the use of money (*Appeal of Audrey C. Jaegle, Cal. St. Bd. of Equal., June 22, 1976*). However, under R&TC Section 19104, the FTB may abate all or part of the interest if certain conditions are met.

Provisions for abating interest are different depending on whether the tax year involved begins on or after January 1, 1998. Specifically, three aspects were added:

1. For tax years beginning on or after January 1, 1998, FTB is allowed to abate interest that is attributable to **unreasonable** error or delay in FTB's performance of a ministerial or **managerial** act.

2. AB 713 added the terms unreasonable and managerial to R&TC Section 19104. Refer to FTB Notice 98-5 and Treas. Reg. Section 301.6404-2T for definitions.

3. For abatement requests made on or after January 1, 1998, the taxpayer is allowed to appeal to the State Board of Equalization the FTB's determination to deny abatement. The appeal must be within 180 days of the FTB's determination (R&TC Section 19104(c)(1)(C)(ii)). Under prior law (which applied to requests made before January 1,

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1998), FTB determinations were final and not allowed to be heard by the Board of Equalization.

In 2000, the passage of AB 463 (Ch. 99-183) revised R&TC Section 19104 and changed the circumstances under which we may abate interest. In certain cases, the law now requires taxpayers to raise the interest abatement issue at the time of the appeal of the deficiency or be limited thereafter from raising the issue.

R&TC Section 19104 now provides specified limitations on the time for taxpayers to appeal and specifies the circumstances under which the Franchise Tax Board will deny a request to abate interest. The revisions apply to requests for abatement of interest filed on or after January 1, 2001.

Other significant points of the law include the following:

- It clarifies that the **interest** on the deficiency, not the deficiency itself, is subject to abatement.
- It allows taxpayers who protest a deficiency to include a request of certain related interest in their protest.
- In circumstances where taxpayers have not included the request for abatement of interest during the original protest, but later file an appeal of the proposed deficiency, taxpayers may include a request for the abatement of interest with their appeal of the underlying proposed deficiency.
- It precludes taxpayers from making a separate request, at a later time, if taxpayers have protested or appealed the underlying deficiency and have not made a request for abatement of interest during the protest or appeal.
- If a taxpayer does not protest or appeal the Franchise Tax Board's adverse action on an underlying proposed deficiency and is only appealing an adverse action on a request to abate interest, or is requesting an abatement of interest that has accrued between the time the deficiency was final and the time the Notice of Tax Due is issued, the taxpayer may make a request for the abatement of interest on Form FTB 3701, **Request for Abatement of Interest**.
- If a taxpayer is denied a request for abatement through the Franchise Tax Board issuing a Notice of Action or a Notice of Determination, taxpayer may appeal to the State Board of Equalization within 30 days of the date on the notice (for unpaid interest), or within 90 days (for paid interest).
- If the Franchise Tax Board does not respond to a taxpayer's request for abatement of certain interest within six months (not including requests made at protest or appeal), the taxpayer may treat the request as if it is denied and file an appeal with the State Board of Equalization within the above referenced timeframes.

As stated in FTB Notice 98-5, the FTB has developed Form FTB 3701, **Request for Abatement of Interest**, for taxpayers to use to request waiver of interest for periods attributable in whole or in part to error or delay by one of our officers or employees in performing a ministerial or managerial act. They can download the form from our Internet website or request it by telephone at 800.852.5711. They should mail the completed Form 3701 to:

FRANCHISE TAX BOARD
TAXPAYER ADVOCATE BUREAU, MS A381
INTEREST ABATEMENT COORDINATOR
PO BOX 157
RANCHO CORDOVA CA 95741-0157

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12.9 Suspension of Interest - PIT Cases Only

If we fail to issue a Notice of Proposed Assessment within a notification period, we must suspend charging interest on the Assessment from the end of the notification period to 15 days after the notice date. This suspension applies **only** to PIT taxpayers' returns that were filed on time (including extensions) (See R&TC Section 19116).

The correct amount of interest is calculated automatically on the Notices of Proposed Assessment. However, you must manually compute the interest for a position letter or AIPS.

Procedure for Tax Years Ending Before October 11, 1999:

Suspension of interest does not apply to tax years ending before Oct. 11, 1999. To provide an interest calculation for a taxpayer in position letter, calculate interest up through the response date for our letter. Provide this amount in the letter, and explain to the taxpayer that paying the amount due in full stops more interest from accruing.

Procedure for Tax Years Ending After October 10, 1999:

Suspension of interest may apply. We suspend interest only for returns filed on time (including extensions). We charge interest for the first 18 months from the later of:

- The return's original due date (normally April 15 of the next year) for returns filed before the original due date.
- The date the original return was filed (no later than October 15, in order to be considered timely).

After the 18-month period, we suspend interest **until 15 days after we issue a Notice of Proposed Assessment.**

The following example shows how to compute interest when interest suspension applies.

Example:

Facts:

- PIT taxpayer.
- 2004 tax year.
- Tax return filed June 15, 2005 (timely filed under extension).
- Additional tax per audit, $100,000.
- Position letter dated May 15, 2006.

Compute interest from April 15, 2005 (original due date of the return) to December 15, 2006 (18 months from the date the taxpayer filed the return). Suspend interest from December 16, 2006 until the date we issued the Notice of Proposed Assessment (plus 15 days). Using *****, we compute interest from April 15, 2005 until December 15, 2006.

Compute interest from April 15, 2005, not from the filed date of the return, June 15, 2005. **Interest accrues on balances due from the original due date of the return, even if the return is filed under extension.**

IMPORTANT: We should not use statements in our letters like **If you would like to stop more interest from accruing**, etc., because we suspend interest from the end of the 18-month period until we issue our notice.

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Multiple Tax Years

If your audit covers tax years ending both before and after October 10, 1999, you should compute interest for the tax years for which we suspend interest as well as years for which we do not. Because interest continues to accrue on tax years ending before October 11, 1999, state that payment will stop more interest from accruing on the earlier tax years.

Revenue Agent Reports (RARs)

We may also suspend interest for assessments based on Revenue Agent Reports. The suspension period for Notices of Proposed Assessment based on federal changes depends on **when** the taxpayer or IRS notifies us of the change.

If we were notified of the IRS change **up to six months after** the final federal determination date, then we suspend interest starting **one year** after the date we were notified.

If we were notified of the IRS change **more than six months** after the final federal determination date, then we suspend interest starting **two years** after the date we were notified.

Once we issue our Notice of Proposed Assessment, interest begins to accrue again. Whether the taxpayer protests the assessment does not affect interest suspension.

Using Adint

You can use Adint to calculate interest. Be careful to use the correct starting and ending dates. Adint does not use enough information to make the determination if suspension of interest applies.

Amended Returns

Interest is suspended on self-assessed amounts on amended returns according to R&TC Section 19116 and FTB Notice 2005-4.

Tax Shelters

Special rules apply to determine if we suspend interest when a tax shelter is involved. Please see R&TC Section 19116 regarding this.

Section Revised 8/31/08

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13 Forms

13.1 Introduction

The objective of this Forms section is to provide instructions and links to the commonly used forms to conduct your examinations.

In a few occasions, the format of the following forms on PASS will be different from the form on the inside net. For consistency purposes, when available, the form on PASS is preferred. In most cases, the forms listed here are available in PASS. For a list of all FTB forms, see the Forms Index.

FTB 4523B	Authorization for Single Notices
FTB 6163	Abatement/ Refund Memo
FTB 6213A	Accounting Instructions / Entity
FTB 6350 (PIT)	In-Lieu Remittance Document
FTB 6352	Business Entity Memorandum of Remittance
FTB 6430	Audit Report
FTB 6638	Auditor's Recommendation Formal Claim
FTB 6830-BCT	BCT NPA Worksheet Audit
FTB 5847 or 5847A	PIT Overassessment
FTB 7011	Rush Actions Slip
FTB 7024	Request for Field Action

13.2 Pre-Audit Forms

13.2.1 Request for Field Action (Form FTB 7024)

Complete form FTB 7024, Request for Field Action, for each case being referred to a Program Office. Form FTB 7024 should provide a description of all returns and any other documents being forwarded. The package being sent to the field should be assembled in the following order:

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- Form FTB 7024.
- Return(s).
- Audit file(s).

Do **not** send the following:

- NPAs that are not yet final.
- The corporate folder.

Note on form FTB 7024 any special problems identified, such as imminent statute expiration.

Instructions to Complete Form FTB 7024:

1. **District:** Enter the Program & Office, i.e. C Corp, West Covina.
2. **Earliest Statute Date:** Enter the earliest statute of limitations date for the returns being sent.
3. **Name, Account Number, & Years:** Enter the taxpayer's name, account number, claim number (if applicable), and the years of the returns being referred to the field office. Circle the years for any returns being sent for reference. Do not include in this area any prior audit report or other information being referred to the field. These should be referenced in the Special Instructions area of the form.
4. **Reason:** Check the box for the appropriate reason why the returns are being sent. Indicate in the area designated whether the return is being sent to the field due to the taxpayer's or the field auditor's request.
5. **Special Instructions:** The comments here may include a detailed listing of the potential areas of examination or any other special instructions for the field auditor. Indicate in this area if a prior audit report and/or other information is being sent along with the returns.
6. **Send form FTB 4102 or Special Letter:** Identify whether a letter is being sent to notify the taxpayer and/or the taxpayer's representative that the returns are being sent to the field office. A letter should only be sent to the taxpayer when it is necessary for the taxpayer to know that its returns are being transferred to the field for examination.
7. **Name and Address of Taxpayer or Taxpayer's Representative:** If you are aware of a change in the taxpayer's and/or the representative's address, it should be indicated and the address updated on BETS and or TI.

After completing form FTB 7024, follow these:

- If the case being sent to the field is a refund claim, take the case to the Claims Control Desk. All other cases, except Water’s-Edge cases (which are worked by the Water's-Edge team) should be submitted to your lead auditor. The lead auditor will then take the case to the Work Control Desk.
- The Claims Control Desk or the Work Control Desk will route the cases to the Program Office indicated on the form.
- The Program Office receiving the case will update the PASS file upon receipt of the return.

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13.3 In Progress Audit Forms

13.3.1 In-Lieu Remittance Document for PIT (Form FTB 6350)

Complete form FTB 6350 (PIT), In-Lieu Remittance Document, when a taxpayer delivers a check for payment to an auditor during the examination. For additional procedures regarding payments received at audit and In-Lieu Remittance Documents, see MAP Payments and Deposits.

This form is found in the PASS workpaper file – Administration Folder.

Instructions To Complete Form FTB 6350, In-Lieu Remittance Document:

1. **Taxpayer's name**.
2. **Taxpayer's address**.
3. **Taxpayer's city, state, and zip code**.
4. **Spouse's name**.
5. **Spouse's SSN**.
6. **BR. Code:** Enter the payroll unit code (PUC) of your unit.
7. **Batch No:** Leave blank.
8. **Account No:** (FTB 6350 Only) Enter the account number from TI, (PASS automatically populates the account number).
9. **Date Received:** Enter the date of payment.
10. **Tax Year:** Enter the tax years involved.
11. **Do. Code:** Insert the correct code. The codes are:
    a. ***** – Code "*" indicates an NPA payment and will put the payment into suspense.
    b. ***** – Code "*" is used to put payments into miscellaneous suspense.
    c. ***** – Code "*" is used to put an estimate payment (other than current year) into suspense.
12. **Amount Paid:** Enter the amount of deficiency and interest per year.

At the bottom of the form, write in red, **NPA not yet issued. Place payment in nonbillable status.**

Failure to follow the above procedures will cause the payment to post to a final/billable status. This will result in a refund to the taxpayer, or the application of the payment to a liability. Be sure to complete the form in ink.

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13.3.2 Memorandum of Remittance for Corporations (Form FTB 6352)

Complete form FTB 6352, Business Entity Memorandum of Remittance, when a taxpayer delivers a check for payment to an auditor during the examination. For additional procedures regarding payments received at audit and remittance documents, see MAP Payments and Deposits.

This form is found in the PASS workpaper file – Administration Folder.

Instructions To Complete Form FTB 6352:

1. **Entity Name:** Enter the name of entity for which the payment is made.
2. **Entity ID, ID Type:** Enter the BETS code identifying the type of number used for the entity ID. Most common is * for corporations.
3. **Entity ID, ID Number:** Most common is a **seven-digit** number for corporations.
4. **Date payment is first received by FTB:** Enter the date received by your office.
5. **Total Amount Paid:** Enter the total amount of payment.
6. **Account Type:** Two-digit code for the account type on which the payment is to post. The most common are:
   a. ****** for a B&C account.
   b. ****** for a NB&C account. Used when a payment is for an NPA that has not yet been issued or for an NPA that has been issued but has not yet gone final.
7. **Taxable Year:** Taxable year is the last day of the taxable year for which the payment is made.
8. **Amount:** Enter the total amount to be posted to on the account type and taxable year identified.
9. **Unit & Initials:** Enter your payroll unit, number, and initials.

13.4 Closing Forms

13.4.1 Authorization for Single Notices (Form FTB 4523B)

In all audits where California reporting entities have filed separate returns and are being combined by audit, or have filed a combined report and are being de-combined by audit, an Authorization for Single Notice, form FTB 4523B, should be secured from the taxpayer.

If the taxpayer does not sign the authorization, prepare an intrastate apportionment of the income and issue separate notices for each of the California reporting entities that filed separate returns.

As long as a Schedule R-7 for 1992 or subsequent years was executed, the blanket waiver will generally be acceptable even if you are proposing to **de-combine** the taxpayers or if one or more of the taxpayers have been sold. Good judgment should be used. If a taxpayer is asking to terminate their R-7 relationship, obtain separate waivers to avoid potential problems. Likewise, single notices can be mailed to taxpayers filing on a 1992 or subsequent years Schedule R-7

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regardless of whether a taxpayer has been de-combined or sold, but consider issuing separate notices if the taxpayer so requests.

If separate notices are issued, payments of previously assessed tax will be allocated to the California entities in accordance with the Schedule R-7 filed with the original return if intrastate apportionment was used to prepare the original return. If intrastate apportionment was not used, the previously assessed tax must be assigned back to the members based on intrastate apportionment principles, see Legal Ruling 95-2.

This form is found in the PASS workpaper file – Administration Folder.

Instructions to Complete Form FTB 4523B:

1. **For the year ended…through the year ended:** Enter the Taxable years for which the notices are to be issued. One authorization may be used to cover all years under audit.
2. **Name of designated corporation:** Enter the name of the corporation that has been designated to receive the notice(s). This will usually be the key corporation.
3. **Address:** Enter the address of the designated corporation where the notice(s) is to be mailed.
4. **California Corporation No.:** Enter the California corporation number of the designated corporation.
5. **Federal Employer Number:** Enter the FEIN of the designated corporation.
6. **Corporation Name:** Enter the name and California corporation number of each California reporting entity, which is covered by the single notice.
7. **Signature of Officer or Authorized Agent:** Obtain the signature for each of the California reporting entities. Also, print the name and title of the officer or authorized agent who signed the form on behalf of the California reporting entity.
8. **Date:** Obtain the date and signature by the principal officer (president, vice-president, secretary, treasurer, secretary-treasurer) or by a duly authorized agent of the designated corporation.
9. **Phone:** Obtain the telephone number, name, and title of the person signing for the designated corporation.

By submitting Schedule R-7 of Form 100, the taxpayer is indicating election to file a single return for the entities included in the combined report.

Members Not Included in the Authorization for Single Notices

Members with Different Accounting Periods: Because of statutory filing requirements, corporations having different accounting periods may not be included in the authorization for single billings. In these instances, separate notices are issued.

Part-Year Members: Have there been reorganizations, liquidations, or changes in ownership? Corporations that become a member of the unitary group after the beginning of the taxable year or cease to be a member of the unitary group during the taxable year may not be included in the authorization for single billings. For example, if a California reporting corporation is a member of a combined group for only the first six months, a separate notice must be issued with the first six months of operations determined by combined report procedures and income for the last six months determined by separate accounting.

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Bankrupt Members: Separate notices should be issued in bankruptcy cases. The court may not recognize the single notice authorization. The key company may have no assets. Unitary affiliates may not be in bankruptcy or may have assets for payments to creditors.

Suspended Members: Suspended corporations do not have the right to file protests or claims for refund. Therefore, separate NPAs should be issued to suspended corporations so that the assessments for the other corporations can be allowed to go final.

13.4.2 Abatement Refund Memo (Form FTB 6163)

Complete form FTB 6163, Abatement/ Refund Memo when:

- An overassessment is larger than $******* resulting from an overpayment of taxes.
- A cancellation of tax.
- A combination of overpayments and cancellations.

These refunds require administrative review before being issued, and this form provides the information necessary for that review.

This form is found in the PASS workpaper file – Administration folder.

Instructions to Complete Form FTB 6163:

1. **To:** Director.
2. **From:** Enter the appropriate Audit Program, i.e. MSA Central, C Corp, etc.
3. **Re:** Enter the taxpayer's name.
4. **Entity/Acct#:** Enter the taxpayer's corporation number.
5. **Taxable Years:** Enter each taxable year for which an abatement/refund is being issued.
6. **Abatement/Overpayment Amount:** Enter the amount of change in tax and penalty per taxable year. Enter the amount in parenthesis.
7. **Basis:** Include a brief explanation why the amount is being refunded.
8. **Statute:** Enter the earliest statute of limitations date. This section must be completed.

13.4.3 Accounting Instructions/Corp. (Form FTB 6213A)

Complete Form FTB 6213A, Accounting Instructions/Entity, when you need to make account adjustments, such as assessing or canceling tax based on amended returns, issuing credit balance refunds, and denying informal claims for refund. Also, the form is used to request miscellaneous transactions to clean up or close a taxable year.

This form is found in the PASS workpaper file – Administration Folder.

Instructions to Complete Form FTB 6213A:

- To assess tax based upon an amended return received during the course of an audit where payment has already been made:

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- Write the corporation number and taxable year on the lines provided at the top of the form.
- Determine the correct net income and include that figure on the taxable income (Revised) $ line.
- Determine the correct liability. Check the Supplemental Assessment box and enter the additional tax in the box marked Tax.
- Enter the transaction date, which will be the date the amended return was received.
- If a penalty is required, figure the amount or write **as needed** in the penalty box and request that BES Audit Technical Support compute the amount.
- Enter the transaction date, which will again be the date the amended return was received.
- On the line for **Reason**, write 100X or amended return.

- To cancel tax based upon an amended return or to reduce an NPA which has **gone final** and posted to the taxable year:
  - Follow the initial steps listed above and mark the Cancel box.
  - Enter the transaction date. (For canceling tax on an amended return, the date will be the date of receipt of the amended return. For canceling NPA tax, the date will be the date the NPA became final.)
  - If the cancellation will result in a refund, check the refund box. **Balance** should be written on the amount line.
  - If no refund is due and the taxable year will remain billable, check the Billable Balance box.

- To issue a refund based on an amended return that is not a formal claim:
  - Follow the procedure to cancel tax above. This will create the required credit.
  - Use the paragraph number 60000.

- To issue a credit balance refund to clean up a taxable year:
  - Determine that the credit is legitimate. If you are unsure, the case may be referred to BES Audit Technical Support for analysis.
  - Once the correct credit is determined, mark the Refund box.
  - Write **Balance** on the Amount line.
  - Use the paragraph number 60004.

- To deny an **informal** claim for refund:
  - Mark the Denial box.
  - Use the paragraph number 60001.
  - Include a written explanation.

- To transfer credits between taxable years and corporations:
  - Mark the Transfer box.
  - Fill in the corporation number, years, and amounts in the boxes provided. Initial and date the form.
  - Staple the form to the corporation folder and route to BES Audit Technical Support for action.

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- If you do not have the folder, a **dummy** folder should be made.
- If the monetary transactions exceed $*****, a reviewer's initials are required.

13.4.4 Audit Report (Form FTB 6430)

Use Form FTB 6430 (Audit Report) as a cover page whenever sending a closed case to Technical Resource Section and Audit Business Support, or a referral or transfer case to auditors from a different office. This form is found in the PASS workpaper file – Administration Folder.

Instructions To Complete Form FTB 6430:

1. **Program Office –** Enter your appropriate Program & Office, i.e. C Corp, West Covina.

2. **PUC** – Automatically populates.*

3. **Earliest Statute** - Enter the earliest date on which the statute will expire for making an assessment or allowing a refund for any of the returns under audit in the affiliated groups. If the statute will expire within four months for apportioning corporations or six months for all other taxpayers, after the file is submitted to review, circle the statute in red.

   Affiliated entity - If earliest statute applies to an affiliate put ****: below the expiration date.

   Related entity - If the earliest statute date is for a related entity, enter **** and the statute date.

   Bankruptcy cases - Enter ******** above the actual date.

   Claims - Enter **********.

4. **Identification Number** – PASS automatically populates this section with the taxpayer's full name, address and identification number.

5. **Boxes**

   Claims - Check if there is a formal or informal claim (any overassessment other than generated by audit).

   Non-Review - Check if the case does not require TRS review.

   RAR Pending – Provide the work paper reference for the IRS contact and substantiation of the federal exam.

   Taxpayer's Copy- check this box if you made adjustments using copies of the tax returns, and not the original returns filed with FTB. Enter the years that the taxpayer's copies were used.

   Bankruptcy - Check this only in cases where the period for filing bankruptcy claims has not expired. The final date for filing the claim should be entered in the Special Instructions section (Section 10). For additional information, see MAP Bankruptcy.

   Protested - Check if the file includes a case in which an NPA previously issued is under protest and you are recommending action to be taken on the protest. Files with **Docketed** protest must be approved through Legal's Protest Section. Do not check

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this item to indicate that the taxpayer will protest.

Taxpayer's Position – Double click on the position listing and make a choice from the drop down list.

6. **Taxable year** – Enter the years examined, starting with the earliest year first.

7. **Statute Extended** - Enter the SOL statute date or the extended SOL date for each year under audit.

   If no SOL date, explain why, such as fraud or no return.

   If a state waiver extends the statute, enter **SW** and the date.

   If extended by a Federal waiver, enter as **FW xx/xx/xx** (using the Federal waiver date and not the date six months later applicable for State purposes under R&TC Section 25663a. See MAP Statute of Limitations Charts.

   If the six months statute applies under R&TC Section 25674, enter the actual statute date. See MAP Statute of Limitations Chart.

   If the statute has expired on a referenced return, enter a dash.

8. **Federal Action** – Enter **RAR** if the report is available. See MAP Unagreed RARs and Pending Federal

   If there is information, the IRS is making or will make an audit, write **Pend** on this line.

   If there is no indication, a Federal audit will be made, write **N/A**.

   If there is an RAR pending for any other years, show this information in **Special Remarks** and check **See Remarks** at right.

9. **Def or O/A** – Enter the tax change amount.

   The tax change amount is the amount of the assessment, the amount of overassessment, or the portion of any claim for refund allowed for the years under audit, plus any penalties assessed, and any interest paid.

   Tax change also includes any amount allowed in excess of the amount claimed for refund. (Write overassessment amounts in parenthesis.) For full claim denials, write "denied." See also the section on **Special Instructions** below.

   Indicate on the Audit Report what the no change is in reference to: N/C letter, N/C claim accepted as filed, N/C amended return accepted as filed, Claim Denied in Full, NA - Notice of Action for when a protested NPA is revised, withdrawn, or affirmed, REF - Referenced Return.

   - N/C - No Change.
   - NPACA – Notice of Proposed Adjusted Carryover Amounts. If you are issuing an NPACA, write NPACA. Do not enter zero (0). See MAP Notice of Proposed Adjusted Carryover Amounts for additional information and also the section on **Special Instructions** below.

   If a claim for refund is partially allowed, enter the amount of the claim allowed.

10. **Names and Dates-** The auditor's name and address automatically populate. Manually enter the date submitted and the reviewer's name and number.

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11. **Special Instructions**

For N/C, indicate what the no change is in reference to: N/C letter, N/C claim accepted as filed, N/C amended return accepted as filed, Claim Denied in Full, NOA – Notice of Action for when a protested NPA is revised, withdrawn or affirmed REF – Reference Return.

If a N/C letter has been mailed, indicate the date of the letter, e.g. N/C (xx/xx/xx)

For partial claim denials, write the amount allowed, amount denied, and the total refund claimed for each year. For example:

Claim allowed $xxx.xx

Claim denied xx.xx

Total claim $xxx.xx

Related Taxpayers**-** List all related returns in this section, including name, ID Number and tax years, so that all related files can be processed together.

- Pass-through entity- List all investors/shareholders with adjustments.
- Investors/shareholder- List only the related pass-through entity. Do not list the other investors/shareholders.

NPACA- Include any reductions to NOL or credit carryover amounts affecting future taxable years.

Special Item- If transferring the case to another auditor in a different office, you may include in this space the reason for the referral or transfer. See MAP Procedure for Auditor Transferring the Case.

13.4.5 Auditor's Recommendation Formal Claims (Form FTB 6638)

Complete form FTB 6638, Auditor's Recommendation Formal Claim, when fully allowing or fully denying corporate claims for refund.

This form is found in the PASS workpaper file – Administration Folder.

Instructions to Complete Form FTB 6638:

1. **Taxpayer Name:** Use the exact name of the corporation.
2. **Taxpayer ID:** Enter the corporate number.
3. **Created By:** Enter your name.
4. **IncomeYears:** Enter the month and year.
5. **Ccs:** Indicate the name and address of the representatives to whom a copy of the notice should be sent. A copy should be sent when you are dealing with an outside representative.
6. **Reviewer & Review Date:** Enter the reviewer's name and the date the review was completed.
7. **Deny Claim for Refund for:** Place an X in this box only if denying the claim in full. Include an explanation of the denial. See #9. Enter the tax year and the amount of the claim. It is not necessary to put a claim number.

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8. **Allow Claim for Refund for:** Place an X in this box only if the claim is to be allowed in full with no increase or decrease in the amount requested in the claim. NPA paragraph 50663 will automatically be typed as an explanation. Enter tax year, amount of claim, and revenue code. See MAP Revenue Codes. It is not necessary to put a claim number. Indicate if the claim is related or unrelated to another notice issued at the same time.
9. Explanation:
    a. Denied with no other action—use NPA paragraph 50621, followed by an explanatory paragraph.
    b. Denied with an NPA also being issued on the same year, or different year with the same issue--the denial letter will not be issued until the NPA goes final. This prevents the taxpayer from having to appeal a claim denial concurrently with filing a protest.
    c. Denial with NPA on same year--Use NPA paragraph 50625.
    d. Denial with NPA on same issue on a different year--Use NPA paragraph 50621 with explanatory paragraph, and a note **Do not type until concurrent NPA on taxable year _____ goes final.**
    e. Allowed in full. NPA paragraph 50663 will automatically be typed. If an additional explanation is needed, it should be written in this area.
    f. Claim allowed in full, and an NPA is greater than the claim - Check the deny claim box and enter paragraph 50625. Complete FTB 6830-BCT (NPA Worksheet), see MAP BCT NPA Worksheets for Corporations .
10. **Paragraph:** Indicate whether NPA paragraph 53400 should be used by placing an **X** in the box and inserting the month and year for the taxable years to which it applies.

Include form FTB 6638 in the Audit Report package. See MAP Auditor's Recommendation Formal Claims.

13.4.6 BCT NPA Worksheet for Corporations (Form FTB 6830 BCT)

Complete FTB 6830-BCT, BCT NPA Worksheet (Audit), when preparing Notices of Proposed Assessment (NPA) and Overassessments (O/A) for corporate taxpayers. If you are inputting the NPA directly to BETS, you do not need this form.

It is important that you check the account status on BETS, **** for each taxpayer in the combined group, prior to, preparing the form FTB 6830-BCT worksheet. If the group contains a suspended taxpayer, a separate notice must be issued to the suspended taxpayer. See MAP Suspended Corporations for additional information. It is important that you verify the previously assessed tax on BETS, **** before preparing the form FTB 6830-BCT worksheet.

This form is found in the PASS workpaper file – Administration Folder.

Instructions to Complete Form FTB 6830-BCT:

1. NOTICE UNRELATED & NOTICE RELATED.
2. DO NOT MAIL NPA.
3. AUTHORIZED OFFSET.
4. ASSUMER.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

5. FT & CIT.
6. O/A & J/A.
7. ASSUMER ID NO.
8. CORP NO.
9. J/A NO.
10. SOL.
11. NO. OF NOTICES.
12. NO. OF ENC.
13. TXP.
14. CC REP.
15. TAXABLE YR.
16. DLN NO.
17. COPY TO FEDERAL.
18. REV CODE.
19. ISSUE CODES.
20. NET INC AS REPORTED; UNITARY BUS INCOME; INC PER SCH .
21. ITEM ADJUSTMENTS.
22. APPORTION % TO CALIFORNIA.
23. NONBUSINESS INC. WHOLLY ATTRIBUTABLE TO CA.
24. CONTRIBUTION ADJUSTMENT.
25. REVISED STATE NET INCOME.
26. PASSIVE INC.; NOL C/O DED.; LARZ/EZ NOL; DISASTER LOSS.
27. REVISED TAXABLE NET INCOME.
28. TAX AT MINIMUM TAX, PREPAYMENT TAX.
29. LESS TAX CREDITS.
30. NET TAX.
31. AMT and OTHER TAXES.
32. TOTAL TAX.
33. PREVIOUSLY ASSESSED.
34. TOTAL ADDITIONAL TAX OR OVERASSESSMENT.
35. PENALTY.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

36. TOTAL ADDITIONAL TAX AND PENALTY.

37. PARAGRAPH NUMBER(S).

38. PREPARER AND DATE.

39. REVIEWER #1 AND DATE; REVIEWER #2 AND DATE.

1. **NOTICE UNRELATED & NOTICE RELATED:** Check the proper box to indicate if the notice is related or unrelated to another notice that is being issued at the same time.

   Related Notice: any notice associated with another notice that should be processed together regardless of any subsequent action such as a protest or appeal.

   Unrelated Notice: any notice resulting in a bill, refund/offset that should be processed independently of other notices, regardless of any subsequent action such as a protest or appeal.

   Most notices will be related notices. The unrelated notice will be the exception.

2. **DO NOT MAIL NPA:** Check here if additional tax was paid and an NPA is not to be mailed. Use payment paragraphs 50699--50702. The notation **Do not type** should be written across the face of the worksheet in instances where the NPA is not typed.

3. **AUTHORIZED OFFSET:** Check here if the taxpayer has authorized a deficiency to be offset by an overpayment.

   If the audit is agreed, contains only related notices, and you have obtained **written** approval from the taxpayer, or representative, to offset an overassessment to an assessment prior to expiration of the 60 days protest period then:

   Check the **Notice Related** boxes for all over-assessment and deficiency assessment notices on all worksheets.

   Write the word **OFFSET** on top of the over-assessment worksheet(s) to indicate that the taxpayer's **written authorization** was received.

4. **ASSUMER:** Check here if there is an assumer.

5. **FT & CIT:** Check the box indicating whether the notice is issued under the Corporation Tax Law or the Corporation Income Tax Law.

6. **O/A & J/A:** Check O/A for an overassessment and J/A for jeopardy and bankruptcy cases. See the following sections for more detail:

   Overassessments: See MAP Overassessments.

   Jeopardy: See MAP Jeopardy Assessments.

   Bankruptcy: See MAP Bankruptcy.

7. **ASSUMER ID NO:** Enter the account number or corporation number of the assumer.

8. **CORP NO:** Enter the California corporate number. Corporation numbers must contain seven digits. Do not include the prefixes **D**, **F**, **NQIT**, or **NQFT**. Include the prefixed **NB** (National Banks), **FSLA** (Federal Savings and Loan Associations), or **FPCA** (Federal Production Credit Associations).

9. **J/A NO:** If a jeopardy assessment is being issued, enter the form to be used and circle it in red pencil: Form FTB 5837 or Form FTB 5840. See MAP Jeopardy Assessments.

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10. **SOL:** Enter date statute expires if other than normal statute or statute extended by State waiver or if the normal statute will expire within six months after the file is submitted to Review.

11. **NO. OF NOTICES:** Enter the number of Notices of Proposed Assessment (NPAs) and the number of Overpayments (O/As) being sent to the taxpayer or affiliated group.

    Example:

2 NPAs Only	write NPA 2
2 NPAs and 1 O/A	write NPA 2, OA 1
Do Not Write	1 of 3, 2 of 3, etc.

12. **NO. OF ENC:** Indicate the total number of enclosures to be mailed; i.e.

    7 audit schedules.

    For additional information on Offsets, see MAP Offset Cases.

    For information on Barred Offsets, see MAP Barred Offset.

13. **TXP:**

    Enter **T/P** if the name and address of the taxpayer shown on the taxpayer's latest return is the same as shown on the taxpayer's BETS account.

    Show the correct name and/or address on the form FTB 6830-BCT when the address on the latest return in the file is incorrect.

    If the corporation has dissolved, withdrawn, liquidated, etc., find the assumer.

    Check whether the taxpayer wants a copy of the notice sent to an address other than the **primary** address listed in BETS (****). If so, a **mailing** address should be added to BETS and a copy sent. The mailing address information should also be added to the audit narrative. See MAP Reports.

    If the name or mailing address of the corporation has changed, it is your responsibility to verify that BETS is corrected immediately. The Public Service Staff, Audit Support Staff, or the auditor may complete BETS transactions, as designated by the program manager. The California Secretary of State must approve a name change.

    The name of the individual or corporation presently liable for payment of the assessment will appear in the heading.

    Never include **formerly known as --------- or DBA** in the heading.

    In the case of refunds, the taxpayer will be the original corporation making the overpayment.

14. **CC REP:** Indicate the name and address of the representative to whom copies of the NPA should be sent. If you were working with an outside representative, send a copy to the representative. Send the original to the taxpayer even if the representative requests it. Do not send a copy to a person who is not authorized to represent the taxpayer, since this would violate the confidentiality provisions of the law.

    If the taxpayer has an assumer, and there is no representative, enter the name of the assumer here. Be sure to cross out **rep** and write **assumer**. Otherwise, write the name and address of the assumer in the body of the notice and circle in blue pencil.

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You may send a cc to a program office or other staff requiring a copy of the NPA. This may facilitate follow-up. Example writing **bcc: New York, Attn: A. Staff** will result in a copy being sent to auditor **A. Staff** in the New York Program Office.

15. **Taxable YR:** Enter the taxable year in every case. Enter the month and year for all Taxable years. (Example, 12/XX instead of 20XX).

16. **DLN NO:** Enter the nine-digit number stamped at the top of the return.

17. **COPY TO FEDERAL:** Check this box if a copy of the NPA is to be forwarded to the IRS.

18. **REV. CODE:** Enter the seven-digit revenue code. (See MAP Revenue Codes).

19. **ISSUE CODES:** Multistate Audit Program Bureau and Legal Multistate Tax Bureau use a four-digit audit issue code for information gathering purposes. See MAP Audit Issue Codes for Corporations.

20. **NET INC AS REPORTED; UNITARY BUS INCOME; INC PER SCH____:** Check the box for starting income, if applicable.

    Start with net income after state adjustments as reported for general corporation audits.

    Unitary business income for apportionment audits.

    Income per Schedule I when supplemental schedules for computations on apportionment cases are used.

    If net income or unitary business income has been revised previously, enter phrase, such as **per amended return**, **per NPA dated _____** or **per NC (Notice of Cancellation) dated _____**. For alternative starting income, which is warranted by the nature of the circumstances or adjustments, see Item 21.

    Regardless of the starting point, income shown must be pre-apportionment.

    When entering amounts on O/As, you may round to the nearest dollars. On NPAs it's necessary to include dollars and cents.

21. **ITEM ADJUSTMENTS:** Enter adjustment description and written paragraph explanations. Describe the adjustment items sufficiently so the taxpayer can identify them.

    When separate schedules are attached, rather than making several computations on form FTB 6830, the paragraph explaining the adjustments should be on form FTB 6830 with **per Schedule I attached** added. (This will usually apply to smaller audits or Desk Audits.) In the field, especially on large case audits, the MSA Principal schedules are provided to the taxpayer or the taxpayer's representative, prior to the close of the audit. In this situation, add a paragraph referencing those schedules previously furnished rather than attached.

    If the description for the starting income in Item 20 is not appropriate, enter the appropriate phrase here.

22. **APPORTION_____PERCENT TO CALIFORNIA:** Enter the California apportionment percentage.

23. **NONBUSINESS INC. WHOLLY ATTRIBUTABLE TO CA:** Enter the nonbusiness income allocated to California.

24. **CONTRIBUTION ADJUSTMENT:** Enter Contribution Adjustment.

25. **REVISED STATE NET INCOME:** Enter the amount of the revised net income. When special computations are required on combination apportionment audits, refer to a

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schedule, when appropriate. Write **Per Schedule I** if a copy was provided to the taxpayer. **Never** put dollar amounts in the cents column.

26. **PASSIVE INC; NOL C/O DED; LARZ/EZ NOL; DISASTER LOSS:** Check the appropriate box to indicate if the following income deduction item(s) are reported: Passive Income Deduction; NOL Carryover Deduction; LARZ, EZ, LAMBRA NOL Carryover Deduction; and Disaster Loss Carryover Deduction.

    You must include the allowable amount of any of the above income deductions (for all General and Apportioning Corporations) regardless of whether or not you are adjusting them. If these income deduction items are not reported, Audit Support and BETS Conversation R701 will assume the taxpayer has no NOL carryovers, etc. to offset net income and create an incorrect NPA.

27. **REVISED TAXABLE NET INCOME:** Enter the revised taxable net income after any income deduction items were deducted.

28. **TAX AT _____ MINIMUM TAX, PREPAYMENT TAX:** Enter the amount of tax, unless supplemental schedules are referenced. Enter the tax rate where a standard or composite rate is applicable. On financial tax computations, special combination, and apportionment audits, additional computations are required and should be shown in Item 37 (paragraph area), keyed in with an asterisk or on a supplemental schedule.

    If minimum tax or prepayment tax applies, check the box located to the left for that item and do one of the following,

    - Separately list the total minimum tax on the **Total Amount of Minimum Tax** line, or enter prepayment tax amount on the **Prepayment Tax** line.
    - On the **Tax at** line enter **Per Sch I** instead of listing the tax rate if a supplemental schedule is used.

    In combined reporting situations, where more than one of these may apply refer to the schedule furnished to the representative at the **Tax at** line. (Ex: **Per Sch I**.)

    If the taxpayer is referred to a schedule, do not check the box to the left of **Tax at**.

    The only time the **Tax at** box should be checked is when the **Revised Taxable Net Income** times the tax rate equals the tax stated on the notice.

29. **LESS TAX CREDITS:** Enter tax credits. If a change is proposed, attach a schedule. If MIC, LARZ, or R&D credits apply, check the box. For other miscellaneous credits, check the box and enter the name of the credit.

30. **NET TAX:** The net tax amount is only required if different from total tax.

31. **AMT and OTHER TAXES:** Check the appropriate box if Alternative Minimum Tax or other taxes apply. Enter the amount of the AMT or other taxes. If a change is proposed, attach a schedule showing the revised computation. If other taxes apply, enter a description of the tax. Use descriptions such as: **S corporation tax on certain capital gains**, **Tax on built-in gains**, or **Tax on excess net passive investment income**. Do not refer to law sections or regulations on this line, such as **Tax imposed under R&TC Section 23811.**

32. **TOTAL TAX:** Enter total revised tax plus AMT, and other taxes.

33. **PREVIOUSLY ASSESSED:** Enter the total amount of tax previously assessed, including AMT and other taxes (enter a previously proposed overassessment, which remains unpaid, to the left of the money column.) For combined reports, list corporate names, numbers, and amounts for each corporation included in the total previously assessed either with an

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asterisk or attach schedule to form FTB 6830. If separate NPAs are being issued or when intrastate apportionment is applied to taxpayers that had been included in a group filing (under Schedule R-7), the previously assessed tax for each taxpayer should be determined in accordance with intrastate apportionment principles as explained in FTB Legal Ruling 95-2. Previously assessed tax may be from the original return, amended return, or previous NPA. Verify the amount of the previously assessed tax by checking the taxpayer's account on BETS, ****. Do not rely on the tax amount that appears on the face of the original tax return.

To reduce errors, the auditor, supervisor, and reviewer must review taxpayer's current account status. A check of the taxpayer 's BETS (****) account may reveal changes to the original self-assessed amounts. This is important when the entire audit file is unavailable or when relying on representative's copy of return. It is also important for financial corporations where the rate may be changed after the return is filed.

For old years where the tax information has been purged off the BCM or BETS, request the information via the Business Entities' Home Page.

An NPA does not become final until the expiration of the 60-day protest period or the expiration of the 30-day period after issuance of a Notice of Action of Affirmation or Revision.

34. **TOTAL ADDITIONAL TAX or OVERASSESSMENT:** Check which box applies and enter the total additional tax or overassessment.

    If there is no penalty, this will be the last line filled in for a deficiency, overassessment, or Notice of Action revising an NPA.

    An overassessment will be entered to the left of the money column, in brackets.

35. **PENALTY:** Complete if any penalties apply. Enter percentage and a description of the penalty. Use descriptions such as **Late Filing**, **Accuracy Related**, etc. rather than the section of the law.

    Generally, the penalty will be computed only on the additional tax. Exceptions are:

    - If it is determined there should have been a delinquent filing penalty, but the original return was assessed for tax only.
    - Fraud penalty is assessed and there has been a previous NPA or amended return.
    - Penalty for failure to furnish information requested applies to only a portion of the deficiency. (If a representative fails to submit information, a request should be addressed to the taxpayer before the penalty is imposed.)
    - Accuracy related penalty is applied to the portion of the tax associated with a particular issue.

36. **TOTAL ADDITIONAL TAX AND PENALTY:** Enter the total additional tax and penalties. If this is a net overassessment, enter to the left of the money column, in brackets.

    When the taxpayer pays the additional tax at the time of the audit, interest should be computed to the date of payment, however no interest figure should be entered on the form FTB 6830. NPA paragraphs 50706 or 50707 should be used to indicate to the taxpayer the portion of the payment being applied towards interest.

37. **PARAGRAPH NUMBERS:** Paragraph codes, typed or handwritten paragraphs, and short computations may be entered here. If calculations must be made for items 22-36, the

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computations may be shown in this area and keyed to the line number with an asterisk.

If the adjustments were based on field audit schedules previously provided to the taxpayer or the representative, NPA paragraphs 52656 or 52657 may be used.

If payment is secured prior to issuance of the NPA, enter the appropriate paragraph to notify taxpayer of payment received. Also, see MAP Payments and Deposits for processing payments.

38. **PREPARER AND DATE:** Enter your name and date.

39. **REVIEWER #1 AND DATE; REVIEWER #2 AND DATE:** Enter the names of the reviewers who performed the first-level and second level reviews and the respective dates when their reviews are complete.

13.4.6.1 Offset Cases

An Offset case issues one or more Notices of Proposed Assessment, Notices of Action, or Notices of Revision, and one or more Notices of Proposed Overassessment to the same taxpayer for different years. Offset procedures apply audit-generated refunds against outstanding deficiencies. If the audit is unagreed, do not pursue an authorization to offset.

The deficiency assessment and the proposed overpayment will automatically be held pending the protest period expiration. If the taxpayer does not file a protest, then the Audit Business Support Section makes the appropriate offset. In some situations, a deficiency or overpayment may not be related to another Notice of Proposed Assessment or Overassessment. In these situations, they can process the unrelated notice separately regardless of whether a protest is filed.

You need to identify all Offset cases as:

- Agreed (taxpayer agrees with the proposed adjustments).
- Unagreed Related (related adjustments resulting in a notice of Proposed Assessment and Overassessment for different tax years).
- Unagreed Unrelated (unrelated adjustments in different tax years).

The manual forms and PASS templates include **Notice Related** and **Notice Unrelated** boxes. Mark the appropriate box when preparing the worksheets.

Notices are **related** if the adjustments depend upon adjustments made in other tax years for the same taxpayer. An example of related notices is a bad debt that was disallowed in one tax year, resulting in a tax deficiency, but allowed in a different tax year, resulting in an overassessment.

Unrelated notices are notices for the same taxpayer that are not transactionally related. The taxpayer's protest of one notice would have no effect on the other notice. An example of unrelated notices is a bad debt adjustment in one tax year, and a business expense adjustment in a different tax year. Once the notices have finalized, the Notices of Proposed Overassessment offset, and we refund or bill the net amount.

To facilitate offset case processing, follow the steps below.

Un-Authorized Offset With Related NPAS and O/As

If all notices within a case are related and must be kept together in one package (previously referred to as a consent package), do the following:

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1. Check the **Notice Related** box on each NPA and O/A worksheet (PASS form FTB 6830 BCT).
2. Hold all NPAs and O/As for a period of 90 days (60-day protest period + 30-day processing).
3. If protest is not received within this timeframe, offset O/As against NPAs and refund or bill remaining balance to the taxpayer.
4. If any NPA or O/A is protested, forward all notices to the Protest Unit for resolution.

Authorized Offset With Related NPA and O/A

If the audit is agreed, contains only related notices and written authorization was obtained from the taxpayer or representative to offset O/As against NPAs prior to expiration of the 60-day protest period, do the following (PIT taxpayers only require verbal authorization):

1. Check the **Notice Related** box on each NPA and O/A worksheet.
2. Write, **OFFSET** on each O/A worksheet, indicating taxpayer's written authorization was received.

Procedure for Corporations:

If BE Audit Technical Support determines a large refund is due once the overpayment is computed, offset is performed immediately and refunded as soon as possible to reduce interest charges payable by the state. If the related O/A will not result in a refund, the case will be held for 90 days.

NPA and O/As With Unrelated Overassessment Notices

In the rare instance where an audit package contains unrelated O/As that should be refunded regardless of protest, do the following:

1. Check the **Notice Unrelated** box on the O/A to be processed (refunded) regardless of protest.
2. Check the **Notice Related** box on those notices (NPA or O/A that should remain together.

If the notices are not protested, O/As will be offset against NPAs and any remaining balance will be refunded or billed to the taxpayer. If the related NPA and O/A are protested, the related NPA and O/A will be forwarded to the Protest Unit for resolution. The unrelated O/A will be refunded without offset.

The unrelated notice is truly an exception to the rule. The purpose of an unrelated notice is to provide a means for issuing notices regardless of protest action on other notices. This should not occur often.

Example 1: RAR Received for a Taxable Year End Not in the Audit Cycle.

As a result, of an audit, NPAs are issued against TYE 12/00 and 12/01 with an O/A issued against TYE 12/02. The notices for all three years are **related**. During the audit, the taxpayer inquires about an unrelated RAR refund in TYE 12/04. The auditor agrees to resolve the RAR. The 12/04 O/A is **unrelated**. In preparing the worksheet, the auditor should check the **Notice Unrelated** box associated with TYE 12/04. If the related audit notices (TYE 12/00 - 02) are protested, the technician will send only the related audit notices to the Protest Unit for resolution. The unrelated RAR is processed separately.

Example 2: Issue is NOT Transactionally Related.

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Notices may be unrelated if the issues adjusted are not transactionally related, and there are no transactionally related issues being adjusted on the O/A.

For example, a bad debt is disallowed in one year, resulting in an NPA, and a business expense is increased in another year, resulting in an overassessment. There are no other common issues on the notices. These may be treated as unrelated notices.

13.4.6.2 Barred Offset, R&TC Section 19314

R&TC Section 19314 permits an offset of any barred overpayment that results from a transfer of items of income or deduction to or from another year for the same taxpayer or affiliated taxpayers whose tax is determined under Chapter 17 (commencing with R&TC Section 25101) of the Code. No offset shall be allowed after the expiration of seven years from the due date of the return on which the overpayment is determined.

Worksheet for Offset Allowable (Use Form FTB 6830BCT)

1. Label the top of the form **Schedule I**.
2. Line through the words **Additional Tax** and **Overassessment** and write **Offset Allowable, R&TC Section 19314**.
3. Attach the worksheet to the outside of the folder behind the NPA worksheet on which the offset is being allowed.

Worksheet for NPA (Use Form FTB 6830BCT)

1. On the Previously Assessed line, write **From Allowable Offset and Return**.
2. In the column, enter the total of the allowable offset and the previously assessed tax per the return.

Cases involving more than one taxpayer require special attention to avoid unauthorized disclosure. If unauthorized disclosure becomes a concern on a given case, the computation of the offset should be mailed separately to the affected taxpayers. The offset on form FTB 6830 BCT should be described as **Offset Allowable, section 19314, from the return of _____.**

13.4.7 PAWS Input Worksheet for PIT (Form FTB 6831B)

Complete the form FTB 6831B, PAWS Input Worksheet, when you are making a tax adjustment to PIT (individual) taxpayers.

This form is found in the PASS workpaper file – Administration Folder.

For Jeopardy Assessments, see MAP Jeopardy Assessments.

For Erroneous Refunds, see MAP Erroneous Refunds.

Instructions to Complete Form FTB 6831B:

1. **Number of Notices** - If the case involves multiple notices, indicate the total number of PIT notices, including Notices of Proposed Assessment, Jeopardy Assessments, Overassessments, and Notices of Overassessment.
2. **SOL Date** - Enter the earliest Statute of Limitations date for all notices (tax years) submitted with the case.

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3. **DLN** – Enter the return Document Locator Number.

   NPA Circle File: A NPA Circle File is created when we issue a Notice of Proposed Assessment on a tax year in which we have no return. The circle file serves as the placeholder for the physical audit file. The Document Locator Number (DLN) on the notice is OOOOOOOO. You should create a circle file even if the taxpayer provides a copy of the return.

   To create a circle file, treat the NPA Worksheet (Forms FTB 6830 and/or FTB 6831) as a replacement tax return. Write **Circle File**, in red, across the top of the NPA Worksheet and attach it to the top of the physical file.

   If you get a waiver for a tax year with an NPA Circle File, attach the waiver to the top of the NPA Worksheet that now serves as the replacement tax return. Complete the rest of the file according to standard procedures.

4. **Taxpayer's Name -** Enter the taxpayer's full name as it appears on the notice. Include the spouse's name on joint returns.

   Mirror Image NPA: A **Mirror Image** Notice of Proposed Assessment is one that we send to spouses (or ex-spouses) who reside at different addresses.

   When spouses have different addresses, PAWS indicates it is creating a **Mirror Image** Notice of Proposed Assessment (e.g., SPOUSE ADDRESS IS DIFFERENT FROM PRIMARY ADDRESS). Check TI to see if you need to update the spouse's address. If so, enter paragraph 00027 and write the sequence number and **MIRROR IMAGE** on the PAWS batch control worksheet in red.

   If completing a PAWS worksheet, write, **Mirror Image NPA needed** at the bottom of the worksheet with the other spouse's current address.

5. **Tax Year** – Enter the four-character tax year.

6. **Account Number** – Enter the primary taxpayer's account number.

7. **Revenue Code** – Enter the seven-digit revenue code. See MAP Revenue Codes.

8. **CC to Rep** – Enter the representative's address if sending a copy of the notice to the representative.

9. **Profile** – Enter the following "99999999999", i.e. eleven 9's. This section is no longer used but the system requires an entry

10. **CC to Federal** - If sending a copy of the Notice of Proposed Assessment to the IRS, put an **x** in this section.

11. **Enclosures** – Provide all schedules to the taxpayer/representative before closing the audit. If you send enclosures with the Notice of Proposed Assessment, identify the schedules (e.g., Exhibit A and Exhibit B), and enter their addressees in the **Special Instructions** section. Stagger and staple the enclosures to the back of the PAWS worksheet.

12. **Payment Made** – If the taxpayer has made a payment for this notice, enter the amount and the date. Use NPA paragraph 04022. Be sure to include the applicable fill-in entries.

13. **Taxable Income -** Enter the source and the dollar amount of starting taxable income. Enter the taxable income corresponding to the latest return processed (tax due paid by taxpayer or tax that we refunded). For example, if the taxpayer filed and paid the tax

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due on an amended return, check the **540X** line and enter the taxable income from the amended return.

If the taxpayer filed a claim for refund that we have not refunded, enter the taxable income from the original return and check the 540 line.

If we have issued a Notice of Proposed Assessment of Overassessment, enter the taxable income from the latest notice. If Taxable Income is a negative amount, be sure to add the negative amount to the itemized deductions. For example, negative income of ($100.00) is added to itemized deductions of $10.00 for a revised taxable income of ($110.00).

Many adjustments impact Itemized Deductions and Exemption Credits. If a revised amount is reduced to zero, enter zero on the NPA created within PAWS and the PAWS input worksheet. Add a paragraph explaining any change.

14. **W/P Reference** – Enter the workpaper source of the proposed adjustment.

15. **Adjustments -** Enter the adjustments as they appear on the notice. Each description is limited to 34 characters or spaces. Enter the dollar amount of the adjustment to the right of the description. If you propose more than five adjustments, combine the adjustments and enclose a schedule describing the adjustments and the dollar amounts. Check the **Enclosures** line when you have attached descriptive schedules.

16. **Revised Taxable Income** - Enter the starting Taxable Income netted with the proposed adjustments.

17. **Filing Status** – Enter the filing status to use on this notice. Check **TR** or **EST** for a trust or an estate return.

18. **Dep** – Enter the number of dependent, blind, or elderly exemptions allowed.

19. **Tax From -** Enter the method of the tax computation used.

20. **Exemptions** - If this section is blank, use the exemptions according to the return. If adjusted at audit, enter the amount of the revised exemptions. If we revised the exemptions to zero, enter zero.

21. **Other Credits** –

    Enter the appropriate description and dollar amount for each allowed credit, either **per return** or **as revised**. It does not show the difference between the claimed and the adjusted credit. Enter a zero if you have disallowed the credit. Each credit amount must have a credit description. Use a separate line for each credit and, if necessary, add a schedule. Check the **Enclosures** line if you are attaching descriptive schedules.

    If there are adjustments to a 540NR, enter only child/dependent or military credits on the **other credit** line. Use the **special credits** line of the nonresident/part year resident PAWS worksheet for all other credits.

    If you have a disallowed refundable credit (such as a child care tax credit) enter it as a positive amount and put an explanation in the Special Instructions section at the bottom of the worksheet.

22. **Other taxes** identify the type of additional tax to be assessed, and the dollar amount.

23. **Total Tax** is the total revised tax liability.

24. **Previously Assessed** identifies the previously assessed tax on the taxable income

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amount entered on number 13 above.

25. **Total Additional Tax** is the total additional tax due to the proposed audit adjustments.

26. **Penalties** indicate the type of penalty to be assessed. Enter the percentage and amount. If assessing a penalty other than those listed, enter the penalty type and percentage. If you need to calculate the amount manually, enter the amount. If the taxpayer filed a delinquent return, check only the delinquent line. Enter the percentage and amount on the additional tax assessed. The system automatically computes the delinquent filing penalty on the return filed. For tax shelter penalties, see Audit Procedures -Tax Shelter Penalties for more information.

27. **Paragraphs or Special Instructions** lists the Notice of Proposed Assessment paragraphs and is available for any necessary fill-in data. Put the paragraphs in the order in which they appear on the notice. For every item adjusted, you must list a separate paragraph. It is not enough to state, **The revision is based on the schedules provided to the taxpayer's representative by the auditor**. You must explain the adjustment on the Notice of Proposed Assessment.

    If you use free form paragraphs, write in the space provided. If you need more space, attach a separate sheet of paper with additional paragraphs. Indicate that the additional paragraphs are on an attached sheet of paper. Do not check the enclosure line. Enter paragraph 04022 if you received payment.

    If you use an NPA paragraph that has **fill-in-the-blank** spaces, input the information needed in those blank spaces. This does not apply to paragraphs for protest, amnesty, and interest suspension, which automatically populates.

28. **Reviewer**: The reviewer initials and dates this section.

29. **Special Instructions** includes data such as:

    Addressees for enclosures.

    Notices for a Jeopardy Assessment, see MAP Jeopardy Assessments.

    Erroneous Refunds, see MAP Erroneous Refunds.

    Other special instructions.

30. **Tax Shelter.** Write **TAX SHELTER** in red on top of the form if you are treating the case as a tax shelter.

13.4.7.1 Jeopardy Assessments

If the notice is a Jeopardy Assessment, you must follow these special procedures:

- Include a detailed justification for the Jeopardy Assessment. Refer this justification to the Supervisor or Program Manager, along with the Notice of Proposed Assessment worksheet and the audit file for approval.
- Calculate penalties and interest.

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- Include an explanatory paragraph. If the notice includes standard Notice of Proposed Assessment paragraphs, write out the paragraphs for processing by the Jeopardy Assessment Desk. The Jeopardy Assessment Desk does not have access to the standard Notice of Proposed Assessment paragraphs. However, the Jeopardy Assessment Desk does have a number of standard paragraphs. Enter the following in the paragraph section of the Notice of Proposed Assessment worksheet for the standard paragraphs:

ENTER	STANDARD JEOPARDY ASSESSMENT PARAGRAPH
Illegal Activity	For any assessment based upon illegal activities
Minimum Tax	For any assessment based upon minimum tax
BOE	For any assessment based upon information provided by the Board of Equalization
EDD	For any assessment based upon information provided by the Employment Development Department
Prior Year	For any assessment based upon a prior year adjustment
Unreported Income	For any assessment based upon unreported income

The Technical Resource Section will review all Jeopardy Assessments, except those issued by Special Investigations.

See MAP Closing an Audit, Jeopardy Assessments, for more information.

13.4.7.2 Erroneous Refunds

If you issue the Notice of Proposed Assessment because of an erroneous refund, enter, **Erroneous Refund - Please Suppress Interest**, in the Special Instructions section. Use Paragraph 00978. If you can identify the reason for the erroneous refund, compose another paragraph explaining why we previously sent the refund to the taxpayer.

13.4.8 PIT Overassessment Procedures, FTB 5847 or 5847A

First determine if the taxpayer should get appeal rights or no appeal rights. Normally, if the overassessment (O/A) is initiated by the taxpayer, appeal rights are allowed and FTB PASS 5847 should be completed. If the O/A is initiated by FTB, no appeal rights are allowed and FTB PASS 5847A should be completed.

Use the FTB PASS 5847 or 5847A, PIT Overassessment Credit Refund, for all personal income tax overassessments. Situations that require using this form are:

- The proposed audit adjustments result in overassessments.
- A claim for refund is increased.
- A claim for refund is partially denied, and we have not previously taken action on the claim.
- A claim for refund is allowed in full, and we have not previously taken action on the claim.
- An amended return (540X) is filed with additional tax due and processed/posted to the TI System. The amended return tax is decreased after examination.

For additional claim/amended return information, see MAP Claims.

These forms are available in PASS work paper file, Draft Correspondence Folder.

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Instructions to Complete Notice FTB PASS 5847 or 5847A:

Create the notice in the Draft Folder. Select PIT Overassessment Credit Refund, FTB PASS 5847 or PIT Overassessment – No Appeal Rights, 5847A.

1. **TP Name and Address** – When the notice opens the PASS Send Options box opens. Check TI for the latest taxpayer's name and address and make sure it is the same as shown in PASS. If it is not the same, correct TI or PASS with the latest name and address. To verify name and address on TI, use ****** Command. To change name or address on TI, use ******* Command. If the notice is sent to the TP and the representative, the TP name and address should show in the **To** box and the Rep's name and address in the **Cc** box. A cover letter will print for the Rep's copy. If it is a mirror image, please include the spouse's name and address in the **To** box.
2. **Amt. Claimed (5847 only)** – Enter the amount of refund claimed by the taxpayer.
3. **Account No**. - FTB ID number will automatically populate the account number.
4. **Sp/RDP Account No. -** Enter the Spouse's/RDP's FTB ID Number. PASS will not automatically populate the account number.
5. **Tax Year** – Enter the tax year on which we issue the refund.
6. **Revenue Code** – Enter the seven-digit numeric activity code. See MAP Revenue Codes.
7. **RTM/RTF and Auditor's Initials –** Enter RTM (Return to Maker) or RTF (Return to File) and your initials after the revenue code (3438000:RTM:JS)
8. **AGI / TI** – Type **adjusted gross income** or **taxable income** in the gray box on the left. Access TI for the taxpayer's taxable income and make sure it is the same as that reflected on the return. Sometimes the return is not always marked with purple pencil but the system is updated. Tab to the right and type the amount.
9. **Adjustments** - Enter the individual proposed adjustments. For 540NR returns, write **Adjustments per attached schedule.** Be sure to enclose PASS California Nonresident or part-year resident net tax liability worksheet, pages 1 & 2. (Found in Schedules Folder).
10. **Revised AGI / TI** – Enter the revised amount.
11. **Filing Status –** Enter the filing status per the return or as revised.
12. **Total Tax** – Enter the amount of tax on the revised AGI or TI. This is the amount of tax before any exemptions or credits. Type the applicable source used to compute the total tax.
13. **Credits for Exemption** – Enter the total dollar amount of the exemption credits. Most adjustments impact exemption credits. If a revised amount is reduced to zero, enter zero on the notice.
14. **Add: Tax** – Enter any additional tax from Schedule G-1 or FTB 5870A.
15. **Other Credits** - Enter all credits that apply, besides the exemption credits. If a credit is adjusted, enter the revised credit amount, not the difference.
16. **Other Taxes** - Enter the revised (not the difference) preference Tax, alternative minimum tax, tax on early withdrawal from an IRA, or other taxes.
17. **Net Tax Liability** – Enter the revised tax liability (not the amount of the refund allowed). If no penalties are assessed, this is the final line that you complete. If penalties will be assessed, step 1 is the final line that you complete.
18. **Penalty** – Enter the type of penalty, the percentage, and the amount. Collection and lien fees are also entered on this line.

19. **Paragraph(s)** - Enter the standard paragraphs used to explain the adjustments. You can cut and paste the standard paragraphs from EPAL (Electronic Paragraphs and Letters). Do not enter paragraph codes. If none of the most commonly used standard paragraphs are appropriate, you can create your own. The paragraphs are typed on the second page of the notice below the hard-coded paragraphs.

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20. **Enclosures** – Type the word **Enclosure** or **Enc.** if enclosing additional schedules and/or explanations with the notice.
21. **Cc** – Enter the representative's name.

Audit Technical Support

22. **Interest** – Enter the amount of interest charged for this tax year.
23. **Revised Liability** – Enter total of net tax liability, penalties, and interest.
24. **Previously Paid** – Enter amount previously paid.
25. **Overpayment** – Subtract the revised liability from the previously paid.
26. **Interest Allowed** – Enter the interest allowed on the refund.
27. **Credit Applied to** – Enter amount transferred to other tax years or offset to other agencies. Enter tax year where credit was transferred or agency offset code.
28. **Amount Refunded** – Enter amount refunded.

13.4.9 PIT Computation of Proposed Overpayment Procedures

Computation of Proposed Overpayment (NPO) is used for mixed files when a Notice of Proposed Assessment (NPA) is also being issued. We do not generally issue refunds until the related NPA is either paid or final. A Consent Letter is mailed with the NPO informing the taxpayer the proposed overassessment will be offset to the balance owing.

Use FTB PASS 5851, Computation of Proposed Overpayment, in the following situations:

- The proposed PIT audit adjustments result in an NPA for one year and an overassessment for another year.

- The audit includes both corporation and PIT taxpayers, resulting in an NPA for one and an overassessment for another.

Instructions to Complete Notice FTB PASS 5851:

Create the notice in the Draft folder. Select Computation of Proposed Overpayment, FTB PASS 5851

1. **TP Name and Address** – When the notice opens the PASS Send Options box opens. Check TI for the latest taxpayer's name and address and make sure it is the same as shown in PASS. If it is not the same, correct TI or PASS with the latest name and address. To verify name and address on TI, use ****** Command. To change name or address on TI, use ******* Command. If the notice is sent to the TP and the representative, the TP name and address should show in the **To** box and the Rep's name and address in the **Cc** box. A cover letter will print for the Rep's copy. If it is a mirror image, please include the spouse's name and address in the **To** box.

2. **Amt. Claimed** – Enter the amount claimed on the amended return. Leave blank if the overpayment was FTB initiated.

3. **Account No**. - FTB ID number will automatically populate the account number.

4. **Sp/RDP Account No. -** Enter the Spouse's/RDP's FTB ID Number. PASS will not automatically populate the account number.

5. **Tax Year** – Enter the tax year on which we propose a refund.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

6. **Revenue Code** – Enter the seven-digit numeric activity code. See MAP Revenue Codes.

7. **RTM/RTF and Auditor's Initials –** Enter RTM (Return to Maker) or RTF (Return to File) and your initials after the revenue code (3438000:RTM:JS)

8. **"as Reported or Revised"** – Type **adjusted gross income** or **taxable income** in the gray box on the left. Access TI for the taxpayer's taxable income and make sure it is the same as that reflected on the return. Sometimes the return is not always marked with purple pencil but the system is updated. Tab to the right and type the amount.
9. **Adjustments** - Enter the individual proposed adjustments. For 540NR returns, write **Adjustments per attached schedule.** Be sure to enclose PASS California Nonresident or part-year resident net tax liability worksheet, pages 1 & 2. (Found in Schedules Folder).

10. **Revised AGI / TI** – Enter the revised amount.

11. **Filing Status –** Enter the filing status per the return or as revised.

12. **Total Tax** – Enter the amount of tax on the revised AGI or TI. This is the amount of tax before any exemptions or credits. Type the applicable source used to compute the total tax.

13. **Credits for Exemption** – Enter the total dollar amount of the exemption credits. Most adjustments impact exemption credits. If a revised amount is reduced to zero, enter zero on the notice.

14. **Credits** - Enter all credits that apply, besides the exemption credits. If a credit is adjusted, enter the revised credit amount, not the difference.

15. **Other Taxes** - Enter the revised (not the difference) preference tax, alternative minimum tax, tax on early withdrawal from an IRA, or other taxes.

16. **Net Tax Liability** – Enter the revised tax liability (not the amount of the refund allowed). If no penalties are assessed, skip to step 19. If penalties will be assessed, continue to step 18.

17. **Penalty** – Enter the type of penalty, the percentage, and the amount. Collection and lien fees are also entered on this line.

18. **Paragraph(s)** - Enter the standard paragraphs used to explain the adjustments. You can cut and paste the standard paragraphs from EPAL (Electronic Paragraphs and Letters). Do not enter paragraph codes. If none of the most commonly used standard paragraphs are appropriate, you can create your own. The paragraphs are typed on the second page of the notice below the hard-coded paragraphs.

19. **Enclosures** – Type the word **Enclosure** or **Enc.** if enclosing additional schedules and/or explanations with the notice.

20. **Cc** – Enter the representative's name.

Audit Technical Support

1. **Interest** – Enter the amount of interest charged for this tax year.

2. **Revised Liability** – Enter total of net tax liability, penalties, and interest.

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3. **Previously Paid** – Enter amount previously paid.

4. **Overpayment** – Subtract the revised liability from the previously paid.

13.4.10 Revenue Codes

13.4.10.1 PIT, PTE, and Nonapportioning C Corporation Revenue Codes

Revenue codes have seven digits with each digit represented by the following:

- The first three digits are the Program Office payroll reporting unit code number.
- For PIT and PTE: The fourth thru seventh digits identify the audit program budget code. **Consult your supervisor for appropriate codes your program uses.**
- For Nonapportioning C corporation: **Consult your supervisor for appropriate codes your program uses. However, in certain situations you might use this format:**
    - The fourth and fifth digits identify the C corporation audit program budget code.
    - The sixth digit is an IRS indicator code.
    - The seventh digit describes the type of assessment.

Program Office Payroll Reporting Unit Code Numbers (First Three Digits)

Program Office	PUC
Chicago	370
Houston	372
Los Angeles	355
Manhattan	371
MSA Central Office	347
Oakland	356
PIT Central Office	343
Sacramento	357
San Diego	359
San Francisco	360
San Jose	361
Santa Ana	363
Van Nuys	367
West Covina	353

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Program Budget Codes (Fourth thru Seventh Digits)

Personal Income Tax

Description	Field (F)/ Central (C)	Revenue Code	Explanation
540 ASTRA Misc.	F	1097	
540 NR	F	13XX	
C Corporation	F	1050	Related PIT Adjustment
CASE	F	1570	Pulled for LIT; adjusted for LIT
CASE	F	1571	Pulled for LIT; adjusted for partnership
CASE	F	1572	Pulled for LIT; adjusted for S-Corp
CASE	F	1573	Pulled for LIT; adjusted for C-Corp
CASE	F	1579	Pulled for LIT; adjusted for LLC
C Corporation	C	2250	Change to related PIT. Does not include 396 Central Office audits
Claims/Amended Returns	F/C	08XX	0893 Central Office only
Clerical Audit	C	60XX-69XX	
Discovery (Central)	C	58XX	5810 Central Office Desk
Discovery (field) F	F	59XX	
Estates	C	2592	Estate Claims
Estates & Trust	C	2597	
FE Clerical Audit	C	78XX	
FE Collections	F/C	39XX	
FE Illegal Tax Protestor	F/C	37XX	
FE Investigations	F/C	35XX	
FE Residence Determination	F/C	34XX	
Fiduciary	F/C	14XX	Estates & Trusts
LLC (PIT)	F/C	1590	
Paraprofessional	C	90XX-99XX	
Partnership (Claims)	F/C	1515	Claims

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Description	Field (F)/ Central (C)	Revenue Code	Explanation
Partnership (PIT Partner) – Discovery	F/C	5910	Discovery - PIT Partner
Partnerships	F/C	1510	Pulled for partnership; adjusted for partnership
PC ASTRA	C	50XX	5030=Punitive Damages; 5032=F/E; 5076=Paid Amended Referrals 5097=Legal Support Referral
PC ASTRA (field)	F	10XX	
PIT Audit	C	23XX	CASE audits
PIT Audit	C	2375	State Farm
PIT Audit	C	5100-5499	Prior year ASTRA
RAR (Central)	C	24XX	
RAR (field)	F	16XX	
RAR Classified Accts	C	51XX	Classified Accounts
RAR Field Training	F	57XX	
RAR Student Assistant	C	26XX	2601 Clerical RAR; 2602 Student RAR; 2603 TEFRA RAR
Residence Determination	F	1320	
S Corporation	F/C	1530	Pulled for S Corp; adjusted for S Corp
S Corporation (Claims)	F/C	1535	Claims
S Corp (Discovery)	F/C	5911	Discovery
Student Assistant	C	2752	Substandard Housing
Training (Central)	C	67XX	
Training (Field)	F	56XX	
Trusts	C	2515	Trust Claims

PTE

Description	Field (F)/ Central (C)	Revenue Code	Explanation
LLC (C Corp)	F/C	8490	

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Description	Field (F)/ Central (C)	Revenue Code	Explanation
Partnership (Corp Partner) – Discovery	F/C	7510	Corp (S or C) partner adjustment - Discovery
Partnership (Corp. Partner)	F/C	6610	Corp (S or C) partner adjustment
Partnership (Corp. Partner) – Claims	F/C	6615	Corp (S or C) partner adjustment - Claims
S Corporation	F/C	6630	
S Corporation (Claims)	F/C	6635	Claims
S Corporation (Discovery)	F/C	7511	Discovery

Corporation Tax

Description	Field (F)/ Central (C)	Revenue Code	Explanation
Bankruptcy	C	24XX	
C Corp (Discovery–non Apportioning)	C	7280	C Corp – Banks, F/E, Credit Union COGS
C Corp (non-apportioning)	C	21XX	Includes Post Dissolution
C Corp (non-apportioning)	F	45XX	C Corp Adjustments
Claims (non-apportioning)	C	16XX	
Claims (non-apportioning)	F	17XX	Field Claims
Discovery (non-apportioning)	F	75XX	
Investigations	F	35XX	
Non Apportioning Majors	F	44XX	
RAR (non apportioning)	C	28XX	
RAR (non-apportioning)	F	48XX	
Training	C	92XX	
Training	F	96XX	

Internal Revenue Service Indicator Code (Sixth Digit)

Use the sixth digit to identify adjustments based on Revenue Agent's Reports:

Non-RAR	0

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Voluntary RAR	1
Involuntary RAR	2

Assessment Type (Seventh Digit)

Overassessment	1
NPA (and O/A that reduced prior NPA)	2
Jeopardy Assessment	3

13.4.10.2 MSA Revenue Codes

Revenue codes have seven digits with each digit represented by the following:

- The first three digits are the Program Office payroll reporting unit code number.
- The fourth and fifth digits identify the audit program budget code.
- The sixth digit is an Internal Revenue Service Indicator Code.
- The seventh digit describes the type of assessment.

Program Office Payroll Reporting Unit Code Numbers (First Three Digits)

Program Office	PUC
Chicago	370
Houston	372
Los Angeles	355
Manhattan	371
MSA Central Office	347
Oakland	356
PIT Central Office	343
Sacramento	357
San Diego	359
San Francisco	360
San Jose	361
Santa Ana	363
Van Nuys	367
West Covina	353

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Program Codes (Fourth and Fifth Digits)

Exempt	46
In-State Major	40
In-State Other	41
Nonapportioning Major	44
Nonapportioning Other	45
Out-of-State Major	42
Out-of-State Other	43
RAR, Apportioning	47
RAR, Nonapportioning	48
Tax Shelter	69
Water's-Edge, In-State Major	67
Water's-Edge, In-State Other	68
Water's-Edge, Nonapportioning Major	57
Water's-Edge, Nonapportioning Other	58
Water's-Edge, Out-State Major	78
Water's-Edge, Out-State Other	79
Discovery:	
In-State Apportioning	73
Nonapportioning	75
Out-of-State Apportioning	74
Training:	
In-State Apportioning	94
Nonapportioning	96
Out-of-State Apportioning	95
RAR	97
Claims (NPAs Only):	
Apportioning	15
Nonapportioning	17
Filing Enforcement:	

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Automated Program	82
Investigations	35
Professionnel Audit	30

Program Codes Fourth and Fifth Digit – Central Office Only

Apportioning NQFT	91
Apportioning Qualified	20
Claims Apportioning	07
Claims Apportioning (Claim denied and NPA issued)	19
Discovery	71
RAR	27
RARs	27

Internal Revenue Service Indicator Code (Sixth Digit)

The sixth digit of the seven digit Revenue Code is used to identify adjustments based on Revenue Agent's Reports:

Involuntary RAR	2
Non-RAR	0
Voluntary RAR	1

See RAR Assessments section below.

Assessment Type (Seventh Digit)

Jeopardy Assessment	3
NPA (and O/A that reduced prior NPA)	2
Overassessment	1

RAR Assessments

Only one revenue code may be used to record revenue from a Notice of Proposed Assessment. An assessment cannot be split to credit a portion to the RAR and a portion to another audit program.

When making assessments which contain both RAR adjustments and state adjustments:

- Credit the revenue to the program code (fourth and fifth digits) that generates the largest amount of revenue.
- Include the Internal Revenue Service indicator code (sixth digit).

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Claims and Amended Returns for Less Tax

Use the following guidelines for a corporation formal claim for refund. A claim is defined as a taxpayer request for refund, whether by letter or amended return, as opposed to an audit-generated overassessment. For more information regarding claims and overassessments, see MAP Claims.

Refund/Overassessment of Previously Self-Assessed Tax:

When a taxpayer initiates an adjustment by filing an amended return or a claim, and we issue an overassessment, use the same last four digits as those in the revenue code of the original return, (e.g. 0701). See revenue code in BETS conversation ****:

- 07 indicates an apportioning return.
- 09 indicates a nonapportioning return.
- 39 indicates a filing enforcement return.

If the claim is based on an RAR, use the program budget code (fourth and fifth digits) that reflects the RAR function. The sixth digit of the Revenue Code would be **1** to reflect a voluntary RAR. Example: 3574711.

To locate the revenue code in ****:

- Press *** (******).
- Select the Account Period.
- Press *** (********).
- Select the original return or the amended return if dealing with a filing enforcement case.
- Press *** (*******).

Refund/Overassessment of Previously Issued FTB Assessment:

When a taxpayer initiates a claim by filing an amended return to correct an erroneous FTB generated assessment, and we issue an overassessment, use the same revenue code as on the previous FTB generated assessment including the previous reporting unit's code. (Check the file copy of the NPA or the revenue code in BETS conversation ****.)

Refund/Overassessment of Both Previously Self Assessed Tax and Previously Issued FTB Assessment:

When a taxpayer initiates a claim that includes both issues as described above, and we issue an overassessment that includes:

- Previously self-assessed tax issues only (the FTB audit adjustment is determined to be valid), use the same last four digits as those in the revenue code of the original return.
- Previously issued FTB assessment issues only (the self-assessed issues are determined to be valid), use the same entire revenue code as on the previous FTB generated assessment.

Both issues use the revenue code procedure that reflects the largest portion of the overassessment.

NPAs Issued as a Result of Auditing an Amended Return or Claim:

When NPAs are issued as a result, of auditing an amended return or claim on either the same year or different years, use one of the following program budget codes in the fourth and fifth digits of the revenue code:

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

15 Apportioning

17 Nonapportioning

Audit Initiated Overassesments

Whenever an overassessment is issued as a result, of initial audit contact, use the same first six digits of the revenue code as when issuing an NPA on the original return. This is used even if the taxpayer files a claim for refund subsequent to audit contact to protect the statute of limitations or as a result, of a **Walker Letter** See MAP Walker Letter.

The first three digits are the payroll reporting unit code numbers assigned to a particular program office. See MAP Revenue Codes.

The fourth and fifth digits identify the audit program budget code. Do not use either 15 (Claims Apportioning) or 17 (Claims - Nonapportioning).

The sixth digit is an IRS indicator code.

The seventh digit will be **1** to indicate the overassessment is canceling tax assessed on a return, or **2** if the issues in the previous NPA are being cancelled.

13.4.11 Audit Issue Codes for Corporations

Multistate Audit Program Bureau and Legal Multistate Tax Bureau use a four-digit audit issue code for information gathering purposes.

The four-digit code is based on the five-digit R&TC statute section numbers. Dropping the first digit of the law section, as follows, changes the five-digit law section into a four-digit audit Issue Code:

STATUTE SERIES	ISSUE CODE	STATUTE
23000	3000	R&TC Tax Laws
24000	4000	R&TC Income and Deductions

If a standard NPA paragraph is used on the NPA worksheet, use the NPA Paragraph Manual to determine the applicable issue code. This manual has been revised to incorporate these codes.

Apportioning Corporation Procedures

Multistate audit issues use an additional series (0000) to specifically identify the issues. For example, when the audit issue is Sales Factor-Dividend Income the Code Section 25134 is not specific enough, and issue code 0301 from the Apportioning Audit Issue Code list would be used. For the list of codes, see MAP Apportioning Audit Issue Codes.

Notice of Proposed Assessments (NPA)

Determine the issue codes for each NPA year using the applicable law section or the following audit issue code list. Up to three codes may be used for each year.

- If more than one issue code is applicable, the codes should be shown in descending order of importance.
- The issue codes are entered on the NPA worksheet, form FTB 6830-BCT.
- These codes will be entered on the BETS file once Central Office staff has processed the NPA.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Overassessment (O/A)

Use issue codes on overassessments.

- Use only one issue code per O/A.
- Select the primary issue code.
- Placement of the code on the form FTB 6830-BCT is the same as the NPA codes.

Claims

For a formal claim, enter the issue code on form FTB 6638 or NPA worksheet.

For the lists of issue codes, see MAP Apportioning Audit Issue Codes.

13.4.11.1 Apportioning Audit Issue Codes

- Assessment Issue.
- Doing Business.
- Income Adjustments.
- Factors Adjustment.
- Business / Nonbusiness Income.
- Combinations / Decombinations.
- Water's-Edge.
- Exempt Organizations.

Assessment Issue	Issue
Allocation & Apportionment General	0000
Doing Business	
Doing Business Within and Outside California	0010
Doing Business - Agency Relationships	0011
Doing Business - Independent Contractors	0012
Commercial Domicile	0013
Legal Domicile	0014
Income Adjustments	
Foreign Currency Translation	0020
Interest Offset	0021
Contribution adjustment	0022
DISC/FSC Adjustments	0023

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Safe Harbor Lease Adjustments	0024
Michigan Single Business Taxes	0025
Section 78 Gross-Up	0026
Foreign Taxes	0027
Income adjustments – Miscellaneous	0099
Factor Adjustments	
Property Factor	
Capitalized Rents	0103
Construction/Work in Progress	0104
Foreign Currency Conversion	0105
Government Property	0106
Idle/Nonbusiness Property	0107
In Transit	0108
Inventories	0109
Land	0110
Partnership Property	0111
Progress Billings	0112
Other	0199
Payroll Factor	
Base of Operations/Control	0200
Compensation	0201
Construction of Assets	0202
Exclusions	0203
Foreign Affiliates	0204
Independent Contractors	0205
Mobile Employees	0206
Operation of Government Plant	0207
Paid or Accrued	0208
Partnership Share	0209
Related to Nonbusiness Income	0210

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Intercompany Eliminations	0211
Other	0299
Sales Factor	
DISC/FSC	0300
Dividend income	0301
Double Throwback Sales	0302
Gain/Loss on Sale of Assets	0303
Government Facility/Cost Plus Fee	0304
Gross Receipts	0305
Installment Sales	0306
Intercompany Elimination's	0307
Interest Income	0306
Leases	0309
Other Miscellaneous Income	0310
Partnerships	0311
Receipts from Services	0312
Receipts from Intangibles	0313
Rental Income	0314
Royalty Income	0315
Sales to US Government	0316
Throwback Sales	0317
Other	0399
Special Formulas	
Air Transportation	0400
Banks and Financials	0401
Commercial Fishing	0402
Franchisers	0403
General/Financial	0404
Long Term Contracts	0405
Motion Picture/TV	0406

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

One or Two Factors	0407
Partnerships	0408
Railroads	0409
Sea Transportation	0410
Special Industries	0411
Trucking Companies	0412
Other	0499
Business/Nonbusiness Income	
Dividends	0500
Gains/Losses	0501
Interest Income	0502
Nonbusiness Expenses	0503
Partnership	0504
Rental Income	0505
Royalty Income	0506
California Income	0507
Other	0599
Combinations/De-combinations	
Domestic Parent with Worldwide Activities	0600
Full De-combination of Foreign Subsidiaries	0601
Partial De-combination of Foreign Subsidiaries	0602
Full Combination of Foreign Subsidiaries	0603
Partial Combination of Foreign Subsidiaries	0604
Other Domestic Parent Combination/De-combination	0609
Foreign Parent with Worldwide Activities	0610
Full Combination of Domestic Subsidiaries	0611
Partial De-combination of Domestic Subsidiaries	0612
Full Worldwide Combination of all Subsidiaries	0613
Partial Worldwide Combination	0614
Barclay's One Voice Issues	0615

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Other Foreign Parent Combination/De-combination	0619
De-combinations	0620
Diverse Business - Lines of Business	0621
Diverse Business - Multiple Formulas	0622
Diverse Business - 482 Allocation	0623
Instant Unity	0630
Ownership/Control	0631
Holding Company	0632
Other De-combinations	0639
Combinations	0640
Ownership/Control	0641
Strong Central Management	0642
Exchange of Product/Flow of Goods	0643
Vertical/Horizontal Integration	0644
Water's-Edge	
Water's-Edge - 80/20 Corporations	0700
Water's-Edge - Branch Separate Accounting	0701
Water's-Edge - Controlled Foreign Corporation	0702
Water's-Edge - Domestic Disclosure Spreadsheet	0703
Water's-Edge - Earnings & Profits	0704
Water's-Edge - Foreign Investment Interest	0705
Water's-Edge - Transfer Pricing	0706
Dividend Exclusions Section 24402	0720
Dividend Exclusions Section 24410	0721
Dividend Exclusions Section 24411	0722
Dividend Exclusions Section 25106	0723
Dividend Exclusions Subpart 'F'	0724
Dividend Exclusions Gross-ups	0725
Dividend Exclusions Other	0729
Federal Tax Treaties	0730

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Pricing Goods - Tangible	0731
Pricing Goods - Intangible	0732
Water's-Edge Combination - Other	0799

Exempt Organizations

Exempts - R&TC Section 23701(h), IRC Section 501(c)(2)	0902
Exempts - R&TC Section 23701(d), IRC Section 501(c)(3)	0903
Exempts - R&TC Section 23701(f), IRC Section 501(c)(4)	0904
Exempts - R&TC Section 23701(a), IRC Section 501(c)(5)	0905
Exempts - R&TC Section 23701(e), IRC Section 501(c)(6)	0906
Exempts - R&TC Section 23701(g), IRC Section 501(c)(7)	0907
Exempts - R&TC Section 23701(b), IRC Section 501(c)(8)	0908
Exempts - R&TC Section 23701(i), IRC Section 501(c)(9)	0909
Exempts - R&TC Section 23701(l), IRC Section 501(c)(10)	0910
Exempts - R&TC Section 23701(j), IRC Section 501(c)(11)	0911
Exempts - R&TC Section 23701(c), IRC Section 501(c)(13)	0913
Exempts - R&TC Section 23701(n), IRC Section 501(c)(17)	0917
Exempts - R&TC Section 23701(s), IRC Section 501(c)(18)	0918
Exempts - R&TC Section 23701(w), IRC Section 501(c)(19)	0919
Exempts - R&TC Section 23701(q), IRC Section 501(c) (Repealed for TYE beginning on/after 1/1/1999)	0920
Exempts - R&TC Section 23701(x), IRC Section 501(C)(25)	0925
Exempts - R&TC Section 23701(r), IRC Section 527	0927
Exempts - R&TC Section 23701(t), IRC Section 528	0928
Exempts - R&TC Section 23701(k), IRC Section 501(d)	0929
Exempts - R&TC Section 23701(m), (Repealed for TYE beginning on/after 1/1/1988)	0930
Exempts - R&TC Section 23701(p), IRC Section 401(a)	0931
Exempts - R&TC Section 23701(v)	0932
Exempts - R&TC Section 2370l(u)	0933
Exempts - Revocation	0999

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13.4.12 Rush Action Slip (Form FTB 7011)

Complete Form FTB 7011, Rush Actions Slip, when routing cases requiring priority handling.

Use Form FTB 7011 (Rush) in the following circumstances:

- When the total assessment exceeds $******* or the overpayment exceeds $*******.
- If the statute of limitations will expire within six months after the file leaves the unit.
- Bankruptcy cases.
- When Corporation and Personal Income Tax NPAs are involved, to coordinate the mailing date of notices.

Complete the form in full and attach to the case, as an instruction to BES Technical Support for corporations and ABS Technical Support for PIT.

These forms are available in PASS in the workpaper file, Administration Folder. Print the Rush Action Slip on **pink paper** to notify anyone handling the file that the case is a priority.

Instructions to Complete Form FTB 7011:

1. **Mail Notice to Taxpayer Not Later Than:** Enter the statute date if it expires within six months.
2. **Taxpayer:** Enter the names of all taxpayers involved. List the key case first.
3. **Entity Account Number:** Enter the corresponding account number i.e. taxpayer identification number, or corporation number.
4. **Type of Case:** Check the box that applies.
   a. Statute date: Enter statute date if expiring within six months.
   b. Jeopardy.
   c. Bankruptcy.
   d. Specify: Check and enter explanation. We usually check this section when there are offsets, cases over one year old, claims, or tax clearance.
5. **Number of Notices:** Enter the total number of notices for both PIT and Corp. This includes both Assessments and Overassessments.
6. **NPA(S):** Enter the number of Assessments.
7. **O/A(S):** Enter the number of Overassessments.
8. **NPO(S):** Enter the number of Notices of Proposed Overassessment.
9. **Preparer:** Enter your name.
10. **Unit:** Enter your payroll unit code.
11. **Date:** Enter today's date.

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13.5 Post Audit Forms

13.5.1 Notice of Action/Revision

Notices of Action (NOA) and Notices of Revision (NOR) are prepared using the Notice of Proposed Assessment (NPA) (FTB 5830) [or the Notice of Action (NOA) (FTB 5931) in the case of needing to issue an NOA which supercedes the original NOA due to an error, etc.] as a worksheet following the instructions provided below. All changes to the figures and text should be made on the NPA or NOA in red pencil as follows:

1. In the upper right hand margin of the NPA or NOA, write in red the following three lines:

   - The type of notice to be mailed. Write **NOA-A**, **NOA-W,** or **NOA-R** for a Notice of Action or write **NOR-W,** or **NOR-R** for a Notice of Revision. An NOR cannot be affirmed. If a memo/do not mail Notice of Action is being prepared, write **Memo-Do Not Mail** above the notice type.
   - The next line should indicate your unit number and your initials.
   - The last line should be the date of your action.

2. Verify that the NPA address is current by writing **OK** in red next to it. If the address is not current, update it by crossing it out and writing the new address.
3. When an item of adjustment on the original NPA is unchanged, the original explanation is to be deleted. Bracket the portion of text to be deleted in the left margin and write **out**.
4. When an adjustment is eliminated entirely, bracket the portion of text to be deleted in the left margin and write **out**. In addition, draw a line through the amount to be deleted in the adjustment column.
5. When an adjustment amount is modified, draw a line through the amount being changed and write the correct amount to the side, above, or below it, as is convenient and clear, and revise the explanation as required. When an item has been revised but the explanation still applies, indicate by noting **OK to type** at the left side of the explanation.
6. When a new item is introduced, write in the adjustment and add a paragraph of explanation. A NOA cannot increase the tax above the original NPA tax. Refer to ABPS 99-3 for guidance on raising new issues at protest. It may be necessary in such cases to issue a new NPA in order to allow the taxpayer their protest rights.
7. The notice must clearly explain the basis for the adjustments regardless if the taxpayer agrees or disagrees with the action being taken. It is acceptable to refer to a position letter.
8. The listing of credits available on applicable taxable years is mandatory on NOAs and NORs. The taxpayer's account must be reviewed for applicable credits/payments at the time of final action on the protest. Add a paragraph to the NPA or NOA acknowledging the payments (i.e. ¶50699 or ¶50702).
9. If a memo-do not mail notice is being issued, add a paragraph explaining the reason.
10. If a carbon copy (cc) of the notice needs to be sent, at the bottom of the NPA or NOA write: **cc**: the name and address then circle the information. This makes the cc: name and address stand out from the text of the notice.
11. For manual notices, form FTB 6031 (blue flag) (for NOAs) or form FTB 6031A (gold flag) (for NORs) is always affixed to the underside of the lower right side of the NPA or NOA in such a manner that it will not cover any material to be typed and so that it extends over the edge approximately one inch.
12. The Revenue and Cost Clerk will accumulate revenue data from the audit copy of form FTB 5830 and form FTB 5932. It will, therefore, be necessary to type the revenue code from the NPA being revised

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In most cases, the NOA or NOR can then be entered into BETS or TI. The degree to which the above steps are completed for cases that will be processed using BETS, may depend upon unit procedures. However, certain situations will require manual rather than BETS processing. See MAP Manual Processing provides a list of situations for which manual processing is required. Once the steps above are complete, the case will be ready for manual processing.

Section Revised 3/31/08

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

14 Technical Resource Review

14.1 Introduction

The objective of this section is to provide information on the services provided by Audit Division's Technical Resource Section (TRS), criteria for which cases are subject to TRS review, and general information on what TRS looks for when reviewing your case.

14.2 Technical Resource Section (TRS)

The Technical Resource Section (TRS) of the Audit Division provides technical service and support to audit staff and management throughout the Audit Division, as well as to other FTB Divisions and External Stakeholders.

The services provided by TRS are explained in more details in the TRS Service Document.

14.3 Review Criteria

Cases meeting certain criteria may be assigned to a TRS member for review. Refer to Technical Resource Corner for the review criteria.

14.4 What to Expect When a Case Is Subject to Review

The objectives of the review function are to promote the completion of sustainable, quality audits and ensure the consistent and accurate application of the tax laws, regulations, practices, and procedures.

When a case is subject to review, it is generally assigned to a TRS member whose specialty matches the issues in the case. TRS will review the electronic workpaper file and the documents included in the physical file. TRS will also review the forms used to issue notices. TRS is responsible for releasing the Notices (including no change letters) when review is completed.

If the cases being reviewed do not meet the review objectives, the cases may be returned to auditors for further development or correction. TRS will contact the Audit supervisor or the auditor to discuss the matter prior to returning the case.

Section Revised 7/30/07

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15 Protest

15.1 Introduction

When the taxpayer and representative disagree with the audit's recommendations, we should inform the taxpayer and representative about the protest process.

A protest gives the taxpayer the opportunity to have the proposed deficiency assessment reconsidered by the Franchise Tax Board and to have an oral hearing in which to present his or her case.

Protests are categorized internally as either docketed (worked by Legal) or un-docketed (generally worked by Protest Unit.) All protests are initially classified as un-docketed protests. Legal reviews new protests filed weekly and chooses those to be docketed.

15.1.1 Docketed Protests

Generally, protests involving interpretation of law, large dollar amounts, sensitive issues and sensitive cases, will be docketed. However, there is no bright-line test and the criteria are flexible.

Whenever the Legal Division resolves a docketed protest, the taxpayer's file, along with a **green sheet**, form FTB 6664 (Legal Division's Instructions), and transmittal form FTB 7023 are routed to either Protest Unit (non-apportioning corporations and PIT) or the Technical Resource Section (apportionment corporations) for issuance of the Notices of Action.

15.1.2 Un-Docketed Protests

Protests not meeting the criteria for docketed protests are classified as un-docketed protests. Un-docketed protests are analyzed further to determine their dispositions. The Protest Unit will generally handle the un-docketed protests. There are situations where the un-docketed protest will be returned to the auditor for resolution. Such situations include assessments where the failure to furnish information penalty was issued or are substantially under developed.

Protested provisional assessments that are issued before completion of the audit are also referred to the auditor. These cases are then processed following normal review guidelines when the audit is completed. See MAP Protest Returned for Further Development.

15.2 Recording a Protest

All Protest correspondence should be routed to the Protest Unit, Protest Control Desk, Mail Stop F320. The Protest Control Technicians will record the protest, update the appropriate systems and send an acknowledgement letter to taxpayers.

A Protest Unit manager, supervisor, or designee reviews all cases to decide if the Protest Unit will handle the case or if it should be returned to the originating unit. Legal is provided a list of new protests weekly, and if Legal requests that the protest be docketed, it is transferred to Legal.

When the Protest Unit gets the protest, it sends a copy of the original protest letter to the auditor who conducted the examination. This allows the auditor to respond to issues in the letter if desired, and to provide any information that may help the hearing officer resolving the case.

In addition, the protest unit may contact you to discuss final protest determinations that involve:

- A material revision/withdrawal.

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- A revision/withdrawal that involves audit practice considerations, regardless of the amount.
- Revisions/withdrawals that involve significant gray issues.
- Revisions/withdrawals on cases where you have requested notification of the final determination.

Cases that are not fully developed because notices were issued due to a failure to furnish information or an impending statute of limitations may be returned to the original unit for further development or analysis. If this occurs, hearing officers are available to discuss the case. Upon completion, you should return the case to the Protest Unit with a cover memo and the revised analysis/narrative report for final determination and processing. If provisional assessments were issued before the completion of the audit, normal review and processing procedures should be followed so that a proper review may be made of the audit and any additional notices issued before being returned to Protest Unit.

15.2.1 Protests Pending Federal

If the NPA was based on a Revenue Agent's Report (RAR) and the protest states that the taxpayer is protesting the federal adjustment, the case should be coded PF Protest and it is routed to the Protest Control Desk for processing.

The physical control of a PF Protest is maintained in Receiving and Data Storage Section (RDSS). RDSS places an In-Lieu sheet showing the returns that they have removed and have under control for follow-up. When the taxpayer sends in the final determination, RDSS pulls the folder/return and routes it to Technical Resource Section.

The case will then be assigned to act on the protest. Taking into consideration the final determination you will reconsider the proposed assessment and present the findings to the taxpayer or its representative.

If a hearing was requested, this should be confirmed in the letter to the taxpayer or representative. Keep in mind that the taxpayer does not need to reiterate its request for a hearing. Do not discourage the taxpayer or the representative from exercising their right to an oral hearing. If the taxpayer requested a hearing and the hearing is still desired, the case should be transferred to the Protest Unit.

15.3 Valid Protests

According to R&TC Section 19041, the taxpayer may file a written protest with us against the proposed deficiency assessment within 60 days of the date of each notice of proposed deficiency assessment, specifying in the protest the grounds upon which it is based. The Notice of Proposed Assessment tells how to file a protest. We include the NPA Information (Form FTB 7275) with the Notice of Proposed Assessment. This form explains the protest procedures and tells the taxpayer about the Taxpayer Advocate. See MAP Taxpayer Advocate, Public Affairs and Legislative Services Referrals.

Compare the date the protest was received at Franchise Tax Board with the date of the NPA to determine that the protest was timely filed. The protest is considered filed on the date of mailing. If the NPA was re-mailed correct, the 60-day period begins from the date the NPA was re-mailed. The NPA copy will be stamped with **Re-mailed** and a date. If it is determined that the protest was timely, see MAP Recording a Protest.

If there is a delay by the Franchise Tax Board, it may cause an untimely protest to be treated as timely. For reinstating the NPA to protest status after it has been finalized, see MAP Reinstatement of a Notice to Protest Status.

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15.4 Suspended Corporations

A suspended corporation is one that has had its corporate rights, privileges, and powers suspended by FTB or the Office of the Secretary of State (SOS). A corporation may be suspended for failing to file tax returns, pay taxes, pay assessments, or file the necessary documents with the SOS.

Since a suspended corporation has no privileges or rights, it cannot file a protest or appeal while it is suspended. The taxpayer must revive to good standing within the protest period or appeal period to have a timely protest. Always include NPA paragraph number 54477 if the taxpayer is suspended. (R&TC Section 23301.)

Also, see MAP BETS for information on checking BETS to determine if a corporation is suspended.

15.5 Hearings

Pursuant to the Taxpayers' Bill of Rights (R&TC Section 21010), we have established a 24-month or shorter period in which we evaluate the merits of a protest and any included claims for refund, conduct a hearing if requested, and issue a notice of action.

The Taxpayers' Bill of Rights (R&TC Section 21011) also provides for hearings before our audit staff or legal staff. If the taxpayer requests a hearing, the hearing may be held via telephone or videoconference if the taxpayer agrees. Hearing procedures require that:

- We hold hearings at a reasonable time, at Central Office or a Franchise Tax Board public service office that is convenient to the taxpayer, when possible.
- We may only record hearings if we give prior notice to the taxpayer. The taxpayer is entitled to a copy of the recording.
- We inform taxpayers before any hearing that they have the right to be represented by their designated agent at the hearing.

For more specific information regarding the Hearing Process, please see the Protest Unit Guide.

15.6 Action on Protests

We act upon all protests by issuing a Notice of Action, which affirms, revises or withdraws the Notice of Proposed Assessment, after a hearing has been held, if one was requested, and we have considered all of the taxpayer's arguments. See MAP Paid Protests. The protest period begins on the date the taxpayer files a protest to the Assessment, and expires when the Notice of Action is issued.

For additional information about docketed protests see FTB Notice 2006-06.

15.6.1 Notice of Action on Protests

We must act on all protests by affirming, revising, or withdrawing the Notice of Proposed Assessment. Before any action, the hearing officer must send a determination letter to the taxpayer explaining why we are taking the action. If we get no more information, we then send a formal notice to the taxpayer by issuing a Notice of Action.

We issue a Notice of Action on every Notice of Proposed Assessment that the taxpayer has formally protested. A Notice of Action may never increase the amount of tax or penalty on the Notice of Proposed Assessment. It affirms, revises, or withdraws the Notice of Proposed Assessment.

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If the taxpayer disagrees with the protest determination, the taxpayer may appeal to the State Board of Equalization or pay the deficiency and file a claim for refund. See MAP Appeals and see MAP Claims, for more information.

15.6.2 Notice of Action – Jeopardy Assessments

We issue a jeopardy assessment when the Audit Program Manager determines that tax collection will be jeopardized by delay. Our Chief Counsel must approve all jeopardy assessments in writing. A jeopardy assessment is immediately due and payable. Collection proceedings may begin at once we issue a Notice of Action, (Form FTB 5933 or Form FTB 5934) on protested jeopardy assessments. We use Form FTB 5933 for corporations in good standing and for Personal Income Tax taxpayers, when we revise, affirm, or withdraw the jeopardy. We use Form FTB 5934 for suspended corporations.

If taxpayers disagree with the action, they may file an appeal with the Board of Equalization within 30 days of the date of the Notice of Action. However, if the taxpayer is a suspended corporation, the corporation must first regain good standing to file an appeal. See MAP Jeopardy Assessments, for more information.

15.6.3 Notice of Revision

We often get responses to a Notice of Proposed Assessment that do not qualify as protests. This response may agree to an assessment, explain an error in a calculation, or state that the taxpayer is unable to pay.

We handle a response that raises an objection to a Notice of Proposed Assessment adjustment but which does not constitute a protest, by issuing a Notice of Revision. A Notice of Revision differs from a Notice of Action-Revision. A Notice of Action-Revision is issued to revise a Notice of Proposed Assessment that was timely protested, while the Notice of Revision simply explains or affirms the Notice of Proposed Assessment.

We must answer the letter even if no adjustment to the Notice of Proposed Assessment is warranted. The reply should restate audit's position and explain the Notice of Proposed Assessment will become final 60 days from the date of issuance unless a protest is filed within that time.

If a revision is needed, it finalizes at the expiration of the original 60-day period. However, the notice remains subject to protest within that period.

15.7 Correction of Notices

After a Notice of Proposed Assessment or a Notice of Action has been issued, the taxpayer occasionally submits supplemental information leading to further correction of the assessment. Depending on the circumstances the following may occur:

- The assessment may be corrected by a second Notice of Action or a Notice of Revision.
- The NPA may be withdrawn and a new NPA issued.
- In the case of a protested NPA, it may be restored to protest status.

15.7.1 Correction of an NPA Not Protested

In the case of NPAs, which are not protested, a Notice of Revision (Form FTB 5932) must be issued prior to the expiration of the 60-day protest period or within the prescribed time if form FTB 6030, NPA - Defer Final Assessment, is appropriate. In no case will issuance of a Notice of Revision

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extend the protest period beyond 60 days from the date the NPA was issued. The corrected additional tax may not be increased over the amount of the additional tax originally proposed. The Notice of Revision shall bear a notation to the effect; **This notice supersedes the notice of proposed assessment dated (date).**

15.7.2 Correct an NOA

In the case of NPAs that have been protested and a Notice of Action issued, a corrected Notice of Action must be mailed within the 30-day appeal period, or the notice of proposed assessment must be restored to protest status. The action taken by the mailing of the corrected notice will supersede the prior action and the taxpayer will have 30 days from the date of the corrected notice in which to file an appeal. The corrected additional tax may be increased over the amount shown in the notice of action, but may not exceed the amount of the additional tax originally proposed to be assessed. Put a note in the corrected Notice of Action: **This notice supersedes the notice of action dated (date).** See MAP Reinstatement of a Notice to Protest Status.

15.7.3 NPA to Be Withdrawn and New NPA Issued

An NPA may be withdrawn and a new one issued only if the statute of limitations has not expired and will not expire prior to the mailing of a new NPA. See MAP Statute of Limitations Charts.

In lieu of issuing a corrected Notice of Action or a Notice of Revision, consideration should be given to withdrawing the assessment and issuing a corrected one when:

- The NPA contains a technical defect such as an error in the name, address, year, or transposition of numbers.
- The supplementary information received introduces new items of income or disallowance that may not be made a part of the corrected Notice of Action or Notice of Revision.
- The corrected amount of additional tax will exceed the original Notice of Action, Notice of Revision, or the original NPA. However, it may be better to let the Notices of Action or Revision stand and issue another NPA for any additional tax in excess of the Notice of Action, Notice of Revision, or the original NPA.

Other circumstances may arise and they should be judged on their merits. Approval of the supervisor should be obtained where doubt exists whether to withdraw and issue a new NPA or to issue a corrected Notice of Action or Revision.

15.8 Reinstatement of a Notice to Protest Status

15.8.1 Notices of Proposed Assessment – Restored to Protest Status

Occasionally, NPAs become **final** in error. When this happens, it becomes necessary to reinstate the NPA to protest status. The following will be done:

1. The audit section that issued the NPA will route the audit file to the Protest Control Desk with instructions, including the identification of notices to be reinstated. The Protest Control Desk technician will correct the account on the appropriate system either BETS for Corporations or TI for Personal Income Taxpayers.

2. The electronic PASS file should be transferred to the group work list **Protest - Unassigned** with a notation on the event log that the protest was received timely. To determine whether the protest is considered timely, refer to MAP Valid Protests.

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15.8.2 Notices of Action – Restored to Protest Status

If information is received in the audit section or Legal Department that will not permit corrective action within the appeal period, the file will be routed promptly to the Protest Control Desk with a request to have the NOA restored to protest status. The information must be received prior to the expiration of the appeal period to permit restoration to protest status.

If an NOA is restored to protest status, the taxpayer or representative must be advised. The communication with the taxpayer or representative can be via letter, personal contact or telephone. The Unit/Section or the auditor handling the case will make notification. Notifications should be worded substantially as follows:

> **In accordance with your (letter, telephone call, etc.) of (date), NPA No. _____ for the income year _____ has been restored to protest status and the notice of action issued (date) may be disregarded**.

15.8.3 Follow-up on Non-Final NPAs

In some instances, it is necessary to prevent an NPA from becoming final due to an obvious error or possible re-determination. In this event, the section/unit will defer the NPA from becoming final by requesting that the Protest Control Desk Technician place a hold on the NPA.

15.9 Conversion of an Assessment Into an Overassessment

Where both positive adjustments increasing income and negative adjustments decreasing income result in a Notice of Proposed Assessment, and the Notice is subsequently withdrawn and the negative adjustments sustained, resulting in an overpayment of tax, we treat the assessment as an overassessment.

We must issue a Notice of Proposed Assessment before the statute of limitations expires for issuing an overassessment (as defined in R&TC Section 19306). If we issue an assessment after the statute of limitations expires for issuing an over-assessment, the negative adjustments noted on the Notice of Proposed Assessment can only offset the deficiency related to the positive adjustments.

We cannot introduce new issues into the computation of the overpayment that increase the overpayment, unless the statute of limitations is open for filing a claim for refund or issuing an additional Notice of Proposed Overassessment.

Negative income adjustments brought up by the taxpayer during audit but not in the income adjustments resulting in the assessment, if subsequently allowed, may not increase the overpayment unless a timely claim for refund was filed for those issues.

An overpayment from a Notice of Proposed Overassessment may be increased only in the same circumstances that allow the increase in an overpayment arising from a claim for refund. That is, the amount of the additional overpayment identified after the statute of limitations for filing a claim or issuing an overassessment expires, must be directly related to the respective issues resulting in the overassessment.

The statute of limitations applies separately for each taxpayer in a combined report. That is, for the time that deficiency and claim for refund or Notice of Proposed Overassessment statutes differ, an assessment subsequently treated as an overassessment may not offset other combined report member's tax liability if the statute of limitations expired for issuing an overassessment when we issued the assessment.

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Taxpayers do not have appeal rights to our final action on an overassessment that was started by the department, not by a claim for refund. If the claim is denied it is brought before the Board of Equalization.

15.10 Paid Protests

R&TC Section 19335 provides that FTB shall treat the protest or appeal as a claim for refund or an appeal from the denial of a claim for refund, if the taxpayer pays the tax protested or after the filing of a protest or appeal. R&TC Section 19322.1, allows perfection of a **converted** claim only upon full payment of all amounts due for the year, and R&TC Section 19041.5, provides that tax deposits become payments of tax for R&TC Section 19335 purposes only when specifically designated in writing.

Fujitsu IT Holdings v. FTB (2004) 120 Cal.App.4th 459, held that R&TC Section 19335 does not operate automatically, but that the protest or appeal converts to a claim or appeal from a claim only after FTB applies the payment in question to the balance due.

If a taxpayer has a tax deposit amount on account and wishes to convert a protest or appeal to a claim for refund or appeal from the denial of a claim for refund, the taxpayer must provide a statement in writing asking that the administrative deficiency dispute be converted to an administrative claim dispute (preferably on the Form 3581, when available). Upon receipt of the form, FTB will finalize the deficiency by issuing a Memo-NOA-AFF (Do Not Mail,) allowing the tax deposit amount to apply to the now-final deficiency, including interest and any amnesty penalty (if applicable). If there is an overpayment after all amounts due for the year have been paid, the balance will be refunded unless the taxpayer has designated on the FTB 3581 that excess amounts be retained or applied differently. The protest converts to a perfected claim. FTB will continue to consider the issues presented in the protest, and may take action on the claim at any time.

If the tax deposit amount is insufficient to pay the final deficiency amount, including penalties, fees and interest, the claim becomes an informal claim. The taxpayer will receive a bill for the remaining amount due and FTB cannot act on the claim until it is perfected by full payment. The six-month deemed denial period does not start to run until the claim is perfected by full payment.

If a protested NPA is converted to a claim for refund, and it is part of an offset case, the Notice of Proposed Overassessment is not finalized, and the taxpayer loses the benefit of interest netting.

In PASS, the case unit is changed to a Paid Protest Claim Filed status from a Protest-Work in Process status. This will enable the responsible person to continue to record time in the Protest Tab and use the workpapers in the Protest workpaper file.

15.11 Suits for Refund – Superior Court

Taxpayers can appeal to the State Board of Equalization or sue directly in Superior Court after a claim or appeal of a protest is denied or partially denied. However, with the exception for an issue of residency, before they can file suit in California Superior Court, they must pay the tax, penalty, and interest. The action may be filed within one of the following time periods whichever is later:

- Within 90 days after the date of the Board of Equalization determination on an appeal from the action of the Franchise Tax Board becomes final.
- The date we mail our notice of action on the claim for refund.
- Within four years from the last date for filing the return.
- Within one year of the overpayment.

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Either the taxpayer or we can appeal a Superior Court decision to the California Appellate Court or the California Supreme Court, and ultimately to the U.S. Supreme Court.

15.12 Appeals

The taxpayer has 30 days after the mailing date of the Notice of Action to appeal our action upon protest to the State Board of Equalization. The appeal must be in writing. (R&TC Section 19045) If no appeal is filed within the 30-day period, the assessment becomes final and the deficiency assessed is due and payable within 10 days (for taxable years through December 31, 1997), or within 15 days (for taxable years beginning on or after January 1, 1998), from the date of the notice and demand (R&TC Section 19049). If full payment is received within the 10 or 15 days, interest is waived for that 10 or 15 day period.

When an appeal is filed with the Board of Equalization, the Appeals Section in the Legal Division is notified. The Appeals Section Technician obtains the taxpayer's file. After verifying the appeal information, the appeals are logged into the appropriate systems by the Appeals Section Technician. If an appeal is filed, both the taxpayer and we have the chance to provide more information.

Once the Board of Equalization has evaluated the facts and rendered a decision, the law allows for a rehearing if requested by either party within 30 days of the decision. If no rehearing petition is filed, the Board's decision becomes final 30 days after it is rendered. If a rehearing petition is filed, the Board's decision on the petition becomes final 30 days from the time the Board issues its opinion on the petition (R&TC Section 19048).

After the Board of Equalization has resolved the corporation's appeal by either an opinion or a stipulation, the Legal Division will refer the file to Technical Resource Section for disposition. The cases will come with a cover sheet form FTB 7023 (Appeals Protest Transmittal) for issuance of the Notices of Determination. This includes cases resulting from appeals against the additional assessments as well as denials of claims. Appeals on jeopardy assessments involving illegal activities, (e.g., narcotics, bookmaking, pinball machines), are also referred to the Appeals Section Technician. Once the Board of Equalization renders a decision, it is final and binding on us, but not on the taxpayer. However, we can petition for a rehearing.

The taxpayer may file in California Superior Court, after a denial by the Board of Equalization, by paying the tax and filing a claim for refund. After the California Superior Court has rendered its decision either the FTB or the taxpayer may file an appeal on the decision to the California Appellate Court and/or the California Supreme Court, and ultimately the U.S. Supreme Court. See MAP Appeal of Denied Claim.

15.12.1 Appeals From Notices of Action – General Information

1. The Board's decision will be reviewed by the Technical Resource Section to determine how it relates to the notice (i.e., Affirmation, Withdrawal, or Revision). If the Board dismissed the appeal at appellant's request or because the appellant did not follow through, the Notice of Action will be affirmed.
2. Technical Resource Section will prepare a Notice of Determination. The file copy of the Notice of Action is used as a worksheet in the right margin. The following information will be completed in red pencil.
    a. Write the word **APPEAL**.
    b. Write the abbreviation for the action being taken:

- **AFR** for affirmation.

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- **W/D** for withdrawal.
- **REV** for revision.

  c. Write the unit number and initials. (e.g. 346:ABC).

  d. Below the body of the Notice of Action, write:
- The current date.
- A paragraph describing the action being taken.

3. Insert the Board's decision inside the most current return.
4. Review the appeal folder to determine if the corporation made any payment. If a payment was made, enter the standard payment paragraph on the worksheet.
5. On the form FTB 7023 (Appeals Protest Transmittal), the action taken, the routing, and the date are entered.
6. Enter the notice on TI or BETS. To issue a NOR in BETS, follow the instructions provided in the **BETS NPA Procedures.**
7. Route the folder to the PIT or Corp Technical Audit Support Unit for processing. The appeal folder is routed to the Legal Division. If a claim for refund is involved, route the folder to the appropriate Claims Control Desk. The Claims Control Desk Technician will then refer the corporation folder to the PIT or Corp Technical Audit Support Unit for processing.

15.13 Protests Returned for Further Development

If it is determined that a protest case should be returned to the originating auditor, the auditor should continue to develop the facts of the protest case as in any audit. Once the auditor has completed the fieldwork and analysis, the auditor's findings/final recommendation on the case should be attached to a memo referring the case back to the Protest Unit. If the audit was not previously reviewed according to normal processing procedures, or additional notices need to be issued, route the case to Technical Resource Section instead of the Protest Unit.

If the taxpayer and representative are in agreement with the auditor's recommendation, a hearing officer will issue the Notice of Actions pursuant to the auditor's recommendation. If the taxpayer and representative are not in agreement with the auditor's recommendation, and they still require an oral hearing, the protest will be assigned to a hearing officer to conduct the oral hearing and resolve the case.

Exercise judgment in handling protest cases where a hearing is requested. When asking the taxpayer if the hearing is still desired, the auditor should not use language discouraging the taxpayer from exercising the right to a hearing. Under the provisions of the law, the taxpayer only needs to request a hearing once in the protest letter.

15.13.1 Working a Protest

The auditor should follow the procedures below to work a protest.

1. The auditor should independently review the case.
2. If you are recommending the NPA is withdrawn, notify the taxpayer that a Notice of Action officially withdrawing the NPA will be issued. (The Protest Unit will issue the Notice of Action – Withdrawal).
3. If additional information is required, request it in writing. The initial contact letter should acknowledge the protest letter. However, if a hearing was requested, do not ask if the taxpayer wishes to waive the hearing rights at this time.

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4. Once all the facts have been gathered, write a position letter stating the issue, the facts, the governing law, and the findings. Allow the taxpayer a reasonable number of days to respond:

   All AIPS and/or position letters should include a paragraph at the end of the letter that gives the taxpayer an opportunity to agree or disagree with the auditor's position.

   If a hearing was requested, a separate paragraph should be included at the end of the letter that will allow the taxpayer or representative to waive the hearing.

   The following is an example of a closing paragraph that may be used by the auditor:

   > You have requested an oral hearing and you have a statutory right to that hearing. Please check below indicating whether you want to exercise your right to a hearing or if you want to waive your right to a hearing.
   > _____ Yes, I wish to have a hearing.
   > _____ No, I want to waive the hearing.
   > In view of our determination, please indicate if you agree or disagree with our position.
   > _____Yes, I agree with your position.
   > _____ No, I do not agree with your position. Enclosed is a detailed response including case law, and source documentation supporting my position.
   >
   > SIGNED: _____ DATED: _____

5. If the taxpayer still wants the hearing or does not specifically waive his or her right to a hearing in writing, the case should be referred to the Protest Unit. A letter of explanation should be sent to the taxpayer. For example:

   > This is in response to _____
   > Since you have requested an oral hearing, your case has been transferred to the Protest Unit. You will be contacted to schedule a hearing at a later date.

   If the auditor has done the necessary additional work at protest, developed all the facts, and communicated the legal analysis to the taxpayer and the taxpayer still does not agree with the auditor, the case must be referred to the Protest Unit. If the audit was not previously reviewed in accordance with normal processing procedures or additional notices need to be issued as an unagreed case, the case must first go through TRS before being referred to Protest. The hearing officer assigned to the case will determine if a hearing is still required and will continue to work the protest case.

   Even if the taxpayer is in agreement with the auditor's recommendation, if the recommendation is other than a withdrawal and the taxpayer has not agreed in writing to waive the hearing, the case should be treated as an un-agreed case and referred to the Protest Unit for a hearing.

15.13.2 Closing a Protest

Upon completion of the protest, whether agreed or disagreed, the following procedures should be used to refer the protest back to the Protest Unit:

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- Notices of Action may never be made to increase the amount of tax and/or penalty on NPAs. If an increase in tax and/or penalty is necessary, recommend affirming the previous NPA and prepare a new form FTB 6830 for the additional amount (if not barred by the statute of limitations) starting with the taxable income or net income as revised by the previous NPA as if it had become final. Withdrawal of the previous NPA and issuance of a new one is generally not in order unless the revised tax is on completely different grounds (and is not barred by the statute of limitations).
- The case should be assembled with all protest correspondence on top. Auditor notes and/or a Narrative Report clearly outlining the recommended action to be taken at protest should be included. The revised Narrative Report should be in the Protest - Reports Folder on PASS.
- The auditor should complete a memorandum back to the Protest Unit. The memo should include reference to the protest being worked by the originating auditor, whether the taxpayer and representative are in agreement or disagreement with the auditor's recommendation, and if a hearing was waived (if applicable).
- The auditor should transfer the PASS file to the group work list Protest – Unassigned, or to the appropriate Technical Resource Group Worklist for New Incoming Review Cases, if the audit was not previously reviewed in accordance with normal processing procedures, or additional notices need to be issued.
- The auditor should transfer the physical file to the Protest Unit, MS F320, or to TRS, Mail Stop F350, if the audit was not previously reviewed in accordance with normal processing procedures, or additional notices need to be issued.

15.14 Innocent Spouse

Under certain circumstances, an innocent spouse can seek relief from a joint tax liability. See:

1. R&TC Section 18533 - Relief from additional tax.
2. R&TC Section 19006(b) - Relief by court order, and tax clearance revision certificate.
3. R&TC Section 19006(c) - Relief from return tax.

In general, audit will only deal with number one above. There are four subsections of R&TC Section 18533:

- 18533(b) - Innocent Spouse Relief.
- 18533(c) - Separation of Liability.
- 18533(f) – Equitable Relief.
- 18533(i) – Conforming to Federal Grant of Innocent Spouse Relief.

The specific requirements for each subsection vary.

Relief under Equitable Relief is for unpaid self assessed tax or a deficiency and is generally claimed during the collection process. In general, R&TC Section 18533 authorizes us to relieve a spouse from an additional tax assessment when the following requirements are met:

1. A joint return was filed for the year for which relief is requested.
2. The incorrect tax deductions or the unreported income is because of the actions of the other or former spouse.
3. The taxpayer requesting relief had no knowledge or reason to know about the incorrect tax deductions or unreported income.
4. The taxpayer requesting relief did not earn, manage, or control the unreported income, and was not responsible for the incorrect tax deductions.

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5. The taxpayer requesting the relief did not receive a significant benefit from the incorrect tax deductions or unreported income.

Refer to the specific subdivisions of section 18533 for requirements for each.

We must notify the other spouse (or nonelecting spouse) that the spouse has requested relief of liability. We must give them the opportunity to offer evidence.

If a spouse substantiates innocent spouse, then that spouse is relieved of liability for that portion of the tax. The joint Assessment must be affirmed, a Non-Liable Spouse (full) transaction must be completed, and a letter sent to the innocent spouse confirming the relief. See MAP Non-Liable Spouse - Innocent Spouse Transaction.

It is possible for the electing spouse to be partially non-liable. Affirm the joint assessment, complete a Non-Liable Spouse (part) transaction, and send a letter and allocation schedule to the innocent spouse confirming the portion which they are still liable for.

If the innocent spouse issue emerges after the Assessment has gone final, refer the case to the Collection Bureau Innocent Spouse Unit.

If relief of liability is denied, affirm the joint assessment. Include reasons for the denial in the notice of action.

15.14.1 Non-Liable Spouse – Innocent Spouse Transaction

For the fully or partially nonliable spouse, follow these procedures:

- Issue a Notice of Action – Affirmation. See MAP Notice of Action on Protests for additional information. If there are other issues to adjust, issue a Notice of Action – Revision. If the innocent spouse is the only issue, send a letter to the innocent spouse. The letter should state that innocent spouse relief is granted (in full or partially under R&TC Section 18533 (and the applicable subsection) and that we will send an NOA-Affirmation/Revision (whichever is applicable). The letter should also explain that the innocent spouse will receive the first billing notice.
- Complete a Technical Support Request – Form FTB7053 requesting an account status change on TI (Non-Liable Spouse – (Full/Part) Transaction) for the applicable spouse. Attach the Technical Support Request to the face of the return, and route the file to Audit Business Support.
- Mail a copy of the revised or affirmed Notice of Proposed Assessment to each spouse.
- Be sure to include a comment on the Taxpayer Information system indicating the relief. Give the tax year and code section under which relief was allowed. If partial relief is granted, state the amount of the tax, penalty, and interest owed by the electing spouse.

15.15 Assisting Legal

The resolution of protest and appeals cases often involves either the gathering of additional information from the taxpayer's records or the verification of information submitted by the representative. In either situation, field audit activity may be necessary.

The scope of an assignment to assist the Legal Division is generally determined prior to auditor assignment. Additional information developed in the course of the assignment may indicate that the scope of field activity should be either limited or expanded. These recommendations should be discussed with your supervisor and Legal.

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16 RAR and Federal Information

16.1 Introduction

The California Revenue and Taxation Code (R&TC) and the Internal Revenue Code (IRC) contain reciprocal provisions permitting an exchange of information. Under these provisions, the department receives copies of Revenue Agent's Reports (RARs) and other federal tax information from the Internal Revenue Service.

A RAR is a document showing the changes to a taxpayer's return after examination by an IRS agent. The changes are recorded to on IRS Form 4549. The reports are associated with the taxpayer's return and then forwarded to FTB for audit. Taxpayers may have also reported RAR changes by correspondence or by filing an amended return(s).

The Multistate Audit Central Office Unit processes Corporate RARs. The Federal/State & Special Audit Section (FSSAS) processes Personal Income Tax RARs, while the Exempts Unit processes Exempt RARs.

Under FTB policy, if the IRS has examined and changed, or no-changed, an issue, we will not pursue it **unless** there is clear information to show that the IRS was wrong. This is a rare event. However, if the IRS never examined an issue (even though they reviewed the year), we have no limitations on our review of the issue.

To request information directly from the Internal Revenue Service, see MAP Request for Federal Returns and Audit Report.

For special statute of limitations provisions for RARs, see MAP Incorporating the RAR for PIT and General Corporations and MAP Incorporating the RAR for Apportioning Corporations.

Note: If the RAR is attached to the taxpayer's return, the first page of the return must be stamped with the following, **FILE CONTAINS CONFIDENTIAL IRS INFORMATION**. If the RAR is not attached to any other document, the RAR must be stamped with the following, **FILE CONTAINS CONFIDENTIAL IRS INFORMATION**.

16.2 Request for Federal Information, Returns, and Audit Reports

16.2.1 FTB Form 6227 – General Information Safeguarding Federal Tax Information (FTI)

IRC section 6103(p)(4) requires us to establish and maintain safeguards to prevent unauthorized use or disclosure of Federal Tax Information (FTI). In addition, we must take appropriate measures to safeguard and protect FTI, in accordance with the IRS Publication 1075, such as:

- Conceal all FTI from users that do not have a business need to know. This includes: Transcript Delivery System (TDS) transcripts, Form 6227 requests, Revenue Agent Reports (RARs), and other FTI.
- Stamp all documents that contain FTI with the IRS label 129A or use the FTB 7805 Confidential Coversheet.
- Always keep Form 6227 with the case until the file goes through the normal destruct process. Do not throw it away.
- If you have any questions or need further information, you may contact the IRS Coordinator or the Disclosure Office.

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FTB Form 6227 is used to request federal tax information. Each area should prepare their respective requests. The form is available through the following four sources:

1. Autoforms application (Fed/State only)
2. Fedstar II application (Fed/State only)
3. PASS application work paper file in the Administration Folder. The PASS document name is "IRS Request for Federal Documents (6227)."
4. FTBNet2 business forms (search for FTB 6227 at: http://ftbnet2/ftbforms/list.asp?groupID=26).

Federal Tax Information Available from the IRS

- **Master File Transcripts (MFTRA)** for the IMF (Individual Master File). These files are the tax accounts for each tax year that are maintained by IRS.
- **Master File Transcripts (MFTRA)** for the BMF (Business Master File). These files are the tax accounts for each tax year that are maintained by IRS.
- **Copies of Tax Returns**
- **Copies of Revenue Agent Reports (RARs)**
- **Transcript Delivery System (TDS) Documents –** All TDS requests are handled at FTB. TDS is a secure online access to certain federal tax information and is being used by a limited number of authorized users. There are four products available through TDS:
    1. **Account Transcript (ACTR) -** reflects a summary of the return and all subsequent information posted to the account. Subsequent activity may include payments, credits, amended returns, etc. Transcript will be provided for all valid IMF and BMF accounts.
    2. **Return Transcript (RETR) -** provides data from the tax return filed during the current tax year and for three prior tax years. Data will not be available if the return was filed within the last six weeks.
    3. **Wage and Income Transcript (WAID) –** reflects a summary of all wages, tips, and other compensation. Users may request to retrieve wage data for a total of six years prior to the current year.
    4. **Record of Account Transcript (RECA) -** a combination of the return transcript and account transcript. The IRS will provide the most current information from the return. A Record of Account may be retrieved for the current tax year and a maximum of three prior tax years.
- **Audit Work Papers, Schedules, or Other Documents**
- **Request to Speak with an IRS Agent**
- **Social Security Number (SSN) or Federal Employer Identification Number (FEIN)**

Important 6227 Request Rules:

- **Do not call the IRS Agent** directly without the proper authorization.
- **Do not** send the Federal Tax Information Request – Form 6227 directly to IRS.
- **Do not** give copies of IMF or BMF transcripts to taxpayers or their representatives. These transcripts contain **official use only** information. Advise the taxpayers and their representatives to contact the IRS.
- Be sure when requesting the following that you request an IMF or BMF ***first*** **and** ***attach it*** to your 6227 form:

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- Revenue Agent Reports (RARs)
- Copies of tax returns (1120, 1120S, 1065, and 1040)
- Request to Speak with Revenue Agent or Appeals Officer (include the name of the RA/AO, phone number, and office location if available).
- Copies of audit work papers, schedules, or other documents in the audit file.

Note: For the above requests, if IMF or BMF is not attached to the 6227, or if the IMF/BMF is greater than 30 days old, the request will be rejected.

Note: Once you receive the IMF or BMF, be sure that the case does not have an "open audit" indicator, or that it is currently in litigation, by reviewing the IMF or BMF transcript. The RARs, audit work papers, schedules, and other documents in the audit file cannot be obtained until IRS closes the case.

- Be sure when requesting to speak with an IRS Agent that the case has an open audit indicator or is currently in litigation by reviewing the IMF or BMF transcript, **and** that your name is on the ***FTB Designee List*.**

  If a supervisor determines there is a business need, employees can be added to the Designee List through Disclosure (**http://ftbnet2/About.asp?id=1158**).

16.2.2 Instructions for Completing FTB 6227 Correctly

Step 1 Complete taxpayer information

NAME AND ADDRESS OF TAXPAYER	TAXPAYER'S SOCIAL SECURITY NUMBER	
	SPOUSE'S SOCIAL SECURITY NUMBER	
	FEIN	
	FEDERAL FORM NUMBER	TAX PERIOD

A. **Be sure the taxpayer name, address, SSN (Social Security Number), Spouse SSN, and FEIN (Federal Identification Number) are correct.**

- A separate 6227 request should be completed for each taxpayer. In the case of taxpayers filing jointly, only one request is needed. In the case of business entity filing a combined report, request information about the parent that files the consolidated report with the IRS.
- If SSN or FEIN is unavailable, request the SSN or FEIN first before requesting any other IRS documents (see below).
  - To obtain SSN, you must have the complete name and current address of the taxpayer.
  - To obtain FEIN, you must have the complete name of the corporation, all known addresses with zip codes, names of partners (if available), corporation officers, etc.
- Do not include the California Corporation Number (CCN).

B. **Be sure to indicate the federal form number (i.e., 1120, 1120S, 1065, 1041, 1040).**

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The only time the form is not required is when there is a special project or the requester is requesting information that does not require a form number.

C. **Be sure to write in the correct tax years.**

- For business entities, indicate the fiscal year ending month (i.e., 06/2002) if the taxpayer is a fiscal year filer.
- You can request more than one tax period and more than one type of IRS document on the same 6227 request form. A separate 6227 request is required for each TDS product.

Step 2 Describe the type of information being requested in the "Information Requested" field.

INFORMATION REQUESTED

☐ BMF	☐ PHOTOCOPY OF RETURN	☐ OTHER (Please *describe*)
☐ IMF	☐ PHOTOCOPY OF RAR	☐ OUT OF STATE

A. **Check the "BMF" box when requesting:**

Master File Transcripts (MFTRA) for the BMF (Business Master File). These files are the tax accounts for each tax year that are maintained by IRS. To request a BMF transcript for all business entities such as corporations, partnerships, and fiduciaries, check the "BMF" box.

B. **Check the "IMF" box when requesting:**

Master File Transcripts (MFTRA) for the IMF (Individual Master File). These files are the tax accounts for each tax year that are maintained by IRS. To request an IMF transcript for individual taxpayers, check the "IMF" box.

C. **Check the "Photocopy of Return" box when requesting:**

Copies of Tax Returns – To obtain copies of tax returns, check the "Photocopy of Return" box.

- Be sure when requesting copies of tax returns that you request an IMF or BMF first **and** attach it to your 6227 form.
- Be sure you complete "Federal Form Number" box with the correct form number(s).

D. **Check the "Photocopy of RAR" box when requesting:**

Copies of RARs – To obtain copies of RARs, check the "Photocopy of RAR" box.

Be sure when requesting copies of RAR's that you request an IMF or BMF first **and** attach it to your 6227 form.

E. **Check the "Other" box when requesting:**

- **Transcript Delivery System (TDS) –** All TDS requests are handled at FTB. TDS is a secure online access to certain federal tax information and is being used by a limited number of authorized users. There are four products available through TDS:

  1. **Account Transcript (ACTR) -** reflects a summary of the return and all subsequent information posted to the account. Subsequent activity may include payments, credits, amended returns, etc. Transcript will be provided for all valid IMF and BMF accounts. Check the "Other" box and write TDS-ACTR next to it.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

2. **Return Transcript (RETR) -** provides data from the tax return filed during the current tax year and for three prior tax years. Data will not be available if the return was filed within the last six weeks. Check the "Other" box and write TDS-RETR next to it.
3. **Wage and Income Transcript (WAID) –** reflects a summary of all wages, tips, and other compensation. Users may request to retrieve wage data for a total of six years prior to the current year. Check the "Other" box and write TDS-WAID next to it.
4. **Record of Account Transcript (RECA)** - a combination of the return transcript and account transcript. The IRS will provide the most current information from the return. A Record of Account may be retrieved for the current tax year and a maximum of three prior tax years. Check the "Other" box and write TDS-RECA next to it.

- **Work Ppapers, Schedules, or Other Documents** – To obtain copies of RAR documents, work papers, schedules, etc., check the "Other" box and write a specific description of the data in the "Special Instructions" box.
- **Request to Speak with IRS Agent -** indicate the name of the Revenue Agent, phone number, and location if available. (Be sure when requesting to speak with an IRS Agent that you request an IMF or BMF first, make sure that the case is still open, **and** attach the IMF or BMF to your 6227 form).
  - If the case is closed, you can no longer request to speak with the IRS Agent.
  - Be sure that your name is included in the FTB Designee List prior to making this request.
- **Social Security Number (SSN) or Federal Employer Identification Number (FEIN) -** to obtain the SSN or FEIN, you must fill in the name and current address of the taxpayer in the "Name and Address of Taxpayer" field.

F. **Check the "Out of State" box** when requesting information for a taxpayer or business entity with an address that is out of state**.**

Step 3 Indicate the reason for the request (e.g., for audit purposes, etc.)

REASON REQUESTED	
☐ FOR COLLECTION PURPOSES	☐ FOR OTHER PURPOSES (Please *explain)*
☐ FOR AUDIT PURPOSES	
☐ FOR INVESTIGATION	

Step 4 Complete requestor information

REQUESTING UNIT	NAME OF REQUESTER	TELEPHONE NUMBER	DATE OF REQUEST

Be sure to include your PUC unit number, your full name, the date of the request, and your ten-digit phone number so IRS can call you if they are not sure of what to send you.

Step 5 Complete Special Instructions (if the type of information requested requires it)

SPECIAL INSTRUCTIONS

If you have a **Rush** request, indicate reason of rush in Special Instructions section. Otherwise, it will be treated as a regular request.

Step 6 Supervisor/lead must approve the request

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

SUPERVISOR	DATE APPROVED	DATE RECEIVED	DATE DESTROYED

- A supervisor or authorized designee (/Lead) must review and sign all 6227 requests, originals and copies.
- Requesters/designees cannot approve their own request.
- Date Received is completed by Audit Business Support or by the FSSAS-ABS IRS Liaisons when the IRS Information is received.
- Date Destroyed is completed in Audit Business Support when the IRS information is destroyed.

Step 7 Do not write in the bottom half of the form (to be completed by IRS)

TO BE COMPLETED BY THE IRS MICRO RESEARCH DLN	CORRESPONDENCE RESEARCH: RETURN TO STOP # _____ CONTROLLED _____ FOLLOW UP _____ CLOSED _____
FILE RESEARCH:	RESPONSE TO REQUESTER: ☐ NO RECORD ☐ UNAVAILABLE ☐ DESTROYED ☐ OTHER _____

RECORD OF INSPECTION

Pursuant to the Agreement on Coordination of Tax Administration, the above information and/or copies of documents have been made available for inspection by, or have been provided to a duly authorized representative of the State of California for the purpose of State tax administration. This disclosure is in accordance with Section 6103(d) of the Internal Revenue Code.

IRS REPRESENTATIVE	AUTHORIZED REPRESENTATIVE FRANCHISE TAX BOARD, STATE OF CALIFORNIA
DATE COPY OF DOCUMENT MAILED	DATE REQUEST AUTHORIZED

Step 8 Once the form is complete, make one copy for IMF and BMF requests. Make two copies for all other requests.

Step 9 Supervisor/designee must route the approved request

Supervisors route the request to the 6227 Desk at Mail Stop F340. In the Federal/State Special Audit Section there is a basket in the shared area where the leads/supervisors are to place the request as well.

16.2.3 Follow-Up Information

- **When will IRS Information Requests be received?**
  - All MFTRA (IMF/BMF) transcript requests should take 2-4 days.
  - All TDS requests are handled in house at FTB and can be completed within 1 to 2 days.
  - All other information requests can take from 8 to 12 weeks or more to receive depending what type of information is requested.
  - If you do not receive a response within the time frames noted above, do not submit another 6227. Contact the FSSAS-ABS IRS Liaison (see below).
- **What to do with the IRS Information when you are done with it?**

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- Place the IRS information in your "CONFIDENTIAL MATERIAL FOR DESTRUCTION ONLY" box at your desk.
- FTB 6175 (green or orange) will no longer be attached to the IRS information, as a result of the new procedure above.

If You Need Assistance

If you have any questions or need further information, you may contact either FSSAS-ABS Liaison below:

- Estela ********** at 916.845.**** (Estela.**********@ftb.ca.gov) or
- Francisco ***** at 916.845.**** (Francisco.*****@ftb.ca.gov).

Use the link below to access IRS website for explanation on transaction codes, freeze codes, source codes, disposal codes, and more.

http://www.irs.gov/pub/irs-utl/document_6209-2003.pdf

16.3 Incorporating the RAR With the Taxpayer's File

16.3.1 Incorporating the RAR for PIT and General Corporations

To determine if a federal audit is in progress, you should contact the Federal/State Special Audit Section (FSSAS). If during the course of an examination, you determine that federal activity is occurring, or has occurred, follow these:

Revenue Agent Reports (from IRS) on Years Under Examination

- **Federal Audit in Progress** - If there are no state issues for audit, forward the case to the FSSAS Unit in Central Office (see the mail stops listed below). Secure a copy of the IRS request for information, and a federal waiver if applicable. Otherwise, continue the examination of the state only audit issues.
- Federal Audit Complete.
  1. If you receive a federal **No-Change** letter and there are no state issues, attach the letter to the back of the return to which it applies and treat as a survey case. Otherwise, continue the examination of the state only audit issues.
  2. If federal adjustments are made and there are no state issues, get a copy of the RAR and forward it to the FSSAS Unit in Central Office (see the mail stops listed below).
  3. If you are going to work the RAR with the state adjustments, you must notify the FSSAS Unit at the time you receive the RAR. This is especially important because you may not complete the audit for the state issues for some time. By coordinating with the FSSAS Unit, the case can be put on the RAR PIT or Corporation Local Area Network with comments. When the RAR comes in through normal channels, the FSSAS Unit will not issue a Notice of Proposed Assessment inadvertently. If the FSSAS Unit receives an RAR and finds that the case is assigned to an auditor, the staff in the FSSAS Unit will contact you before taking any action. **NOTE**: If federal adjustments are based upon the lack of substantiation, give the taxpayer an opportunity to submit substantiation before closing the examination.
- **Federal Audit Protest** - If an RAR is being protested or appealed, get a copy of the RAR and forward it to the FSSAS Unit in Central Office (see the mail stops listed below). **NOTE**: If the state does not conform to the federal statute, or has a different statute, you may make a state adjustment without regard to the federal decision.

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1. If federal adjustments are made and there are no state issues, get a copy of the RAR and forward it to the FSSAS Unit in Central Office (see the mail stops listed below).
2. If you are going to work the RAR with the state adjustments, you must notify the FSSAS Unit at the time you receive the RAR. This is especially important because you may not complete the audit for the state issues for some time. By coordinating with the FSSAS Unit, you can put the case on the RAR PIT or Corporation Local Area Network with comments. When the RAR comes in through normal channels, the FSSAS Unit will not issue an NPA inadvertently. If the FSSAS Unit receives an RAR and finds that the case is assigned to you, the staff in the FSSAS Unit will contact you before taking any action. **NOTE**: If federal adjustments are based upon the lack of substantiation, you should give the taxpayer an opportunity to submit substantiation before closing the examination.

RAR on Years Not Under Examination

- **Federal Audit in Progress** - Forward the federal information to the FSSAS Unit in Central Office (see the mail stops listed below). Secure a copy of the IRS request for information, and a federal waiver if applicable.
- **Federal Audit Complete** - Get a copy of the RAR and forward it to the FSSAS Unit in Central Office (see the mail stops listed below).
- **Federal Audit Protest** - Get a copy of the RAR and forward it to the FSSAS Unit in Central Office (see the mail stops listed below).

Upon receipt of an RAR, you should write across the top of the RAR in red, **Voluntary** the date received, and your initials. Forward the RAR to:

PIT

FSSAS Unit - Pending Federal
Voluntary Team
Mail stop: F310

Pending Federal (PF). The GTA RAR Unit keeps a file for audit cases where a protest or written correspondence is received from taxpayers in response to a Notice of Proposed Assessment indicating the case is still open with the IRS because of ongoing litigation. The RAR unit will withhold finalizing a protested NPA or withhold collection activity until the IRS makes a final determination.

CORP

FSSAS - ADF Unit
General Corporation Revenue Agent Reports
Mail stop: F310

Audit Determination File (ADF) The FSSAS Unit keeps a file for audit cases where taxpayers informs us that the IRS is conducting an audit at the same time we began our state audit. Files held without payments are called ADF files. When the taxpayer anticipates owing additional tax and has made a pre-payment, we call the cases NPA cases. We hold these payments in suspense and hold all cases until IRS makes a final determination.

Check **RAR Pend - FSSAS** on the Audit Report - Form FTB 6430 when routing. For additional routing instructions, see MAP Routing the Physical & Electronic files.

SOL for RARs

It is important that these cases receive special handling due to the shorter statute.

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When any written notification is received within six months of a final federal determination dated before January 1, 2000, the statute of limitations for voluntary Revenue Agent Reports is two years from the date of notification. For final federal determinations dated on or after January 1, 2000, the notification must be **sufficiently detailed** to allow computation of the resulting California change before the statute of limitations starts. Once the required documentation has been received, within the six-month period for reporting, the statute of limitations is two years. Under both old and new law if notification is received after the expiration of the six-month period for reporting, the statute of limitations is four years from the date of notification.

If the FSSAS Unit receives an RAR and finds that the case is assigned to you, they will contact you before taking any action.

If you have any questions, please contact the FSSAS Unit at **916.845.3304**. You must issue any assessment based on the federal change within the appropriate timeframes (See MAP Statute of Limitations, for additional information).

16.3.2 Incorporating the RAR for Apportioning Corporations

When an RAR is received from the IRS, the Multistate Audit Central Office Unit will obtain the folder from Data Services. The auditor assigned the RAR must first review the taxpayer's file to determine an appropriate action based upon the following steps:

VERY IMPORTANT: The first page of all audit files containing IRS information must be stamped with the following, **FILE CONTAINS CONFIDENTIAL IRS INFORMATION**.

1. Determine if an NPA has been issued for each taxable year covered by the RAR. Review the BETS conversation **** to make this determination. Also, check to see if an amended return has been filed reporting the RAR changes.
2. If an NPA has been issued, determine the extent, if any, that the RAR issues were adjusted. The RAR adjustments may have been incorporated with a previous FTB Field Audit NPA or an NPA reflecting the RAR adjustments may have already been issued. Review the Narrative Report to determine this. The auditor must take care not to duplicate RAR adjustments that have previously been made.
3. If a copy of the RAR is in the file and has already been issued or reported in an amended return, the auditor may either destroy the RAR or write **duplicate/already worked** in red on the RAR and place it into the file.
4. If the NPA does not include the RAR adjustment, issue an NPA using the prior NPA or last return accepted as the starting basis for your NPA. This includes combination in a manner consistent with that of the audit determination, as well as using the apportionment percentage per the audit determination. If the RAR years were settled by the Settlement Bureau, the settlement agreement may contain the apportionment percentage for future RAR adjustments.
5. If no NPA has been issued, the auditor should determine if the returns are in the field. If the RAR years are under current audit by the field, route the RAR to the appropriate program office using form FTB 7024. If only some of the returns are in the field, send a copy of the RAR with a notation to inform the field auditor what years will be issued by central office. If the RAR is on PASS, the auditor must correctly transfer the case to the appropriate Program Office or responsible owner.

If none of the above steps apply, audit the RAR as discussed in MATM 5310.

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16.4 Federal Adjustment With a California Tax Effect in Different Years

The tax effect of a Revenue Agent Report adjustment may apply to different years for California purposes than federal purposes for such issues as net operating losses, tax credits or other carryover items. For example, a taxpayer incurs research and development expenses in 2004 and claims a federal research and development credit. The amount of the federal credit exceeds the federal tax in 2004, so the excess credit carries forward to 2005 and 2006. While the federal statute of limitations is open for 2005 and 2006, the Internal Revenue Service examines the carry forward credits claimed for those years and makes a final federal determination that the original expenses claimed on the 2004 return were excessive. The expense adjustments have no net federal tax effect for 2004, but reduce the amount of the federal credit carry forward to 2005 and 2006. This results in federal assessments of additional federal tax for those years, based on the disallowance of expenses originally claimed on the 2004 federal return.

A taxpayer claims a California research and development credit that is fully used in 2004. Assume the normal California statute of limitations has expired for assessments of additional California tax for 2004. Under these circumstances, an NPA would be issued for 2004 reflecting the federal disallowance of 2004 expenses that gave rise to the federal changes actually made for federal purposes to the 2005 and 2006 federal tax years.

R&TC Section 18622(a) and (b) require the taxpayer to report federal changes for any year that increases California tax for any year. Although changes only need to be reported by individuals if they increase the amount of California tax for any year, the statute was specifically amended in 1993 to clarify that due to state and federal differences in carryovers and credits, a federal adjustment for one year could result in a California tax change in a different year.

R&TC Sections 19059 and 19060 authorize the Franchise Tax Board to issue a Notice of Proposed Assessment resulting from federal adjustments required to be reported under R&TC Section 18622(a) and (b). Nothing within R&TC Section 19059 or 19060 requires the Notice of Proposed Assessment be issued for the same year as the federal tax adjustment resulting from the final federal determination of a change to income, deductions, or credit amounts. They allow assessments for all adjustments that **result from** the federal determination.

Similarly, R&TC Section 19311 uses the same **resulting from** language when granting the taxpayer the right to file a claim for refund within two years of the final federal determination; therefore, the same rationale would apply when allowing claims for refund. A taxpayer can claim a refund for a different year than a federal refund was allowed if the California tax effect is in a different year due to the application of carry forwards or other state-federal differences.

Therefore, although the normal California statute of limitations had expired for 1996, we would issue a NPA when applying Revenue Agent Report adjustments where the change to income, deductions, or credits was to a federal year that had no net tax effect from the change.

Note: This does not apply to a year in which the federal statute of limitations to assess the tax resulting from the change barred the corresponding federal assessment resulting from the change. In that case, there is no federal **determination** within the meaning of R&TC Section 18622, so no California change may be made.

EXAMPLES

1. Taxpayer claims a $100,000 loss on its year one federal return and then has income of $20,000 for the next six years, using up the federal NOL in year six. For California, there is no carry forward, so the taxpayer pays tax on $20,000 of income for each year two through seven. Then, the Internal Revenue Service audits year 6 and determines the Year two income was really $40,000, disallowing the NOL carry forward and causing a year six

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deficiency. Now, Year two is barred by both the state and federal statute of limitation. The Franchise Tax Board can propose an assessment for Year two based on the federal determination of additional income for Year two. However, the Franchise Tax Board is limited to the issue adjusted by the Internal Revenue Service. Similarly, if Internal Revenue Service determines the Year two income was really zero and gives a refund for Year seven, the taxpayer can claim a California refund for Year two, limited to the adjustment to income allowed by the Internal Revenue Service. The reason an assessment could be issued in the above example is twofold: First, the taxpayer had a reporting requirement under R&TC Section 18622 which is the basis for reopening the statute of limitations under R&TC Section 19059 or 19060 for issuing deficiencies. Second, R&TC Sections 19059 or 19060 do not limit the California adjustments to the same year as the federal assessments.

2. The Internal Revenue Service issues a Revenue Agent Report for Year one, proposing an increase to income of $10,000. Taxpayer successfully argues the Internal Revenue Service assessment notice was mailed to the wrong address and so is invalid. In this case, California may not propose an assessment because there was no federal determination as there was never an actual assessment based on the federal Revenue Agent Report.

If you have any questions or concerns, please contact ******** ********* ********** or ******| ******* **********.

16.5 Unagreed RARs and Pending Federal

Unagreed RAR

Sometimes an RAR is received that is **unagreed** or is pending a federal determination in tax court. We have an agreement with the IRS not to issue assessments on unagreed RARs received from the IRS until a settlement is reached. However, we issue assessments on **agreed** RAR adjustments.

Prior to 1/1/2000, a final federal determination was defined as an irrevocable determination or adjustment of a taxpayer's federal tax liability from which there exists no further right of appeal either administrative or judicial. In other words, there was only one final federal determination per year. After 1/1/2000, the law changed and the date of each final federal determination is the date on which each adjustment or resolution resulting from an Internal Revenue Service examination is assessed pursuant to IRC Section 6203. In other words, there can be more than one federal determination per year. The easiest way to identify the final federal determination date is the date the assessment posts to the Business Master File (BMF).

After 1/1/2000, the auditor should determine if the assessment is final vs. whether the taxpayer agrees or not. It is possible the taxpayer could allow the RAR to finalize, pay the assessment, and file a claim for refund. If we delay issuing the assessment until a decision is issued on the claim, we may find the statute expired to issue the assessment. If the taxpayer files a claim based on a federal report that is not final, the auditor has the option to forward the claim along with all related material (original return, prior amended returns, field audit reports, protest reports, etc) to the following:

MSA - PF coordinator - Alfonso *******, MS F-360.

GTA FSSAS Unit - PF coordinator for PIT - Donna ****** or Gabriela *******, MS F-310.

GTA FSSAS Unit - PF coordinator for Corporations – Tom *******, MS F-310.

Pending Federal – Audit in Process

When a taxpayer protests an NPA on the basis of pending federal action, it is considered to be a **Pending Federal (PF)** case. (Designated PFI for general corporations.) The taxpayer will

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generally file a protest with the department requesting that no further action be taken on the NPAs pending the final federal settlement.

If during an audit, you are notified by the taxpayer or representative that the Internal Revenue Service is auditing the same or different years, the case should be classified as a **pending federal** case if the federal examination is not complete.

You should advise the taxpayer that when the federal audit is finalized, a complete copy of the revenue agent's report should be mailed to:

For Apportioning Corporations:

FRANCHISE TAX BOARD
MS F360
PO BOX 1468
SACRAMENTO CA 95812-1468

For PIT and C-Corporations:

FRANCHISE TAX BOARD
MS F310
PO BOX 1468
SACRAMENTO CA 95812-1468

Follow-up activity on **pending federal** cases is performed by the support staff in the Multistate Audit Unit at Central Office or the GTA FSSAS Unit at Central Office. Transfer all PIT, PTEs, and Nonapportioning C-corporations physical files to the Audit Business Support who will route the physical file to the RAR Unit. Transfer the PASS files to the 389 Audit/Support/GTA Review group worklist. Make sure to put a sticky note in the PASS file indicating where the case needs to go. To facilitate follow-up, make sure the name and phone number of the IRS contact is in the file. In addition, mark the box on FTB Form 6430 to indicate an IRS examination is in process and provide a workpaper reference on the workpaper reference line.

Required Action – Pending Federal Cases

- Determine that an IRS audit is in process by gathering substantiation from the taxpayer, (for example, scheduling information or any type of audit contact), and an NPA has been issued, for an unagreed RAR.
- Contact the taxpayer by telephone or by letter to inform them that the case is being referred to Pending Federal.
- Change the initials on inventory listing to PF and refer the case to the Pending Federal desk. The auditor should make all necessary transfers or updates on PASS.

Annually the Pending Federal desk will send a follow up letter to determine the status of the IRS action. If the taxpayer replies that IRS action is still in process, the pending federal desk will change the inventory list for a follow-up to the next year. If no reply is received or after the case has been in Pending Federal for three years, the Pending Federal desk will complete Form FTB 6227, requesting a BMF transcript to determine if the IRS has closed the case. Once the BMF transcript is received, the case will be referred to an auditor for analysis.

No action is taken on a Pending Federal case until the final federal determination has been made. Pending Federal cases are sent to Data Services and held for one year. A letter is then sent to the taxpayer requesting the status of the Internal Revenue Service audit. When the taxpayer responds to our request with a final federal determination the case is pulled from Data Services and sent to the initiating auditor to be worked.

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16.6 Corporate Taxpayer Not Identified

Occasionally, Audit receives an RAR on a corporation for which no record can be found. In those cases, the FEIN and alpha cross-reference files should be checked on BETS (****). If the corporation is not found, send special letter Form FTB 4841 to the corporation. If no reply is received, the case is referred to the unit supervisor for final determination and disposition. The supervisor may close the file or refer it to the appropriate field office, filing enforcement, etc.

16.7 Recording RAR Revenue

Only one revenue code may be used to record revenue from an NPA. The additional assessment cannot be split to credit a portion to RAR and a portion to another audit program. When making assessments that contain both RAR and other audit adjustments, credit the revenue to the audit program that generates the revenue.

For example, while reviewing an amended return requesting a $2,000 refund based on an RAR, the auditor noticed a non-RAR adjustment resulting in additional tax of $1,000. In this case, the RAR revenue code would be used, since the revenue was found under the RAR audit program.

16.8 RAR Indicator Codes

The sixth digit of the seven-digit revenue code is used as an IRS Indicator Code to identify adjustments based on RAR. See MAP Revenue Codes.

16.9 Federal Adjustments Based on Copies of Franchise Tax Board NPAs

If the RAR was the direct result of the federal government receiving a copy of our NPA and the adjustments are the same, place the RAR in the folder and return the case to files.

However, if the adjustments are not the same, complete as follows:

- Original NPA was issued by the Audit division and not protested. Make all changes applicable to conform to the RAR.
- Original NPA was issued by Technical Resource Section protested and notices of action issued. Discuss with the unit supervisor.
- Original NPA issued by field auditor and not protested. Allow field audit adjustments to stand if such adjustments are similar to those on the RAR. If different, discuss with the unit supervisor for possible adjustment or re-referral to field for determination.
- Original NPA issued by field auditor, NPA protested and notice of action issued. Discuss with the unit supervisor.

16.10 Federal Amended Returns

If you receive a federal amended return before completing your audit, follow the procedures listed below:

- If a federal examination of the amended return is pending or incomplete, contact the Federal/State Examination Unit to verify the examination. If the amended issues are the same as the state audit issues, advise the taxpayer to file amended returns with us. We will process the state amended returns when the taxpayer tells us about the final IRS action on the federal amended returns, see MAP Informal Claims for Refund for additional Protective Claims information.

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- If the amended issues are not the same as the state audit issues, you should request a copy of the Notice of Refund, RAR, etc., from the Federal/State Examination Unit, once the final action is taken on the federal amended returns. Consider the amended return adjustments at audit, to the extent applicable for California purposes.
- If a federal examination of the amended return is complete, you should seek proof of the examination (Notice of Refund, RAR, etc.), and consider the amended return adjustments at audit, to the extent that they apply to California purposes.
- If there has been no federal examination of the amended return, and there is no sign that a federal examination is pending, address the issues in the same way as any other position a taxpayer might raise at audit. That the IRS issued a refund without examination does not control a state audit. Depending upon the adjustment, you may need to audit the issues raised on the amended returns unless the federal amended return treatment is clearly appropriate for California purposes.

16.11 Senate Finance Committee and Internal Revenue Service Special Task Force Review

During an examination, taxpayers may tell us that the Senate Finance Committee (SFC) or the Internal Revenue Special Task Force (ISTF) is reviewing their case. The Commissioner of the Internal Revenue Service has established a special task force to resolve cases brought before the SFC. These cases involve taxpayers that have written letters to the SFC with unresolved issues with the IRS in at least one tax year. The SFC reviews these letters and asks taxpayers to sign a waiver authorizing the committee to forward the cases to the ISTF in Washington D.C. for resolution. The ISTF assigns the cases, through the IRS Advocate's Office, to a Problem Resolution Officer in a District Office or a Service Center near the taxpayer's home.

Once assigned, the IRS will review these cases and actively seek to resolve all potential issues, including issues the taxpayer has not raised. At the end of the examination, the taxpayer receives a notice of tax change or a closing letter.

Cases scheduled for review by the ISTF will not show as reopened cases on the Individual Master File transcript. Consequently, statements by a taxpayer that a case is in review by ISTF cannot be verified with an IMF transcript.

The IRS has an internal control database that lists the cases under ISTF review. We can get information on specific cases by contacting the IRS. We have made arrangements to fax the Request for Federal Tax Information - Form FTB 6227 to the Fresno Service Center. The IRS will fax a response showing:

- If the case has been referred by the SFC.
- To whom it has been assigned.

To verify IRS or SFC involvement, contact the Federal/State Examination Unit.

16.12 RARs Received in the Field

RARs received in the field should be forwarded to the GTA FSSAS Unit for PIT and C-Corp taxpayers or the MSA Central Office for apportioning corporate taxpayers for processing, along with surveyed or amended returns, unless the report is for years currently under field audit. When RAR and field audit years coincide, federal adjustments applicable for state purposes should be incorporated into the field audit.

RARs received in the field after an audit has been completed should be forwarded to MSA Central Office for apportioning corporate taxpayers or the GTA FSSAS Unit for PIT and C-Corp taxpayers. If MSA Central Office or the GTA FSSAS Unit is unable to process the RAR for any reason, they may

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return it to the field for assistance. See MAP Incorporating the RAR for Personal Income Tax and General Corporation and MAP Incorporating the RAR for Apportioning Corporations regarding statute of limitations for RARs.

When a RAR is received in the field from a taxpayer or representative, the auditor should write across the top of the RAR in red **Voluntary, date received,** and **initial** to prevent the loss of the statute of limitations, since special statutes apply when RARs are received within six months of final determination.

This same procedure also applies to partial RARs. Sometimes the taxpayer or representative will provide only a page, or a few pages, of the RAR. This may be sufficient if the RAR information provided contains enough information to compute the adjustment. If not, the taxpayer should be notified that they have not met their legal requirements and that the entire RAR, or portions necessary to compute the adjustment, must be furnished for the special statutes to apply. This also prevents the representative from claiming the RAR was furnished timely when it was actually submitted after the required period.

16.13 Information Copies to IRS

An auditor making an adjustment that applies for federal purposes and is within the federal statute should code the NPA to forward a copy to the IRS.

Consideration should be given to undisclosed income that may extend the statute beyond the normal three-year Federal limitation period.

16.14 Abatement Refund Memo

For information regarding Abatement Refund Memos, see MAP Abatement Refund Memo (Form FTB 6163).

Section Revised 08/31/08

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17 Settlement and Offer in Compromise Agreement

17.1 Settlement

17.1.1 Introduction

California Revenue and Taxation Code (R&TC) Section 19442 provides the Franchise Tax Board with the authority to enter into settlement agreements to settle civil tax matters in dispute consistent with a reasonable evaluation of the costs and risks associated with the litigation of these matters. Effective January 1, 2003, a settlement agreement may include matters that may be included in a closing agreement pursuant to R&TC Section 19441. The settlement procedure does not take into account a taxpayer's ability or inability to pay.

Civil tax matters in dispute are:

- The protest of a Notice of Proposed Assessment.
- An appeal to the State Board of Equalization.
- An outstanding claim for refund.

The settlement agreements provide the Franchise Tax Board and the taxpayer an opportunity for a quick and expedient resolution. Depending on when the agreements were approved and whether specific issues were addressed in the agreements, the agreements may impact current or subsequent examinations.

17.1.2 Settlement Process

Taxpayers must submit a written request to initiate settlement consideration. Refer taxpayers to FTB Notice 2007-02 for the address to send and list of information that should be in the settlement request.

Following is a summary of the taxpayer and auditor's responsibilities, depending on the type of civil tax matter in dispute.

Civil Tax Matters In Dispute	Taxpayer's Responsibilities	Auditor's Responsibilities
Protest of Notice of Proposed Assessment	Taxpayers must first file a protest and then send a written settlement request to the Settlement Bureau.	If you receive a settlement request in writing after the case has been closed, contact the Settlement Bureau at 916.845.5034.
Appeal to the State Board of Equalization (SBE)	Taxpayers must first appeal with the SBE and then send a settlement request to the Settlement Bureau along with a copy of their appeal letter. If the case is already on appeal, then only a settlement	Refer taxpayers to FTB 1087 (Business Entities), FTB 1084 and FTB 7277 (Personal Income Tax) for appeal procedures. Also, see MAP Appeals.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Civil Tax Matters In Dispute	Taxpayer's Responsibilities	Auditor's Responsibilities
	request is necessary.	
Claim For Refund	Taxpayers can request settlement after a determination that all or part of the claim will be denied.	Refer any settlement request in writing to the Settlement Bureau. Before the case can be considered for settlement, it will have to go through the review process. If the case does not meet review criteria, then send the case directly to the Settlement Bureau after you have completed your work. If there are NPAs to be issued along with action on a claim, then the steps for protest would apply.

The Settlement Bureau reviews all requests for settlement consideration to determine if the case is a proper candidate for the settlement program. After reviewing the taxpayer's file and the taxpayer's good faith settlement offer, the Settlement Bureau will contact the taxpayer or the taxpayer's representative with its determination as to whether the case will be accepted into the settlement program. If it is determined that there is a bona fide factual or legal dispute, a case will generally be accepted into the settlement program.

However, acceptance of a dispute for settlement is discretionary. Upon review, a case may be rejected for a variety of reasons. For example, if the Settlement Bureau staff determines there is a negligible litigation risk to FTB's position in the case, or if the case has not been sufficiently factually developed to allow proper settlement consideration, the case would most likely not be accepted into the settlement program.

If there is no civil tax matter in dispute, the taxpayer will not be accepted into the Settlement program and the file will be returned to the unit that worked the case prior to receipt of the settlement request. The auditor will need to complete the case and follow normal closing procedures (See MAP Closing an Audit).

For more information on the settlement process, see FTB Notice 2007-02 or the Settlement Bureau's Frequently Asked Questions.

17.1.3 Audit Guidelines

- If you receive correspondence from a taxpayer requesting settlement after a notice is issued or a case is closed, contact the Settlement Bureau at 916.845.5034.
- If you discover a pending settlement for the same year you are examining (secondary examination), contact the assigned Settlement officer immediately.
- If available, review the issue folder **Settlement Memo** created by a Settlement officer in the PASS workpaper file or the Sticky Note in the primary case unit. The issue folder or Sticky Note will contain a memorandum informing Audit of the actions affecting the settlement years or subsequent years.

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- You may assist the Settlement officer by disclosing information in the initial audit narrative of any anticipated secondary audits.
- At times, you may not be able to open the case file because the taxpayer is in settlement negotiations. Under these circumstances, contact the Settlement officer.
- For more information, see the Settlement Bureau's Frequently Asked Questions.

17.1.4 Impact of Settlement on Audit Determination

The settlement agreement may address how a specific settlement adjustment will be treated in subsequent years or if an adjustment will affect any other pending audits.

All settlements entered into are considered final and may not be appealed, unless upon a showing of fraud or misrepresentation of a material fact. Settlement years are generally closed to further actions, except for final federal determinations, any adjustments due to any abusive tax avoidance transactions, and amounts due and payable as of the date the taxpayer signs the settlement agreement. Generally, the FTB is barred from making further assessments, and the taxpayer is barred from filing any claims for refund. For answers on how a specific settlement may affect a matter under review contact the Settlement Bureau Director.

If the agreement does not address how the settlement adjustments will effect other years, the settlement adjustments are disregarded for subsequent years. If an agreement is final and a closes the years and secondary examination for the same year is not addressed, any other adjustments may be barred from an assessment. An exception is provided upon showing of fraud or misrepresentation with respect to a material fact.

Following are impacts of a settlement agreement on a subsequent or secondary examination:

- Unity determinations are based on the strengths and facts of a current year cycle and not on a prior settlement determination.
- Agreed adjustments effecting carryover adjustments are only considered if addressed in the settlement agreement. Examples:
  1. Suppose the audit schedules were revised by the protest hearing officer and the settlement officer. However, the final settlement agreement does not address the effect of the Alternative Minimum Tax on the tax credit for the subsequent year. The auditor for the subsequent year examination would use the Alternative Minimum Tax Credit based on the Alternative Minimum Tax determined by the hearing officer.
  2. The Internal Revenue Service completes its examination and issues a final federal audit report after the settlement agreement is approved. The settlement agreement does not specify that the revised apportionment formula is to apply to the federal audit adjustment. The auditor is required to use the apportionment percentage from the last determination to compute the additional tax on the federal audit adjustment.
  3. A secondary examination was completed after a settlement agreement was approved for the same year. The settlement agreement does not address the secondary audit. The assessment likely may not be issued because a settlement agreement generally bars any additional assessments with the exception of fraud or material misrepresentation of a material fact. Check with the Director of the Settlement Bureau to see if the assessments can be issued.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

17.2 Offer in Compromise Agreement

R&TC Section 19443 authorizes the Franchise Tax Board to enter into compromise agreements with taxpayers regarding final tax liabilities. The term **tax liabilities,** includes interest, penalties, and other additions to tax.

If a taxpayer is seeking only relief from the duty to pay an undisputed tax liability based on an inability to pay, refer the taxpayer to the Offer in Compromise program at 916.845.4787. See also the Offer in Compromise Frequently Asked Questions in the FTB Public website.

For more information on Offer in Compromise for banks and corporations, see FTB Form 4905BCT.

For more information on Offer in Compromise for individual taxpayers, see FTB Form 4905PIT.

Section Revised 8/31/08

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18 Water's-Edge

18.1 Water's-Edge Introduction

For taxable years beginning on or after January 1, 1988, corporate taxpayers may elect to file on a water's-edge basis. Under a water's-edge election, affiliated foreign corporations are generally excluded from the combined report. However, the water's-edge rules do not override the unitary business concept, or the apportionment and allocation rules of UDITPA.

Depending on the years involved, making the water's-edge election is governed by:

- R&TC Section 25111 – For tax years 1988 through 2002.
- R&TC Section 25113 – For years beginning on or after January 1, 2003.

For taxable years beginning prior to 2003, R&TC Section 25111 allowed taxpayers to make a water's-edge election by attaching a contract, form FTB 100-WE, to the original tax return. For taxable years beginning on or after January 1, 2003, R&TC Section 25113 governs the manner of making a water's-edge election. R&TC Section 25113:

- Replaces the contract with a statutory election.
- Keeps the initial election period at 84 months (seven years).
- Requires that the election be made on a timely filed original return.
- Provides that the FTB may accept other objective evidence that a water's-edge election is intended (similar to the substantial performance of CCR Section 25111.)
- Reforms the acquisition rules, so that a taxpayer's water's-edge election would no longer automatically apply to other non-electing affiliates with which it becomes unitary.
- Provides that taxpayers that have a valid election for taxable years beginning before January 1, 2003, will continue to file on a water's-edge basis.
- Provides that all water's-edge elections entered into prior to 2003 are governed by R&TC Section 25113.
- Makes the "anniversary date" and the "notice of non-renewal" provisions of R&TC Section 25111 inoperative for taxable years beginning on or after January 1, 2003.
- Describes the manner in which a taxpayer may terminate the water's-edge election with and without the Franchise Tax Board's consent.
- Describes the manner in which a taxpayer may re-elect water's-edge after having terminated the election with and without the Franchise Tax Board's consent.
- Provides that the commencement (start) date of an election made prior to 2003 under R&TC Section 25111 continues to be treated as the commencement date of the water's-edge election period for purposes of applying R&TC Section 25113.

For a discussion on the concepts of the unitary method of taxation and its application by California, see Title 18, CCR Section 25106.5 et seq. and FTB Pub. 1061, Guidelines for Corporations Filing a Combined Report. For discussion on corporations making a water's-edge election and the entities included in a water's-edge combined report, see R&TC Sections 25110, 25111 and 25113.

For a guideline on auditing water's-edge taxpayers, see the Water's Edge Manual.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

18.2 Water's-Edge Elections

To make a water's-edge election under R&TC Section 25113, a corporate taxpayer must do each of the following:

- Compute its tax on a water's-edge basis.
- Use Form 100W, California Corporation Franchise or Income Tax Return-Water's-Edge Filers.
- Attach the form FTB 100-WE, Water's-Edge Election, to the timely filed original return (Form 100W) for the year of the election.

If it is unclear whether a taxpayer elected water's-edge treatment on its original timely filed return, the auditor must determine whether there is other objective evidence that the taxpayer intended to make a water's-edge election. To determine whether the taxpayer has made a water's-edge election, the taxpayer must have:

- Computed its tax on a water's-edge basis.
- Not provided any information with its return which conflicts with a water's-edge election. For example, a water's-edge election shall be determined to have been made if the taxpayer has computed its tax on a water's-edge basis even if the taxpayer uses either a Form 100 or a Form 100W and attaches any of the following:
- Any written notification of election to the timely filed original return. This notification may include, but it is not limited to:
    - A statement attached to the original timely filed return indicating that a water's-edge election was being made.
    - Any substantially completed water's-edge form attached to the original timely filed return (i.e., 100-W, 2416, 2411, 2424).

If a corporate taxpayer files Form 100W for the first time, we will process and post that return in BETS as a water's-edge taxpayer even if there is no election (form FTB 100-WE) attached to the return. That is, we deem a taxpayer filing Form 100W to have made a water's edge election. Audit staff is responsible for verifying the validity of the water's-edge election. However, audit staff may seek the assistance of TRS specialists.

There is no Form 100W for S corporations that have elected water's-edge treatment. Water's-edge S corporations must file using Form 100S, California S Corporation Franchise or Income Tax Return, and attach Form 100-WE - Water's-Edge Election to their returns.

For more information on water's-edge elections, see Chapter 3 of the Water's-Edge Manual and FTB Notice 2004-2 (May 3, 2004).

18.3 Processing of Water's-Edge Elections

Form FTB 100-WE, Water's-Edge Election, is used to make the election. This form contains the election language and must be attached to the timely filed original return, Form 100W. Water's-edge elections are posted to BETS and can be viewed under conversation ****. When scoping returns for audit, it is very important to review the return for a water's-edge election. If the return contains a water's-edge election, make sure the election information is posted to BETS (****). If not on BETS or you are unsure whether the election is posted, contact a TRS specialist for assistance.

The following circumstances may cause a first time water's-edge return to be improperly processed and posted to BETS as a worldwide return:

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- **Question C on the Form 100W indicates that the election was made in prior years –** For taxable years beginning on or after January 1, 2000, FTB requires water's-edge taxpayers to file their returns using Form 100W. This form improves the department's ability to identify water's-edge filers and reduces controversies over whether a taxpayer made a valid water's-edge election. Thus, if a taxpayer files Form 100W for the first time and there is no water's-edge shell in BETS (****), BETS automatically creates a water's-edge shell using the beginning date of the period covered by the return. However, often times, taxpayers indicate in Question c that the water's-edge election was made in a prior year. This discrepancy in dates prevents BETS from creating a water's-edge shell even if no water's-edge flags are on the system. Contact a TRS specialist for assistance. A water's-edge shell needs to be created in BETS (*********).
- **Affiliation or Name Changes** – Sometimes unitary groups change key corporations under which a combined report was filed. For example, in one year a water's-edge election is filed under a particular taxpayer's name while in the subsequent year the election is filed under another name. The subsequent year may appear to be a first-year return without the proper forms, or it may appear as an invalid election. Usually when this occurs, the taxpayer will indicate that a change has transpired and will attach a list of entities included in the return. This list can be used to identify the original water's-edge taxpayer. A review of BETS and the taxpayer's list of entities covered by the election may also be used to identify these changes. If the key corporation has changed, a new water's-edge shell is created in BETS under conversation ****, and the status is shown under conversation **** as **transferred**. This means that the water's-edge election is still valid, but it was originally made under a different corporate number.
- **Substantial Performance/Objective Evidence** – if a taxpayer inadvertently fails to satisfy the procedural aspect of making a water's-edge election, the water's-edge election may still be valid if the taxpayer meets the substantial performance test as outlined in Title 18, CCR 25111 or if there is objective evidence that a water's-edge election was intended as indicated in R&TC 25113. See MAP Water's Edge Election. Contact a TRS specialist for assistance. If the taxpayer is deemed to have elected, we need to create a water's-edge shell in BETS (********).
- **Other** - The taxpayer may claim a proper election was made in an earlier taxable year. If this occurs, request all potential water's-edge returns to determine whether a valid election was made and if so, for which taxable year(s). Contact a TRS specialist for assistance. We may need to create a water's-edge shell in BETS (*********).
- **Form 2426 is not attached to the front of the Water's-Edge return** – For taxable years 1999 and prior, and for all S corporation returns filed on a Water's-Edge basis, we asked taxpayers to attach Form 2426 to the front of the Water's-Edge return. The purpose of Form 2426 was simply to help us identify the returns as Water's-Edge, so we could process them accordingly. However, this form was not always attached to the front of the return. If not attached, we may have inadvertently processed and posted the return to BETS as a worldwide return. If the return contains a Water's-Edge election and was processed as a worldwide return, contact a TRS specialist for assistance. A Water's-Edge shell needs to be created in BETS (*********).

18.4 Viewing Water's-Edge Information in BETS

For TYE beginning on or after January 1, 1994, election information is in BETS. When a taxpayer makes a water's-edge election for the first time, a water's-edge shell is created in BETS (*********).

Audit staff can view water's-edge information under conversation **** which shows:

- Election beginning and ending date.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- Anniversary date (obsolete).
- Status, either:
    - 1 – No Contract.
    - 2 – Invalid.
    - 3 – Terminated.
    - 4 – Unprocessed (TRS has not verified whether or not the election is valid).
    - 5 – Processed (TRS looked up the election and considered it valid).
    - 6 – Nonrenewal.
    - 7 – Transfer (water's-edge election made under a different corporate number).
- Status Date.
- Termination Date.

Most of the water's-edge shells in BETS have a **Status** of either: **Processed** or **Unprocessed**. When the water's-edge shell is created, the **Status** automatically defaults to **unprocessed**. If TRS reviews the election and determines that it is valid, TRS changes the status to **Processed**. However, with the introduction of the **substantial performance** concept in October 1998, TRS no longer reviews each water's-edge election. (Title 18 and CCR Section 25111) Accordingly, the audit staff should treat a taxpayer with an **unprocessed** status in conversation R184 as having a valid water's-edge election, unless audit staff determines that the election is invalid.

18.5 Notice of Nonrenewal

Water's-edge taxpayers filed form FTB 1116, Notice of Nonrenewal of Water's-Edge Contract, to notify the FTB of their intent not to renew the contract. This form is now obsolete. As a result of the enactment of R&TC Section 25113:

- Form FTB 1116, Notice of Nonrenewal of Water's-Edge Contract, is obsolete.
- For taxable years beginning on or after January 1, 2003, water's-edge taxpayers no longer need to file a Notice of Nonrenewal to terminate the water's-edge election after a 84 month period. Under the new law, a water's-edge election must still be for an initial term of 84 months, but it remains in effect thereafter, year by year, until terminated by the taxpayer.
- A previously filed Notice of Nonrenewal that causes a water's-edge contract to end on a date that falls within a taxable year that begins on or after January 1, 2003, determines the end of a taxpayer's 84-month period.

BETS (****) will continue to display nonrenewal data. This data is important in deciding whether a taxpayer may automatically terminate its water's-edge election after the initial 84 months election period, or it must obtain the FTB's consent to terminate the election. For more information on this subject see FTB Notice 2004-2, May 3, 2004.

18.6 Request to Terminate Water's-Edge Election

For taxable years beginning on or after January 1, 2003, R&TC Section 23113 provides the rules for terminating the election as follows:

- **Without the FTB's Consent**
    - If the water's-edge election has been in effect for at least 84 months, the taxpayer does not need the FTB's consent to terminate the election. The election may be terminated by timely filing an original return on Form 100 on a worldwide basis.

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    - The FTB's consent is also not required if the election is terminated as a result of an affiliation change meeting the specifications of R&TC Section 25113.
- **With the FTB's Consent** – If the water's-edge election has been in effect for **less than** 84 months, the taxpayer may request the FTB's consent to terminate the election under **good cause** by filing form FTB 1117, Request to Terminate Water's-Edge Election. See instructions for form FTB 1117, which explain how, when and where the form needs to be filed. A member of TRS reviews the request and determines whether or not the taxpayer meets the termination requirements outlined under R&TC Section 25113(c)(10). If the termination request is granted, TRS will notify the taxpayer and update the water's-edge shell in BETS (*********).

If a water's-edge taxpayer terminates its election, the termination date is displayed in BETS under conversation ****.

For taxable years beginning on or after January 1, 2003, if the taxpayer terminates the water's-edge election with or without FTB's consent, it must file on a worldwide basis for at least 84 months before making another water's-edge election, R&TC Section 25113. When scoping returns, audit staff should verify that a taxpayer is not attempting to re-elect water's-edge within the 84 month prohibition period. For more information see FTB Notice 2004-2, May 3, 2004.

18.7 Water's-Edge Election Pre-1994

For taxable years beginning prior to December 31, 1993, water's-edge taxpayers were required to pay a water's-edge election fee. (See former R&TC Section 25115.) This law section was repealed effective January 1, 1994. The Water's-Edge fee is not posted to BETS. It maintained in a water's-edge database located in BES. This is the only database available for pre-1994 water's-edge taxpayers. Audit staff rarely updates or request information from this database. In a rare occasion (e.g. working a protest or appeal case), there may be a need to verify or revise the water's-edge election fee. If there is need to access this database, contact a TRS specialist for assistance.

18.8 Water's-Edge Failure to Furnish Information Penalty

R&TC Section 25112 provides for the assessment of a failure to furnish information penalty relating to information required of taxpayers filing a water’s-edge election. The penalty may only be issued through an NPA.

Amount of the Penalty

Each taxpayer that fails to furnish information described in R&TC Section 25112(b) within 60 days of a written request, may be assessed a penalty of $1,000 for each taxable year the information was not timely furnished. (R&TC Section 25112(a) and Regulation 25112(a)(1).).

Each taxpayer that fails to furnish information under R&TC Section 25112(b) within 90 days of notification by a bureau director or a supervising counsel, will be subject to an additional $1,000 per month (or fraction thereof) not to exceed $24,000. (R&TC Section 25112(c) and Regulation 25112(a)(4).)

Effective January 1, 2002, the immediate supervisor's approval is required anytime a failure to furnish information penalty is assessed.

The water's-edge failure to furnish information penalty can be assessed at the same time as other penalties (such as a delinquency penalty) on an NPA.

Notice of Proposed Assessment

The penalty is assessed on form FTB 6830 BCT NPA Worksheet by entering the following:

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- Penalty Description – **WE-INFO PEN**.
- Amount of Penalty.
- NPA Paragraph.

Interest is charged from the date of the NPA.

NPA Paragraph

Use this paragraph for initial failure to furnish information penalty:

> In accordance with Revenue and Taxation Code section 25112(a), we have assessed a penalty for failure to supply information or documents as required under section 25112(b). Each taxpayer must pay a penalty of $1,000 for each taxable year for which the information was not timely furnished.

Use this paragraph for any increase in the penalty for failure to furnish information:

> In accordance with Revenue and Taxation Code Section 25112(c), we have assessed an additional penalty for failure to supply information or documents as required under section 25112(b). Each taxpayer must pay an additional penalty of $1,000 per month for each taxable year for which the information was not timely furnished, not to exceed $24,000.

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19 Estates and Trusts

19.1 Introduction

Estates and Trusts are audited by the Estates and Trusts Unit within the Pass-Thru Entity Program.

Trusts

A trust is an entity created under the state law where it was formed. It involves the creation of a fiduciary relationship between a grantor, trustee, and beneficiary. It may be created by the owner during their lifetime or by an instrument taking effect upon the death of the owner.

Estates

An estate is created to settle the final matters of an individual upon death. It is a taxable entity separate from the person who died. It exists until all the person's assets are distributed. Income tax on the estate is generally computed in the same manner as an individual. It is administered by a fiduciary.

19.2 Estate Income Tax Certificates

For certain estates, the Probate Division of the California Superior Court cannot allow the estate to close unless we certify to the Court for both the decedent and the decedent's estate that:

- All taxes that are due are paid.
- All taxes that may become due are secured by payment of a deposit.

R&TC Section 19513 requires the fiduciary to get a certificate from the Department if:

- The fair market value of the assets of an estate exceeds **********.
- Assets having a total value of ******** or more can be distributed to one or more nonresident beneficiaries.

19.2.1 Purpose of Certification

The certification requirement prevents assets under the control of the Probate Court of California from being distributed out of state without our authorization. The certificate notifies the Superior Court, not the fiduciary.

The certificate allows the court to accept the **final account** of the fiduciary by indicating that, as of the date that we issue the certificate, we are not aware of any unpaid tax, and that any identified potential liability has been secured.

The tax certificate (1) does not relieve the estate of liability for any taxes due or which may become due for the decedent or the estate, and (2) the certificate does not relieve the fiduciary of the personal liability for taxes and other expenses as imposed by R&TC Section 19516.

19.2.2 Request for Certification

Fiduciaries routinely request a certificate from the FTB when they request a final hearing date from the probate court. The court hearing is usually scheduled within a few weeks of the fiduciary's petition to close the estate.

R&TC Section 19514 mandates that we have 30 days from the date of the request to either:

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1. Issue the certificate.
2. Notify the requester of the amount of payment or deposit required to get the certificate.

The Request For Estate Income Tax Certificate - Form FTB 3571 must be completed by the fiduciary or the fiduciary's representative and mailed to us. They can get the form from 1) the Franchise Tax Board website, 2) the California Package X Tax Forms Catalogue or by writing to:

California Franchise Tax Board
Tax Certificate Unit
PO Box 1468
Sacramento, CA 95812-1468.

Also, they can request the form by calling 916.845.4210. They cannot get certification from any of our district offices.

19.2.3 Conditions Required for Certification

When a request is received, the Estates and Trusts unit reviews the decedent's individual and estate Taxpayer Information System accounts and income tax returns. If applicable, the fiduciary must provide:

- Payment of any tax that is currently due.
- Deposits to secure payment of nonbillable (protested or nonfinal) liabilities.
- Deposits to secure potential assessments resulting from issues identified upon examination of the individual returns previously filed.
- A return for all taxable years that have ended even if the return is not yet due, or a cash deposit to secure filing of the return.

19.2.4 Request for Payment Not Yet Due

The last requirement exists because a tax liability accrues at the close of the accounting period during which it was incurred, even though the payment is not due until the due date of the return. We cannot certify to the Probate Court that all taxes have been paid or secured without examining the return.

19.2.5 Determination of Deposit Required to Secure Returns

If the fiduciary is unable to file the return before a scheduled court date, the fiduciary may elect to pay a security deposit to receive certification. The suggested security deposit amount is one and one-half times the amount of the last full year's tax liability or $1,000, whichever is greater.

However, we may modify this amount to reflect negation of non-recurring income reported on the prior year return. We do not consider gains generated from the sale of the estate's primary assets or lump sum retirement fund distributions when determining the amount of security deposit.

Fiduciaries must provide certification to the court even if they have an extension to file a return. However, we will include estimated tax payments/and or remittance made with an Automatic Extension for Fiduciaries - Form FTB 3563, as part of a cash deposit requested.

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19.3 Short Statute Requests - Prompt Assessments

R&TC Section 19517 provides that a fiduciary or other person liable for the tax may request, in writing, to shorten the period for mailing notices proposing to assess tax, to 18 months on all income received or accrued during the decedent's lifetime or by the estate or trust during the administration period.

Under Fed Reg. Section 301.6501(d)-1, the request must:

1. Be transmitted separately from any other document.
2. Indicate clearly that it is a request for prompt assessment under the provisions of R&TC Section 19517.
3. Indicate the kind of income tax, the name and the account number shown on the previously filed California income tax return.
4. Specify the taxable periods for which the prompt assessment is requested.
5. Specify if the request is for the decedent individual income tax returns or for the decedents estate.

We do not have a form comparable to the IRS Form 4810. We will accept the federal form if it is completed to request a prompt assessment.

Things to keep in mind when a short statute has been requested:

- A request under R&TC Section 19517 does not extend the statute.
- Filing an amended return will negate all prior requests for that taxable year.
- Section 19517 does not limit the assessment period on a **Married Filing Joint** return because of the survivor's joint and several liabilities.

The Estates and Trusts Unit enters a comment on the Taxpayer Information Comment Input Screen indicating that a short statute has been granted. Check the Comments Screen to see if the statute is still open before using audit resources on a case.

19.3.1 Processing and Recording Short Statute Requests

The technician processes the requests for a short statute as follows:

- Update address and code the account **DECEASED**.
- Verify that the return is filed for years subject to the short statute request. Inform the fiduciary if we have no record of a return filed.
- Reverse discharged liabilities.
- Provide a copy of the request to collections if the account is assigned.
- Input information on the Taxpayer Information Comment Screen indicating the Statute date.
- Acknowledge receipt of the short statute request to the fiduciary.

19.4 Request for Copies of Estates and Trusts Returns

You may furnish copies of the decedent's individual and estate returns to the fiduciary or the attorney for the fiduciary or to the surviving spouse, if the surviving spouse signed the returns. All such requests are routed to the Data Services and Storage Section, RID unit, Mail Stop C-2. We charge taxpayers for copies of the returns if an issue we opened did not cause the request. See MAP Taxpayer's Request for Copy of Tax Return.

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19.5 Disclosure – Estates

The Security and Disclosure procedures provide that disclosure of information from the return of an estate is authorized to:

- The administrator, executor, or trustee of the estate.
- Any beneficiary in those years he/she received a distribution from the estate.
- The duly constituted attorney-in-fact of any of the foregoing persons, subject to the conditions of inspection prescribed for such person.

19.6 Disclosure – Trusts

The Security and Disclosure procedures provide, in part, that disclosure of information from the return of a trust is authorized to the trustee or trustees, jointly or severally.

A beneficiary is entitled to receive information regarding the extent of their interest in the trust. For example, a beneficiary entitled to the income from a certain asset in corpus would be entitled to know anything affecting the asset and the income it produces. The same beneficiary would not be entitled to information relating to another asset also held by the trust in corpus.

19.7 Penalties on Estate Returns

All penalties applicable to a living individual's personal income tax return are applicable to the individual returns of a deceased taxpayer. See MAP Disclosure for Individuals.

Delinquent Penalty

A delinquent penalty is due from an estate under the following circumstances:

- Returns due, but not filed by the decedent before date of death.

  Unless due to reasonable cause, the **delinquent penalty** imposed by R&TC Section 19131 is assessed in accordance with the length of the delinquency at the time of death.

  Example: Assume the taxpayer (1) died June 20, 19X3, without filing 19X1 and 19X2 calendar year returns, and (2) the fiduciary or the decedent's estate filed the returns subsequent to date of death. The length of the delinquency would be computed from the due date of the returns to the date of death.

- Returns for the year in which taxpayer died.

  Returns for the year of death must be filed by the fiduciary of the taxpayer's estate. The return is due three months and 15 days after the close of the taxable year, the taxable year being the normal 12-month period beginning with the first day of the decedent's taxable year.

  The fiduciary, if one is appointed, or beneficiary must file the return. The surviving spouse may file a joint return if (1) no fiduciary is appointed, or (2) if the appointed fiduciary does not file a **Single** return for the decedent, and if (3) the surviving spouse did not remarry during the taxable year. Unless there is reasonable cause, the penalty for failure to file a timely return is assessed.

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20 Bankruptcy

20.1 Introduction

When a taxpayer files a bankruptcy petition, it can materially impact FTB decisions, including those made by audit. This is true whether the taxpayer is currently in a bankruptcy case or previously filed a bankruptcy case.

For example, if FTB does not timely file a proof of claim in a pending bankruptcy case, it may be precluded from receiving funds from a bankruptcy estate and may be barred from recovering the tax liability in the future. See MAP Bar Date.

In addition, FTB may be barred from taking certain actions, because of the automatic stay or the bankruptcy discharge. Significantly, FTB can be held liable for damages, including attorneys' fees, if it is found to have violated the automatic stay of the discharge.

Because of this, it is important that audit promptly contact those with bankruptcy expertise whenever they become aware that a taxpayer may be in bankruptcy, may have filed a bankruptcy subsequent to the tax year that is being considered, may have confirmed a Chapter 11 lan subsequent to the tax year that is being considered, or whenever a taxpayer contends that the taxpayer's liability is affected by a bankruptcy case.

Under any of these circumstances, contact should be immediately made with both the designated Audit/Bankruptcy Liaison and a designated Bankruptcy Unit member.

When taxpayers tell us that they have filed a bankruptcy petition, you may ask them the chapter under which they have filed. You may also request copies of the bankruptcy documents. See MAP Types of Bankruptcy for some definitions of the various types. You should not, however, delay contacting the designated Audit/Bankruptcy Liaison or the designated Bankruptcy Unit member, while awaiting such information.

If you are auditing a taxpayer who is in bankruptcy, be sure to keep the Bankruptcy Unit informed of the status of the audit and contact them prior to issuing any Notices. Check on BETS or TI to see if the taxpayer has been noted as being in bankruptcy. See MAP Identifying a Taxpayer in Bankruptcy.

20.2 The Bankruptcy Unit

The Bankruptcy Unit is in the Special Programs Bureau of the Accounts Receivable Management (ARM) Division. They coordinate all bankruptcy actions. The Bankruptcy Unit files claims with the Bankruptcy Court, advises other units on bankruptcy procedures, provides training, and coordinates activities among our employees, the Attorney General's Office, and taxpayers on bankruptcy matters.

The Bankruptcy Unit collects amounts owing from taxpayers that have filed for bankruptcy protection. They are an important source of information and support when you audit a taxpayer seeking bankruptcy protection. To contact the Bankruptcy Unit, call the designated Bankruptcy Unit member. The Audit/Bankruptcy Liaison should call first. If the Audit/Bankruptcy Liaison is not available, your Lead Auditor may contact the Bankruptcy Unit.

20.3 Bankruptcy Terminology

There are a number of terms that are important when dealing with a bankruptcy case.

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Automatic Stay - When a bankruptcy petition is filed, an automatic stay is imposed in most cases. Generally, it prohibits creditors and potential creditors from taking collection actions against the person or entity in bankruptcy or against property of the person or entity in bankruptcy. See MAP Automatic Stay.

Bar Date – The Bar Date is the deadline set by the Bankruptcy Court or the Bankruptcy Code for filing a claim for prepetition liability. In Chapter 11 cases, the Court may also set a deadline for filing administrative expenses (post-petition) claims. See MAP Bar Date.

Case Number - By knowing the Bankruptcy Case number, you can get much information. For example:

CASE NUMBER 1-90-12345-11

1 = court number
90 = year filed
12345 = petition number
11 = chapter number

Confirmation Date - The date the reorganization plan is approved by the bankruptcy court. (Only for Chapter 9, 11, 12, or 13.)

Debtor – The person or entity that is in bankruptcy.

Debtor in Possession – The Debtor in a Chapter 11 case where no trustee is appointed.

Discharge – A person or entity may receive a discharge in a bankruptcy case. Among other things, a discharge operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect, recover, or offset any discharged debt as a personal liability of the Debtor, whether or not discharge of such debt is waived.

Mailing Matrix – List of creditors supplied to the court by the petitioner (debtor).

Petition Date - The date a Petition for Bankruptcy is filed with the court.

20.4 Types of Bankruptcy

Bankruptcy Unit actions vary depending on the type of bankruptcy that the taxpayer files.

- **Chapter 7 - (Individual)** – Bankruptcy liquidates assets of Debtor and pays creditors in accordance with Bankruptcy Code priorities.
- **Chapter 7 - (Business Entities)** – Bankruptcy trustee liquidates assets of Debtor and pays creditors in accordance with Bankruptcy Code priorities. The tax liabilities n ot paid from the liquidated assets are not discharged. However, no collection actions should be undertaken without Bankruptcy Unit approval.
- **Chapter 11 - liquidation (Business Entities)** – Business liquidates all its assets and pays creditors in accordance with Chapter 11 plan. The tax liabilities not paid from the liquicdated assets are not discharged. However, no collection actions should be undertaken without Bankruptcy Unit approval.
- **Chapter 11 – reorganization –** A Chapter 11 plan, if approved by the Bankruptcy Court, will determine the rights of the parties related to obligations arising prior to the Confirmation Date. The Debtor or a successor in interest to the Debtor will continue to operate.
- These accounts are followed up by Bankruptcy Unit for adherence to the Chapter 11 plan on pre-Petition and pre-Confirmation Date liabilities. Confirmation Date taxes are generally collectible according to the Plan only.

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- Often Chapter 11 cases convert to Chapter 7. This may create a new opportunity to file a claim.
- **Chapter 13** – Taxpayer (debtor) is generally a wage earner with a regular income. A Chapter 13 plan is proposed by the Debtor, and, if approved by the court, monitored by a trustee.

Most of the other types of bankruptcy chapters are seldom used. They are:

- **Chapter 9** - For Municipalities.
- **Chapter 12** - Adjustment of debts of a family farmer.

20.5 Automatic Stay

When a bankruptcy petition is filed, an automatic stay is imposed in most cases. Generally, it prohibits creditors and potential creditors from taking collection actions against the person or entity in bankruptcy or against property of the person or entity in bankruptcy. While the automatic stay is in effect, we may do the following:

- An audit to determine tax liability, including corresponding with the Debtor and requesting information.
- The issuance of a notice of proposed assessment.
- The making of an assessment and the issuance of a notice and demand for payment of such assessment.

However, we may not issue a demand penalty (See MAP Failure to Furnish Information Penalty)

Before taking any action, you should contact the designated Audit/Bankruptcy Liaison and the designated Bankruptcy Unit member. As noted above, actions taken in violation of the automatic stay may subject FTB to sanctions.

It is the duty of each FTB employee, including FTB auditors, to ensure that FTB does not take actions that violate the automatic stay. Thus, FTB and its employees have the duty to determine whether their actions violate the stay, and no communication with the taxpayers should state that FTB (or the Board of Equalization) does not have jurisdiction to determine whether FTB actions violate the automatic stay.

20.6 Discharge

A person or entity may receive a discharge in a bankruptcy case. Among other things, a discharge operates as an injunction against the commencement or continuation of an action, the employment of process, or an act to collect, recover or offset any discharged debt as a personal liability of the Debtor, whether or not discharge of such debt is waived.

Actions that may not have violated the automatic stay may violate the discharge injunction.

Before taking any action after a discharge has been issued, you should contact the designated Audit/Bankruptcy Liaison and the designated Bankruptcy Unit member. Actions taken in violation of the discharge injunction may subject FTB to sanctions.

It is the duty of each FTB employee, including FTB auditors, to insure that FTB does not take actions that violate the discharge injunction. Thus, FTB and its employees have the duty to determine whether their actions violate the discharge injunction, and no communication with taxpayers should state that FTB (or the Board of Equalization) does not have jurisdiction to determine whether FTB actions violate the discharge injunction.

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20.7 Bar Date

Bankruptcy laws require that we file bankruptcy claims before the Bar Date. The Bar Date is set by the court of the Bankruptcy Code and is the last day to file claims in a bankruptcy case. The period between the filing of the bankruptcy petition and the Bar Date may vary. If a claim is not filed timely, we may be barred from collecting prepetition liabilities agains the bankruptcy estate, and, if the obligation is discharged, from the taxpayer. Bankruptcy Unit personnel will need time to prepare and file the claim. Please allow time for this. Work with the Bankruptcy Unit or the Audit/Bankruptcy Liaison to facilitate filing a timely claim.

In Chapter 11 cases, the Court may also set a deadline to file administrative expense (post-petition) claims.

For audit purposes, we are concerned with the Bar Date, since we consider this an additional statute of limitations. Notices **may** be issued after the Bar Date, but in order to receive a distribution from the bankruptcy estate, a claim should be filed prior to the Bar Date. It is critical to know the Bar Date or if one is set. If the Bar Date is not available in the file, the designated Bankruptcy Unit member can get the Bar Date or find out if a date is set. Consult your lead or the Audit/Bankruptcy Liaison if you need information about the Bar Date.

20.8 Identifying a Taxpayer in Bankruptcy

Individuals (TI)

Check the Taxpayer Information System (TI). You may see a bankruptcy indication in the **Taxpayer Status Field** or the **Protest Field**.

If you think the taxpayer may be in bankruptcy, but the indication is not in TI, contact the Bankruptcy Unit member to confirm the taxpayer's status.

Business Entity Tax System (BETS)

- ****, the NPA case detail screen will show a **HOLD** status, and assigned to 199 BKY, for prior 10/22/94 Bankruptcy Law only.
- **** will provide the Bankruptcy information, chapter filed (7 or 11) and petition date.
- **** may contain notes regarding the Bankruptcy.

20.8.1 Indicators of a Potential Bankruptcy Case

If a taxpayer does not inform the auditor of their intention to file for bankruptcy, the following are some indicators that can help to identify a potential bankruptcy situation:

- Negative cash flow or cash flow problems.
- Change from profit to loss on tax returns.
- High debt to equity ratio.
- Large adverse litigation judgments.
- Significant drop in the price of stock.
- Substantial under-funding of pension plan.
- Major management shakeups.
- Foreclosure proceedings.
- Retention of bankruptcy counsel.

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- Representative complaining of nonpayment.
- Negative reports or publicity.
- Hiring of a **turnaround specialist**.

20.9 NPAs and Bankruptcy Claims

Prior to discharge, NPAs may be issued while the taxpayer is in bankruptcy. Before issuing any type of Notice, contact the designated Bankruptcy Unit member.

An NPA is not required in order to file a proof of claim in the bankruptcy case. Nevertheless, it is in the interests of all parties that an accurate proof of claim be filed. Accordingly, if the taxpayer that filed bankruptcy is currently under audit, the audit should be expedited. Seek the taxpayer's cooperation in rapidly concluding the audit so that accurate figures can be used in issuing an NPA and the Bankruptcy Unit can file the most accurate claim.

If an audit cannot be completed prior to the Bar Date, an estimated proof of claim should be filed prior to the Bar Date. The auditor should work with the Bankruptcy Unit to prepare and file such a proof of claim. Once filed, the claim generally can be amended based on information subsequently obtained.

Once a proof of claim is filed, it is subject to objection by parties in interest (including the taxpayer). After an objection is filed, FTB may need to promptly defend its proof of claim. Accordingly, it is in FTB's interests to promptly complete the audit in cases where an estimated proof of claim is filed.

If NPA Is in the Review Process

Sometimes you may hear of a bankruptcy after an audit has been submitted for review, but before the final NPA has been issued to the taxpayer. In this situation, notify the designed Bankruptcy Unit member that an NPA is pending. The FTB may need to file a claim with the bankruptcy court before the NPA completes the review process and posts to the system.

20.10 Prompt Audit Requests

A trustee of a bankruptcy estate (or the Debtor in Possession) can avoid personal liability of the bankruptcy estate, the trustee, the Debtor, and any successor to the Debtor by requesting a prompt audit of the returns filed under the trustee’s (or the Debtor in Possesion's) administration of the bankruptcy estate and paying the tax shown on such return. We have 60 days from the request to notify the trustee (of the Debtor in Possession) that such returns have been selected for examination. Unless we so notify the trustee (or the Debtor in Possession), we can no longer audit the returns, unless the returns are fraudulent or contain a material misrepresentation (The determination of whether the returns are fraudulent or contain a material misrepresentation should only be made with the Bankruptcy Unit's input).

If we timely notify the trustee (or the Debtor in Possession) that such returns have been selected for examination, we have 180 days after the trustee's (or the Debtor in Possession's) initial request, or such additional time as the Bankruptcy Court permits, to notify the trustee (or the Debtor in Possession) of any tax due. You should promptly contact the Bankruptcy Unit as soon as you believe that more than 180 days is needed to complete the examination so that appropriate relief can be requested from the Bankruptcy Court. Again, unless we so notify the trustee (or the Debtor in Possession), we can no longer audit the returns, unless the returns are fraudulent or contain a material misrepresentation. (As before, the determination of whether the returns are fraudulen t or contain a material misrepresentation should only be made with Bankruptcy Unit input.)

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20.11 Closed Bankruptcy Cases

Under the general guidance of the Bankruptcy Unit, after a bankruptcy case is closed, FTB may take certain audit actions.

20.12 Franchise Tax and Bankruptcy

Corporations that file Chapter 7 will liquidate.

Prior to October 17, These corporations become subject to tax only if there is net taxable income during the entire Chapter 7 administrative period (petition date to final liquidation) Corporations under Chapter 11 are still going concerns and continue to be subject to the minimum franchise tax. If the bankruptcy case converts to Chapter 7, the corporation is subject to tax for periods after the conversion only if there is net taxable income for the entire Chapter 7 administrative period (conversion to final liquidation).

The Bankruptcy Abuse Prevention and Consumer Protection Act, effective for **bankruptcies filed on or after October 17, 2005**, provides that all tax returns and applicable tax owed per federal and state tax law are required to be filed and paid.

20.13 Penalties

Audit can assess all applicable penalties on bankruptcy estates except failure to furnish information. The most commonly assessed penalties are the delinquent filing and estimate tax penalties.

20.14 Tax Notice Worksheet (NPA, NOA or NOD)

Include the following bankruptcy information on the notice worksheets:

- Use NPA paragraph 50500 modified by adding the bankruptcy petition date and bar date.
- CC: Collection Special Procedures - Bankruptcy Unit.
- Attach a form FTB 7011, pink RUSH tag. Mark the bankruptcy box.
- On the front cover of the folder attach a route slip with the Bankruptcy Unit as destination (Mail Stop A-345).
- Attach form FTB 6074, Bankruptcy Case DO NOT PURGE FOLDER to the inside front cover of the folder (Corporations only).

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21 Post Dissolution

21.1 General Information

A domestic or foreign corporation, which has been incorporated or qualified with the Office of the Secretary of State (SOS), must formally dissolve or withdraw through the SOS. To do this, all returns must be filed with the Franchise Tax Board (FTB) and all liabilities paid in full.

In accordance with AB 2341, effective 09/29/06 dissolving corporations no longer need to request a Tax Clearance Certificate from FTB or supply a valid assumer in order to complete their dissolution or withdrawal process with SOS.

After a qualified corporation has formally dissolved through SOS, a magnetic tape is sent from the SOS to FTB reporting all the newly dissolved corporations. FTB runs this SOS tape on a monthly basis against BETS, which updates the corporation's SOS Status Code and SOS Status Date in BETS conversation ****.

The Post Dissolution (PD) unit receives a Quarterly BETS report called the Dissolved Corporation Report that lists all newly dissolved qualified corporations. PD also receives a daily report listing the nonqualified corporations that have filed final returns. The PD technicians use these lists to request the corporation folders from Receiving and Data Storage Section (RDSS).

As a result, of the AB2341 legislation, PD will be receiving final returns directly from Business Entities Section (BES) after the returns have been processed in BETS. The PD technicians will retain the final returns until they have done an initial review to determine if the account warrants further review. If a referral criterion, or another possible audit issue, has been determined, then they will request the corporate folders from RDSS.

When the folders are received from RDSS, the PD technicians will review the corporations' tax returns still within statute and determine if the specific referral criteria is met to warrant audit review. PD will also make sure that all available returns are in the folder prior to referral to audit. The PD technician will stamp, sign, and date the corporation folder being referred.

The PD technician will route the referred corporate folders to the MSA PD Lead, who is responsible for logging in the number of folders received and logging out referred folders on the MSA excel spreadsheet.

When the referred folders have been reviewed by audit and are returned to PD, the PD technicians verify that no other BETS account clean up needs to be done prior to returning the folder to files (RDSS).

For more information, please see Public Service Bulletin 2006-10-25.

21.2 Audit Control of Dissolved Corporations

When the folders of dissolved corporations are received, the PD tax technician assumes full responsibility for control of the folder by entering their initials in the **PD Audit** box of the folder. Upon completion of their review, or audit review, the PD tax technician initials and dates (mm/yy) the top of the **PD Audit** box. Any folder received by RDSS with an open **PD Audit** box will be forwarded to the PD Unit for appropriate action.

When a corporation folder is referred for audit review, the PD technician places a cover sheet on the folder indicating what audit referral criterion are met.

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The MSA PD Lead maintains a monthly inventory report to keep track of the volume of S corporations and C corporations, and how many folders are completed (returned to PD Unit) or referred to other sections for resolution. This MSA PD Inventory is reported on the Lead's Monthly report to supervision.

The MSA PD team auditors will scope the returns in the folder that are within statute, and determine if there are any audit worthy issues.

If no audit is determined, the auditor will return the folder to the MSA PD Lead after surveying each return and putting an **S** and their initials in the upper right hand margin of the returns.

If the auditor determines that any BETS account corrections are needed, such as outstanding liabilities or credits, or that an additional return is needed, the auditor should make note of the tax year and the BETS issue that needs to be resolved on the PD cover sheet. If there are no further issues, the auditor should initial and date the cover sheet and return it to PD with the folder.

The MSA PD Lead is responsible for routing the PD folders back to the PD Unit when the folders are completed. If a folder is retained, or referred, by MSA for further action, the auditor should notify the PD Lead via email or telephone. The PD technician will then log the folder out in CDTS to the appropriate party, thereby, relinquishing responsibility of the folder to the auditor.

21.3 Related Folders

Before any audit action is taken, folders for all related corporations that are dissolved should be requested so that the entire file can be audited at the same time.

Example: If the dissolving corporation is a subsidiary within a California combined group, and there are no returns available for review for the entity, then you should request the parent corporation in order to verify the dissolved corporation had been included in the filing group up to the date of dissolution/withdrawal.

21.4 Latest Return Not in Folder

The Post Dissolution Unit should have reviewed the account(s) to determine that all returns have been filed, and that all returns within statute are in the folder, prior to sending it for audit review.

However, if the latest return is not in the folder:

1. You may request the folder by completing Form FTB 6237 (Request for Corporation Folders) that is used to request the missing return.
2. Request the missing return on BETS using Conversation ****, after first checking PASS to make sure the return is not already in the audit section, and the CDTS database for most current location information.
3. If you have tried steps one and two, and a reasonable amount of time has passed, then you should either re-request the return or call RDSS to initiate an Outsearch request to locate the return.

We are no longer sending folders back to PD when returns are missing from the folder.

21.5 Returns in Field

Contact the Field Office Audit Supervisor to determine if a field auditor or the MSA PD auditor should conduct the audit. If the audit is to be conducted by the field auditor, send the returns to

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the field using form FTB 7024 (Request for Field Action). Special instructions may be given, if needed.

Due to PASS modeling projects being initiated periodically, it is essential to check PASS as part of your initial review. By utilizing the **Find** function on PASS and inputting the corporation ID information into the **Taxpayer Information** tab, you will be able to locate any existing case units.

If a case unit is located in PASS for a tax year within statute, after checking the Event Log for recent activity, contact the responsible owner either by telephone or email. Ask if the corporation folder/returns are still needed for their review. If they need the folder, please send using the information above. If the folder/returns are not needed, continue your review.

If you find case units on PASS for the returns and these returns were previously audited or surveyed, you should indicate the date and initials of the auditor who reviewed the return. There should be very little reason to review those returns again.

21.6 Requesting Corporate Folders

Follow these procedures when requesting corporate folders:

Rush cases	Folders may be requested by telephone if needed for telephone replies or other priority cases. RDSS Outsearch requests: Call 916.845.7911
Special cases	Requests should be made on form FTB 6237 (Request for Corporation Folder) marked **Rush** in red. If RDSS cannot locate the requested folder in files, the requestor will be notified immediately and if further search is required, the requestor will request an outsearch. If more than one corporate folder is needed, a separate form FTB 6237 should be prepared for each corporation and the forms staggered for easy identification.
Routine cases	Requests should be made on form FTB 6237. The requested corporations should be listed numerically. If the RDSS cannot locate the folders in file, the request will be returned to the requestor showing out information. If after two requests RDSS is still unable to locate the file the requestor may request an **outsearch**. To request an outsearch you must call RDSS at 916.845.7911 and give them all the pertinent information. If DSS is unable to locate the folders by the search date, they will return the request to the requestor as UTL (Unable to Locate). If the folder is still needed, another search date should be provided. If DSS is unable to locate the folders after the second outsearch, the request will be referred to the Corporation Search Supervisor only if it is imperative that the folders be located.
Dead by Merger	The transferee folder should be requested.

21.7 Dissolution of a Credit Union

The effective date of dissolution for credit unions is the date they file their **Election to Wind-up and Dissolve** (Reg. 23331).

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Financial Code section 15656 controls and takes priority over R&TC Section 23331. Therefore, a credit union should be considered dissolved at the time it files a certificate of election to dissolve. Nevertheless, the credit union still needs to file the final papers of dissolution with the Secretary of State like every other corporation in order to dissolve.

21.8 Reorganizations

R&TC Section 23251 conforms to IRC Section 368 regarding reorganizations.

If all the related folders are at hand and a determination of reorganization cannot be made, complete the audit of all returns in the dead folder and send a letter requesting the information necessary to make a determination.

If problems are encountered while auditing the returns, (1) include these items in a request for additional information, or (2) send the returns to the field with instructions to audit the returns and to determine if a reorganization has occurred.

Since one prerequisite for reorganization is a continuation of the transferor's business, it can be assumed that an inactive corporation will not transfer its assets pursuant to reorganization.

For state purposes, a transfer of assets and liabilities to a corporation that has been granted an exemption from tax under the California Revenue and Taxation Code or the state or federal constitutions cannot be reorganization.

21.9 Filing Requirements for a Merger

R&TC Section 23253 conforms to IRC Section 381(b).

Except in the case of an acquisition in connection with a reorganization described in IRC Section 368(a)(1)(F), the taxable year of the distributor or transfer or corporation shall end on the date of the distribution or transfer.

In the case of a merger, verify the Merger date on the SOS files. If there is a lapse of time of more than 15 days between the corporation's final return filed and the date of the merger, a return may be required if the corporation was still actively doing business in California. In this case you should also request the folder for the merger's surviving corporation to verify if the merging entity reported income for that time period prior to the merger date. If the merging corporation reports income on the surviving corporation's return, then the merging corporation is not required to file a return for that period.

21.10 Processing Final Return

When the final return is received with the appropriate folder, determine if the return has been properly assessed and whether to audit the return.

Scope the final return as follows:

1. Review the balance sheet. If the balance sheet reports an ending balance, look at assets and liabilities. You may need to request a complete schedule of assets and liabilities distributed in liquidation to determine the disposition of assets that are likely to appreciate such as land, buildings, or investments. Remember to ask for the book value and the fair market value of these assets
2. Review accounts receivable. A cash basis taxpayer must report all ending accounts receivable balance into income in the year of dissolution. Therefore, if a corporation had

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accounts receivable from services completed prior to liquidation, it should be included in income on the corporation's final return. See MAP Accounts Receivable.

3. Review the final return for deferred income. Unreported income from an installment obligation must be included in income for the corporation's final year. California R&TC Section 24672 provides for the accelerated recognition of income on an installment note during the S corporation's final year of operation. The total amount of income from the sale should be accelerated on the corporation's final tax return. This legislation does not apply to shareholders, so it may be necessary to track the shareholder accounts on TI to verify that the unrealized gain is included when the final installment payments are paid. See MAP Deferred Installment Sale Income.
4. If the corporation is an S-Corporation, review the return for Schedules K-1 and verify the shareholders filed returns on TI. If an Amended return has been filed for the corporation, verify that the shareholders have also amended their returns.
5. Review the Net Operating Loss (NOL) deduction. Verify that the amount of NOL claimed is available. Remember that the NOL deduction was suspended for tax years 1991, 1992, 2002, and 2003. This is a common taxpayer error.
6. Review tax credits for reasonableness. Audit them if there is a history of abuse.
7. Review for possible Tax Shelter issues.
8. Check for previous audits on PASS, this could alert you to other audit issues.
9. Verify the account status on BETS and SOS files.

If there was a tickler control, route the file copy of form FTB 6216 to RDSS with instructions to destroy the tickler copy.

21.11 Dissolved Parent or "Key" Corporation

If you are reviewing the dissolved parent corporation's returns, verify the dissolution information on the SOS file. It may give you an idea of the circumstances of the dissolution. Check the final return for dissolution information within attached correspondence. Make a note on the folder's PD cover sheet requesting that the cross referencing in BETS Conversation **** be brought up to date.

Whenever the parent or key corporation dissolves or withdraws from doing business in California, and a new key corporation has not been designated, call the taxpayer or send a letter inquiring as to which California subsidiary is to be designated the key corporation.

Usually when the parent dissolves or withdraws from California, it is due to a reorganization. You should find the new parent for cross-referencing purposes. However, if the dissolved or withdrawn parent previously made an election to file a single return and pay the tax for a unitary group, you must call or write and ask the new parent to file an election form FTB 4523B, Authorization For Single Notices, if it wishes to continue to file in the same manner. See MAP Authorization for Single Notices.

21.12 Minimum Tax and Computation of Final Tax

Effective September 29, 2006 dissolving entities can avoid paying the minimum franchise tax or annual tax for the current taxable year if all the following requirements are met:

- Files a timely final return, including extensions, for the preceding taxable year.
- Does not conduct business after the preceding taxable year.

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- Files the appropriate paperwork with the SOS within 12 months of the timely filing of the entity's final return.

More detailed examples on applying the above please see Public Service Bulletin 2006-10-25

The taxable year is terminated at the end of the month of dissolution or withdrawal, and a final return is due two and one-half months later. The tax on the final return is based on the tax measured by net income for the year of dissolution or withdrawal, plus the tax based on net income for the preceding taxable year (but cannot be less than the minimum tax). The tax rate in effect during the month of dissolution/withdrawal is used to measure the final tax.

For financial corporations tax for the year of dissolution is to be computed at the maximum financial rate unless the proper rate has been determined. The full amount of financial offset is allowable, except that the tax may not be less than the tax computed by the general rate or less than the minimum tax.

21.13 Refunds

You may receive folders asking that a determination be made and the amount of tax or payments be refunded when the folder has not been stamped with the **PD Audit** box and date of dissolution.

If the corporation has an overpayment and a claim number has been assigned and a determination has not or cannot be made, send a letter requesting the required information.

Using form FTB 6213A, Accounting Instructions Corp, will make any adjustment to the final return or account due to a first year credit, year change, cancellation, refund, etc.

Generally, refunds will be based on first year credit or credit balance from estimated payments.

21.14 Audit Issues

Check ownership information on page 1 of the return, the percent of corporation stock owned on Schedule E, and Compensation of Officers on Schedule E. A review of the balance sheets on all available returns may indicate a change of ownership (i.e., fluctuation of investments in capital stock section).

If the final return indicates dissolution but there is a large net income and/or the balance sheet indicates a large amount of assets and there is no indication of the disposition, initiate an IDR for additional information.

21.14.1 Deferred Installment Sale Income

If no reorganization occurred, R&TC Section requires a corporation to include in its measure of tax the unreported income from an installment obligation it holds at the time the corporation is no longer subject to the tax imposed by Chapter 2 or 3.

The installment note's basis is then increased to its face amount pursuant to the acceleration of R&TC Section 24672. In accordance with R&TC Section 24667 and IRC Section 453B, the corporation should recognize gain or loss on the difference between the fair market value of the note and its basis.

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If a corporation has sold property on the installment basis in prior years, the deferred gain may not be shown on its ending balance sheet. Care must be taken to check prior year returns for installment sales. This item is particularly important if no reorganization occurred.

If the corporation merges with a California corporation, the income remains deferred. However, if the California Corporation merges with an out of state Corporation, R&TC Section 24672 applies and we can accelerate the income.

21.14.2 Accounts Receivable

Accounts receivable that were earned by a cash basis corporation, before the distribution in liquidation, are taxable under R&TC Section 24651(b).

If a final return reports zero gross receipts, but the balance sheet reports accounts receivable on the beginning balance, a statutory NPA maybe issued. It may be necessary to write to the corporation and request the amount of account receivable not previously reported as income by the corporation, which were distributed to the shareholders.

21.14.3 Gain on Distribution of Assets

Section 336 of the Internal Revenue Code provides for gain or loss to be recognized by the liquidating corporation on the distribution of property as if the property were sold at its fair market value.

If the corporation has assets remaining in the ending balance of the balance sheet or it cannot be determined if there is a gain or loss on the distribution of assets, it may be necessary to write to the corporation and request a schedule showing the gain or loss on the distribution of property in complete liquidation. The gain or loss is determined as if the property had been sold at its fair market value as of the date of distribution.

21.14.4 Subchapter S Corporation

When an S Corporation sells or distributes property in liquidation, the gain may be subject to a higher tax rate as provided in Section 1374 of the Internal Revenue Code. The same rules apply to S Corporations as for C Corporations regarding the recognition of gain or loss on distribution of assets.

Section 453(h) of the Internal Revenue Code provides that, except for purposes of any tax imposed by subchapter S, no gain or loss is recognized by the distributing S Corporation with respect to the distribution of installment obligations. This section does not apply for California corporation purposes since California imposes not only IRC Section 1374 (tax on certain gains and built-in gains tax), but also on entity level tax.

However, R&TC Section 24672 provides for the accelerated recognition of income on an installment note during the S corporation's final year of operation. The total amount of income from the sale of goods should be accelerated on the corporation's final tax return. The shareholders are not subject to this legislation and therefore not responsible for taxes on the unrealized income portion of the installment note until it is paid.

21.14.5 Bad Debt Reserve

If an amount is received by the corporation through the sale or other disposition of its account receivable, in excess of their **net tax basis**, such income is taxable in the last year that the corporation is subject to tax. **Net tax basis** equals face value less the bad debt reserve.

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When there is a reorganization or merger, bad debts need not be included in income.

21.14.6 Net Operating Loss

Corporations frequently claim 100 percent of losses when only 50 percent are allowable. They also forget that **previously ineligible** NOLs expire before the normal 5 years, and that the new **ESB** guidelines only apply to corporations with losses after 1/1/94. For more information on NOLs, see MATM 8000.

21.15 Definitions

- Liquidation - Corporation disposes of its assets and liabilities. Incorporation and Dissolution - Formal action of domestic corporations through the Office of the Secretary of State.
- Qualification and Withdrawal - Formal action of foreign corporations through the Office of the Secretary of State.
- Transferor - Corporation that transfers its assets and liabilities to another corporation.
- Transferee - Corporation that receives the assets and liabilities of another corporation.
- Reorganization - A transaction in which a corporation combines or transfers assets and liabilities or stock and whose business is continued by another corporate entity or management.
- No Reorganization - A transaction in which a corporation distributes its assets and liabilities to stockholders and whose business is not continued by another corporate entity. The corporation is not considered a party to reorganization.

21.16 Non-Qualified Corporations

Corporations that are not qualified or incorporated through the SOS are not required to dissolve or surrender. However, these corporations are required to do the following:

- File a final return.
- Check the final return box on side 1 of the return.
- Attach a statement saying that they are no longer doing business in California.

The nonqualified corporations will be considered **Closed** when the above stipulations have been completed.

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22 Communication Tools

22.1 Facsimile (FAX) Usage

The auditor may receive a facsimile (FAX) by two methods: as an Email FAX message via the PASS server or on the unit's FAX machine.

The PASS desktop provides the ability to electronically transmit documents between Audit staff and taxpayers using a FAX for the transmission and reception of document images. The PASS Desktop provides FAX capability in two ways:

1. When working on a laptop, auditors are able to send faxes using Microsoft FAX.
2. When connected to the PASS Desktop network, auditors are able to send/receive faxes using the PASS FAX server.

Auditors are able to send faxes from Microsoft Word or Excel using the **Send** option and specifying a FAX number instead of a user as the destination

State law protects confidential taxpayer information including, but not limited to, social security numbers, telephone numbers, and credit card number. When sending correspondence by facsimile, use a cover sheet to protect this information.

A facsimile or photocopy is acceptable as evidence that the waiver or power of attorney has been signed. However, to avoid evidentiary problems if the authenticity is later questioned, auditors should attempt to obtain the actual document. For additional information, see MAP Facsimile (FAX) Waivers and Powers of Attorney.

22.1.1 Faxes Received or Sent Via Unit's Fax Machine

Treat hard copies of FAX material as regular correspondence.

Record the correspondence as received in the **Received Correspondence Window** in PASS and cancel any ticklers, as applicable.

Select the attachment option to create a WORD document that will act as a placeholder in the electronic file for the paper correspondence. This WORD document may contain any information the auditor determines to be necessary, but at the minimum should include:

1. The date the correspondence is received by FTB.
2. A description of the correspondence. (i.e. a five-page letter from representative or a two-page letter from taxpayer and the following attachments.).

The event log will indicate the date the letter was recorded in PASS as received, not the actual date the auditor received the letter. Therefore, it is important that the auditor log correspondence as received in PASS as soon as the correspondence is received.

22.1.2 Fax Sent or Received Through PASS

Auditors who have access to PASS have a network fax number, 916.843.XXXX, which is accesible through Outlook email. This fax number should be used so faxed information sent and received will become a permanent document within the taxpayer's PASS audit file. For documents created in PASS, in order for the fax to be properly sent, there must be a valid fax number in the address book for the recipient.

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To verify that there is a valid fax number:

1. Go to the address book and update the fax number prior to sending the document.
2. Next, in the **Send** Window, there is a **fax** box. To send both a hard copy and a fax, simply click in the appropriate box.
3. Once the fax is selected, there should be a check mark in the fax box. By clicking the **send** button, the fax will be sent.
4. You should receive confirmation by email that the fax was **successful** or **unsuccessful**.

22.1.3 To Fax a Document That Is Created Outside of PASS

1. Open Microsoft Outlook.
2. Select the Actions menu, New Mail Message Using, Plain Text. A blank email message window will display.
3. Select the Insert menu, File. The Insert File window will display.
4. Locate the file you wish to fax.
5. Click the Insert button. The document is now attached to the email message.
6. In the **To** field, enter the contact name and fax number in the following format: [Fax: Contact_Name@#######]. If the area code is not 916, enter a 1 and the area code before the fax number.

   For Example: If you are sending a fax to J ******* and the fax number is 555-9999, enter [Fax:J_*******@5559999] in the **To** field. Include the opening and closing brackets.

   If you wish to send the fax without a contact name, enter: [Fax:5559999]. If the area code is not 916, enter a 1 and the area code before the fax number. You may enter a fax number without the contact name; however, the phone number will default in both the Name and Fax Number fields on the fax cover sheet.
7. Enter what the fax is in regards to in the **Subject** field.
8. You may enter comments in the message area of the e-mail, but as a default, in the comments area on the Fax Cover sheet, it will state: See attached documents.
9. Click the Send button.

22.1.4 Receiving Faxes Via MS Outlook

When receiving a fax, a **New Message** will appear in your MS Outlook inbox from **Faxination**.

1. Right click on the email (do not open the email) with the attached fax document and select **Forward**. (If you have a physical file and wish to record it in PASS, fax it to your network fax number, 916.843.xxxx, and follow #1.)
2. The fax now shows as an attachment and has a .**tif** file extension in the email.
3. Right click on this .**tif** file and select **Copy**.

Input the fax into the PASS file with the **Received Correspondence** feature. To paste the fax in PASS:

1. Open your inventory and open the primary case unit.

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2. Use the button **Receive Correspondence**, and click the **attach document** button.
3. Select the Correspondence Received template.
4. Name the document according to cross-referencing workpaper sections and click OK.
5. To record fax into the document, right click and select **Paste** into the section <<Place bitmap correspondence here>>.
6. Double click on the tif file and verify that the entire fax will open.
7. Print an actual copy of the fax and place it in your hard copy workpaper file.
8. Print the Word document template and place it on top of the printed copy of the fax correspondence.

Save and close the Word document and return to PASS. Complete the **From**, **Subject** and **Comment** fields and click **OK** to close the received correspondence window. The event log will automatically record a **Received Correspondence** event.

It is now all right to delete the MS Outlook fax mail message.

For more information, see FTB website for training viewlet and instructions to record a fax in PASS: http://auditnet/admin/tutorials/PASStutorial.htm.

22.2 Telephone Calls

Always verify with whom you are speaking. Do they have authorization? Auditors are required to answer telephone calls. The calls may be either a general question concerning the application of the California Revenue and Taxation Code or inquiries concerning a problem involving a specific taxpayer. **We do not accept collect calls.**

In the case of general questions, the auditor will normally be able to answer the question that is being asked; however, if not certain of the correct answer, refer the call to the appropriate unit.

If the caller's question cannot be referred to a specific unit, refer the call to your lead or supervisor, or obtain the caller's telephone number and call back with the answer.

In the case of inquiries involving an audit problem with respect to a specific taxpayer, it is seldom possible to give an adequate answer without first reviewing the taxpayer's file to determine the particular data that has been requested. Obtain the caller's telephone number and tell the caller that you will review the case and call them back.

When discussing a case under audit, an entry must be made in PASS recording the caller's name, telephone number, the taxpayer's name, the taxpayer number (if known), and a brief summary of the information that is requested or discussed. The level of detail will be dependent on the needs and circumstances of each case.

If the corporation has been suspended and the question involves the payment of back taxes in order to revive the corporation, the call should be transferred to or referred to the Reviver Unit at 916.845.****.

Requests for information concerning the taxpayer address, the names and addresses of any of the corporate officers or similar information may be referred to RDSS at 916.845.5180.

For information on what can be disclosed during a telephone conversation, see MAP Disclosure Guidelines – Corporations

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22.3 Secured Electronic Communication

Auditors may not use Internet mail to send or receive confidential information because regular Internet email may be processed through private service providers and transmitted through unsecured lines. Confidential information may only be sent to, or received from, a taxpayer representative via Secure Electronic Communications (SEC).

The SEC web page contains tutorials and printable PDF procedures on how to use SEC. SEC allows one mailbox per FTB employee. An SEC mailbox cannot be set up for an FTB employee to an external mailbox.

22.4 Requesting a Laptop

To request a loaner laptop click on the link for instructions from PASS Help:

Loaner Laptop Requests

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23 Mailing Addresses

23.1 Addresses to File Returns and Related Information

The information is available on our Public Website and can be accessed by clicking on the link below:

FTB Return Mailing Addresses

23.2 Common FTB Addresses

For mailing information that is available on the Public Website click on the link below:

FTB Information Directory

To obtain the mailing information using Reporting Requirements click on the link below:

Reporting Relationships Directory

To obtain the mail stop of an FTB employee using the Employee Directory click on the link below:

Employee Directory

To obtain the mailing information of a Field Office or Sacramento Satellite Office clink on the link:

Field Office Locator

The correct mailing address for taxpayers to mail a protest is:

PROTEST CONTROL DESK
FRANCHISE TAX BOARD
PO BOX 1286
RANCHO CORDOVA CA 95741-1286

For a comprehensive set of instructions to follow when mailing and receiving FTB's U.S. mail, see General Procedures Manual Section 6435. It includes handy links to references tables to verify FTB addresses.

23.3 Express Mail

Express mail includes mail delivered by Express Mail - U.S. Postal Service, Federal Express, UPS, etc. Such mail can only be delivered to a physical address and not a post office box number. If at Central Office, the express clerk in receiving will contact the auditor when the auditor receives some type of express mail from a taxpayer or tax representative. This is only true if the taxpayer clearly identified the auditor and the auditor's unit as the recipient. This is separate from Service and Supply (S&S). S&S receives the express mail from the carrier, processes it and then turn it over to the receiving (Express Desk) for distribution.

To ensure that mail is received in a timely manner, request that the taxpayer include the following on the face of the express mail envelope:

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- Address.
- Mail Stop.
- Auditor's name.
- Unit number.
- Telephone number.

At Central Office, the express mail desk is located at ********** and the phone number is 916. 845.5280.

23.4 Proper Packaging Procedures

Proper packaging procedures are available on the *******. Click on the link below to review the information:

Proper Packaging Procedure

23.5 Overnight Mail Service

Central Office

The overnight mail service makes two daily pick-ups at Central Office:

- First pick-up at 3:30 - Service and Supply needs the parcel by 2:30 P.M.
- Second pick-up at 4:45 - Service and Supply needs the parcel by 4:00 P.M.

The Shipping Desk in the Service and Supply Unit, Shipping & Receiving Section (California Warehouse) needs lead time to prepare shipping labels and input them to the overnight mail service system. Contact the Shipping and Receiving Desk at 916.845.3246 for your shipping needs.

Field Offices: Contact Audit Business Support.

You can track parcels shipped by the overnight mail service through the overnight mail service's website. You may also contact the Shipping Desk 916.845.3246 in Service and Supply.

The overnight mail service has several drop boxes. Use the Shipping Desk’s website to find their nearest drop box. Enter your address, and the search engine will locate the nearest drop box and its pick up times, with a map and directions. If you use a drop box, contact the Shipping Desk to request shipping materials.

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24 Designated Disaster Areas

24.1 Introduction

Tax relief is available for taxpayers who reside in areas that were declared disaster areas. Generally, we defer all correspondence and notices for two weeks, with the exceptions noted in MAP Audit Division Guidelines.

The Public Affairs Office of the Communication Services Bureau provides our staff with disaster information. They notify division chiefs and bureau directors. When an area is declared as a disaster area, we will receive a list of each disaster area's ZIP code. We will also receive subsequent notices if some ZIP codes are removed from or added to the list. We can also get this information from the FTB News and Updates under Disaster Zones and Tax Relief.

24.2 Audit Division Guidelines

The Audit Division will defer mailing all audit letters and notices to taxpayers in affected disaster areas for two weeks. After two weeks, you may contact the taxpayers or representatives to determine if we may proceed mailing letters and notices. In addition, we may continue corresponding with any taxpayer or representative who requests it, whether or not the taxpayer is in an affected disaster area.

Exceptions to the two-week deferral are:

1. Assessments that could be barred by the statute of limitations. You should process and type these assessments manually.
2. Taxpayers we have contacted who have requested that we not defer their mail.
3. Withdrawal notices, No-Change letters and HOH acceptance letters.

The first two exceptions must have appropriate Bureau Director approval before mailing.

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25 PASS

25.1 PASS Introduction

25.1.1 General Information

PASS, the Professional Audit Support System, is the software system used by the audit division to aid in the management of income tax examinations. This software is proprietary to FTB and may not be re-distributed without FTB's prior written consent.

The procedures detailed in this section constitute management's requirements and the minimum standards of how to conduct day-to-day audit activities when using the procedures associated with PASS. Use this as a reference tool.

This section should not be used as a step-by-step guide. A variety of **How To** resources such as the PASS Desktop Help functionality, the PASS Application Help Desk and the PASS Support are available for step-by-step instructions.

25.1.2 PAR Team and Change Requests

Each Program Office has a PAR team member that can assist with PASS related questions. The PAR member may be contacted for the following reasons:

1. Suggestions for enhancing the PASS system. Suggestions should be provided in written form, detailing the enhancement and what areas of the PASS system it affects. Then this should be sent electronically through Outlook to their program office's PAR member.
2. In addition to calling the help desk, defects found within the PASS system should also be routed to the PAR member. Please detail the defect and the problems that it causing. It is preferred that this is done electronically through Outlook.
3. Template Change Requests (TCR). The procedure for requesting a template change is as follows:
   - Fill out the TCR Form located in Public Folders\PASS.
   - Mail the form via Outlook to the appropriate PAR Member.

When a PAR member receives any of the above, the PAR member will place the item on the PAR team's agenda for consideration.

25.2 PASS Features

25.2.1 PASS Bottom Drawer

The PASS Bottom Drawer is available on PASS to store personal templates, schedules, and research material. Additionally, the Bottom Drawer feature provides the user with a search function enabling the retrieval of stored research information. Only the owner can access this file.

For additional information about the Bottom Drawer features, see PASS Help.

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25.2.2 Event Log

The Event Log is used to record progress and events throughout the course of the audit. Some entries in the Event Log are user generated and others are automatically generated by actions implemented on the system. Summary entries should be as descriptive as possible in consideration of space limitations. Use the Comment Window to log your detailed comments. The entries must have sufficient detail to give readers a full understanding of what took place.

For example, the summary entry of the event log would show that you discussed an issue with the taxpayer or that correspondence was sent. The associated Comment Window would provide the specific details of the conversation or the subject of the correspondence.

Use the Public Contact function when recording field activities such as field visits, issuing IDR's, and logging conversations with taxpayers in the field. Do this until the time PASS is enhanced to recognized field activities as public contacts.

25.2.3 Personal PASS Paragraphs

You can insert PASS paragraphs into Word documents (even those created outside of PASS), but you cannot insert them into a protected PASS template. PASS paragraphs consist of commonly used FTB Standard Paragraphs, and personal paragraphs that you create. Standard Paragraphs are named C (for corporation), or P (for PIT) followed by the FTB paragraph number.

You can create personal PASS paragraphs. Once you have done this, you can later insert them into any Word document. You cannot use PASS paragraphs in protected PASS templates.

To Create A Personal PASS Paragraph:

1. Select the text you want to save as a PASS paragraph.
2. Click the PASS Paragraphs toolbar button.
3. Type a name for the paragraph in the Name field. The name will default to the first few words of the selected text.
4. Click the Add button.

Since PASS paragraphs can be used in any Word document, even those created outside of PASS. You must be careful not to store sensitive information as a PASS paragraph. Disclosure could be an issue.

Tip: Since PASS paragraphs are listed in alphabetical order, give your personal paragraphs names that start with **A** or a number. This way they will appear at the top of the list. For more information, read the document PASS Paragraphs.

To Insert A PASS Paragraph Into A PASS Document:

1. Place the cursor where you want to insert the paragraph.
2. Click the PASS Paragraphs toolbar button in Word.
3. Select a paragraph from the drop down list.
4. Click the Insert button.

If you cannot see the PASS Paragraphs toolbar button in Word:

1. Select View, Toolbars.

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2. Check the box for PASS Paragraphs.
3. Click OK.

You can modify or delete personal PASS paragraphs that no longer meet your needs. Changes to Standard Paragraphs must be submitted through normal departmental channels. You cannot change or delete them through Word.

To Modify A Personal PASS Paragraph In Word:

1. Highlight the new version of the paragraph.
2. Click the PASS Paragraphs toolbar button.
3. Select the name of the paragraph you want to change.
4. Click the Add button.
5. Click Yes to confirm redefining the AutoText.

25.2.4 Check In and Check Out

Checking out cases is reserved for instances whereby you or the supervisor needs to work on the case at a remote location (e.g., taxpayer's office, telecommuting). Follow the procedures below.

When working in the office, you should work on-line and be connected to Outlook at all times. It is important that you be connected to Outlook so that critical PASS messages will be received timely. For example, messages may be received informing all users to exit PASS immediately.

You should plan their time before going to the field to allow PASS to download their case units to the briefcase.

While working in the field, check in case units using the synchronization feature at least once a week to prevent potential data loss. The exception to this requirement is when you have been out in the field for an entire week then the check in may be made on the first workday back in the office after the weekend. For example, if you were out in the field on a Monday through Friday engagement, when you return to the office on your next regularly scheduled workday the case units will be checked in at that time.

Upon returning to the office all checked out case units must be checked in or synchronized into the PASS system. If your bottom drawer and non-PASS Time were checked out it must be checked back into PASS. Please keep in mind the posting of non-PASS Time must be done via checking these items in. This cannot be achieved by synchronization.

To ensure accuracy and completeness of the PASS Management Reports including: auditor monthly time report, synchronization or checking in of all cases units, the bottom drawer and non- Pass time must be performed by the end of the day (6 PM PST) on the last day of the pay period. It is recommended that staff that plan to be out of the office on the last day of the pay period fill out their time in the monthly report before going out in the field, vacation, etc. This step will mitigate check-in/synchronization problems.

25.2.5 MI Reports

PASS provides standard reports that are designed to meet various users’ needs. Some reports are available to supervisors and program managers, while others are also available to staff for managing their PASS workloads. These reports provide statistical information on PASS audit workloads. The accuracy of the reports is dependent on the information recorded in case units when the reports are run. If case units are not checked-in when reports are run, they will not be in

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the reports. It is critical to check in all case units and record all time before the scheduled monthly run, which is typically the last day of the state pay period.

25.3 Pre-Audit Procedures

25.3.1 Creating Case Units

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25.3.3 Requesting Returns

Requesting Returns Associated With Assigned Cases

When returns are being requested that are associated with assigned cases follow these steps:

- The responsible owner of the case will request the returns using PASS and name themselves as the responsible owner of the electronic returns.
- On the same date that the returns is requested, the responsible owner will create a manual event in the event log noting which returns was requested and who was designated as the recipient.
- Upon receipt of the paper tax returns, the responsible owner of the case will acknowledge receipt of the return icons and document receipt of the returns in a manual event in the appropriate case unit.

Requesting Returns for the Unassigned Inventory

When requesting returns for the Program Office's Unassigned Inventory, follow these:

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- The responsible owner will request the returns via the work area. Do not create case units.
- When the returns are received, perform a limited/restricted review to determine if it requires further analysis. Once a determination is made to retain the returns for a detailed scope, create a case unit for the Unassigned Inventory.
- For the surveyed returns that are being sent back to files, create a separate case unit note in the event log the reason for doing so. This is necessary in order to create a record of the audit history for the taxpayer.

Example:

Taxable years 2005-2006 were requested via the work area for ABC Corp. Upon receipt a limited review is conducted and it is decided to return taxable year 2005 to files and keep taxable years 2005-2006. A case will be created to include only a case unit for taxable year 2005. A note in either the event log or on a sticky note will be recorded to explain why the case is being returned to files. Upon completing the limited review, the physical return will be returned to the Receiving and Data Storage Section. Another case will be created which will include case units for taxable years 2005-2006. This will be added to the Program Office's appropriate Unassigned Group Work list.

25.3.4 PASS Workpaper Structure

Folders #1-9 below (**Administration** through **Audit Support**) are **static** folders, which means that these folders are permanently fixed. You cannot change the sequence of these folders. All cases are structured in this order. Also, you may add additional folders for case specific information such as IDR and AIPS Logs, and issue folders.

To ensure consistency and maintain one Audit structure, the workpaper file on the PASS system is structured in the following folders:

1. **Administration** stores our forms used for procedural purposes such as processing completed cases (e.g., routing information and worksheets for NPA/OA inputs).
2. **Reports** stores standard workpapers discussing the case unit as a whole, such as the Narrative Report and Hearing Officer Report.
3. **Schedules** contains the schedules for all final adjustments.
4. **Preliminary Analysis** stores documents developed during the planning stages of the audit, including scope sheets, research templates, and notes.
5. **Draft Correspondence** contains correspondence documents that have been created but not sent. Correspondence documents can be created in the Draft Correspondence folder.
6. **Sent Correspondence** contains copies of correspondence documents sent through PASS, via the Draft Correspondence folder. Documents in this folder are read-only.
7. **Received Correspondence** contains correspondence documents for correspondence recorded in the Event Log. This includes copies of any faxes received.
8. **Notes** stores additional information about the case or case unit such as the details from the first interview with the taxpayer or representative, public contacts, and ownership information (i.e., Public Contact Memos, research templates, and notes).
9. **Audit Support** contains documents created by Audit Business Support staff while processing completed cases.
10. **Issue Folders** contains documentation of the facts, law, analysis, conclusion, and determination for each audit issue. You can create issue folders as needed to fit the audit.

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25.3.5 Creating Workpapers for Multiple Year or Multiple Entity Audits

When you examine an audit concerning multiple years or a flow-through entity, complete one set of workpapers and save them in the primary case unit. If you audit more than one year, the primary case unit is the latest return under examination.

You or your supervisor decides which case is the primary case unit. You should also decide if there is more than one primary case unit. If there are entity and owner issues, you may select a primary case unit for each.

Record the location of the complete audit file in the Event Log of the nonprimary case units. A complete audit file is comprised of the primary case unit and the physical audit file. Include the entity name, year, and Document Locator Number. Refer in the primary case unit's Event Log to all other entities and tax years associated with the case.

PASS is flexible. You may use different organization strategies for different circumstances. For example, you may select a Pass Through Entity for examination, but later decide to limit the examination to an issue only at the shareholder/partner level, i.e., shareholder/partner basis. In this situation, you may choose to treat each shareholder/partner as a separate case, especially if you need to close the Pass Through Entity case or case unit.

25.3.6 PASS Workpaper Location for Flow Through Examinations

Entity Audits:

If the audit issue is an entity level only issue, keep the complete workpaper file in the primary case unit. Refer to the complete workpaper file in any related case units.

Entity Flow Through Adjustments to Owners:

When examining a flow-through entity, you must consider both the entity and the owners.

- If you conduct the examination at the entity level and adjust the owner level only because of the flow-through, keep the complete entity level workpaper file in the entity's primary case unit and refer to it in the owners' case units.
- When performing a partnership audit that results in flow-through adjustments to the individual partners, record the results from the flow-through adjustment in the partnership's Event Log. Refer to the individual partners where the actual adjustment is. Include schedules of adjustment in both the partnership's workpapers and the partners' workpapers.
- When performing an S corporation audit that results in flow-through adjustments to the shareholders, enter comments in both the S Corporation and shareholder Event Logs. For the S Corporation, record the results of the adjustment, to both the corporation and the shareholders, in the Event Log
- If you discover owner-only issues in addition to the entity level issues, establish workpapers as in situation #1 above. Create an additional Issue folder at the owner level.
- If the only issues are at the owner level, complete the workpaper package and attach it to the primary case unit of each owner.
- Note the location of the complete workpaper file in each of the other files examined, including the owner files.

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25.3.7 General Information Window

It is essential that audit staff update and verify the appropriate tabs within the **General Information Window** for each case unit. Verify that the information is pre-filled and complete all other fields not automatically filled.

In the Event Log, note the following:

- Changes in the Responsible Owner and why.
- The reason for a priority case, if one.
- Any change in statute and why.
- If we received a waiver, and whether for state or federal.
- Why a case was put into Suspense, if applicable.
- If the taxpayer has bankruptcy status.

25.3.7.1 Current Summary Tab

The Current Summary tab gives the user a general overview of the case unit. Some of the fields are discussed below.

Responsible Owner - Every case and case unit must have a Responsible Owner who is in charge of the case unit. Each case unit can have only one Responsible Owner. The Responsible Owner of the primary case unit is the Responsible Owner for the case. In a team audit, team members consist of the Responsible Owner and one or more team members.

ID Number - A number that identifies taxpayers, such as the

- FEIN (Federal Employer Identification Number).
- CCN (California Corporation Number).
- SSN (Social Security Number).

Taxpayer ID Type – The type of taxpayer identification associated with the taxpayer. The possible types are

- FEIN (Federal Employer Identification Number).
- CCN (California Corporation Number).
- SSN (Social Security Number).
- Unknown.

Case Unit Creation Date - The date the case unit was created, either manually or automatically. We use it to measure the audit's effectiveness.

Case Unit Type - The classification of the current examination (Audit, Protest, Untimely Protest, or Claim).

Case Unit Status - The current phase in the examination process (e.g., pre-audit, work in progress, review, etc.).

Fiscal Year – This is the Taxable Year End for the entity. If the entity has calendar year 2006, the date entered is **12/31/2006**. Update this information on all case units. Audit Support uses this data during the case unit closure process.

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Bankruptcy Indicator - Indicates if this taxpayer is in bankruptcy status. If so, change the Statute of Limitations date to reflect the Bar Date.

Priority Case Indicator - Indicates if this case is a priority.

Workload Category - Enter for all case units. Do not charge time to a case unit that does not have a valid workload code. You should have one workload code through the life of the audit. For example, if a case goes through the audit cycle, is subsequently protested, and then goes through the appeals cycle, the workload code should remain the same. See your supervisor or lead for appropriate workloads. Also, see MAP Revenue Codes/Workload Codes.

Next Action - The next action and the associated next action date information are displayed. Only the most current next action is displayed at a time, unless the tickler becomes overdue.

IRS Audit Flag - Mark the box if you get information about an ongoing IRS audit. If you know the IRS Audit Date, complete this field.

Entity Type – The taxpayer's form of business. Entity types include C-corporation, S-corporation, Partnership, Estate/Trust, Individual, IRA/Keogh/SEP, Limited Liability Company, Limited Liability Partnership, and Other.

DLN – Document Locator Number. See MAP Document Locator Number (DLN), for additional information.

Statute of Limitations Date - The Statute date for the case unit. This information is pre-filled, so you must confirm this information. Update this field as changes are made to the Statute during the course of the examination.

If the taxpayer is in bankruptcy, the Statute should refer to the Bar Date as the statute date.

Suspense Release Date - If the case is in suspense, enter the date that it is due for release. Record in the Event Log. Although the suspense date puts the case on **hold** for a period, it is still viewable.

Case Unit Type Date - The date the case unit was changed to the current type. This helps us measure our timeliness.

Case Unit Status Date – The date the case unit was changed to its current status.

Waiver Indicator - Indicates if we received an acceptable waiver for this case unit. Follow usual waiver rules about attaching original copies to the returns and making the appropriate cross-reference notes. See MAP Waivers, for additional information.

Amended Return Indicator - See the following examples of when to check and not to check the Amended Return Indicator:

- Amended returns become a part of the case unit already established for the filer. If you are working an **Audit** type case, and an amended return (nonclaim) is filed during, or before the audit process, check the **Amended Return Indicator** box, indicating that an amended return was filed for the current case unit. Do not create any new case units for the amended return.
- If you receive the amended return (nonclaim) to be worked as an audit, and there is no case or case unit already established for the tax year in question, the amended return is the current case unit. Do not check the **Amended Return Indicator** box.
- If an amended return that is a claim for refund is received, the amended return is the current case unit. You do not need to check the **Amended Return Indicator** box.

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Litigation Potential Indicator – Indicates if the case unit has litigation potential.

Next Action Date – Date next action is required.

IRS Audit Date – Date of the IRS audit (if applicable).

Location – Where we conducted the audit, in the field or through correspondence (desk).

25.3.7.2 Audit Tab

The Audit tab provides general information about work performed during the audit cycle. It includes these fields:

Complexity - The complexity codes indicate the examination's complexity and the level of review that we must complete on the case. The Unit Supervisor determines which codes to assign. The complexity codes are High, Medium, Low, and None.

Notice Agreement - The box is checked if the taxpayer agrees with the proposed adjustment.

Notice Type/Notice Amount - These fields display the most recent amount. For example, if a Notice of Proposed Assessment was created in the Notice window for $50,000 on February 1, 2006, and a subsequent Notice of Proposed Assessment for $10,000 was created on February 15, 2006, only the more recent notice for $10,000 displays.

Primary Issue - This is the primary issue that the user has selected.

NPA Jeopardy Flag - Check this box if a Notice of Proposed Assessment Jeopardy assessment will be or has been issued.

Total Tax Potential is the estimated revenue expected from this audit.

Total Actual Hours are the cumulative hours charged in the Task Plan to date.

Total Estimated Hours are the cumulative hours estimated when completing the Task Plan.

Primary Staff/Assigned Date - Select the primary staff and the date the case was assigned to an auditor. It is crucial to complete the Primary Staff. When cases are transferred to another staff, update the primary staff field with the new assigned staff. Keep the original assigned date!

Org Group is the organizational group that is assigned based on FTB organizational charts. This information is used for supervisory reports and upper level management. All users should verify this information is correct and update with any changes.

The primary staff is the individual who actually works and resolves the audit. The primary staff is responsible for completing the audit. While the responsible owner can change as the case unit is transferred from individual or group, the primary staff was designed to remain constant, unless the case is reassigned to a new staff to complete. When working team audits, the team lead of the audit is the primary staff.

A primary staff is selected for each type the case unit is worked in. It is crucial to complete the primary staff and the associated assigned date fields. It is the staff's responsibility to update this field. Supervisors should verify that staff completes this information. Unlike the responsible owner, we should keep this field current as the case unit is reassigned.

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25.3.7.3 Protest Tab

The Protest Tab provides general information about work performed during the protest cycle. It includes these fields:

Complexity - The complexity codes indicate the examination's complexity and the level of review to complete on the case. The Unit Supervisor determines these codes. The complexity codes are: High, Medium, Low, and None.

Protest Name – The name of the protest case. If cases are consolidated, this may differ from the PASS case name.

Notice Agreement - At the end of the protest, check this box if the taxpayer agrees at protest to all open issues.

Notice Type/Notice Amount - If multiple notices are entered in the current type, PASS displays the last notice and notice amount.

Primary Issue is the primary issue that the user selects.

Date Hearing Held - This is the date that the protest hearing was held, if applicable.

Bill of Rights Date is 18 months from the date the protest was filed with Franchise Tax Board, not date received in Audit.

Protest Amount is the tax and penalty that the taxpayer protests.

Total Tax Potential - The tax potential at protest is the total tax assessed at audit.

Total Actual Hours are the hours charged during the protest.

Total Estimated Hours are the hours estimated when completing the Task Plan.

Primary Staff/Assigned Date – You must select the primary staff. The date should reflect when the case was assigned to an auditor. It is crucial to complete the Primary Staff. We use this information to determine the unit's production statistics. When you transfer a case to another staff, update the Primary Staff field.

Hearing Requested Date - If the taxpayer requests a hearing, check this box.

Date Protest Filed - Update this field. This is the date the taxpayer filed the protest with the department, not the date the protest was received in a particular unit. It is crucial to complete this information. Update the Bill of Rights date for each case unit.

Hearing Location – Update this field with the location of the hearing.

25.3.7.4 Claim Tab

The Claim Tab provides data on the work performed during the claim cycle. It includes these fields:

Complexity - The complexity codes indicate the examination's complexity and the level of review to complete on the case. The Unit Supervisor determines these codes. The complexity codes are: High, Medium, Low, and None.

Notice Agreement - At the end of the audit, check this box if the taxpayer agrees to the determination.

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Notice Type - You will issue either a denial letter (full or partial), allow the claim, or issue an assessment. This field is automatically updated.

Notice Amount - This field is automatically updated.

Primary Issue - This field identifies the issues under consideration at the claim level. If the claim is filed in response to a notice or is a paid protest, the issues should be the same as during the audit process. If the taxpayer initiated the claim, the issues may vary.

Claim Filed Date is the date the Department received the claim, not the date a particular unit received the claim. This date should be updated for all claim case units. It is crucial to complete this information. Update the Bill of Rights Date for each case unit.

Amount of Claim – How much the taxpayer requests. If the taxpayer files an amended return requesting a refund, the amount of the amended tax return is entered in this field. When the taxpayer has paid a Notice of Proposed Assessment to stop accruing any additional interest, include the amount the taxpayer is requesting (i.e. the tax amount the taxpayer paid) in the Amount of Claim field.

Amount Denied is the amount of the requested refund that is denied. If the taxpayer requests $50,000 (reduction in tax only) and it is determined that the taxpayer's overpayment is $30,000, then $20,000 will be the amount denied and the amount in the Notice window.

Claim Number - Enter the claim number, if available. Not all claims will have a claim number that we track. The Claims Desk assigns the Claim Number that is on the amended tax return.

Total Tax Potential - This field shows the tax potential if denying any part of the claim. The tax potential may differ from the claim amount.

Total Actual Hours shows the hours charged to the claim. This field is automatically updated.

Total Estimated Hours shows the cumulative hours estimated when completing the Task Plan.

Primary Staff/Assigned Date - You must select the primary staff. The date should reflect when the case was assigned to an auditor. It is crucial to complete the Primary Staff field. We use this information to determine the unit's production statistics. When you transfer cases to other staff, update the primary staff field.

Bill of Rights Date - In accordance with CCR §19032, you can modify this date by entering directly in the field.

Paid Protest Date is the date the Notice of Proposed Assessment is paid, while working a protest audit. Once the protest is paid, the case is deemed a claim. The user must change the type of the case unit from Protest to Claim. A claim is deemed denied if not worked within six months, and the taxpayer has the right to file an appeal with the Board of Equalization. Incorrect information on the system may lead to erroneous decisions.

Hearing Requested Date - This is the date the taxpayer requested a hearing. Taxpayers may request a hearing in their original protest letter or later. Update this information in the General Information window.

Hearing Held Date - This is the date the hearing is actually held. Update this field after the completion of the hearing.

In all cases, it is important to coordinate audit cycles, protest cycles, and appeal cycles for the same taxpayer. You should always check the BETS/TI systems to identify if prior years are under protest or appeal.

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25.3.7.5 Docketed Protest/Claims Tab

The Docketed Protest/Claim Tab provides information about the case unit when it was in the Docketed Protest/Claim Type. A docketed case unit has been determined to have significant legal issues requiring the Legal department's consideration. You cannot view this tab unless you have proper authorization.

25.3.7.6 Appeals Tab

The Appeals Tab provides information about the case unit when it was in the Appeals Type. You cannot view this tab unless you have proper authorization.

25.3.7.7 Litigation Tab

The Litigation Tab provides information about the case unit when it was in the Litigation Type. You cannot view this tab unless you have proper authorization.

25.3.7.8 Settlement & Settlement Amounts Tabs

The Settlement and Settlement Amount Tabs provide information about the case unit when it was in the Settlement Type. You cannot view this tab unless you have proper authorization.

25.3.8 Task Plans

The Task Plan is your strategy to complete an audit, the start and end dates for each task, and the estimated hours per task, you expect to incur over the course of the audit. The Task Plan helps you to complete the case in a targeted fashion and within the estimated hours.

25.3.8.1 Task Plan for PIT and Non-Apportioning Corporations

Create one Task Plan for each case unit. If a case has more than one case unit, maintain the Task Plan in the Primary Case Unit. All case unit Task Plans associated with one case accumulate to create the Case Task Plan. You must create at least one Task Plan for each case, in the working case unit where actions are documented.

Task Plans for Multiple Entities

If one case has case units comprised of different entities, you must establish a Task Plan for each different entity, since the tasks required at each level may differ. For example, if you are examining one year of a partnership, and are looking at the same year of three of its partners, you have four case units under one case: one partnership and three owners. Establish a Task Plan to show the audit plan for the partnership and the audit plan for each partner if you will complete additional work at the partner level. Also, see MAP Creating Workpapers for Multiple Year or Multiple Entity Audits.

Baselining

In general, we expect to complete audits requiring fieldwork within one year. We should complete correspondence (desk) audits within six months. We use baselining to measure planned versus actual completion dates. It permanently records a task's planned end date. The audit supervisor makes the determination to **baseline** a case or task. Baselining will not prevent you from progressing on the case if you exceed the established date. However, you cannot modify the planned end date once you have established it.

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25.3.8.2 Task Plan for Apportioning Corporations

In order for an auditor to charge time to a case unit, the activity task has to be established in the task plan. While the PASS Operating System provides for at least 10 separate tasks, in order to promote consistency and clarity, Multistate Audit Staff will only use the three tasks outlined in the chart below.

The tasks, as well as the associated estimated date and hours, may be set during the course of an audit or they may be developed at the beginning of the audit.

Create a task to reflect pre-audit work (Pre-Audit Analysis) to be performed (this allows time for scoping the case).

After the scope is reviewed and approved by the supervisor, create tasks for the remaining work to be performed on the audit. All time worked on the case is generally recorded on the primary case unit. However, this procedure may vary for team audits where each auditor is assigned a case unit and the auditors records their time in their own respective case unit.

The table below provides the 3 activities that Multistate Audit will use to record the most appropriate task available in PASS:

TASK NAME	RELATED ACTIVITY
Pre-Audit Analysis	Time spent completing Pre-Audit steps including but not limited to: • Scoping. • Preparing schedules to calculate tax potential. • Gathering and reviewing third party information from various sources such as Lexis/Nexis and Moody's. • Requesting & reviewing pre-audit scope information from the taxpayer. However, if any of this activity is performed in the field then the Fieldwork/Appointment Task Name will be used.
Analyze/Review Documentation	Used to designate time spent on the following functions such as, but not limited to: • Review correspondence and documents received from a taxpayer. • Time spent creating Issue folders as well as time spent updating the workpapers. • Drafting and printing IDRs. • Analyze documents provided. • Review books and records. • Time updating the workpapers. • Time spent preparing or updating schedules during the course of the audit. • Obtaining third party information.
Fieldwork/Appointment	For all field activities conducted while on an audit

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TASK NAME	RELATED ACTIVITY
	appointment.

Audit staff should close out **all** tasks by completing the Actual End Date fields before forwarding a case to TRS.

25.3.9 Time Reporting

To ensure accuracy of the MI Reports, all personnel (auditors, administrative support, supervisors and programs managers) must record their time each month on the Monthly Hours Report. All time must be entered by the end of the day on payday. Since the reports also rely on user information being correct, please ensure your PUC and program are correct. In accordance with the MI Procedures, in the event an adjustment is made to your recorded time please notify your supervisor or audit support person so the adjustment can be recorded. Currently this is being done manually until a permanent fix is established in PASS.

The Monthly Hours Report shows the hours you have recorded for each day of the month. Direct hours are accounted for in the case unit, and Non-PASS Time is broken down by task. You can run this report for any month, including the current month. If you run it for the current month it will show all hours you have recorded as of the time you run the report.

Helpful Hints for Auditors

- All PASS users must record all hours worked during the month on PASS by the end of the pay period.
- Each user is responsible for recording their time worked and paid absences.
- To the extent possible, please record time on a daily basis.
- Please keep in mind there could be differences between your Monthly Hours Report and the actual hours in the month due to such items as excess and deficit hours, overtime or ATO.
- Please do not enter time on holidays, unless you actually worked that day.
- On the monthly report, you can verify the hours recorded for PASS and NonPASS time by day. Changes still need to be made within the cases or the NonPASS time window.
- Remember to change the current date to the date the user would like to have the time recorded.
- All audit hours must be put into PASS Case Units.
- Make sure you are recording your hours in the tasks marked with an **A** for audit.
- Report any adjustments made to your time after the end of the pay period to your supervisor or Office Timekeeper.

If you have questions on the appropriate use of any of the indirect workload categories in Non-PASS Time, please consult with your supervisor or Program Manager.

Helpful Hints for Supervisors and Managers

1. Recording your Time.

- All PASS users must record all hours worked during the month on PASS.
- Each user is responsible for recording their time worked and paid absences.
- To extent possible, record time on a daily basis.

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- All time will be recorded in Non-PASS Time. The only categories that will be used are Supervision (for Supervisors), Administrative (for Program Managers), and Absence. Time will not be charged to actual case units.
- Please do not enter time for holidays.

2. Reviewing your Team's Time.

- Prior to end of the month follow up on any discrepancies noted by your Office Timekeeper.
- Review Month End Report on payday prior to reports being run to ensure that the time being recorded is under the appropriate task name and workload categories. To ensure accuracy of the MI Reports, all personnel (auditors, administrative support, supervisors and programs managers) must record their time each month on the Monthly Hours Report. All time must be entered by the end of the day on **payday**. Since the reports also rely on user information being correct, please ensure your PUC and program are correct. In accordance with the MI Procedures, in the event an adjustment is made to your recorded time please notify your supervisor or audit support person so the adjustment can be recorded. Currently this is being done manually until a permanent fix is established in PASS.

The Monthly Hours Report shows the hours you have recorded for each day of the month. Direct hours are accounted for in the case unit, and Non-PASS Time is broken down by task. You can run this report for any month, including the current month. If you run it for the current month it will show all hours you have recorded as of the time you run the report.

25.3.10 Address Book

The Address Book stores the address of the taxpayer and representative. Each case unit has an Address Book. Be sure that all of the information is accurate. Verify the address information at the beginning and end of the examination.

If you update an address on PASS, you must also update the BETS or TI system. The Address Book only updates the address for correspondence generated by PASS.

In general, you maintain the Address Book. However, you might need help updating the Address Book for a large audit. If so, you should contact the Audit Business Support administrator.

Additionally, for correspondence with taxpayers, the Secure Electronic Communications tool is an efficient alternative to postal mail.

25.3.11 Notification Flags on PASS

PASS generated notifications will be sent to your PASS Inbox. These notifications will be kept for 6 months within the PASS system. When a notification is 6 months old, it is removed through a nightly batch process. There are five types of notifications:

Model Run notifications will be sent to you when the model run you requested is completed.

Transfer notifications will be sent to you any time a case/case unit is transferred to you. This includes any time you drag a case/case unit from a group worklist, or assign a candidate to a group worklist (the owner of the group worklist will receive the notification)

Tickler notifications will be sent to you on the action date (unless the case unit is checked out). If you set a notification tickler, the message you specified will be sent. If you set a document tickler,

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a notification reminding you to send the specified follow-up letter will be sent. Tickler notifications become overdue at midnight on the date they are due.

Review: You may send notification to a reviewer or multiple reviewers. These notifications will appear in the Inbox when they are sent. (Click on the See Also button and select Request Review Notification for more information)

External System Notifications will be sent from BETS and TI.

1. TI Notification will be sent to the Responsible Owner when certain TI Account changes occur. For more information, see help topic TI Notification.
2. TI Flag (data retention) notifications will be sent when you:
   - Change status to Open or Close.
   - Select HRA Work Category in the GI window and the prior year's case unit is not in PASS (If the prior year's case unit is in PASS, the user must set the flag for the prior year case unit).
   - Update TPID or APE information in the Taxpayer Information Access window.

   See MAP Activating the TI Notification Flag for additional information.
3. BETS notifications are sent whenever there are account or entity changes. This will include changes to the BETS ID, name, address, account detail, relationship, business detail, accounting information or activation/inactivation of PASS Case Units. To receive BETS notifications the Case Unit ID must be activated. See MAP BETS Notification Flag.

25.3.12 Activating the TI Notification Flag

PASS will send a notification of TI Account changes to the Responsible Owner's Inbox. The Responsible Owner must manually set the TI Notification and the case unit must be in Work in Progress (not closed or surveyed) Status. TI notification will automatically be disabled when the case unit is changed to closed status.

TI Changes that will be sent to PASS Inbox:

These are the TI changes that may cause you to receive a Notification in your Inbox: Entity, Name, Address, Social Security Numbers, Bankruptcy, Deceased, Tax Protester, Investigation, PDT, Special Procedures, LIEN, Tax Liability, New Return, Status, New Assessment, and Jeopardy date.

TI Notification Procedure:

1. Open Case Unit.
2. Open General Information Window.
3. Verify status is in Work in Progress.
4. Verify the Fiscal Year Box contains a value (calendar or fiscal year).
5. If no value is present, input value.
6. Closed the General Information Window.
7. Open Taxpayer's Information Window (TIA).

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8. Under Form/Source, select **TI Sel Tax Year**.
9. Enter values for APE (mmyy) and TI TPID (9-digit) and Save.

The notification will only be sent if there is a match against TI files and the PASS case unit for TPID and APE.

25.3.13 Activating the BETS Notification Flag

PASS can receive notifications from BETS and TI when activity occurs on the taxpayer's account. For BETS, you must activate the PASS Case Unit ID (PCU) for the notification process to work. This notification will flag the auditor of account transactions, name changes, address changes, account detail changes, relationship changes, business detail changes, and accounting information changes. When you activate the PCU it will also place a flag on BETS indicating that there is an active case unit in PASS. Case Units created after 10/04 will automatically set the BETS Notification flag (Click on Automatic Activation for PASS Case Units for more information).

BETS will send the user a message in their PASS IN-BOX of any BETS activities if the BETS notification flag has been activated. Statutory cases and surveys **do not** need to have the BETS account activated. Remember upon completion of the audit the BETS notification needs to be de-activated.

To manually activate the PCU:

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25.4 In Progress Procedures

25.4.1.1 Issue Folders

Issue Folders provide a location to organize PASS documents related to a specific Issue. You can create as many issue folders, as you need in the Workpaper File. An Issue folder serves as the record of the audit process for each issue under examination. In this folder, you will:

- Describe the audit issue, as reported on the tax return.
- Document research performed.
- Explain documents reviewed.

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- Document the analysis of the documents received and the applicable law.
- Update the Issue folder continually.

You may create as many Issue folders as needed to address the audit issues. Give each audit issue its own Issue folder.

Naming the Issue Folder

The folder's name should adequately identify the issue and the entity, if needed. The Issue folders are listed in the order in which they were created. Name the files as you create them. The files are sorted in ascending or descending alphabetical order.

When you are examining multiple years and multiple issues, but one or more issue is specific to one year, include the year within the name of the Issue folder.

The New Issue Folder window allows you to create a new folder and assign a Tier 1 Issue (required) and Tier 2 Issue (optional) for the folder.

In the Tier 1 and Tier 2 Issue fields, MSA and GTA staff can view only the issue codes that apply to their respective workloads by program area. Legal staff can view all codes.

Contents of the Issue Folder

The Issue folder contains the audit files commonly used during the examination. For example, the documents contained in an issue folder would be listed as follows:

1. Audit Issue Section.
2. Audit Issue Verification Sheet.
3. Schedules related to a particular Issue.
4. Received Correspondence related to a particular issue.
5. Sent Correspondence related to a particular issue.

25.4.2 Case Unit-Key Dates

The Case Unit Key Dates window displays key dates for each case unit type. It is essential once the case is started the **key dates** in the Case Unit Window are accurate. These dates will be used in MI reports to monitor the life cycle of a case unit. The dates are populated when auditors record key events in the event log.

The two dates you must maintain are the Audit first Contact Date and the Date the Audit was completed by the Primary Staff. The key dates are automatically populated by PASS when certain events occur. For example, PASS will record a first contact date when there is correspondence or public contact is recorded. For Field Auditors, first contact is defined as the first day of fieldwork. Therefore, it will be necessary for you to change the date entered by PASS to record the correct date. The **Case Unit Key Dates** window may be accessed via the view menu option in the Case Unit Window or via the **Case Unit Key Date** icon on the toolbar. You can correct any date by selecting it and right clicking. For a list of available key dates, see the Key Date Default List.

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Deferral Period and Reason

There are two distinct deferral period procedures for Management Information (MI) Reporting. There are procedures for a deferral period with a deferral reason for Audit and a deferral period without a deferral reason for TRS and Support. Both options are used to exclude case/case unit lag time from MI reports, but for different purposes.

25.4.2.1 Audit Resolution Deferral

For Audit resolution, the Audit, Claim, Protest, Docketed Protest, and Appeal type Deferral Begin and End Key Dates can be set in conjunction with selecting a Deferral Reason in the GI window. This option is used for long-term holds on a case/case unit like Pending Federal or Bankruptcy (see Deferral Reasons by CU Type in the GI Window).

Steps:

1. Select the (Case Unit Type) Deferral Begin Date in the Key Dates Window and enter a New Report Date. This will start the deferral period.
2. Open the GI Window and then select a reason from the Deferral Reason drop down box.
3. To end a deferral period, select the (Case Unit Type) Deferral End Date from the Key Dates Window and enter a date in the New Report Date field.

After the weekly MI Report update, deferral dates and reasons will be available to view either by selecting reports displaying deferral information or by adding deferral data elements to a report via a pick-list.

After a deferral reason is selected, and the deferral period ends, the deferral reason should never be modified or removed (except for multiple deferrals as described below). MI Reports will only maintain the latest deferral reason per CU Type. Any change to the deferral reason after the deferral period ends, will delete historical information.

Multiple Deferrals Within the Same CU Type

There is only one set of Deferral dates, and only one Deferral Reason per CU Type. There may be circumstances in which a case unit is deferred more than once, for different reasons. When this occurs:

- Select the deferral reason **multiple** for Audit, Claim, and Protest CU Types or leave the latest deferral reason for Docketed Protest and Appeal CU Types.
- Adjust the (case unit type) Deferral Begin Date to reflect the overall deferral period.

Example:

Audit deferral required for the period of 12/01/2006-12/20/2006, Reason= Bankruptcy.

Audit deferral required for the period of 11/01/2006-11/20/2006, Reason= Pending Federal.

When the second deferral starts:

- In the GI window, Audit tab change the Deferral Reason from **Pending Federal** to **Multiple**.
- In the Key Dates Window, change the Audit Deferral Begin Date from 11/01/2006 to 11/10/2006 and reset the Audit Deferral End Date to 00/00/0000.

It is important to adjust the Deferral Begin Date so that reports will be calculated correcting during the second deferral period, as well as after it is completed.

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When the Bankruptcy deferral period ends, enter the correct final Audit Deferral End Date of 12/20/2006.

This procedure will enable the reports calculate the correct TOTAL NUMBER OF DAYS the case unit was deferred.

Reasons Available by CU Type in the GI Window:

CU Type	Deferral Reason	Definition of Use
Audit, Claim and Protest	Bankruptcy	Deferred pending a bankruptcy court action for the same or another case unit.
	Docketed Protest	Not Applicable
	Investigations	Referred to the Special Investigation Section
	Litigation	Not Applicable
	Multiple	Deferred for multiple reasons
	Pending Federal	Deferred Pending Federal Action
	Protective Claim	Claim filed to protect statute for a pending court decision.
	Return to Audit	Returned to Audit for factual development
	Settlement	Referred to Legal for Settlement

25.4.2.2 TRS Deferral

The TRS Deferral Begin and End Key Dates are available for all case unit types, however they are used without selecting a reason. These deferral periods were specifically developed for TRS and Support to provide the ability to exclude lag time on reports for case/case units returned to other areas for correction or analysis. Notes regarding the deferral should be entered as an event in the event log or attached to the case unit as a sticky note.

TRS Procedure:

- Select the (Case Unit Type) TRS Deferral Begin Date in the Key Dates Window and enter a New Report Date. This will start the deferral period.
- Do not enter a deferral reason in the GI Window.
- To end a deferral period, select the (case unit type) TRS Deferral End Date from the Key Dates Window and enter a date in the New Report Date field. This will end the deferral period.

25.4.3 Working Team Audits

The objectives of the procedures for working team audits is to assist team members to effectively operate in the PASS. The team leaders are allowed some discretion in setting up team audits as long as the objective is met. The purpose of these procedures is to provide some guidelines to working team audits.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

The designation of each team member controls what you can do in each case unit. There are two designations for each member: Responsible Owner and Team Member.

Responsible Owner

Responsible Owner access is designated at the case unit level. It allows you to create, update, and delete items in all components of that case unit. This includes the ability to edit comments in the Event Log, and remove the baseline from a task. The RO role also allows you to transfer the case unit, check the case in and out, add and delete team members to the case unit, add tasks to the Task Plan, and change the status/type of the case unit. The RO of the Primary Case Unit is the RO of the Case.

Team Member

Team member access is designated at the case unit level. It allows you to create, update, and delete addresses, workpapers, and ticklers. Team members can create events, issue folders, and check the case unit in and out. They cannot transfer the case unit, assign team members, create/update tasks in the Task Plan or edit the comments in the Event Log. When a Case Unit is transferred, all team members are deleted.

Working team audits require more PASS planning from the onset than does an individual case assignment. Once the case has been determined to be field audit worthy the following steps must be completed prior to commencing any additional audit activity:

Procedures for Team Audits

- For each case unit, go to the General Information window and change the Primary staff to the name of the team leader.
- For each team member, determine which audit issues they will be responsible for and the Case Units in which they will be documenting their work.
- The Responsible Owner (RO) must create tasks in the Task Plan for each active case unit so that hours can be recorded.
- Each team member will create the Issue Folders they will be responsible for.
- If there are more auditors than Case Units it will be necessary to create Dummy Case Units so that each team member can work in a Case Unit.
- The Team Leader should create and maintain a Summary Case Unit. Indexes will be created detailing the audit issues each team member is responsible for and where the issue is located within the case. It is recommended to include the audit schedules, narrative, cover sheet, etc. in this case unit.

Other Issues to Consider:

The team audit can be set up using different methods depending on the needs of the team, as shown in the following two methods.

Method a

The team leader will be the RO for all case units. Each auditor must be added as a team member in the Team Member Window of the case unit in which they are to document their work.

For method **a,** note the following limitations:

- The team member cannot create/update Tasks in the Task Plan.
- The team member cannot edit the Comments field of Recorded Events in the Event Log.

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- The team member cannot Change Status of the Case Unit.

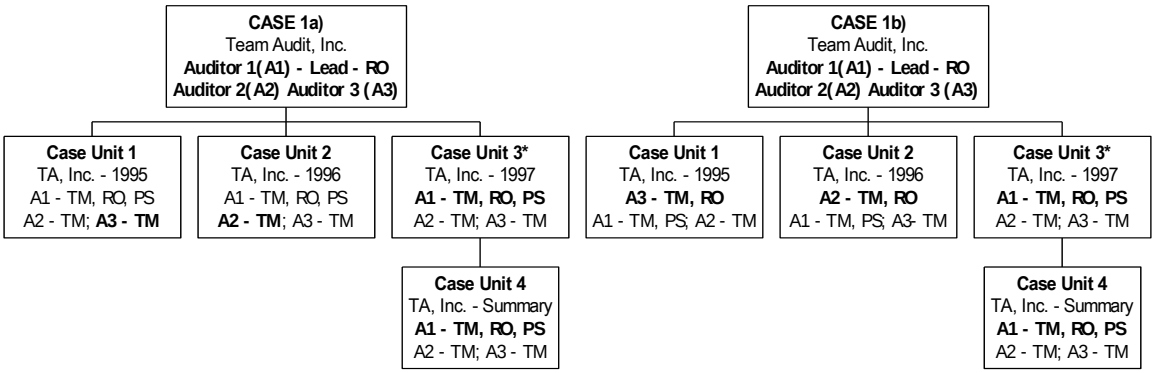
Method b

The team leader can also transfer a case unit to the team member that will be used by that auditor to document his/her audit work (responsible ownership is transferred). Once the case unit is transferred, the lead should be made a team member on this case.

In both of these methods, each Team Member will have the ability to create and update their work in their respective case unit.

In method **b**, the team members have the option of adding the other team members (including the lead) to their respective case unit.

The diagram below illustrates a typical work assignment structure under the methods above. Method a, is identified on the left as Case 1a. Method b is identified on the right as Case 1b.



TM = Team Member

RO = Responsible Owner

PS = Primary Staff

Primary Case Unit

Working Team Audits in the Field:

In addition to the areas above, there are certain procedures that are unique to working a team audit in the field. Follow these procedures in situations other than described above:

- Each team member will check out their assigned Case Unit to their briefcase.
- Each team member should check out his/her own Bottom Drawer and Non PASS Time.
- As an option the other team members' Case Units may be checked out in a read only format.

Team members will electronically notify the rest of the audit team when they have taken action on an issue outside of their own responsible Case Unit.

In the past, some team audit leads may have checked out the entire case to their Briefcase while the team members would work on the case in their Bottom Drawer. This method should no longer be followed. It is more time consuming and could possibly result in the loss of data. In addition, this method makes it extremely difficult to account for the daily time spent working on the case.

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25.4.4 Outgoing Correspondence

The auditor has the primary responsibility for updating the PASS Desktop case file.

Use the Draft Correspondence folder when preparing outgoing correspondence. The **Send** option will create an event in the event log that the correspondence has been sent. If any additional details need to be added, document this in the comment section of the entry created.

If a document is inadvertently sent, the user must copy and paste the text from the **Sent Correspondence** folder to a new document in the **Draft Correspondence** folder. Updates can be made to the new document and then re-sent. Enter a comment in the Event Log to note the **Sent Correspondence** (document name) was inadvertently **sent** but not mailed.

The above procedure can also be used to reissue an outstanding IDR. You can also reissue the IDR using the new template. If the new template is used it is necessary to manually add an entry to the Event Log.

Create a tickler (reminder) to send out a follow-up letter. Once the tickler prompts you, send the follow-up letter. See MAP Ticklers, for additional information. Mail the letter the same day that you print it. Be aware of the mail pick up times for your area.

25.4.5 Issuing AIPS From Draft Correspondence or Audit Issue Folder

You have the option to issue AIPS from the Draft Correspondence Folder or Audit Issue Folder. Issuing AIPS from an Audit Issue Folder may be preferable on a large case because it provides the ability to segregate AIPS from all other correspondence and thereby keep the files more manageable.

If you issued AIPS from an Audit Issue Folder, save a read-only copy of the AIPS in the Send Correspondence II Folder.

To save a copy, right click on the document and select **Archive a Copy** from the popup menu. Using **Archive a Copy** will create a Send Correspondence II Folder if it does not exist.

If you issued AIPS from the Draft Correspondence Folder, you do not need to keep printed copies because it is saved in the Send Correspondence Folder.

For MSA cases, regardless of the method you used, maintain a separate issue folder called **Master AIPS Log**. This folder will contain the Master AIPS Log.

25.4.6 Incoming Correspondence

To record the receipt of Incoming Correspondence, use the **Receive Correspondence** button on the PASS toolbar. By utilizing this toolbar button an event is automatically posted in the event log. In the comment field of the event created, record the subject or nature of the correspondence, the workpaper reference where the document can be located, and any other necessary detail.

When incoming correspondence is recorded in the Event Log, the date that the event is recorded is the controlling date. The auditor is not provided an opportunity to change this date to reflect instances when the correspondence was entered into PASS on a day other than the date received.

To ensure that the PASS system reflects the actual date that the correspondence was received, follow these:

- Record an event for the incoming correspondence in accordance with PASS procedures as per paragraph one above.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- If you are recording incoming correspondence on PASS on a date other than the date received, note in the subject/description field the actual date received. Record the actual date in the description field rather than the comments field so that the actual date received will be visible in the event log.

25.4.7 FAX Correspondence

The PASS Desktop lets you exchange documents between with taxpayers by facsimile (Fax). You can exchange faxes through the PASS Desktop two ways:

- When working on a laptop, you can send faxes.
- When connected to the PASS Desktop network, you can send and receive faxes using the PASS FAX server.

Sending:

When connected to the network, you can send faxes through your PASS Laptops and Desktops. When faxing confidential information using the PASS system, follow the Security and Disclosure procedures. Use our standard cover sheet, because it has appropriate disclosure information. State law protects confidential taxpayer information including, but not limited to, social security numbers, telephone numbers, and credit card numbers. When faxing correspondence, use a cover sheet to protect confidential information.

Because information sent over the Internet may be intercepted, do not send faxes over the Internet via Microsoft Outlook email exchange.

Receiving:

We treat faxes received by a unit machine instead of a PC as regular correspondence. Photocopy any faxes printed on thermal fax paper, because it will fade and become illegible. Include the photocopy of the fax with received correspondence. Our Taxpayer Signature and Authentication Policy - FTB Policy, File 9140 addresses the acceptability of faxed documents. This policy gives internal guidance on the level of authentication we need for specific documents, including whether we accept a photocopy or facsimile of a document.

Faxed or photocopied waivers are evidence that a taxpayer agrees to extend the statute of limitations. However, unless you receive the original document, a faxed copy is not accepted as anything other than evidence of intent, see MAP Waivers.

When connected to the network, you can send and receive faxes. You will receive an email message via Microsoft Outlook with the received fax attached.

25.4.8 Ticklers

You can use **ticklers** to remind you to perform basic tasks.

There are two types of ticklers:

- **Notification Ticklers** trigger a future notification. When the trigger date arrives, a notification will be sent to your PASS inbox. The notification will include any comments you made when creating the Tickler reminder.

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- **Document Ticklers** remind you to send correspondence. This reminder will include the name of the letter template, if selected when the Tickler was created. For example, you may create a reminder to send a demand letter if a response is not received by June 1, 2006. On June 2, 2006, you will receive the reminder telling you to send the demand letter.

Once you have created a tickler, it stays in the Ticklers window until you delete it. You can use ticklers to note the next action on a case unit.

Updating Ticklers

At any time, you may view and edit the list of outstanding Ticklers for one case unit. When you no longer need a Tickler, you should cancel it.

Tickler Status

There are three statuses for ticklers:

- Active
- Completed
- Overdue

25.4.9 Claim Filed Subsequent to Audit in Progress

Audit Staff will have cases with different types of case units when they have claims for refund and original returns to audit for the same taxpayer. Since changing the status from audit to claim locks up the workpaper file, it is necessary to create a separate nonprimary claim case unit. Although it is required that a nonprimary claim case unit be created to capture the claim information, you can determine whether to document and record the audit process in the primary case unit or the claim case unit. Please be consistent by including the necessary information other than the claim information in the claim tab in the claim case unit or the primary case unit.

If there is a claim as part of the current audit cycle and assuming the audit work is documented in a primary case unit, create a nonprimary case unit as the claim case unit.

Follow these steps:

- Update the claim information in the corresponding tab of the General Information Window.
- Establish the tasks necessary to resolve the claim issues in the claim case unit or in the primary case unit.
- Documentation of the claim issue can be done either in the claim case unit or in named claim issues folders in the primary case unit.
- Post time resolving the claim issue in either the claim case unit or in the primary case unit.
- To distinguish between claims for refund and amended returns for additional tax it is suggested to use a code such as **X** or **A** when naming the case. An example would be:

Amended Return for Additional Tax:	ABC Company 2006A
Claim for Refund:	ABC Company 2006X

The SOL for overassessments should be used, as this will serve to protect the taxpayer. Even though once filed within the statutory period, the claim does not have a statute of limitation (SOL), the auditor must protect the state's interest by keeping the SOL open by obtaining waivers. The auditor must make every attempt to resolve the claim within the timeframes prescribed by the Taxpayer's Bill of Rights.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Protest Claim:

A paid protest is treated as a claim and you should treat it as a claim case unit in the PASS Desktop. Complete all information on the Claim General Information Tab, including the Paid Protest Date field. There are different limitation dates, such as the Taxpayer's Bill of Rights for claims and protests and the SOL for an Audit type case. See MAP Statute of Limitations.

25.5 Closing Procedures

25.5.1 Notice Window

The actual notice that FTB sends to the taxpayer is created in BETS or TI or manually processed. You need to create notices in PASS for MI reports. Unless you are surveying a case, you should create at least one notice for every closed case unit to record how you resolved the case. In the PASS Notice Window, enter data in the Notice Detail Section and the Issues Section.

Notice Detail Section

Update these fields:

- **Name** - NPA, O/A, etc.
- **Notice status** - Pending Release.
- **Tax** – Enter all tax amounts as positive values.
- **Penalty** - Input penalty figure.
- **Interest** – Include interest only when you receive payment of penalty amount from the taxpayer.

Central Office Multistate audit staff should also complete the Notice ID field. Take the eight-digit NPA number directly from the BETS/TI notice.

Issues Section

The issues section tracks the issues you are adjusting for audit and claim case unit types. It is the responsibility of the auditor or supervisor to enter this information. **For MSA, the issue section is only required in the Primary Case Unit.**

Issue –Select the issue(s) you are adjusting from the drop down list. Include at a minimum the top three major issues. If there is no selection on the drop down list, you need to set-up the issues in your workpaper file

Issue Tax Amount – The issue tax amount entered is the calculation of the **tax** for the selected issue. This is not the amount of the adjustment. Enter as positive or negative values based on the adjustments in the notice**.**

> **MSA:** Net the total adjustments for the audit cycle in the primary case unit. For example, assume an auditor is working a two-year cycle and recommends the following MIC adjustments:
>
> TYE 12/X1 - $20,000
>
> TYE 12/X2 - $30,000

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

In the above example, the auditor would select the MIC category in the issue section and input $50,000 in the issue tax amount for TYE 12/X2. There is no need for the issue section of the notice window to tie into the tax portion of the window. Each case unit must have the notice detail completed. However, complete the issue section only in the primary case unit.

Credit C/O Amount

The credit C/O amount is the amount of the disallowed credit carryover associated with the selected issue. You can enter positive or negative values. For more information, see MAP NPACA (Notice of Proposed Adjustment Carryover Amounts).

Loss C/O Amount

The loss C/O amount is the amount of the disallowed loss carryover or deductions associated with the selected issue. Enter as positive values. For more information, see MAP NPACA (Notice of Proposed Adjustment Carryover Amounts).

For a listing of the available notice types, see link below:
http://ftbnet2/documents/audit_pass/MIRpt/Milinks/NoticeTypes.doc.

25.5.2 Closing Cases on PASS

It is imperative the following procedures be closely followed as the audit program must rely on the accuracy of data entered on the PASS cases for all Management Information Reporting and corresponding budgetary purposes.

Cases Ready for Supervisor Review:

When the audit is completed and ready for supervisor review the auditor will:

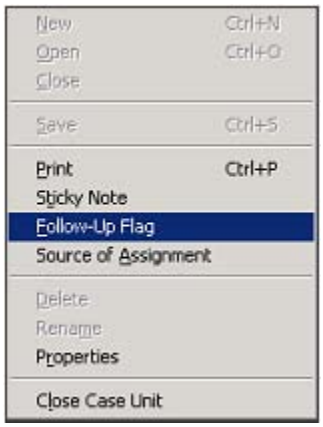
Request an informal review using the toolbar button to notify the supervisor that the case is ready for review. This is for surveys, completed audits and any In Progress Reviews. This also applies to reviewing correspondence. Using the toolbar will put an event in the event log and send the supervisor a message in their PASS inbox. Please check with your supervisor if he or she would also like a message sent via outlook.

Do **not** transfer the case or returns for the initial review by the supervisor. Wait until the case is ready to be shipped to Central Office. See MAP Transferring Case Units Between PUCs for additional information.

25.5.3 Follow-up Flag Procedures

PASS system functionality has been developed to accommodate the need to flag case units for future year follow-up. Auditors can simply specify the follow-up year under each case unit, by accessing the follow-up flag option from the file menu of any open case unit window.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.



After selecting the Follow-Up flag option, the Set Follow-Up Flag window will open. Enter the **begin** year, the **total** number of **years** to follow-up, and a description or reason for follow-up in the **Comments** field. Select the **OK** button. The flag is set until another user modifies it. You can set a flag to identify follow up activity for a single year or for multiple years.

Next Year Follow-up:

- When opening the Update Follow-Up Flag window for the first time, the default display for the begin year will always be the year subsequent to the CU tax year with the total years set to one.
- Enter reason for follow-up in the comments field and click **.
- If ****** is selected, the record will not be saved.
- If ** is selected in error, the user should re-access the window and select the ****** button to remove the record from reports.

Multiple Year Follow-ups:

- Select the number of future years follow-up activity is needed for the taxpayer from the total years drop down list.
- Enter the reason or reasons for follow-up in the comments field and click **.

Example of Multiple CU Follow-up Years and Reasons:

You discover the need to set a follow-up flag for both the MIC credit from the **begin year** of 2003 to 2010, and for Loans to Shareholders from the begin year 2002 to 2005. When this occurs, follow these steps:

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

1. Set the ********** in the Set follow-up Flag Window to 2002 (earliest year).
2. The time from the earliest begin year to the latest follow-up year should be calculated and entered as the total years. For this example, the total years would be nine.
3. Enter a detailed comment regarding the MIC credit and its reason for follow-up in 2010.
4. In addition to the MIC credit comment, a very descriptive comment including the begin year 2003 and follow-up year of 2005, for the Loans to shareholder, should be entered in the same comment box.

The Follow-Up Flag should not be confused with tickler functionality. Individual users will not be dynamically notified in PASS once the Follow-Up period has expired. Follow-Up information can only be viewed on certain MI Reports. The comment information must be descriptive enough to determine specific reasons for follow-up.

25.5.4 Printing

The goal of the PASS system is to be paperless. However, there are times when it may be necessary to print certain documents. In order to facilitate the formal review process it will be helpful to print the index to the electronic and physical file, Form 6430 and if a team audit, the index to the issues each auditor is assigned and where they are located within the file.

You can print an entire case unit from PASS. The files will print in the following order:

- Index.
- General Information.
- Notice List.
- Team Members.
- Address Book.
- Task Plan.
- Event Log.
- Sent Correspondence.
- Workpaper File.
- Administration.
- Reports.
- Schedules.
- Preliminary Analysis.
- Draft Correspondence (generally, nothing should be in this folder).
- Sent Correspondence.
- Received Correspondence.
- Notes.
- Audit Support.
- Issue folders.

The cross-reference footers, which appear on each printed document within a specified section, are listed below:

Section A - General Information

Section B - Notice List

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Section C - Team Members

Section D - Address Book

Section E - Task Plan

Section F - Event Log

Section G - Sent Correspondence

Section H - Workpaper File (only the sections that have documents in them are printed and included on the Index)

Print each workpaper document with the cross-reference: Type\Folder Name\Document Name\page #. For example, if printing the third document in the Received Correspondence folder in type Audit, named **Fax 02-28-1997**, which consists of two pages; it would print as follows: Audit\Received Correspondence\Fax 02-28-1997\Page 1 of 2, and Audit\Received Correspondence\Fax 02-28-1997/Page 2 of 2. You may use this information to cross reference the document to the narrative or write-up. Also, see MAP Cross Referencing.

The folder name in the footer of Draft Correspondence or Sent Correspondence documents prints as Correspondence. This should not create a problem since generally all documents in the Draft Correspondence folder are deleted when the case is closed.

25.5.5 Transferring Case Units Between PUCs

The Payroll Unit Code, PUC, is a three-digit code assigned to each program at Franchise Tax Board.

California Program Offices:

The General Information Window contains a field for PUC. As a result, if a case is being transferred from the Unassigned Inventory to an auditor that is not located in the Office where the Unassigned Inventory is located it is necessary to change the PUC. The Administrative Support Staff transferring the case is responsible for changing the PUC. If someone else transfers the case, that person is responsible for changing the PUC.

Transferring Case Units to Your Supervisor:

All reviews by a Field Supervisor or Lead will be treated as an Informal Review. This includes review of completed cases, surveys, and cases in progress including correspondence.

Transferring Case Units to Technical Resource Section:

Once you are ready to send the case to Technical Resource Section, follow these:

- Change the case status to **Review**.
- Transfer the PASS case units to:
    - **Apportioning Corporations**- PUC 346, Technical Resource Group Worklist, - MSA TRS New Incoming Review Cases.
    - PIT, PTE and Non Apportioning C-corporations- PUC 389, Audit Support/GTA Review.
- Send the physical file, tax returns, a printed copy of Form 6430, and a printed copy of the Index to the PASS and Paper Workpaper File to Technical Resource Section.
    - For GTA Cases, use the following address:

      ATTN: ********** MS D734
      GTA REVIEW

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

FRANCHISE TAX BOARD
9646 BUTTERFIELD WAY
SACRAMENTO, CA 95827-1500

- For MSA Cases, use the following address:
  ATTN: ********** MS F350
  MSA REVIEW
  FRANCHISE TAX BOARD
  9646 BUTTERFIELD WAY
  SACRAMENTO, CA 95827-1500

Transferring Surveys:

Upon completion of a case approved as a survey, change the status to **Closed** and transfer the case units to the Program Office's Group Worklist for Surveys.

Transferring Case Units to another Program Office:

Once you determine that you need to transfer a case unit to another Program Office, follow these steps:

1. Supervisor will review the case to ensure it is current before sending the case on to another unit.
2. Document in the Event Log why the case is being transferred and to which Program Office.
3. The electronic file will be transferred to the receiving Program Office's Unassigned Group Worklist and the electronic returns to the responsible owner of the Group Worklist.
4. Send an Outlook message to the new responsible owner to inform them of the transfer. This is preferred even though there will be a message in their Inbox in PASS.
5. Send the paper file and actual returns to the receiving Program Office.

The PUC will change to reflect the PUC of the Program Office the case is being transferred to.

Section Revised 3/30/08

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

26 Taxpayer Information System (TI) and PAWS

26.1 Introduction

TI and PAWS are the systems used to record account information and Notices of Proposed Assessment for personal income tax payers. They are available on the FTB mainframe system.

Both TI and PAWS are proprietary systems, and the specifics of the systems are not disclosable to the public.

26.2 Taxpayer Information System (TI)

The Taxpayer Information System (TI) is the system that we use to keep track of account information for **personal income tax** payers. It is available on the mainframe system.

Some of the information that is kept in TI includes:

- Returns filed.
- Payments made.
- Refunds paid.
- Notices issued.

Access is granted to auditors to view account information. Generally, auditors are not authorized to make changes to the system. If changes are needed, auditors may contact Audit Business Support for assistance in making the change.

TI is a proprietary system that is considered confidential. The specifics of how the TI system operates are not disclosable to the public.

The complete TI manual is available on the ****** at TI Manual.

26.3 TI Quick Reference

The TI QUICK REFERENCE lists the displays/screens in TI you will use most often as an Auditor. The CID column lists the Command ID you use to access a display/screen, along with any further instructions. The DESCRIPTION column lists the type of information you will find on a display or the purpose of a screen.

26.3.1 TI Quick Reference - "Taxpayer" File

File	CID	Display/Screen Name	Description
TAXPAYER	**	Taxpayer Information Display	• Taxpayer's name and address. • Taxpayer status. • Indicates if taxpayer has liens, comments, taxpayer penalties, agency offsets, or homeowner exemptions.

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File	CID	Display/Screen Name	Description
	*******	Comments Window	• View comments on TI for a specific account.
	*** ***	Taxpayer Calendar Year Display	• Current and 3 previous calendar tax years. • Pending items (suspense credits & proposed assessments) for the next tax year and calendar' tax years. • Total amount the taxpayer owes.
	*** ***	Taxpayer Other Year Display	• All fiscal tax years and tax years more than 4 years old. • Pending items (suspense credits & proposed assessments) for other tax years. • Total amount the taxpayer owes.
	*** ****	Taxpayers With Duplicate SSAN Display	• Identifies if more than one taxpayer is using the same SSAN or FEIN. • Lists all taxpayers using that SSAN or FEIN and their unique TP ID assigned by TI.

26.3.2 TI Quick Reference - "Tax Years" File

File	CID	Display/Screen Name	Description
TAX YEARS	** + (YR)	Tax Year Information Display	• Information for a specific tax year. • Filling status. • Return due, date/file date. • Tax year holds. • Indicates if taxpayer has liens, suspense credits, or proposed assessments for this specific tax year.
	** + (YR)	Tax Year Current Values Display	• Detailed monetary information for a specific tax year. • Shows only current values for monetary items (no history). • Tax, credits, payments, refunds, penalties, interest, and fee. • Line select items for more detail.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

File	CID	Display/Screen Name	Description
	** + (YR)	Tax Year Monetary Display	• Detailed monetary information for a specific tax year. • Lists everything that created or changed the tax year. • Shows current values & history for monetary items. • Tax, credits, payments, refunds, penalties, interest, and fees. • Line select items for more detail.
	**	Tax Year History of Activity Display	• Lists everything that created or changed the tax year in chronological order.

26.3.3 TI Quick Reference - "Returns" File

File	CID	Display/Screen Name	Description
RETURNS	**	Returns Received Display	• Returns received for the last 5 years for a taxpayer. • Shows if multiple and amended returns were filed. • Lists returns received, but not yet updated to TI.
	** + (TY)	Return Information Display	• Return information for a specific tax year. • Paragraph codes if a RIN was mailed. • Payment processed with the return (remit).
	** + (TY)******	Accepted Values Display	• Monetary items keyed from the return (historical information). • Shows the changes FTB made to the return during processing.

26.3.4 TI Quick Reference - "Refunds" File

File	CID	Display/Screen Name	Description
REFUNDS	**	Refunds Scheduled Display	• Lists all refunds issued or scheduled for a specific taxpayer within the last 4 years. • Shows current process year first. You must then hit ***** to get a complete list of all refunds.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

File	CID	Display/Screen Name	Description
	*** ****	Refund Information Display	• Detailed information for a specific refund. • Name & address that was on the refund. • Trace information.

26.3.5 TI Quick Reference - "Agency Offsets" File

File	CID	Display/Screen Name	Description
AGENCY OFFSETS	**	Agency Offset Information Display	• Shows agency offset information for a specific taxpayer, such as liens for other federal, state, or local taxes or child support payments.

26.3.6 TI Quick Reference - "Payments" File

File	CID	Display/Screen Name	Description
PAYMENTS	**	Payments Received Display	• Lists all payments sent in for a specific taxpayer. • Shows one process year at a time. • Lists payments that are applied or in suspense.
	**** ****	Payment Information Display	• Information for a specific payment. • Lists the TP ID's & tax years the payment was applied to.

26.3.7 TI Quick Reference - "Suspense Credits" File

File	CID	Display/Screen Name	Description
SUSPENSE CREDITS	**	Taxpayer Suspense Credits Display	• Lists all payment/credits that are in suspense.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

26.3.8 TI Quick Reference - "Proposed Assessments" File

File	CID	Display/Screen Name	Description
PROPOSED ASSESSMENTS	**	Proposed Assessments Issued Display	• Lists proposed assessments issued for a specific taxpayer. • Source of audit. • Current status of proposed assessment (pending, final, protest, etc.). • Shows if more than one proposed assessment was issued on the same tax year.
	** + (YR)	Proposed Assessment Information Display	• Information for a specific proposed assessment. • Shows status of proposed assessment (pending, final, or protest) & what action was taken (revised, appealed, etc.). • Original notice amount and date. • Legal effective date. • Protest and appeal information.

26.3.9 TI Quick Reference - "Transactions" File

File	CID	Display/Screen Name	Description
TRANSACTIONS	***	Entity Change Screen	• Change or delete name & address information. • Can be used to change names & addresses of taxpayers, estates, or trusts.
	***	Comments Input Screen	• Allows a user to place comments in TI on a specific taxpayer (for whole account). • Allows a user to delete (*) or save (*) comments in TI. • Shows the Requester ID of the person who made the comment.
	***	Return Referral Request Input Screen	• Request a return from Data Storage be sent to you.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

File	CID	Display/Screen Name	Description
	***	Entity Change Screen	• Change or delete name & address information. • Can be used to change names & addresses of taxpayers, estates, or trusts.

26.3.10 TI Quick Reference - "Cross-Reference" File

File	CID	Display/Screen Name	Description
CROSS-REFERENCE	**	Name Cross-Reference Input Screen	• Search for a taxpayer by name. • Can be used to search for taxpayers, estates, or trusts. • Provides access to Taxpayer Window, Return Window, or Payment Window for additional information on a specific taxpayer (****).
	**	Address Cross-Reference Input Screen	• Search for a taxpayer by address. • Provides access to Taxpayer Window, Return Window, or Payment Window for additional information on a specific taxpayer (****).

26.4 PAWS

The PAWS system is used to input and release Notices of Proposed Assessment for Individual taxpayers. Information from the PAWS system is updated to TI after the Notices are released from PAWS.

Audit Business Support generally inputs the Notices. However, some audit units input their own Notices into PAWS.

The PAWS Reference Guide is available on the FTB Net.

26.5 PIT Review TI/Mainframe Screens

The following table contains references to the various files that are available on the Mainframe system regarding personal income taxpayer's accounts. It may be used as a reference for auditors working with PIT taxpayers.

Select the appropriate display for detailed review:

FILE	ACRONYM	ACCESS

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

FILE	ACRONYM	ACCESS
1. NOTICE DISPLAY (mainframe)	*****	*******
2. CLAIMS FILE (mainframe)	*****	*******
3. ACCOUNTS RECEIVABLE (mainframe)	*****	*******
4. COLLECTIONS FILE (mainframe)	*****	*******
5. TAXPAYER INFORMATION DISPLAY F5 CALENDAR YEAR DISPLAY F6 OTHER YEARS DISPLAY	**	***
6. RETURN INFORMATION DISPLAY F5 = ACCEPTER VALUES	**	***
7. TAX YEAR INFORMATION DISPLAY TAX YEAR CURRENT VALUES TAX YEAR HISTORY TAX YEAR MONETARY	**	***
8. PROPOSED ASSESSMENT INFO.	**	***
9. SUSPENSE CREDITS DISPLAY	**	***
10. PAYMENT INFORMATION DISPLAY	**	***
11. REFUND	**	***
12. INTEREST	**	***
13. PENALTIES	**	***
14. RETURN REQUEST	**	

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Note: Files 1 – 4 will contain the historical information prior to TI conversion.

Section Revised 7/30/07

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

27 BETS

27.1 Introduction

The Business Entity Tax System (BETS) is the software system used by FTB to manage and process business entity returns and related data. The Multistate Audit Division uses BETS to perform tasks associated with a taxpayer's account such as issue notices, review return information, account balances, SOL, address and relationships.

The procedures in this section are provided to assist Audit staff with the specific BETS. For more information on navigating conversations in BETS, see the following BETS links.

BETS User Manual

BETS Detailed Analysis

BETS Work Aids

27.2 Preaudit Procedures

Refer to Information for BETS Preaudit Procedures can be obtained from chapter 1 of the MSA Scope Guide.

27.3 In Progress Audit Procedures

27.3.1 How to Change the SOL Date on BETS

The SOL date in conversation **** should be the last day to issue an assissment. Once you have determined that the SOL date in conversation **** is incorrect and that the SOL date should be changed, follow these steps to change it:

The SOL date must be changed before the NPA is created in conversation ****.

1. **********
2. **********
3. **********
4. **********
5. **********
6. **********
7. **********
8. **********
9. Press Enter
10. **********
11. **********

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

27.3.2 How to View, Add or Change an Address

27.3.2.1 How to View an Address

A. Maintain Address, Conversation (****)

1) **********

2) *********

B. You will see the Address Request screen

1) **********

2) **********

3) **********

4) Press Enter.

C. If only one address exists, you will see the **Address Detail** screen. If more than one address exists, you will see the **Address List** screen.

A. If you see the Address List screen

1) **********

2) **********

3) Press Enter.

B. If you see the Address Detail screen

1) **********

2) **********

-OR-

1) **********

How to View an Address

Address Request – Conversation **

```
04/13/99 11:18 BETS ADDRESS REQUEST BETS128 **** *******

ENTITY ID : **** *******/***

ADDRESS TYPE :
STREET ADDRESS :
ADDRESS STATUS : 001 ACTIVE

RELATIONSHIP TYPE :
REL PARTY ID :
RELATED PARTY NAME :
```


NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

```
**************************************************************T

******************************
```

Address List – Conversation **

```
04/13/99 12:49 BETS ADDRESS LIST BETS128 ***** ********

CORP 0000***/000 NAME : ******************

 ADDR EFFECT REL RELATED QT
 TYPE DATE TYPE PARTY NAME ADDRESS RET STAT

 1 ATT 02/20/99 STORVILLE 3232 EAST MOUNT LAN A
 2 PRI 01/01/94 LOS ANGELES 400 SANTA MONICA A
 3 MAI 06/12/97 SESAMEVILLE 123 SESAME ST. A
 4 MAI 03/01/98 SEQUOIA 2236 EAGLE LN. A




Bottom of list reached
*****************************************

******************************
```

Address Detail – Conversation **

```
04/13/99 12:51 BETS ADDRESS DETAIL BETS128 **** *******
CORP 0000***/000 NAME : ******* ***********
ADDRESS TYPE : 003 PRIMARY
ADDR EFF DATE : 01/01/1994 ADDR END DATE: 12/31/9999 ADDR STATUS: ACTIVE
 VALIDATE : N
ADDRESS : **** SANTA MONICA BL QT RETURN :
 VERIFIED : N
CITY : LOS ANGELES STATE : CA ZIP :
COUNTRY : 480 USA
ATTENTION : DISTRICT OFFICE: 356


BUS PHONE : (406)355-0555 EXT : FAX NUMBER :




SOURCE OF INFO : 125 5096029053001 LAST UPDATE BY : DGR2312
```


NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

```
UPDATE REASON : 020 DTLS CHNGD UPDATE DATE/TIME : 10/21/96 13:25

*************************************************************************

Next Function: Data:
```

27.3.2.2 How to Add an Address

A. Maintain Address, Conversation (****)

1) **********
2) **********

B. You will see the Address Request screen

1) **********
2) **********
3) **********
4) **********
5) **********

C. You will see the Address Detail screen

1) Type in the new address and all other available information
   a) Second address field: add suite or room number.
   b) Attention and/or Recipient fields: add in-house rep name (Attention field is CPA firm name, Recipient field is rep's name (e.g. Tom Jones, CPA)).
   c) Telephone and FAX fields, add phone numbers.
2) Type in **Source of Information**.
3) Type in **Update Reason code**.
4) Press Enter.
5) Press **********.

D. You will see the **Address Request** screen with the message **** **Record Added**.

How to Add an Address

Address Request – Conversation ****

```
04/13/99 12:53 BETS ADDRESS REQUEST BETS128 **** ********

ENTITY ID : 000*3 0000***/000

ADDRESS TYPE : +02
```


NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

```
STREET ADDRESS :
ADDRESS STATUS : 001 ACTIVE
RELATIONSHIP TYPE :
REL PARTY ID :
RELATED PARTY NAME :
******** ********** ******* ********* ********** *********

NEXT FUNCTION : DATA :
```

Address Detail – Conversation *****

```
04/13/99 12:53 BETS ADDRESS DETAIL BETS128 **** *******
CORP 0000***/000 NAME : ******* *********
ADDRESS TYPE : 002 MAILING
ADDR EFF DATE : ADDR END DATE: ADDR STATUS: ACTIVE
 VALIDATE : Y
ADDRESS : QT RETURN :
 VERIFIED :
CITY : STATE : ZIP :
COUNTRY : 480 USA
ATTENTION :
RECIPIENT NAME :

BUS PHONE : EXT : FAX NUMBER :





SOURCE OF INFO : LAST UPDATE BY :
UPDATE REASON : UPDATE DATE/TIME :

******* ****** ********** ********* *******

NEXT FUNCTION : DATA :
```

27.3.2.3 How to Correct Address Information

A. Maintain Address, Conversation (****)

1) **********
2) *********

B. You will see the Address Request screen

1) **********
2) **********
3) **********
4) **********

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

5) Press Enter.

If more than one address exists, you will see the Address List screen. If only one address exists, you will see the Address Detail screen.

C. You will see the Address List screen

1) *******, ******** or **********

2) **********

3) Press Enter.

D. You will see the Address Detail screen

1) Overtype the fields where appropriate.

2) Add to the following field, if known or applicable.

a) Second address field: add suite or room number.

b) Attention and/or Recipient fields: add in-house rep name (Attention field is CPA firm name (e.g. Arthur Andersen), Recipient field is rep's name (e.g. Tom Jones, CPA)).

c) Telephone and FAX fields, add phone numbers.

3) Type in **Source of Information**.

4) Type in **Update Reason**.

5) Press Enter.

6) **********

You will see the **Address Request** screen with the message **********.

How to Correct Address Information

Address Request – Conversation ****

```
04/13/99 12:59 BETS ADDRESS REQUEST BETS128 **** *******

ENTITY ID : 0003 0000***/000

ADDRESS TYPE :
STREET ADDRESS :
ADDRESS STATUS : 001 ACTIVE

RELATIONSHIP TYPE :
REL PARTY ID :
RELATED PARTY NAME :
```


NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

```
******* ***************** ********* ********** **********

NEXT FUNCTION : DATA :
```

Address List – Conversation ****

```
04/13/99 13:02 BETS ADDRESS LIST BETS128 **** *******

CORP 0000***/000 NAME : ******** **********

 ADDR EFFECT REL RELATED QT
 TYPE DATE TYPE PARTY NAME ADDRESS RET STAT

 1 ATT 02/20/99 STORVILLE 3232 EAST MOUNT LAN A
 2 PRI 01/01/94 LOS ANGELES 400 SANTA MONICA A
 3 MAI 06/12/97 SESAMEVILLE 123 SESAME ST. A
 4 MAI 03/01/98 SEQUOIA 2236 EAGLE LN. A




Bottom of list reached
******* ***** ********************

NEXT FUNCTION : * DATA :
```

Address Detail – Conversation **** **(Before)**

```
04/13/99 13:02 BETS ADDRESS DETAIL BETS128 **** ********
CORP 0000***/000 NAME : ******* *********
ADDRESS TYPE : 002 MAILING
ADDR EFF DATE : 06/12/1997 ADDR END DATE: ADDR STATUS: ACTIVE
 VALIDATE : N
ADDRESS : 123 SESAME ST. QT RETURN :
 VERIFIED : N
CITY : SESAMEVILLE STATE : CA ZIP : 98765-4321
COUNTRY : 480 USA
ATTENTION : THE FIRM OF BERT & ERNIE
RECIPIENT NAME : ERNIE

BUS PHONE : (123)456-7890 EXT : 1234 FAX NUMBER :




SOURCE OF INFO : 420 LAST UPDATE BY : BETS128
```


NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

```
UPDATE REASON : 072 OTHER UPDATE DATE/TIME : 04/13/99 12:08

******** ******** ****** ******************* *******

NEXT FUNCTION : DATA :
```

Address Detail – Conversation **** **(After)**

```
04/13/99 13:04 BETS ADDRESS DETAIL BETS128 **** *******
CORP 0000828/000 NAME : HARMONS INSURANCE
ADDRESS TYPE : 002 MAILING
ADDR EFF DATE : 06/12/1997 ADDR END DATE: ADDR STATUS: ACTIVE
 VALIDATE : N
ADDRESS : 123 SESAME ST. QT RETURN :
 VERIFIED : N
CITY : SESAMEVILLE STATE : CA ZIP : 98765-4321
COUNTRY : 480 USA
ATTENTION : THE FIRM OF BERT & ERNIE
RECIPIENT NAME : BERT

BUS PHONE : (123)456-7890 EXT : 1234 FAX NUMBER :





SOURCE OF INFO : 420 LAST UPDATE BY : BETS128
UPDATE REASON : 072 OTHER UPDATE DATE/TIME : 04/13/99 13:03

******* ******** ****** *********** ********* ********* *******

NEXT FUNCTION : DATA :
```

27.3.3 How to View or Create a Note

27.3.3.1 How to View a Note

A. Maintain Notes, Conversation (****)

1) **********

2) ********

B. You will see the Note Request screen

1) **********

2) **********

3) **********

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

4) **********

5) Press Enter.

C. You will see the Note List screen

1) **********

2) **********

3) Press Enter.

D. You will see the Note Detail screen

1) **********

2) **********

OR

1) **********

How to View a Note

Note Request – Conversation ****

```
04/13/99 10:55 BETS NOTE REQUEST BETS128 ***** *******

ENTITY ID : 0003 0000***/000

RELATED INFORMATION :





******** ******* ********** ******* ********** **********

NEXT FUNCTION : DATA :
```

Note List – Conversation ****

```
04/13/99 11:09 BETS NOTE LIST BETS128 ***** *******

CORP 0000***/000 NAME : ******* *********

 RELATED NOTE LAST
 INFORMATION DATE NOTE TOPIC UPDATE BY

 1 ENTITY 04/13/99 TEST 1 BETS128 006
 2 ENTITY 04/13/99 TEST 2 BETS128 006
 3 ENTITY 04/13/99 TEST 3 BETS128 006
```


NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

```
Bottom of list reached
******* ******* ***************** *********

NEXT FUNCTION : * DATA :
```

Note Detail – Conversation ****

```
04/13/99 11:11 BETS NOTE DETAIL BETS128 **** *******

CORP 0000***/000 NAME : ******* *********

RELATED INFO : 006 ENTITY

NOTE TOPIC : TEST 1

NOTE : WHEN LEAVING A NOTE ON BETS, YOU SHOULD BE AS INFORMATIVE AS
 POSSIBLE. THERE IS PLENTY OF ROOM TO LEAVE ALL PERTINENT INF
 ORMATION. AS YOU CAN SEE, THE SYSTEM DOES NOT WORD WRAP AND
 DOES NOT SPELL CHECK. ALWAYS REVIEW THE NOTE YOU ARE ABOUT
 TO LEAVE BEFORE UPDATING IT TO BETS.

DISPOSITION : 0002 PERMANENT



SOURCE OF INFO : 420 LAST UPDATE BY : BETS128
UPDATE REASON : 072 OTHER UPDATE DATE /TIME : 04/13/99 11:08

******** ******* ****** ****************** *********

NEXT FUNCTION : DATA :
```

27.3.3.2 How to Create a Note

A. Maintain Notes, Conversation (****)

1) *********

You will see the **Note Request** screen with the message **** **Record Added**.

How to Create a Note

Note Request – Conversation *****

```
04/13/99 11:14 BETS NOTE REQUEST BETS128 **** *******

ENTITY ID : 0003 0000***/000

RELATED INFORMATION :
```


NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

```
******* ****** ***************** ********* *********

NEXT FUNCTION : DATA :
```

Note Detail – Conversation ****

```
04/13/99 11:15 BETS NOTE DETAIL BETS128 **** *******

CORP 0000***/000 NAME : ******* *********

RELATED INFO : 006 ENTITY

NOTE TOPIC :

NOTE :





DISPOSITION : 0002 PERMANENT



SOURCE OF INFO : LAST UPDATE BY :
UPDATE REASON : UPDATE DATE /TIME :

******* ****** *********** *********

NEXT FUNCTION : DATA :
```

27.3.4 How to View a Relationship

A. Maintain Relationships, Conversation (****)

1) **********

2) **********

B. You will see the Relationship Request screen

1) **********

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

2) **********

3) **********

4) **********

5) Press Enter.

If there are no relationships, you will see a system message **** **- Relationship Does Not Exist**. If more than one relationship exists, you will see the **Relationship List** screen. If only one relationship exists, you will see the **Relationship Detail** screen.

C. You will see the Relationship List screen. To view the related entity names rather than the entity ID, **********.

A. **********

B. **********

C. Press Enter.

D. You will see the Relationship Detail screen

1) ********** **********

2) **********

OR

3) **********

How to View a Relationship

Relationship Request – Conversation ****

```
04/13/99 13:09 BETS RELATIONSHIP REQ BETS128 **** *******

ENTITY ID : 0003 0000****/000

RELATED ENTITY ID :


RELATIONSHIP TYPE :
RELATIONSHIP STATUS :


1082 RELATIONSHIP DOES NOT EXIST
******* ********** ********* ********* **********

NEXT FUNCTION DATA :
```


NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Relationship Detail – Conversation ****

```
04/13/99 13:15 BETS RELATIONSHIP DTL BETS128 ***** *******

CORP 0000***/000 NAME : ******* *********
ACCOUNT TYPE : ACCOUNT ID :

RELATIONSHIP TYPE : 018 PARENT/SUB IN OFFSET : N
EFFECTIVE DATE : 06/12/1996 END DATE :
RELATIONSHIP STATUS : 040 ACTIVE

RELATED ENTITY ID : CORP : 0000***/000
RELATED ENTITY NAME : BETCHA CORPORATION

RELATED ACCOUNT TYPE :
RELATED ACCOUNT ID :
CREDIT BALANCE IND : Y
ASSESSMENT IND : PAR

SOURCE OF INFO : 420 LAST UPDATE BY : BETS128
UPDATE REASON : 072 OTHER UPDATE DATE/TIME : 04/13/99 13:14

******* ****** ******************** *******

NEXT FUNCTION : DATA :
```

27.4 Closing Procedures

27.4.1 Pre-NPA Procedures

1. Go to the Maintain Address screen, conversation ****:

- View all the taxpayer's addresses and confirm that all the addresses are current. (Bills and refunds are sent to the Primary address.)
- If the taxpayer requires a notice go to another address, add a mailing address.
- If a Suite number appears in the **Attention** field, move the Suite number to the second line of the **Address** field.
- Add an individual's name to **Attention and/or Recipient** field, if known.
- Add any telephone and/or FAX numbers gathered during an audit.
- If you need to create a **Tax Rep. Address,** see **How to Create a Tax Rep. Address** in BETS Manual.

2. Go to the Maintain Relationships screen, conversation ****:

- View all the taxpayer's relationships and **add** any relationships gathered during the audit.
- Check the **Effective Dates** and **Status**.

3. Go to the Maintain Account screen, conversation ****:

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- Check the **FTB Class Code** and correct it if necessary. If the **Class Code** has changed as a result of the audit, make the change in ****, **Line Item Adjustment** Screen on Line **CC**.
- Check the **FTB Account Status**. If the account is **Suspended** you need to include **ADCORR** paragraph **54477** on the NPA explaining the taxpayer's rights.
- Check to see if there is a **Legal Flag**.
- Check the **Tax Clearance Code**. If the taxpayer has been issued a Tax Clearance, follow your unit procedures. Generally, you will need to identify the assumer, if applicable.

4. Go to the Suspense Transaction Inquiry screen, conversation ****:

- Check for any amended returns for the same taxable year the NPA is being issued. To locate the amended returns, contact the Claims Desk. If an amended return showing a ** process year is in ****, contact the Claims Desk using current procedures. Once you obtain the amended return, make a determination on the return and incorporate it into your case.

5. Go to the Note Request screen, conversation ****:

- View all applicable notes.

6. Go to the Business DTLS Request screen, conversation ****.

- Check the EFT status. If EFT is mandatory, you will want to include paragraph 53826 in your NPA.

7. Go to the Period Profile Request screen, conversation ****:

- Enter the **Entity ID** only (Clear out any other information.)

8. Go to the Period Summary Detail screen, conversation ****, by line selecting the appropriate taxable year:

- Check the ********** field. If the account has been suppressed, send an email message to ********** informing her of the suppression.
- Check the ***** field. If it set to **********, the Collections Unit is working the account period. The Collections Unit should be informed of any change to their accounts' tax liability. Send an email message to ********** informing *** of the *** indicator. (Follow Unit Procedures for handling accounts in Collections.)
- Check the **SOL**. The SOL should be the SOL date for assessments. If the SOL is not correct, see **How To Change the SOL Date in** **** procedures.
  **********. ********** **********. ********** **********.

9. Go to the Transaction List screen (****), conversation ****:

- Check for **NPA Payments** and/or **Period Payments,** in both the ** and ** accounts. Remember to include a paragraph acknowledging the payment(s).
- If part of the payment should be posted to another account period, the transfer or reallocation of the payment must be done prior to creating the notice. Send an email message to ********* requesting that the payment be transferred or reallocated.
- Line-select the **Original Return (**or **Summary Return** if one exists**)** and **press** Enter. When a Summary Return exists, always line-select the Summary Return and be sure to use the **Summary Values (**located in the right-hand column).

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

For taxable years beginning (TYB) before 1/1/98 only, from the **Document Detail** screen, write down in the **Notes** section of the Batch Control Worksheet the following:

- Net Income.
- Total Tax.

If you are creating a second NPA for the same taxpayer on the same taxable year, you need to start with the **net income** and **total tax** figures from the previous NPA. (********** ********** **********. **********.)

**********, **********.

10. Go to the NPA Request screen, conversation ****:

On the **Batch Control Worksheet**:

- Mark the line designating the type of notice being created.
- Enter the **Batch Number** from the **NPA Request** screen.
- Enter your **Initials, Unit #, Phone #, Audit Group, Audit Team, Input Date,** and **Number of Notices Completed**.
- If there are attachments/enclosures, check the **Enclosures** box on the Batch Control Worksheet, and identify the enclosures you wish to be mailed with your NPA in red pencil. Be sure to clip your enclosures to the Batch Control Worksheet, offsetting them approximately one inch from the bottom of the worksheet.
- **********, ********** **********.
- The Reviewer should write * in red on the Batch Control Sheet and indicate whether the notices are **Related** or **Unrelated**. If **Unrelated** mark the appropriate box and write the Unrelated T/Y's on the Batch Control Sheet.
- For those Audit groups eliminating the use of various audit worksheets, i.e., 6830, 6213, etc., the auditor should write in the **Notes** field the following information.
    - Each tax year included in the package
    - The SOL date for each tax year included in the package

27.4.2 Create a Notice on BETS

Prior to creating a notice on BETS, see MAP Pre-NPA Procedures.

1. On the NPA Request screen, conversation ****:

- Verify that the ****** and ***** fields are correct.
- Verify that the **Batch #** is correct.
- Type the appropriate ****** in the ******** field.
- Type the appropriate ****** for the document type in the **** field.
- Verify that the entity type and entity number in the ******** fields are correct.
- Verify that the account type in the ********* field is correct.
- Verify that the account period ending in the ********* field is correct.
- Press Enter. (This will take you to the ********** screen.)

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- ********** ********** ********** **********
- ********** ******.
- ********** **********.
- ********** ********** ********** ********** **********.

2. On the NPA Detail screen, conversation ****:

- Type the applicable issue code(s) in the ********** field.
- If necessary, modify the **Num of Extra Copies**, the **Priority**, **Certified**, **Mail Days**, and **Federal Copy** fields.
    - Set the **Certified** field to ** for notice(s) being issued for over $********.
    - If a batch has multiple notices and one of the notices should be set to ** for **Priority** and/or **Certified**, then all notices in that batch must have the **Priority** and/or **Certified** fields set to *.
    - Re-set the **Priority** and **Certified** fields to * if the NPA is being issued due to a **RAR** and the normal **SOL** has expired. (Exception: If the NPA is over $***** leave **Priority** as *.
    - The system defaults to * in the **Priority** and **Certified** fields when SOL expires within 60 days (Priority) & 30 days (Certified) or when the notice is a post-NPA notice.
    - Press Enter. You will see the System message **Notice Request Added** and **Record Added**.
    - If you need to add **notes** about the notice in BETS, **********.
    - If you need to send a copy of the NPA to an Assumer, Subsidiary, Representative, etc. go to step 3. Otherwise, go to step 4.

3. Go to the Distribution List screen

- Select the Recipients you want to receive a **copy** of the notice by typing a * in the **Send Notice** field.
    - For an **Assumer** (**********), type * in the **Send Notc** and **Orig** fields. The Assumer's name will then appear in the **Issue to** area of the NPA.
    - For a **Tax Representative** (**********), type * only in the **Send Notc** field. The Tax Representative's name will then appear in the **cc:** area of the NPA.
- ********** to go to the NPA Entity Detail screen. The messages Notice Request Added and Notice Request Pending Approval will appear.
- ********** to go to the Income Adjustments screen.

4. Go to the Income Adjustments screen, ******

For an Apportioning Corporation:

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- **For TYB on or after 1/1/98, you must type** the allowed passive investment income deduction amount (**********) in the ********* field, even if the amount is not being changed.
- **For all taxable years, you must type** the allowed net operating loss carryover deduction amount (**********) in the ******* field, even if the amount is not being changed.
- **For TYB on or after 1/1/98, you must type** the allowed **EZ, LARZ, or LAMBRA NOL** carryover deduction amount (**********) in the ******** field, even if the amount is not being changed.
- **For TYB on or after 1/1/98, you must type** the allowed disaster loss carryover deduction amount (**********) in the ********* field, even if the amount is not being changed.
- Type the apportionment percentage in the ********** field. Note: Generally, if the apportionment percentage is 100 percent, enter nothing in this field.
- Type the amount of the allowed contribution adjustment (from Schedule R6, Line 14 or Multistate Contribution Schedule, Line 15) in the Contrib field.
- Type the appropriate starting income code under the ******** column (********** **********). ********** ********** field.
- Type the starting income amount under the ********* column.
- Change the ** in the APP percent field to ** to apportion the starting income amount.
- For each adjustment item you wish to show on the NPA, type an adjustment code in the Adj Code field, or type a description of the adjustment in the Description field. (********** **********.)
- Type the amount of the adjustment in the ******** field.
- Change the * in the ********** field to ** if the amount needs to be apportioned.
- (If an Apportionment percent has been entered, at least one line of the adjustments must be set to **.)
- Press Enter to ********** entered.
    - **Note:** Up to ********** adjustments can be made on BETS.

For a General Corporation:

- ********** *****.
- ********** ********** ******.
- **********.
- **********

5. Go to the NPA Line Items Adustment screen, ****:

- ********** **********.
- ********** **********.
    - ********** ********** **********

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

****
****
**********.

- **********
****
****
**********.
- **********
****
****
**********.
- **********
****
**********.
****
**********.

- **********.
- **********
**********.
- **********.
  - **********
****
  - **********
****
**********.
- **********.
****
****
**********.
  - **********
****
****

6. On the Account Period Adjustment Request screen, (***):

- **********
- **********
- **********
****
  - **********
****
  - **********
- **********
  - **********
  - **********
- **********
****

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- ********** ********** **********

4. If you find that a manually assessed penalty is incorrect or that it should not have been assessed at all:

- **********
  ****

27.4.4 Change an Unissued Notice on BETS

1. On the NPA Request screen:

****

- **********
- **********
- **********

-Or-

- **********
- **********
- **********
- **********
- **********

2. On the NPA Entity Detail screen:

****
****
**********.

- **********
  ****
  ****
  ****
- **********

-Or-

- **********
  ****
  ****
  ****

27.4.5 Delete an Unissued Notice on BETS

- NOTE: If there are manual penalties, you will need to abate them prior to deleting the NPA. See MAP How to Change a Manually Assessed Penalty on BETS.

1. On the NPA Request screen:

- **********
- **********
- **********

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

2. On the NPA Entity Detail screen:

- **********
- ********** ********** **********.
- ********** **********:
  - **********
  - **********
  - **********
  - **********

********** **********.

27.4.6 How to Change a Manually Assessed Penalty on BETS

1. On the NPA Request screen:

- **********.
- **********.
- **********.

2. On the NPA Detail screen:

- **********.

3. ON the Period Adjustment Prompt screen:

- **********.
- **********.

4. On the Period Profile Request screen:

- **********.
- **********.

5. On the Transaction List Screen:

- **********.
- **********.

6. On the Period Adjustment Prompt screen:

- **********.
- **********.
- **********.

7. On the Penalty Assess Detail screen:

- **********.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- **********.
- ********** **********.
- **********:
  - **********.
  - ********** **********.

-Or-

  - **********.

8. On the Period Adj Prompt screen:

- **********.
- **********.
- **********.

9. On the Penalty Assess Detail screen:

- **********.
- **********.
- **********.
- ********** **********.

10. On the Period Adjustment Prompt screen:

  - **********.
  - **********.

-Or-

  - **********.
  - **********.

11. Preview the notice to make sure your change is correct.

27.4.7 How to Change a System Assessed Penalty on BETS

1. On the NPA Request screen:

- **********.
- **********.
- **********.

2. On the NPA Detail screen:

- **********.

3. On the Period Adjustment Prompt screen:

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- **********.
- **********.

4. On the Abatement screen:
   - **********.
   - **********.

-Or**-**

   - ********** **********.
   - **********.
   - ********** **********.

5. On the Period Adjustment Prompt screen:
   - **********.
   - **********.

-Or-

   - **********.
   - **********.

6. Preview the notice to make sure your change is correct.

27.4.8 Create a Corporate Assumer Relationship on BETS

Once you have determined that the taxpayer has an assumer and you have established that a notice is going to be issued, use the following steps to create an Assumer Relationship:

1. On the Relationship Request screen (****):
   - **********.
   - **********.
   - **********.
   - **********.

2. On the Relationship Detail screen:

********** **********.

   - **********.
   - **********.
   - **********.
   - Press enter. You will receive a system message **** Record Added.

3. The Distribution List screens in **** and **** will now include the assumer.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

On the NPA Distribution List screen (****):

- **********.

27.4.9 Created an Individual Assumer Relationship on BETS

1. On the Taxpayer Look-Up Request screen, conversation ****:
   - **********,
   - **********.
   - **********.
2. If the individual (entity) exists on BETS, review the address for accuracy.
   - **********.
   - **********.

3. If the individual (entity) does not exist on BETS, send an email message to ********** with the following information:

- Auditor's Phone Number.
- Individual Assumer's social security number.
- Individual Assumer's complete name.
- Individual Assumer's address.
- Effective date of the assumption.
- State that you need the individual to be added on BETS.

********** will contact you once the taxpayer has been added on BETS.

4. On the Relationship Request screen, ****:
   - **********.
   - **********.
   - **********.
   - **********.
5. On the Relationship Detail screen:
   - **********.
   - **********.
   - **********.
   - **********.
   - **********.

   The **Distribution List** screens in **** and **** will now include the assumer.

6. On the NPA Distribution List screen (****):
   - **********

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

****
**********.

27.4.10 Viewing Notices in the History on BETS

****
**********.

1. Go to ****, NPA Case Request:
   - **********.
   - **********.
2. On the NPA Case List screen:

- **********.
- **********.

3. On the NPA Case History screen:

- **********.
- **********.

27.4.11 Manual Processing

Certain situations require manual rather than BETS processing. Below is a list of situations for which manual processing is required:

- **********.
- **********.
- **********.

When manual processing is required, see your supervisor for direction.

27.5 Protest Procedures (Post Notice)

27.5.1 Post-Notices/Bets Affirmations

1. Go to the NPA Request Case screen, conversation ****:

Verify the Status:

- **Undocketed** or **Docketed** for NOA, Notice of Action.
- **Appeal** for NOD, Notice of Determination.

2. Go to the Period Profile Request screen, conversation ****:

- **********.
- **********.
- **********.
- **********.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- **********
  ****
  ****
  **********.
- **********
  **********.

3. Go to the NPA Request screen, conversation ****:

- **********.
- **********
  **********.
- **********.
- **********.
- **********.
- **********.
- **********:
  - **********.
  - **********.

Note: **********

- Press enter to add the notice to the system.
- **********:
- **********
  - **********.
  - **********.
- **********.

-Or-

- **********
  **********.

-Or-

- **********.

4. On the NPA Text screen:

- Add and/or change necessary text.
  - **********.
  - **********
    **********.
- **********.
  - **********
    **********.

5. To Preview the Notice:

- **********.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- **********.
- **********.
- **********.
- **********.

27.5.2 Post-Notice/BETS Revisions

****
**********.

If you need to delete a notice, contact the BETS Representative for assistance.

1. Go to the NPA Request Case screen, conversation ****:

Verify the Status:

- **Issued** for NOR.
- **Undocketed** or **Docketed** for NOA.
- **Appeal** for NOD.

****
**********.

2. Go to the Period Profile Request screen, conversation ****:
   - **********.
   - **********.
   - **********.
   - **********.
   - ********** ********** *****. ********** **********.
   - ********** ********** **********.

3. Go to the NPA Request screen, conversation ****:
   - **********.
   - **********.
   - **********.
   - **********.
   - **********.
   - **********.
   - **********.
   - **********.
   - **********:
     - **********.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

    - **********.
    - ********** **********.
- **********.
- **********:
    - **********
    - **********.
    - **********.
- If necessary, ********** to add a **note** about the notice to the case file. Or
- Press ********** if you need to send copies to Assumers and or Representatives on the **********. Or
- **********.

4. On the Income Adjustment screen, ****:

    - ********** **********.
    - **********.

5. On the Line Item Adjustment screen, ****:

    - **********.
    - ********.
    - **********.
    - **********.
    - **********.
    - **********.
    - **********.

6. Penalties:

**********.

- Check the penalty after you've completed your notice to verify whether it is correct. If not, see MAP How to Change a System Assessed Penalty on BETS.
- If a manually assessed penalty needs to be changed or deleted, see MAP How to Change a Manually Assessed Penalty on BETS.

**********.

7. On the NPA Text screen:

Add and/or change necessary text.

- If you are issuing a Memo-Rev. notice, add a paragraph explaining why.
- Remember to add text about payments received (50702) or the paragraph if the corporation's status is suspended (54477).

********** to save the changes and return to the ********** screen.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

8. To Preview the Notice:
    - **********.
    - **********.
    - **********.
    - **********.

27.5.3 Post-Notice/BETS Withdrawals

**********.

If you need to delete a notice, contact the BETS Representative for assistance.

1. Go to the NPA Request Case screen, conversation ****:

Verify the Status:

- **Issued** for NOR.
- **Undocketed** or **Docketed** for NOA.
- **Appeal** for NOD.
- **NORs** should be issued prior to the expiration of the protest period (60 days from the date of the NPA).

2. Go to the NPA Request screen, conversation ****:
    - **********
    - **********.
    - **********.
    - **********.
    - **********.
    - **********.
    - **********.
    - **********.
    - **********.
        - **********:
        - **********.
        - **********.
        - **********.

- Press Enter to add the notice to the system.
- Write the following in red on the top right-hand side of the NPA you're working from: Type of Notice (i.e. NOA-W).
    - Your unit # and your initials.
    - Date of the action.
- Press ********** to add notes about the notice to the case file. (Optional).

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Or

- Press ********** if you need to send copies to Assumers and or Representatives on the **Notice Distribution** screen.

Or

- **********.
    - If you are issuing a Memo-Withdrawal notice, add a paragraph explaining why.
    - **********.
    - **Note:** ********** **********.

3. To Preview the Notice:
    - **********.
    - **********.
    - **********.
    - **********.
    - **********.

27.5.4 Post Notice Converted Affirmations on BETS

********** **********.

If you need to delete a notice, contact your BETS Representative for assistance.

1. Go to the NPA Request Case screen, conversation ****:

Type the ID type and Taxpayer ID number in the Entity ID field, **press** Enter.

- **Note:** **********.

Verify the **NPA Number** on the NPA Case Detail or Case List Screen. ********** ********** **********.

- **Note:** **********.

**********. ******* **********.

Verify the Status:

- **Issued** for NOR.
- **Undocketed** or **Docketed** for NOA.
- **Appeal** for NOD.

**********.

********** **********.

2. Go to the Period Profile Request screen, conversation, ****:

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- **********.
- **********.
- **********.
- **********.
- **********. ********** ********** ********** **********. **********
- ********** ********** **********.

3. Go to the NPA Request screen, conversation ****:
   - **********.
   - **********.
   - **********.
   - **********.
   - **********.
   - **********.
   - **********:
     - **********.
     - **********.
     - ********** **********.
- Press Enter to add the notice to the system.
- **********:
  - **********
  - **********.
  - **********.
- **********. **********.

Or

- ********** **********.
  - **********.
- **********.

4. Go to the Line Items Adjustment screen, ****:
   - ********** ********** **********.
   - **********.
   - ********.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- **********.
- **********.
- ********.
- To stipulate the tax:
  - **********
  - **********
  - **********
- Press Enter.
- **********.

5. Go to the NPA Text screen, ****:

Add and/or change necessary text.

- **********.
- ********** **********.

**********.

- **Note:** ********** **********.

6. To Preview the Notice:

- **********.
- **********.
- **********.
- **********.
- **********.

27.5.5 Post-Notice – Converted – Revisions on BETS

********** **********.

If you need to delete a notice, contact your BETS Representative for assistance.

1. Go to the NPA Request Case screen, conversation ****:

**********, **press** Enter.

- **Note:** **********, **********.
- **********. ********** **********. ********** **********.
- **Note:** **********.

**********.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

Verify the Status:

- **Issued** for NOR.
- **Undocketed** or **Docketed** for NOA, Notice of Action.
- **Appeal** for NOD, Notice of Determination.

NORs should be issued prior to the expiration of the protest period (60 days from the date of the NPA).

Verify that the **Issued Date** in **** matches the Notice Date on the NPA hard copy.

- ********** **********.

2. Go to the Maintain Address screen, conversation ****:

- View all the taxpayer's addresses.
- Confirm that all the addresses are current.
- If the Suite number is in the **Attention** field, move to the second line of the **Address** field.
- Add individual's name to **Attention and/or Recipient** field, if known.
- Add any telephone or FAX numbers gathered during the audit.

3. Go to the Period Profile Request screen, conversation ****:

- Press *** to go to the Period Summary List.
- Line Select the B&C Acct Type for the Period the NPA is on.
- **********.
- **********.
- ********** ********** ********** **********.
- ********** ********** **********.

4. Go to the NPA Request screen, conversation ****:

- **********
- **********.
- **********.
- **********.
- **********.
- **********.
- **********.
- **********.
- **********:

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

    - **********.
    - **********.
  - **********:
    - **********.
    - **********.
- Press Enter to add the notice to the system.
- **********:
    - **********
    - **********.
    - **********.
- **********. **********.

Or

- ********** **********.
    - **Note:** **********.
- **********.

5. Go to the Income Adjustment screen ****:
    - ********** ********** **********.

6. Go to the Line Items Adjustment screen, ****:
  - ********** **********.
  - **********.
  - ********.

********** **********.

  - **********.
  - **********.
  - **********.
  - **********.
    - ********** **********.
  - *********.
  - **********.
  - **********.
  - **********.

7. Penalties:

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

**********.

- ********** **********.
- ********** **********.

**********.

8. On the NPA Text screen:

Add and/or change necessary text.

- **********.
- ********** **********.

**********.

9. To Preview the Notice:

- **********.
- **********.
- **********.
- **********.
- **********.

27.5.6 Post – Notice – Converted – Withdrawals on BETS

**********. **********.

If you need to delete a notice, contact your BETS Representative for assistance.

1. Go to the NPA Request Case screen, conversation ****:

**********.

- ********** **********

********** **********. ********** **********.

- **********.

**********.

Verify the Status:

- **Issued** for NOR, Notice of Revision.
- **Undocketed** or **Docketed** for NOA, Notice of Action.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- **Appeal** for NOD, Notice of Determination.

**********.

**********.

- ********** **********.

2. Go to the Maintain Address screen, conversation ****:

- **********.
- **********.
- **********.
- **********.
- **********.

3. Go to the NPA Request screen, conversation ****:

- **********.
- **********.
- **********.
- **********.
- **********.
- **********.
- **********
- **********
- **********:
  - **********.
  - **********.
  - ********** **********.
- Press Enter to add the notice to the system.
- **********:
  - Type of Notice (i.e. NOA-W).
  - Your unit # and your initials.
  - Date of the action.
- If necessary, ********** to add notes about the notice to the case file.
- If necessary, ********** if you need to send copies to Assumers and or Representatives on the **Notice Distribution** screen.
  - **Note:** On converted notices, all **cc:'**s will need to be added in conversation ****.
- **********.

4. Go to the Line Items Adjustment screen, ****:

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

    - **********.
    - **Note:** **********

- Press Enter.
- **********
- **********
- **********
- **********
- **********.

5. To Preview the Notice:
    - **********
    - **********
    - **********
    - **********
    - **********.

Section Revised 7/30/07

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

28 Electronically-Filed Returns (ELF)

28.1 Background

Taxpayers file California income tax returns electronically using computer software or our direct online Internet application (CalFile). Until January 2006, only individuals can file returns electronically. The first phase of corporate returns was implemented in January 2006 and targets only Form 100 returns meeting specific criteria. Additional return types, forms, and schedules and combined returns will be phased in during subsequent annual changes, as resources are available.

**********.

28.2 What is e-View?

E-View is an application that displays e-File, TeleFile and CalFile data in a more recognizable and easily accessible format. It will enable you to:

- **Look at the return –** e-View displays e-File, TeleFile, and CalFile return data on an actual tax return form instead of the traditional TI data screen. You can view pages of the federal return (if attached to the state return), state return, and attachments. The federal and state returns are viewed **as filed** and not necessarily, what was accepted.

  To review the accepted value:

  For PIT returns, go to TI and view the accepted values for the tax year.

  For BETS follow the instructions below:

  - **********
  - **********
  - **********
  - **********. **********.

- **********. **********.

The following returns are available in e-View:

- Personal income tax returns filed electronically for tax years 2002 and later.
- Corporation tax returns (Form 100 and attachments) filed electronically for the tax year 2005. (2005 is the first year that corporations could file electronically.)

28.3 How to Access the e-View Application?

Following are ways to access the e-View Application:

- **********. **********.
- **********.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

- ********** ********** **********

28.5.1 How to Copy an e-View Return

An e-View return is a PDF file. A PDF file is a universal file format that represents documents in a manner that is independent of the original application software, hardware, and operating system used to create those documents.

**********. **********
**********.

**********.

Steps in copying an e-View return into PASS:

1. **********.
2. **********.
3. **********. *****
   **********.
4. **********.
5. **********.
6. **********.
7. **********.
8. **********. **********.
9. **********.

28.5.2 How to Access e-View Returns Saved in PASS

**********.

28.5.3 Comments in TI and PASS

After sending the initial contact letter, put a comment in PASS and TI or BETS as follows:

PASS	TI/BETS
Record event or on a sticky note: Type **ELF return**	• 200x audit opened on xx/xx/xxxx. • Auditor's name. • Auditor's phone number.

28.6 Closing an Audit of ELF

Printing ELF Return

Please refer to the chart below to determine which items to complete depending on your audit situation.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

SITUATION	AND	THEN
If you need to preserve the return beyond the standard retention period (**LIM**). See Note 1 below.	You have documents that need to be retained (Physical File). See Note 2 below.	• Print the entire return, including attachments. • Assemble the physical file following the normal procedures. See MAP Assemble the Physical File. • Write the LIM information on top of the return. See MAP Preserving the Audit File (LIM Dating).
If you need to **LIM** the return	You have no physical file	• Print the entire return, including the attachments. • Write the LIM information on top of the return. See MAP Preserving Audit Files (LIM Dating).

If you do **NOT** need to **LIM** the return	You have a physical file	• Do not print the return.
		• If you have previously printed the return, do **not** attach it to the physical file. Destruct it.
		• Assemble the physical file following normal procedures. See MAP Assemble the Physical File.
		• Using a blue pen or pencil, write on the upper right hand corner of the physical file:
		  • Attach To.
		  • The DLN of the return (be sure to include the appropriate suffix).

If you do **NOT** need to **LIM** the return	You have no physical file	• Do **not** print the return. • If you have previously printed an electronic return, do not send it to RDSS. Destruct it.

Note 1: See MAP Preserving Audit Files (LIM Dating) and FTB Policy Files 8830 and 8831 for additional information on the department's data retention policies.

Note 2: These may include correspondence, audit file, and copies of notices.

Comments in TI

Also put a comment in TI or note in BETS as follows:

- 200x audit closed on xx/xx/xxxx.
- Auditor's name.
- Auditor's phone number.
- Type of notice issued.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.

NOTE: ((***)) = Indicates confidential and/or proprietary information has been deleted.