Do I Have to File?

Steps to Determine Filing Requirement (If you are a nonresident of California and received income in 2008 with sources in California, go to Step 1. For more details see page 6.)

Step 1: Is your gross income (gross income is computed under California law and consists of all income you received from all sources in the form of money, goods, property, and services, that is not exempt from tax) more than the amount shown in the California Gross Income chart below for your filing status, age, and number of dependents? If yes, you have a filing requirement. If no, go to Step 2.

Step 2: Is your adjusted gross income (adjusted gross income is computed under California law and consists of your federal adjusted gross income from all sources, reduced or increased by all California income adjustments) more than the amount shown in the California Adjusted Gross Income chart below for your filing status, age, and number of dependents? If yes, you have a filing requirement. If no, go to Step 3.

Step 3: If your income is less than the amounts on the chart you may still have a filing requirement. See "Requirements for Children with Investment Income" and "Other Situations When You Must File" on this page. Do those instructions apply to you? If yes, you have a filing requirement. If no, go to step 4.

Step 4: Are you married/RDP filing separately with separate property income? If no, you do not have a filing requirement. If yes, prepare a return. If you owe tax, you have a filing requirement.

Active duty military personnel, get FTB Pub. 1032, Tax Information for Military Personnel.

On 12/31/08, my filing status was:	and on 12/31/08, my age was: (If your 65th birthday is on January 1, 2009, you are considered to be age 65 on December 31, 2008)	California Gross Income			California Adjusted Gross Income		
		Dependents			Dependents		
		0	1	2 or more	0	1	2 or more
Single or Head of household	Under 65	14,845	25,145	32,870	11,876	22,176	29,901
	65 or older	19,795	27,520	33,700	16,826	24,551	30,731
Married/RDP filing jointly	Under 65 (both spouses/RDPs)	29,690	39,990	47,715	23,752	34,052	41,777
Married/RDP filing separately (The income of both spouses/RDPs must be combined; both spouses/RDPs may be required to file a tax return even if only one spouse/RDP had income over the amounts listed.)	65 or older (one spouse/RDP)	34,640	42,365	48,545	28,702	36,427	42,607
	65 or older (both spouses/RDPs)	39,590	47,315	53,495	33,652	41,377	47,557
Qualifying widow(er)	Under 65		25,145	32,870		22,176	29,901
	65 or older		27,520	33,700		24,551	30,731
Dependent of another person Any filing status	Any age	More than your standard deduction (Use the California Standard Deduction Worksheet for Dependents on page 19 to figure your standard deduction.)					

Requirements for Children with Investment Income

Federal law allows parents' election to report a child's interest and dividend income from a child age 18 and under or a student under age 24 on their return. California allows you to report your child's interest and dividend income on your return if they are under age 14. For each child under age 14 who received more than $1,800 of investment income in 2008, complete Form 540NR and form FTB 3800, Tax Computation for Children Under Age 14 with Investment Income, to figure the tax on a separate Form 540NR for your child.

If you qualify, you may elect to report your child's income of $9,000 or less (but not less than $900) on your return by completing form FTB 3803, Parents' Election to Report Child's Interest and Dividends. To make this election, your child's income must be **only** from interest and/or dividends. See "Order Forms and Publications" on page 63 or go to our website at **ftb.ca.gov**.

Other Situations When You Must File

If you have a tax liability for 2008 or owe any of the following taxes for 2008, you must file Long Form 540NR.

- Tax on a lump-sum distribution.
- Tax on a qualified retirement plan including an Individual Retirement Arrangement (IRA) or an Archer Medical Savings Account (MSA).
- Tax for children under age 14 who have investment income greater than $1,800 (see paragraph above).
- Alternative minimum tax.
- Recapture taxes.
- Deferred tax on certain installment obligations.
- Tax on an accumulation distribution from a trust.

Filing Status

Use the same filing status for California that you used for your federal income tax return, unless you are in a same-sex marriage (explained under What's New on page 4) or a registered domestic partner (RDP). If you are a same-sex married individual or an RDP and file single for federal, you must file married/RDP filing jointly or married/RDP filing separately for California. If you are a same-sex married individual or an RDP and file head of household for federal, you may file head of household for California only if you meet the requirements to be considered not in a domestic partnership.

Exception: If you file a joint return for federal, you may file separately for California if either spouse was:

- An active member of the United States armed forces or any auxiliary military branch during 2008.
- A nonresident for the entire year and had no income from California sources during 2008.

  Community Property States: If the spouse earning the California source income is domiciled in a community property state, community income will be split equally between the spouses. Both spouses will have California source income and they will not qualify for the nonresident spouse exception. If you had no federal filing requirement, use the same filing status for California you would have used to file a federal income tax return.

Registered Domestic Partners (RDP) – RDPs under California law must file their California income tax return using either the married/RDP filing jointly or married/RDP filing separately filing status. RDPs have the same legal benefits, protections, and responsibilities as married couples unless otherwise specified.

If you entered into a same sex legal union in another state, other than a marriage, and that union has been determined to be substantially equivalent to a California registered domestic partnership, you are required to file a California income tax return using either the married/RDP filing jointly or married/RDP filing separately filing status. For more information on what states have legal unions that are considered substantially equivalent, go to our website at **ftb.ca.gov** and search for **rdp**.

For purposes of California income tax, references to a spouse, a husband, or a wife also refer to a California registered domestic partner (RDP), unless otherwise specified. When we use the initials RDP they refer to both a California registered domestic "partner" and a California registered domestic "partnership," as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

Single – If **any** of the following was true on December 31, 2008:

- You were never married or an RDP.
- You were divorced under a final decree of divorce, legally separated under a final decree of legal separation, or terminated your registered domestic partnership.
- You were widowed before January 1, 2008, and did not remarry or enter into another registered domestic partnership in 2008.

Married/RDP Filing Jointly – If **any** of the following is true:

- You were married or an RDP as of December 31, 2008, even if you did not live with your spouse/RDP at the end of 2008.
- Your spouse/RDP died in 2008 and you did not remarry or enter another registered domestic partnership in 2008.
- Your spouse/RDP died in 2009 before you filed a 2008 return.

Married/RDP Filing Separately

- Community property rules apply to the division of income if you use the married/RDP filing separately status. For more information, get FTB Pub. 1031, Guidelines for Determining Resident Status, FTB Pub. 737, Tax Information for Registered Domestic Partners, FTB Pub. 776, Tax Information for Same-Sex Married Couples, FTB Pub. 1051A, Guidelines for Married/RDP Filing Separate Returns, or FTB Pub. 1032, Tax Information for Military Personnel. See "Order Forms and Publications" on page 63.
- You cannot claim a personal exemption credit for your spouse/RDP even if your spouse/RDP had no income, is not filing a return, and is not claimed as a dependent on another person's return.
- You may be able to file as head of household if you had a child living with you and you lived apart from your spouse/RDP during the entire last six months of 2008.

Head of Household is for unmarried individuals and certain married individuals or RDPs living apart who provide a home for a specified relative. You are entitled to use head of household filing status only if ALL of the following apply:

- You were unmarried and not in a registered domestic partnership, or you met the requirements to be considered unmarried or considered not in a registered domestic partnership on December 31, 2008.
- You paid more than one-half the cost of keeping up your home for the year in 2008.
- For more than half the year, your home was the main home for you and one of the specified relatives who by law can qualify you for head of household filing status.
- You were not a nonresident alien at any time during the year.

Beginning in 2005, for a child to qualify as your foster child for head of household purposes, the child must either be placed with you by an authorized placement agency or by order of a court.

If you are unmarried, your unmarried child no longer qualifies you for head of household filing status if he or she is 19 years of age or older, is not a student, and has gross income equal to or greater than the federal exemption amount ($3,500 in 2008). In addition, if you are unmarried, your unmarried child also no longer qualifies you for the status if he or she is under 19 years of age or a student under 24 and pays more than half of his or her own support.

For more information, go to our website at **ftb.ca.gov** or get FTB Pub. 1540, California Head of Household Filing Status Information. See code **934** on page 63 to order FTB Pub.1540 by telephone.

Qualifying Widow(er) with Dependent Child

Fill in the circle on line 5 and use the joint return tax rates for 2008 if **all five** of the following apply:

- Your spouse/RDP died in 2006 or 2007 and you did not remarry or enter into another registered domestic partnership in 2008.
- You have a child, stepchild, adopted child, or foster child whom you can claim as a dependent.
- This child lived in your home for all of 2008. Temporary absences, such as for vacation or school, count as time lived in the home.
- You paid over half the cost of keeping up your home for this child.
- You could have filed a joint return with your spouse/RDP the year he or she died, even if you actually did not do so.