TAXABLE YEAR

CALIFORNIA FORM

2009 Disabled Access Credit for Eligible Small Businesses 3548

Attach to your California tax return.

Name(s) as shown on your California tax return	☐ SSN or ITIN ☐ Corporation number ☐ FEIN
Address of facility (number and street)	Secretary of State (SOS) file number
City	State / ZIP Code

1	Eligible access expenditures. See instructions	1	00
2	Maximum amount of eligible access expenditures	2 $250	00
3	Enter the smaller of line 1 or line 2	3	00
4	Current year credit. Multiply line 3 by 50% (.50)	4	00
5	Pass-through disabled access credit(s) from Schedule K-1 (100S, 541, 565, or 568). See instructions	5	00
6	Total current year disabled access credit. Add line 4 and line 5, but do not enter more than $125	6	00
7	Credit carryover from prior year	7	00
8	Total available disabled access credit. Add line 6 and line 7	8	00
9	Enter the amount of credit claimed on the current year tax return, but do not enter more than $125. This amount may be less than the amount on line 8 if your credit is limited by tentative minimum tax or your tax liability. See the instructions for line 9.	9	00
10	Credit carryover available for future years. Subtract line 9 from line 8	10	00

General Information

California allows a disabled access credit that is similar to the federal disabled access credit under Internal Revenue Code (IRC) Section 44, with exceptions. Unless specifically identified otherwise, references in these instructions are to the IRC as of January 1, 2005, and to the California Revenue and Taxation Code (R&TC).

Business Tax Credit Limitation – For taxable years beginning on or after January 1, 2008, and before January 1, 2010, business tax credits can only offset 50% of the net tax, if a corporation's taxable income is $500,000 or more, or if an individual's net business income is $500,000 or more.

Business tax credits disallowed due to the 50% limitation may be carried over. The carryover period for disallowed credits is extended by the number of taxable years the credits were not allowed. For more information see the applicable Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations. Taxpayers are required to keep track of the disallowed business tax credits on a worksheet and provide it to the Franchise Tax Board (FTB) upon request.

Round Cents to Dollars – Round cents to the nearest whole dollar. For example, round $50.50 up to $51 or round $25.49 down to $25. If you do not round, the FTB will disregard the cents.

A Purpose

Eligible small businesses use form FTB 3548, Disabled Access Credit for Eligible Small Businesses, to figure a credit for expenditures to provide access to disabled individuals. Also use this form to claim pass-through disabled access credits received from S corporations, estates or trusts, partnerships, or limited liability companies (LLCs) classified as partnerships.

S corporations, estates or trusts, partnerships, and LLCs classified as partnerships should complete form FTB 3548 to figure the amount of credit to pass through to shareholders, beneficiaries, partners, or members. Attach this form to Form 100S, California S Corporation Franchise or Income Tax Return; Form 541, California Fiduciary Income Tax Return; Form 565, Partnership Return of Income; or Form 568, Limited Liability Company Return of Income. Show the pass-through credit for each shareholder, beneficiary, partner, or member on Schedule K-1 (100S, 541, 565, or 568), Share of Income, Deductions, Credits, etc.

B Description

The amount of California credit allowed to an eligible small business is 50% (.50) of the qualified expenditures that do not exceed $250 per taxable year. The maximum credit per eligible small business per taxable year is $125.

C California and Federal Differences

The federal disabled access credit under IRC Section 44 and the California disabled access credit under R&TC Sections 17053.42 and 23642 are generally the same, except:

- California bases the credit on 50% (.50) of the eligible access expenditures up to $250. Federal bases the credit on 50% (.50) of the eligible access expenditures that exceed $250 up to a maximum of $10,250.
- California allows a carryover of the credit until it is exhausted. The federal credit is one of the general business credits subject to the limitations imposed by IRC Section 38.

D Qualifications

To qualify for the disabled access credit, you must be an **eligible small business** that complies with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and pay or incur eligible access expenditures for taxable years beginning on or after January 1, 1996.

E Definitions

Eligible small business is any business or person that meets both of the following requirements:

- Had gross receipts for the preceding taxable year that did not exceed $1 million, **or** if gross receipts exceeded $1 million, employed no more than 30 full-time employees during the preceding taxable year.

- Elects to claim the disabled access credit for the taxable year by filing form FTB 3548.

For purposes of the definition of an eligible small business:

- Gross receipts are reduced by returns and allowances made during the taxable year.
- An employee is considered full-time if employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.
- Generally, all members of the same controlled group and all persons under common control are considered to be one person. See IRC Section 44(d)(2)(A).

Eligible access expenditures are the amounts the eligible small business pays or incurs to comply with applicable requirements under the Americans with Disabilities Act of 1990. Eligible access expenditures include amounts paid or incurred to:

1. Remove architectural, communication, physical, or transportation barriers that prevent a business from being accessible to, or usable by individuals with disabilities, but only in connection with a facility first placed in service before November 6, 1990 (the effective date of the Americans with Disabilities Act of 1990).
2. Provide qualified interpreters or other methods of making audio materials available to hearing-impaired individuals.
3. Provide qualified readers, taped texts, and other methods of making visual materials available to individuals with visual impairments.
4. Acquire or modify equipment or devices for individuals with disabilities.
5. Provide other similar services, modifications, materials, or equipment.

The expenditures must be reasonable and necessary to accomplish the above purposes. See IRC Section 44(c) for further details.

Disability for an individual (as defined by the Americans with Disabilities Act of 1990) means:

1. A physical or mental impairment that substantially limits one or more of the major life activities of that individual.
2. A record of an impairment described in 1 above, or
3. Being regarded as having an impairment described in 1 above.

F Limitations

The amount of credit generated for any taxable year is limited to $125. This limitation applies at the entity level (for S corporations) as well as to each shareholder. S corporations may claim only 1/3 of the credit (not to exceed $41.67) against the 1.5% entity-level tax (3.5% for financial S corporations), the remaining 2/3 must be disregarded and may not be used as carryover. S corporations can pass through 100% of the credit (not to exceed the $125 limitation) to their shareholders.

If a taxpayer owns an interest in a disregarded business entity [a single member limited liability company (SMLLC) not recognized by California, and for tax purposes is treated as a sole proprietorship owned by an individual or a branch owned by a corporation], the credit amount received from the disregarded entity that can be utilized is limited to the difference between the taxpayer's regular tax figured with the income of the disregarded entity, and the taxpayer's regular tax figured without the income of the disregarded entity.

An SMLLC may be disregarded as an entity separate from its owner, and is subject to statutory provisions that recognize the existence of otherwise disregarded entities for certain tax purposes. Get Form 568, Limited Liability Company Tax Booklet, for more information.

If the disregarded entity reports a loss, the taxpayer may not claim the credit this year but can carry over the credit amount received from the disregarded entity to succeeding years.

This credit cannot reduce the minimum franchise tax (corporations and S corporations), the annual tax (limited partnerships, limited liability partnerships, and LLCs classified as partnerships), the alternative minimum tax (corporations, exempt organizations, individuals, and fiduciaries), the built-in gains tax (S corporations), or the excess net passive income tax (S corporations).

This credit cannot reduce regular tax below the tentative minimum tax. Get Schedule P (100, 100W, 540, 540NR, or 541) Alternative Minimum Tax and Credit Limitations, for more information.

This credit is taken in lieu of any deduction or credit otherwise allowable for the same eligible access expenditures. Any deduction allowed for these same expenditures must be reduced by the amount of credit claimed for the current taxable year (the amount shown on line 9).

Taxpayers that claim this credit cannot increase the basis of the property, with respect to the eligible access expenditures paid or incurred in connection with such property, by the amount of credit claimed for the current taxable year (the amount shown on line 9).

This credit is not refundable.

G Assignment of Credits

Assigned Credits to Affiliated Corporations – For taxable years beginning on or after July 1, 2008, credits earned by members of a combined reporting group may be assigned to an affiliated corporation that is a member of the same reporting group. A credit assigned may only be applied by the affiliated corporation against their tax in a taxable year beginning on or after January 1, 2010.

For more information, get form FTB 3544, Election to Assign Credit Within Combined Reporting Group.

H Carryover

If the available credit exceeds the current year tax, the taxpayer can carry the unused credit over to succeeding years until exhausted. Apply the carryover to the earliest taxable year(s) possible. In no event can the taxpayer carry the credit back and apply it against a prior year's tax.

Specific Line Instructions

Line 1

Enter the total eligible access expenditures paid or incurred during the current taxable year.

Line 5

If you received more than one pass-through credit from S corporations, estates or trusts, partnerships, or LLCs classified as partnerships, add the amounts and enter the total on line 5. Attach a schedule showing the names and identification numbers of the entities from which the credits were passed through to you.

Line 9

In addition to the maximum credit limitation, the amount of this credit you can claim on your tax return may be limited. Refer to the credit instructions in your tax booklet for more information. The instructions also explain how to claim this credit on your tax return. You must use credit code number **205** when you claim this credit. Also see General Information F, Limitations.