TAXABLE YEAR

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Special Election for Business Trusts and Certain Foreign Single Member LLCs

CALIFORNIA FORM

3574

Name of entity	Secretary of State (SOS) file number
DBA	FEIN
Address (suite, room, PO Box, or PMB no.)	
City	State / ZIP Code

If any of the entity's information has changed, complete the section below.

Name of entity	Secretary of State (SOS) file number
DBA	FEIN
Address (suite, room, PO Box, or PMB no.)	
City	State / ZIP Code

1 Type of election: (See instructions, General Information, A Purpose).

a ☐ Existing eligible business trust electing to be classified as a partnership (the same as federal).

b ☐ Previously existing foreign single member limited liability company electing to be classified as a disregarded entity (the same as federal).

2 Effective date of election: month _____ day _____ year _____ .

3 Person whom Franchise Tax Board may call for more information:

Name of contact person	Title	Telephone
		( )

Consent Statement and signature(s)

Under penalties of perjury, I (we) declare all of the following:

- I (We) consent to the election of the above-named entity to be classified as indicated above.
- I am (We are) aware of the filing requirements under Revenue and Taxation Code Sections 18633 and 18633.5 relating to the return filing requirements for a partnership or a disregarded entity.
- I am (We are) aware that this election is irrevocable.
- I (We) have examined the election and to the best of my (our) knowledge and belief, it is true, correct, and complete.
- If I am an officer, manager, or member signing for other members of the entity, I further declare that I am authorized to execute this consent on their behalf.

Member's name (print)	**Signature**	**Title**	**Date**

Instructions for Form FTB 3574

Special Election for Business Trusts and Certain Foreign Single Member LLCs

General Information

A Purpose

Use form FTB 3574, Special Election for Business Trusts and Certain Foreign Single Member LLCs, to make an irrevocable election to be classified the same as federal for California tax purposes.

If the entity is a business trust or a previously existing foreign single member limited liability company (SMLLC) and the entity meets one of the conditions below, the entity is eligible for the election (Cal. Code Regs., tit. 18 section 23038):

1. The entity is a business trust that was classified as a corporation under California law, but was classified as a partnership for federal tax purposes for taxable years beginning before January 1, 1997.
2. The entity is a previously existing foreign SMLLC that was classified as a corporation under California law for taxable years beginning before January 1, 1997, but became a disregarded entity for federal tax purposes for taxable years beginning on or after January 1, 1997.

Revenue and Taxation Code Section 23038 (b)(2)(C) provides that this election does not apply to an entity for which within the 60-month period before January 1, 1997, all of the following were true:

- The entity did not derive income from sources within California.
- The entity was not doing business within California.
- The entity had no owner who was a resident of California.

Unless the business trust or previously existing foreign SMLLC makes this irrevocable election to be classified or disregarded, the entity will continue to be classified as a corporation for California tax purposes and must file Form 100, California Corporation Franchise or Income Tax Return. See Cal. Code Regs., tit. 18 section 23038(a)-(b), for more information.

B Check-the-Box Regulations

California generally conforms to the federal entity classification regulations (commonly known as “check-the-box” regulations). These regulations allow certain unincorporated entities to choose tax treatment as a partnership, a corporation, or as a disregarded entity (SB 1234, Stats. 1997, Ch. 608).

Generally, any elections made for federal purposes, under the federal “check-the-box” regulations are binding for California purposes, and no separate state elections are allowed. However, there is an exception in the case of certain eligible business entities. This exception applies to business trusts and previously existing foreign SMLLCs. The entity should file the appropriate California return.

An “eligible entity” may choose its classification. An “eligible entity” is a business entity that is not a trust, a corporation organized under any federal or state statute, a foreign entity specifically listed as a per se corporation, or other special business entities. Other special business entities under the Internal Revenue Code include publicly traded partnerships, real estate mortgage investment conduits, financial asset securitization investment trusts, or regulated investment companies. An eligible entity with two or more owners will be a partnership for tax purposes unless it elects to be taxed as a corporation. An eligible entity with a single owner will be disregarded for tax purposes. If the separate existence of an entity is disregarded, its activities are treated as activities of the owner and are reported on the appropriate California return.

C Effective Date of Election

Generally, the election will take effect on the date entered on form FTB 3574, line 2. If no date is entered, the effective date will be the date the form is filed. The effective date specified can be no more than 12 months after the date on which the election is filed, and no more than 90 calendar days prior to the date on which the election is filed.

If an effective date is selected which is more than 12 months after the filing date, the election will take effect 12 months after the date the election was filed. If a date is chosen which is more than 90 calendar days prior to the date on which the election is filed, the election will take effect 90 days before the date it is filed.

D Consent Statement and Signatures

Form FTB 3574 must be signed by one of the following:

1. Each member of the electing entity who is a co-owner at the time the election is filed.
2. Any officer, manager, or member of the electing entity who represents to having such authority under penalties of perjury.

For an election to be effective for any period prior to the time it is filed, each person who is an owner of an interest in the eligible entity between the date the election is to be effective and the date it is filed must also sign the election, even if the person was not an owner at the time the election is filed.

If you need a continuation sheet, use a second form FTB 3574 and attach it to the completed first copy.

E Where to File

Complete and mail form FTB 3574 to:

C-CORPORATION PROGRAM
FRANCHISE TAX BOARD
PO BOX 1673
SACRAMENTO CA 95812-1673

Also, attach a copy of this election to the last return filed for the existing entity and the first return of the new entity.

F Important Information

For taxable years beginning on or after January 1, 1997, if an entity taxable as a corporation for California purposes elects to be classified as a partnership or disregarded entity in the same manner as the entity is classified or disregarded for federal tax purposes, the entity must treat the change of classification as a liquidation of a corporation. This may cause a short period tax return filing requirement. The corporation and its shareholders must also recognize the tax consequences of such a dissolution.

For conversions on or after January 1, 2003, if an entity taxable as a C corporation or S corporation converts to an LLC and elects to be a partnership or a disregarded entity, the entity must treat the conversion as a liquidation of a corporation. This may cause a short period tax return filing requirement. The corporation and its shareholders must also recognize the tax consequences of such dissolution.

G Internet Access

You can download, view, and print California tax forms and publications at **ftb.ca.gov**.