TAXABLE YEAR | CALIFORNIA FORM

# 2009 Tax on Accumulation Distribution of Trusts 5870A

**Attach to beneficiary's tax return.**

| Names as shown on your return | SSN or ITIN |
|---|---|
| Name of trust | FEIN |
| Address of trust (number and street, Apt., suite, PO Box, or PMB no.) | |
| City / State | Zip Code |
| Beneficiary's date of birth Month Day Year | Enter number of trusts from which you received accumulation distributions in this taxable year . . _____ |

## Part I Tax on Accumulation Distribution under Internal Revenue Code Section 667.

### Section A — Average Income and Determination of Computation Years

| | | | | | |
|---|---|---|---|---|---|
| 1 | Amount of current distribution that is considered distributed in earlier years from Schedule J (541), line 30, column (a) | | | 1 | 00 |
| 2 | Distributions of income accumulated before you were born or reached age 21 | | | 2 | 00 |
| 3 | Subtract line 2 from line 1 | | | 3 | 00 |
| 4 | Taxes imposed on the trust on amounts from line 3 from Schedule J (541), line 30, column (b) | | | 4 | 00 |
| 5 | Total. Add line 3 and line 4 | | | 5 | 00 |
| 6 | Tax-exempt interest included on line 5 from Schedule J (541), line 30, column (c) | | | 6 | 00 |
| 7 | Taxable part of line 5. Subtract line 6 from line 5 | | | 7 | 00 |
| 8 | Number of trust's earlier years in which amounts on line 7 are considered distributed | | | 8 | |
| 9 | Average annual amount considered distributed. Divide line 3 by line 8 | 9 | 00 | | |
| 10 | Multiply line 9 by 25% (.25) | 10 | 00 | | |
| 11 | Number of trust's earlier taxable years to be taken into account. See instructions | | | 11 | |
| 12 | Average amount for recomputing tax. Divide line 7 by line 11. Enter here and in each column on line 15 below. | | | 12 | 00 |

13 Enter your taxable income before this distribution for the five immediately preceding years:

| | 2008 | 2007 | 2006 | 2005 | 2004 |
|---|---|---|---|---|---|
| 13 | | | | | |

### Section B — Tax Attributable to the Accumulation Distribution

| | | (a) Year _____ | (b) Year _____ | (c) Year _____ |
|---|---|---|---|---|
| 14 Enter the amounts and the years from line 13, eliminating the highest and lowest taxable income years | 14 | | | |
| 15 Enter amount from line 12 in each column | 15 | | | |
| 16 Recomputed taxable income. Add line 14 and line 15 | 16 | | | |
| 17 Tax on amounts on line 16 | 17 | | | |
| 18 Tax before credits on line 14 income | 18 | | | |
| 19 Additional tax before credits. Subtract line 18 from line 17 | 19 | | | |
| 20 Tax credit adjustment. Attach schedule | 20 | | | |
| 21 See instructions | 21 | | | |
| 22 Alternative minimum tax adjustments | 22 | | | |
| 23 Combine line 21 and line 22 | 23 | | | |

| | | | |
|---|---|---|---|
| 24 Add column (a), column (b), and column (c) of line 23 | 24 | | 00 |
| 25 Divide the amount on line 24 by 3 | 25 | | 00 |
| 26 Multiply the amount on line 25 by the number of years on line 11 | 26 | | 00 |
| 27 Enter the amount from line 4 | 27 | | 00 |
| 28 Partial tax attributable to the accumulation distribution. Subtract line 27 from line 26. If zero or less, enter -0-. See instructions | 28 | | 00 |

**Part II** **Tax on Distributions of previously untaxed trust income under Revenue and Taxation Code Section 17745 (b) and (d):**

- If the income was accumulated over a period of five years or more, complete Section A.
- If the income was accumulated over a period of less than 5 years, complete Section B.

**Section A —** See instructions.

| | | | |
|---|---|---|---|
| 1 | Income accumulated over five years or more | 1 | 00 |
| 2 | Divide line 1 by six. Enter here and on Schedule CA (540 or 540NR), line 21f, column C | 2 | 00 |

| | | (a) 2008 | (b) 2007 | (c) 2006 | (d) 2005 | (e) 2004 |
|---|---|---|---|---|---|---|
| 3 Were you a resident or part-year resident? Enter "Yes" or "No" for each year (Answer "No" for nonresident years.) | 3 | | | | | |
| 4 Enter your taxable income before this distribution for the five immediately preceding years | 4 | | | | | |
| 5 Enter the amount from line 2 in column (a) through column (e) | 5 | | | | | |
| 6 Recomputed taxable income. Add line 4 and line 5 | 6 | | | | | |
| 7 Tax on amounts on line 6 | 7 | | | | | |
| 8 Tax before credits on line 4 income | 8 | | | | | |
| 9 Additional tax before credits. Subtract line 8 from line 7 | 9 | | | | | |
| 10 Tax credit adjustment. Attach schedule | 10 | | | | | |
| 11 Subtract line 10 from line 9. See instructions | 11 | | | | | |
| 12 Alternative minimum tax adjustments | 12 | | | | | |
| 13 Add line 11 and line 12 | 13 | | | | | |

| | | | |
|---|---|---|---|
| 14 | Add line 13, column (a) through column (e) for all years that you entered "Yes" on line 3. Enter here and on Form 540, line 34; Long Form 540NR, line 41; or Form 541, line 21b. See instructions | 14 | 00 |

**Section B —** See instructions.

| | | | | |
|---|---|---|---|---|
| 1 | Income accumulated less than 5 years | | 1 | 00 |
| 2 | Averaging factor: | | | |
| a | Enter the number of years the trust accumulated the amount on line 1 | 2a | | |
| b | Distribution year | 2b | 1 | |
| 3 | Add line 2a and line 2b | | 3 | |
| 4 | Divide line 1 by line 3. Enter here and on Schedule CA (540 or 540NR), line 21f, column C | | 4 | 00 |

| | | (a) 2008 | (b) 2007 | (c) 2006 | (d) 2005 |
|---|---|---|---|---|---|
| 5 Were you a resident or part-year resident? Enter "Yes" or "No" for each year. (Answer "No" for nonresident years.) | 5 | | | | |
| 6 Enter your taxable income before this distribution for the number of preceding years entered on line 2a. See instructions | 6 | | | | |
| 7 Enter the amount from line 4 in column (a) through column (d) | 7 | | | | |
| 8 Recomputed taxable income. Add line 6 and line 7 | 8 | | | | |
| 9 Tax on amounts on line 8 | 9 | | | | |
| 10 Tax before credits on line 6 income | 10 | | | | |
| 11 Additional tax before credits. Subtract line 10 from line 9 | 11 | | | | |
| 12 Tax credit adjustment. Attach schedule | 12 | | | | |
| 13 Subtract line 12 from line 11. See instructions | 13 | | | | |
| 14 Alternative minimum tax adjustments | 14 | | | | |
| 15 Add line 13 and line 14 | 15 | | | | |

| | | | |
|---|---|---|---|
| 16 | Add line 15, column (a) through column (d) for all years that you entered "Yes" on line 5. Enter here and on Form 540, line 34; Long Form 540NR, line 41; or Form 541, line 21b. See instructions | 16 | 00 |

# Instructions for Form FTB 5870A

## Tax on Accumulation Distribution of Trusts

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2005,** and to the California Revenue & Taxation Code (R&TC).

## General Information

In general, California law conforms to the Internal Revenue Code (IRC) as of January 2005. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to **ftb.ca.gov** and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the tax booklets. Taxpayers should not consider the tax booklets as authoritative law.

If you received an accumulation distribution from a foreign trust, use federal Form 4970, Tax on Accumulation Distribution of Trusts, as a worksheet. The partial tax from an accumulation distribution of a foreign trust computed on federal Form 4970 is reported on federal Form 3520, Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts. California does not conform to the federal provision relating to information returns required for foreign trusts with United States beneficiaries, IRC Section 6048(c).

Report the accumulation distributions from foreign trusts and from certain domestic trusts on form FTB 5870A, Tax on Accumulation Distribution of Trusts, and attach it to your return. See IRC Section 665(c).

Although California conforms to the federal provision repealing the throwback rules, California may still apply R&TC Section 17745(b). This provision states that if the trust did not pay tax on current or accumulated income of the trust because the resident beneficiary's interest in the trust was contingent, this income will be taxable when it is distributed or distributable to the beneficiary. Get the instructions for Form 541, California Fiduciary Income Tax Return, for more information.

**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 Franchise Tax Board (FTB) will disregard the cents.

## Purpose

Use form FTB 5870A to figure the additional tax under IRC Section 667 or R&TC Sections 17745(b) and (d) on an accumulation distribution made by a foreign trust and certain domestic trusts in the current year.

If IRC Section 667 and R&TC Section 17745(b) both appear to apply to the same distribution, calculate the tax on the distribution using R&TC Section 17745 and Part II only. (See R&TC Section 17779.)

If you were a noncontingent beneficiary and you received Schedule J (541), Trust Allocation of an Accumulation Distribution, and the trust filed Form 541, and paid the tax, compute your additional tax under the provisions of IRC Section 667. Complete Part I of form FTB 5870A to determine the amount of the tax due.

If you were a contingent beneficiary and you did not receive Schedule J (541) because the trust was not required to file Form 541, compute your additional tax under the provisions of R&TC Sections 17745(b) and (d). Complete Part II, Section A or Section B, of form FTB 5870A to determine the amount of additional tax due.

**Do not** use form FTB 5870A if you were a non-contingent beneficiary and you received an accumulation distribution, but you did not receive Schedule J (541) because the trust did not file Form 541 or pay the required California tax due. The entire trust accumulation income is taxable in the year that you receive the distribution, and should be reported on Schedule CA (540), California Adjustments – Residents, or Schedule CA (540NR), California Adjustments – Nonresidents or Part-Year Residents, line 21f, column C. See R&TC Section 17745(a).

**California does not follow the federal rules for:**

- Generation-skipping transfer tax imposed by IRC Section 2601.
- The tax relating to estates imposed by IRC Section 2001 or Section 2101.

Except as explained above, use the instructions for federal Form 4970 to compute the partial tax.

**Nonresidents or part-year residents in preceding five years:** For any taxable year you were a nonresident or part-year resident in the accumulation years listed in Part I, Section B, skip line 14 through line 22. Complete Long Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, up to line 74, total tax. Make your adjustments on the accumulation years listed, eliminating the highest and lowest taxable income years. Include in the total adjusted gross income for Long Form 540NR the amount from form FTB 5870A, Part I, line 12, plus all other income of the beneficiary as if the beneficiary was a California resident for the entire year.

Get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency, and FTB Pub. 1031, Guidelines for Determining Resident Status, for more information.

If you were a California resident at the trust's year end, include the amount from form FTB 5870A, Part I, line 12, in California adjusted gross income on the Form 540, line 17. If you were a nonresident at the trust's year end, include the California source income amount from form FTB 5870A, Part I, line 12 in California adjusted gross income on Long Form 540NR, line 32. You may need to contact the trust for additional information regarding sourced income. In either instance, include all other income of the beneficiary from periods of California residency and all other California source income from periods of nonresidency.

Enter the amount from Long Form 540NR, line 74 on form FTB 5870A, Part I, Section B, line 23. Follow the instructions for completing the rest of form FTB 5870A.

## Specific Line Instructions

### Part I

**Line 1 –** Enter the amount distributed in the current year that represents the undistributed net income of a trust considered to have been distributed in earlier years.

**Line 2 –** Enter any amount on line 1 that represents undistributed net income (UNI) of a trust considered to have been accumulated before you were born or reached age 21. However, if the multiple trust rule applies, see the instructions for line 4.

**Line 4 –** Except as noted below under "Special Rule for Multiple Trusts," enter on line 4 the California taxes (not including any alternative minimum tax) charged for any earlier year on the trust income that are attributable to the net income reported on line 3. See IRC Sections 666(b) and (c).

**Special Rule for Multiple Trusts.** If you received accumulation distributions from two or more other trusts that were considered to have been made in any of the earlier taxable years from which the current accumulation distribution is considered to have been made, do not include on line 4 the taxes attributable to the current accumulation distribution considered to have been distributed in the same earlier taxable years.

This special rule applies only to those trusts with accumulation distributions (including earlier accumulation distributions that are considered under IRC Section 666(a) to have been distributed in the same earlier year) that total $1,000 or more.

**Line 8 –** You can determine the number of years which the UNI is deemed to have been distributed by counting the throwback years for which there are entries on Schedule J (541), Part IV, line 26 through line 29. These throwback rules apply even if you would not have been entitled to receive a distribution in the earlier taxable year if the distribution had actually been made then.

There can be more than four throwback years.

**Line 11 –** From the number of years entered on line 8, subtract any year in which the distribution from Schedule J (541), Part IV, column (a) is less than the amount on line 10 of form FTB 5870A. If the distribution for each throwback year is more than line 10, then enter the same number on line 11 as you entered on line 8.

**Line 13 –** Enter your taxable income for years 2004 through 2008, even if the trust had accumulated income less than five years after the beneficiary became 21 years old. Use the taxable income as originally reported, amended, or as changed by the FTB. Include in the taxable income, amounts considered distributed as a result of prior accumulation distributions whether from the same or another trust, and whether made in an earlier year or the current year.

For taxable years 2004 through 2008, enter the amount of your taxable income, but not less than zero.

**Line 17 –** Compute the tax (not including any alternative minimum tax) on the income on line 16 using the tax rates in effect for the earlier year shown in each of the three columns. Use the California tax tables included in the personal income tax booklets for prior years.

**Line 18 –** Enter your tax (not including any alternative minimum tax) as originally reported, amended, or as changed by the FTB before reduction for any credits for the particular earlier year shown in each of the three columns.

**Line 20 –** Include on line 20 only the net change in nonrefundable credits, such as exemption credit, etc. For example, to the extent the tax on line 18 is less than the allowable exemption credit, only the excess exemption credit is to be included on line 20.

**Line 21 –** If the net change results in an increase in allowable credits, subtract line 20 from line 19. If the net change results in a decrease in allowable credits, add line 20 and line 19.

**Line 22 –** Complete and attach a separate Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations, to recompute the alternative minimum tax (AMT) for each earlier year and show any change to those taxes in the bottom margin of the form. Enter the adjustment on line 22.

**Line 28 – Individuals –** Enter the amount from line 28 on Form 540, line 34 or Long Form 540NR, line 41. Fill in the circle labeled "FTB 5870A."

**Estates and trusts –** Include the amount from line 28 on Form 541, line 21b. Write "FTB 5870A" on that line.

**Other filers –** Add the amount on line 28 to the total tax liability before credits on your tax return for the year of the accumulation distribution. Attach form FTB 5870A to the back of your tax return.

## Part II

If you were a contingent beneficiary and did not receive a Schedule J (541), you must contact the trustee to get the information you will need to complete form FTB 5870A. The trustee must provide the:

- Total number of years that the trust income was accumulated.
- Total amount of the accumulation distribution.

If the total number of years that the trust income was accumulated is five or more, complete Section A to determine your tax due.

If the total number of years that the trust income was accumulated is less than 5 years, complete Section B to determine your tax due.

### Section A

Complete this section to compute your additional tax due on a trust distribution accumulated over a period of five years or more. If the accumulation period was less than 5 years, skip this section and complete Section B.

**Line 1 –** Enter the amount of your accumulation distribution.

**Line 2 –** Divide the amount on line 1 by the number six and enter that amount here and on Schedule CA (540 or 540NR), line 21f, column C. This is the amount to be included in the current year. The balance of this schedule will be used to compute the tax on the portion of the distribution attributable to prior years.

**Line 3 –** Enter "Yes" in each column for the years that you were either a California resident or part-year resident. Enter "No" for the years that you were a nonresident. If the taxpayer was a resident during any portion of the time the trust accumulated the income being distributed in the current year, and left the state for any period of time beginning within 12 months of the date of the current distribution and returned to the state within 12 months of the date the current distribution was made, the taxpayer is presumed to have continued to be a resident throughout the time of distribution.

**Line 4 –** Enter your taxable income from taxable years 2004 through 2008. Use the taxable income as originally reported, amended, or as changed by the FTB.

**Line 7 –** Compute the tax (not including any AMT) on the income on line 6 using the tax rates in effect for the earlier year shown in each of the five columns. Use the California tax tables included in the personal income tax booklets for prior years.

**Line 8 –** Enter your tax (not including any AMT) as originally reported, amended, or as changed by the FTB before reduction for any credits for the particular earlier year shown in each of the five columns.

**Line 10 –** Include on line 10 only the net change in nonrefundable credits, such as exemption credit, etc. For example, to the extent the tax on line 8 is less than the allowable exemption credit, only the excess exemption credit is included on line 10.

**Line 11 –** If the net change results in a decrease in allowable credits, add line 9 and line 10.

**Line 12 –** Complete and attach a separate Schedule P (100, 100W, 540, 540NR, or 541) to recompute the AMT for each earlier year and show any change in those taxes in the bottom margin of the forms. Enter the adjustments on line 12.

**Line 14 –** Add line 13, column (a) through column (e) for all years that you entered "Yes" on line 3. **Do not** include any amounts for any year that you entered "No."

**Individuals –** Enter the amount from line 14 on Form 540, line 34 or Long Form 540NR, line 41. Fill in the circle labeled "FTB 5870A."

**Estates and trusts –** Enter the amount from line 14 on Form 541, line 21b. Write "FTB 5870A" on that line.

**Other filers –** Add the amount on line 14 to the total tax liability before credits on your tax return for the year of the accumulation distribution. Attach form FTB 5870A to the back of your tax return.

### Section B

Complete this section to compute your additional tax due on a trust distribution accumulated over a period of less than 5 years. If the accumulation period was five years or more, **do not** complete this section. Complete Section A.

Complete the entries for all columns corresponding to the number of years entered on line 2a. If the number entered on line 2a is:

- 1 – Complete only column (a).
- 2 – Complete only column (a) and column (b).
- 3 – Complete only column (a) through column (c).
- 4 – Complete all columns.

**Line 1 –** Enter the amount of your accumulation distribution.

**Line 2a –** Do not enter a number more than 4. If the total accumulation years is more than 4, **do not** complete this section. Go to Section A.

**Line 4 –** Enter the amount from line 4 on Schedule CA (540 or 540NR), line 21f, column C. This is the amount to be included in the current year. The rest of this section will be used to compute the tax on the portion of the distribution attributable to prior years.

**Line 5 –** Enter "Yes" in each column for the years that you were either a California resident or part-year resident. Enter "No" for the years that you were a nonresident. If the taxpayer was a resident during any portion of the time the trust accumulated the income being distributed in the current year, and left the state for any period of time beginning within 12 months of the date of the current distribution and returned to the state within 12 months of the date the current distribution was made, the taxpayer is presumed to have continued to be a resident throughout the time of distribution.

**Line 6 –** Enter your taxable income from taxable years 2005 through 2008. Use the taxable income as originally reported, amended, or as changed by the FTB.

**Line 9 –** Compute the tax (not including any AMT) on the income on line 8 using the tax rates in effect for the earlier year shown in each of the four columns. See Part II, Section A, line 7 instructions.

**Line 10 –** Enter your tax (not including any AMT) as originally reported, amended, or as changed by the FTB before reduction for any credits for the particular earlier year shown in each of the four columns.

**Line 12 –** Include on line 12 only the net change in nonrefundable credits such as exemption credit, etc. For example, to the extent the tax on line 10 is less than the allowable exemption credit, only the excess exemption credit is included on line 12.

**Line 13 –** If the net change results in a decrease in allowable credits, add line 11 and line 12.

**Line 14 –** Complete and attach a separate Schedule P (100, 100W, 540, 540NR, or 541) to recompute the AMT for each earlier year and show any change in those taxes in the bottom margin of the form. Enter the adjustment on line 14.

**Line 16 –** Add line 15, column (a) through column (d), for all years that you entered "Yes" on line 5. **Do not** include any amounts for any year that you entered "No."

**Individuals –** Enter the amount from line 16 on Form 540, line 34 or Long Form 540NR, line 41. Fill in the circle labeled "FTB 5870A."

**Estates and trusts –** Enter the amount from line 16 on Form 541, line 21b. Write "FTB 5870A" on that line.

**Other filers –** Add the amount on line 16 to the total tax liability before credits on your tax return for the year of the accumulation distribution. Attach form FTB 5870A to the back of your tax return.

### Internet and Telephone Assistance

Telephone assistance is available year-round from 8 a.m. to 5 p.m. Monday through Friday, except holidays. Hours subject to change.

| | |
|---|---|
| Website: | **ftb.ca.gov** |
| Telephone: | 800.852.5711 from within the United States<br>916.845.6500 from outside the United States |
| TTY/TDD: | 800.822.6268 for persons with hearing or speech impairments |

### Asistencia Por Internet y Teléfono

Asistencia telefónica está disponible todo el año durante las 8 a.m. y las 5 p.m. lunes a viernes, excepto días festivos. Las horas están sujetas a cambios.

| | |
|---|---|
| Sitio web: | **ftb.ca.gov** |
| Teléfono: | 800.852.5711 dentro de los Estados Unidos<br>916.845.6500 fuera de los Estados Unidos |
| TTY/TDD: | 800.822.6268 personas con discapacidades de la auditivas y del habla |