



## FTB Publication 1067



# Guidelines for Filing a Group Form 540NR

## Contents

What's New . . . . .	1
Purpose . . . . .	1
Terms Used in this Publication . . . . .	1
General Information . . . . .	1
Introduction . . . . .	2
Filing Information and Important Due Dates . . . . .	2
Requirement for the Electing Individual to File a California Income Tax Return . . . . .	3
Why File a Group Nonresident Return . . . . .	3
Who Can Be Included in the Group Nonresident Return . . . . .	3
Individual's Decision to be Included in the Group Nonresident Return . . . . .	3
Election to File a Group Nonresident Return . . . . .	4
Return for Shareholders/Partners/Members . . . . .	4
Return for Directors . . . . .	5
Estimated Tax Requirements . . . . .	5
How to Make Estimated Tax Payments on Form 540-ES . . . . .	5
Moving Estimated Payments . . . . .	5
Important Information – How to Avoid Common Errors . . . . .	6
Instructions for Completing Group Nonresident Return . . . . .	6
How to Make an Extension Payment . . . . .	7
How to Get Additional Information Regarding Group Nonresident Returns . . . . .	7
Sample Form 540-ES, Estimated Tax for Individuals . . . . .	8
Sample Form 3519, Payment for Automatic Extension for Individuals . . . . .	8
Sample Form 540NR California Nonresident or Part-Year Resident Income Tax Return . . . . .	8
Schedule 1067A, Nonresident Group Return Schedule . . . . .	9
Schedule 1067A Instructions . . . . .	11
Schedule 1067B, Group Nonresident Return Payment Transfer Request . . . . .	12
Form 3864, Group Nonresident Return Election . . . . .	13

## What's New

**Decrease in Rates** – For taxable years beginning on or after January 1, 2011, the maximum personal income tax rate is 9.3%. Non-California partnerships are subject to withholding requirements on a sale of California real property at a rate of 3 1/3% (.0333) of sales price or 9.3% of gain. The alternative withholding rate for the gain on the sale of California real property by S corporations is 10.8% and 12.8% for financial S corporations.

**Doing Business** – For taxable years beginning on or after January 1, 2011, a taxpayer is doing business if it actively engages in any transaction for the purpose of financial or pecuniary gain or profit in California or if **any** of the following conditions is satisfied:

- The taxpayer is organized or commercially domiciled in California.
- The sales, as defined in California Revenue & Taxation Code (R&TC) Section 25120(e) or (f), of the taxpayer in California, including sales by the taxpayer's agents and independent contractors, exceed the lesser of \$500,000 or 25% of the taxpayer's total sales.
- The real property and tangible personal property of the taxpayer in California exceed the lesser of \$50,000 or 25% of the taxpayer's total real property and tangible personal property.
- The amount paid in California by the taxpayer for compensation, as defined in R&TC Section 25120(c), exceeds the lesser of \$50,000 or 25% of the total compensation paid by the taxpayer.

In determining the amount of the taxpayer's sales, property, and payroll for doing business purposes, include the taxpayer's pro rata share of amounts from partnerships and S corporations.

For more information, see R&TC Section 23101 or go to [ftb.ca.gov](http://ftb.ca.gov) and search for **law changes**.

**MyFTB Account** – Corporations can use MyFTB Account for Businesses to view the estimated tax payments online. Go to [ftb.ca.gov](http://ftb.ca.gov) and search for **myftb account**. Corporations can also make payments online using Web Pay for Businesses. The Franchise Tax Board (FTB) does not charge for this service. Go to [ftb.ca.gov](http://ftb.ca.gov) and search for **web pay**.

Do not include estimate payments due for the business entity with your group return payments. Business entity payments must be made separately from the group payments to avoid delays and errors in processing returns.

## Purpose

This publication is for corporations, partnerships, and limited liability companies (LLCs) that elect to file a group nonresident return, also commonly referred to as a composite return.

## Terms Used in this Publication

**Business entity** refers to an S corporation, partnership, or LLC that elects to file a group nonresident return on behalf of its individual nonresident shareholders, partners, or members.

**Pass-through income** refers to the shareholder's, partner's, or member's distributive share of income from the business entity derived from California sources or from doing business in California.

**Corporation** refers to a corporation that elects to file a group nonresident return on behalf of its individual nonresident directors.

**Director's compensation** refers to the director's wages, salaries, fees, or other compensation from the corporation for director services performed in California, including attendance at board of directors' meetings in California.

**Individual** refers to a shareholder, partner, member, or director who is a natural person and his or her spouse/RDP. Individual also includes the grantor of a grantor trust described under Internal Revenue Code (IRC) Section 671-679 and not recognized as a separate taxable entity for income tax purposes when the grantor is an individual.

## General Information

**Backup Withholding** – Beginning on or after January 1, 2010, with certain limited exceptions, payers that are required to withhold and remit backup withholding to the Internal Revenue Service (IRS) are also required to withhold and remit to the FTB. The California backup withholding rate is 7% of the payment. For California purposes, dividends, interests, and any financial institutions release of loan funds made in the normal course of business are exempt from backup withholding.

If the business entity (payee) has backup withholding, the business entity (payee) must contact the FTB to provide a valid Taxpayer Identification Number (TIN), which is either the California corporation number, the federal employer identification number (FEIN), or the Secretary of State (SOS) file number, before filing the tax return. Failure to provide a valid TIN may result in a denial of the backup withholding credit. For more information, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **backup withholding**.

**Minimum Electing Individuals** – For taxable years beginning on or after January 1, 2009, group nonresident returns may include less than two nonresident individuals. See Section A, for more information.

**Mental Health Services Tax on Income Over \$1 Million** – For taxable years beginning on or after January 1, 2009, nonresident individuals with over \$1 million of California taxable income are eligible to be included in group nonresident returns. An additional 1% mental health services tax will be assessed on their **entire** California taxable income if they elect to be part of the group return. This differs from when individuals file their own return and only the taxable income **in excess** of \$1 million is subject to the additional 1% tax. Individuals should be aware of this difference when making their irrevocable election to be included in the group return.

For individuals included in two or more group returns, the additional 1% tax applies if their combined California taxable income from all their group returns is more than \$1 million. For example, an individual is included in two group returns. The individual's taxable income on each group return is less than \$1 million. However, the combined taxable income from the two group returns is over \$1 million. The individual's income reported on each group return is subject to the additional 1% tax. The business entity/corporation is responsible for finding out from each individual included in the group return if the individual has total California taxable income in excess of \$1 million.

**Installment Sales** – For installment sales occurring on or after January 1, 2009, buyers are required to withhold on the principal portion of each installment sale payment if the sale of California real property is structured as an installment sale.

**Mandatory Electronic Payments (e-pay)** – You are required to remit all your payments electronically once you make an estimate or extension payment exceeding \$20,000 or you file an original return with a total tax liability over \$80,000 for any taxable year that begins on or after January 1, 2009. Once you meet this threshold, all subsequent payments regardless of amount, tax type, or taxable year must be remitted electronically. The first payment that would trigger the mandatory e-pay requirement does not have to be made electronically. Individuals who do not send the payment electronically may be subject to a 1% noncompliance penalty.

You can request a waiver from mandatory e-pay if one or more of the following is true:

- You have not made an estimated tax or extension payment in excess of \$20,000 during the current or previous taxable year.
- Your total tax liability reported for the previous taxable year did not exceed \$80,000.
- The amount you paid is not representative of your total tax liability.

Electronic payments can be made using Web Pay on FTB's website. For more information or to obtain the waiver form, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **mandatory e-pay**.

**Registered Domestic Partners (RDP)** – Under California law, RDPs must file their California income tax returns 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 status.

For purposes of California income tax, references to a spouse, husband, or 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.

## A Introduction

A group nonresident return may be filed by:

1. A business entity, acting as the authorized agent for its electing nonresident individual shareholders/partners/members, to report the distributive shares of income from the business entity derived from California sources or from doing business in California. See R&TC Section 18535.
2. A corporation, acting as the authorized agent for its electing nonresident directors, to report the directors' wages, salaries, fees, or other compensation from that corporation for director services performed in California, including attendance of board of directors' meetings in California. See R&TC Section 18536.

The business entity/corporation files the return and pays the tax on behalf of the electing nonresident individuals. A group nonresident return is considered a group of individual returns that meets the California individual income tax return filing requirement. Thus, a qualified nonresident individual who elects to be included in the group nonresident return does not file a separate personal income tax return for the tax year.

### Minimum Number of Electing Nonresident Individuals

Group Return Filed By	Income Reported	Minimum Number of Electing Nonresident Individuals	
		Tax Year 2008 and Prior	Tax Year 2009 and After
S Corporation	Pass-through	1	1
Partnership/LLC	Pass-through	2	1
Corporation	Director's compensation	2	1

**Income Taxed at the Highest Marginal Rate** – The income reported on the group return is taxed at the highest marginal rate of 9.3%.

**Use Long Form 540NR** – The business entity/corporation uses Long Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, for the group nonresident return. All references to Form 540NR in this publication mean the Long Form 540NR. Special instructions for completing Form 540NR are explained in Section N, Instructions for Completing Group Nonresident Return.

**Use a Calendar Year End** – The group nonresident return and any estimate payments are due on a calendar year basis, even if the business entity/corporation has a fiscal year end. The group returns for any tax periods ending in 2011 are due April 17, 2012. The group returns for any periods ending in 2012 will be due April 15, 2013. For example:

- If a partnership's taxable year ends on June 30, 2011, then report on the 2011 group return the California source income from each electing partner's Schedule K-1 (565), Partner's Share of Income, Deductions, Credits, etc., for the taxable year ending June 30, 2011. Even though the fiscal year ends June 30, 2011, the estimate payments are not due until 4/15/11, 06/15/11, 9/15/11, and 1/17/12.
- The corporation reports the director's compensation that he or she received in 2011 on the 2011 group return.

## B Filing Information and Important Due Dates

Form Name	Form Number	Can be Filed Electronically?	Due Dates for Tax Year 2011
Group Return	<b>Form 540NR</b> , California Nonresident or Part-Year Resident Income Tax Return  See Section N and the sample on page 8 for special instructions.	No.	<b>4/17/12</b> – Original due date  <b>10/15/12</b> – Extended due date  California extension is automatic.

*Estimate Tax Payment Voucher	<b>Form 540ES,</b> Estimated Tax for Individuals  See Sections J, K, L and the sample on page 8 for special instructions.	Yes. Use Web Pay at <b>ftb.ca.gov</b> .  For mandatory e-pay, see General Information.	<b>4/17/12</b> – 1st installment <b>6/15/12</b> – 2nd installment <b>9/17/12</b> – 3rd installment <b>1/15/13</b> – 4th installment
*Due dates for taxable year 2012.			
Extension Tax Payment Voucher	<b>Form FTB 3519,</b> Payment for Automatic Extension for Individuals  See Section O and the sample on page 8 for special instructions	Yes. Use Web Pay at <b>ftb.ca.gov</b>  For mandatory e-pay, see General Information.	<b>4/17/12</b>

## C Requirement for the Electing Individual to File a California Income Tax Return

The requirement to file a California personal income tax return is determined on an individual basis. See "Do I Have to File?" in the Form 540NR tax booklet.

For 2011, a full-year nonresident is required to file a return if the individual has any California source income and has more than \$15,152 gross income from all sources or more than \$12,122 adjusted gross income from all sources. For prior years, get the Form 540NR booklet for the appropriate year.

## D Why File a Group Nonresident Return

A group nonresident return is filed on behalf of the electing nonresident individuals for their convenience. When filing an individual return, a nonresident must report all income from all sources in addition to the California source income. On the group nonresident return, only the California source pass-through income or director's compensation is reported. The income is taxed at the highest marginal tax rate of 9.3% and no deductions or credits are allowed except those directly attributable to the business entity's activity.

## E Who Can Be Included in the Group Nonresident Return

To be included in the group nonresident return, **all** the following requirements must be met:

1. Only individuals can be included on the group return. Individual means a natural person and his or her spouse/RDP. Individual also includes the grantor of a grantor trust described under IRC Section 671-679 and not recognized as a separate taxable entity for income tax purposes when the grantor is an individual.

**Example:** The ABC partnership consists of a general partner and 20 limited partners. The general partner is a corporation. The limited partners consist of 15 nonresident individuals, an S corporation, a nonresident estate, an LLC, a limited liability partnership (LLP), and a trust (which is not a grantor trust). The 15 nonresident individuals may qualify to be included in the group nonresident return. None of the other partners can be included in the group nonresident return.

2. The individual must be a full-year nonresident of California. For information to help you determine your residency status, get FTB Pub. 1031, Guidelines for Determining Resident Status.
3. For taxable years prior to 2009, the individual must not have California taxable income in excess of \$1,000,000. For taxable year beginning on January 1, 2009, these individuals may be included in a group nonresident return, see General Information for more information.

4. The income from the business entity/corporation is the only California source income of the individual, unless the other California source income is being reported on another group nonresident return.

**Example:** A nonresident individual has California source income from a business entity and from an individually owned California rental property. This individual cannot be included in the group return of the business entity because the individual has income from an individually owned California rental property.

**Example:** A nonresident individual has California source income from the ABC partnership and the XYZ partnership. The individual does not have California source income from any other source. The individual can elect to be included in the group nonresident return of both partnerships. The individual cannot elect to be included in the group nonresident return of only one of the partnerships.

**Example:** A nonresident individual is a corporate director of a corporation and received California source director fees. The individual is also a partner in a partnership that derives income from California sources. The individual can be included in the group nonresident returns of both the corporation and the partnership. The individual cannot be included in only one of the group nonresident returns.

**Example:** XYZ partnership does business in California and has three partners -- two nonresident individuals (A and B) and partnership CDF. Partnership CDF has two partners -- nonresident individual M and a C corporation. Individuals A, B, and M wish to file one group return to include all of the partners deriving California sourced income from XYZ partnership.

Tiered partnerships (and other tiered ownership structures) are not allowed to file a group return to combine all of their business entities and individual nonresident partners on one group return. Each of the tiered partnerships must file a separate group nonresident return for their electing individual nonresident partners and cannot include any business entities in the group nonresident return.

XYZ partnership may file a group nonresident return for individuals A and B. XYZ partnership cannot include partnership CDF or any of CDF's partners in the group nonresident return. For taxable years beginning on or after January 1, 2009, partnership CDF may elect to file a group nonresident return for nonresident individual partner M. However, the C corporation may not be included in the group nonresident return **because group nonresident returns cannot include business entities.**

## F Individual's Decision to be Included in the Group Nonresident Return

**The Individual's Decision is Irrevocable** – Each nonresident individual must decide whether to be included in the group nonresident return prior to its filing. Once the group nonresident return is filed, the election to be included in the group nonresident return is irrevocable for the taxable year. Once filed, the group return cannot be amended to either include or exclude a nonresident individual. Similarly, once an electing nonresident individual is included in the group return, the individual may not subsequently file a separate individual return for the taxable year.

**Exception:** The individual may discover after the group return was filed that he or she did not qualify to be included in the group nonresident return. For example, the individual had income from other California sources that were not reported on any other group nonresident return. The individual must file a return on a separate basis reporting all his or her California source income. Having other sources of California losses will not disqualify the individual from being included in a group nonresident return.

**Residents of Arizona, Guam, Indiana, Oregon, and Virginia** – If you file your own individual return, you may qualify to claim the other state tax credit. This credit is not allowed if you are included in the group return. Thus, you may want to consult with a tax advisor before making the irrevocable election to be included in the 2011 group return.

**Business Entity's/Corporation's Responsibility to Inform Individuals** – The business entity/corporation is responsible for:

- Allowing each nonresident individual the annual option of being included in the group nonresident return.
- Informing each nonresident individual of the terms and conditions of filing a group nonresident return specified on form FTB 3864, Group Nonresident Return Election, included in this publication.

The business entity/corporation is responsible for finding out from each individual included in the group return if the individual has total California taxable income in excess of \$1 million. If so, it is the business entity/corporations' responsibility to report and pay the additional 1% tax on the group return. See General Information, for more information.

## G Election to File a Group Nonresident Return

The business entity/corporation makes an annual election to file a group nonresident return on behalf of the electing nonresident individuals. Once made, the election is irrevocable for the taxable year. Make the election by attaching a completed and signed form FTB 3864, to the Form 540NR filed for the group.

## H Return for Shareholders/Partners/ Members

Shareholders/partners/members report on the group nonresident return their distributive share of income from the business entity derived from California sources or from doing business in California.

**Partnership's Termination – Two Group Returns Due** – Attach a statement to each group return if the partnership files two group returns for the same taxable year due to the partnership's technical termination or change of ownership. Include in the statement that two group returns were filed due to the termination and dates of the partnership's short period that relates to each group return. Each group return will be for a full calendar year even though the partnership has two short periods.

## Reporting of Gains/Losses

**Capital Gains/Losses** – All limitations normally applied at the individual level apply on the nonresident group return. For instance, an individual's California source capital losses from a business entity may only be deducted to the extent of California source capital gains, plus \$3,000. The allowable capital loss for each electing nonresident is totaled and entered on the return. The filing status of nonresident electing individuals is deemed to be single, limiting each to a \$3,000 capital loss. The business entity must keep track of the allocable share of the California source capital gains and losses (including carryovers) for each electing nonresident individual.

**IRC Section 1231 net losses** are allowed in full.

**Passive Losses** – The business entity must complete a single form FTB 3801, Passive Activity Loss Limitations, for the electing nonresident individuals included in the group return. Only California source passive losses are reported on form FTB 3801. Passive losses will be allowed only to the extent of passive income. When losses are not allowed, they are suspended at 100% for each electing nonresident individual. When suspended passive losses are released by current year passive income, the suspended prior year losses offset the current year passive income on the group return. Suspended prior year losses are also released upon disposition of the entire interest in the passive activity. The business entity must keep track of the allocable share of the suspended California source passive losses for each electing nonresident individual included in the group return.

## Individual Deductions Not Allowed on the Group Nonresident Return

Individual deductions are not allowed on the group nonresident return. Individual deductions include, but are not limited to, the deduction for self-employment tax, the IRC Section 179 deduction, charitable contributions, itemized deductions, and the standard deduction. However, there is an exception for the deduction for contributions to a deferred compensation plan.

## Net Operating Loss (NOL)

An NOL is also an individual deduction. An individual cannot claim an NOL deduction on the group nonresident return. An individual who reports a net loss on the group nonresident return forgoes any NOL carryover that could have resulted on an individual nonresident return from that net loss.

## Contributions to a Deferred Compensation Plan

Partners of a partnership and members of an LLC (but not shareholders of an S corporation) are allowed a deduction on the group nonresident return under IRC Section 401 through Section 424, as modified by California. If an electing nonresident individual has earned income from any other source, no deduction is allowed. The definition for "earned income" means the net earnings from self-employment per IRC Section 401(c)(2).

The deduction is computed by multiplying the allowable federal deduction by the electing nonresident individual's California apportionment percentage.

## Credits

Credits that can be claimed on the group nonresident return are credits that are directly attributable to the business entity's activities such as the new jobs credit, the low-income housing credit, and the manufacturer's investment credit.

Individual credits, such as the personal, blind, senior, or dependent exemption credits and the other state tax credit, are not allowed on the group nonresident return. To use individual credits, such as the other state tax credit, the individual should file a separate Form 540NR and should not be included in the group return. See Section F, Individual's Decision to be Included in the Group Nonresident Return, for more information.

If the credits are directly attributable to the business entity's activities exceed the amount of tax for a given year and are available for carryover, the business entity will properly account for such credit with respect to each individual included in the group nonresident return.

Nonbusiness income from intangibles should generally be allocated to each partner's/member's state of residence. For more information, see instructions for Form 565, Partnership Return of Income, or Form 568, Limited Liability Company Return of Income.

## Special Information for Partnerships and LLCs Subject to Apportionment

Cal. Code Regs., tit. 18 section 17951-4 applies to the income computation of the nonresident partners/members of a partnership/LLC. The regulation provides that 100% of the nonresident's distributive share of the partnership's business income plus any guaranteed payment, is subject to apportionment. Guaranteed payments are treated as part of a partner's distributive share of partnership business income. See R&TC Section 17854.

**Investment Partnership** – If the partnership qualifies as an investment partnership under R&TC Section 17955(c), generally the dividends, interest, gains, and losses from that partnership will be sourced in the partner's/member's state of residence.

If the partnership does not qualify as an investment partnership under R&TC Section 17955(c) or if the partnership does qualify as an investment partnership but the partner/member is disqualified under R&TC Section 17955(b), pertaining to investment activities interrelated with trade or business within this state, then the normal apportionment and allocation rules apply in determining the character of the income as business or nonbusiness. Business income should be apportioned using the partnership factors.

## Withholding Requirements of Partnership/LLC

Withholding is required if either of the following apply:

- California source income is allocable under IRC Section 704 to a foreign nonresident partner/member.
- California source income distributed to a domestic (nonforeign) nonresident partner/member exceeds \$1,500 in the calendar year.

The withholding rates are 8.84% for foreign corporate partners/members, 9.3% for foreign nonresident individual partners/members, and 7% for all domestic nonresident partners/members. Withholding is not required if the partner/member has received authorization waiving the withholding from the FTB. However, there is no provision in the tax law to allow a waiver of withholding for a foreign nonresident partner/member.

For withholding rates and additional information concerning California withholding requirements, get FTB Pub. 1016, Real Estate Withholding Guidelines; FTB Pub. 1017, Resident and Nonresident Withholding Guidelines, or call the Withholding Services and Compliance automated telephone service at 888.792.4900.

## I Return for Directors

Directors report on the group nonresident return their director's wages, salaries, fees, or other compensation from the corporation for director services performed in California, including attendance at board of directors' meetings in California.

Rules for allocating wages, salaries, and other compensation to determine the amount attributable to California are in Cal. Code Regs., tit. 18 section 17951-5.

**Deductions Are Not Allowed** – Directors are not allowed to claim any deductions on the group nonresident return. This includes, but is not limited to, expenses related to their director compensation, itemized deductions, standard deduction, net operating losses, and adjustments to income such as individual retirement account deductions.

**Credits Are Not Allowed** – Directors are not allowed to claim any credits on the group return. Credits include, but are not limited to, the personal, blind, senior, or dependent exemption credit and all special credits such as the other state tax credit. To use individual credits, the director should file a separate Form 540NR and should not be included in the group return. See Section F, Individual's Decision to be included in the Group Nonresident Return, for more information.

**S Corporations Filing A Group Nonresident Return for Both Directors and Shareholders** – An S corporation that has both electing nonresident directors and nonresident shareholders must file only one group nonresident return including both directors and shareholders.

## J Estimated Tax Requirements

Generally, taxpayers with a tax liability less than \$500 do not need to make estimated tax payments. If the tax is underpaid, a penalty for the underpayment of estimated tax will be assessed based on the net tax of the group nonresident return. Get Form 540 ES, Estimated Tax for Individuals, and form FTB 5805, Underpayment of Estimated Tax by Individuals and Fiduciaries, for more information.

**Mental Health Services Tax on Income Over \$1 Million** – For taxable years beginning on or after January 1, 2009, individuals with more than \$1 million of California taxable income can be included in the group return. However, these individuals are subject to an additional 1% tax on their **entire** California taxable income when included in the group return. This differs from when individuals file their own return and only the taxable income **in excess** of \$1 million is subject to the additional 1% tax. Individuals should be aware of this difference when making their irrevocable election to be included in the group return.

For individuals included in two or more group returns, the additional 1% tax applies if their combined California taxable income from all their group returns is more than \$1 million. For example, an individual is included in two group returns. The individual's taxable income on each group return is less than \$1 million, however, the combined taxable income from the two group returns is over \$1 million. The individual's income reported on each group return is subject to the additional 1% tax. The business entity/corporation is responsible for finding out from each individual included in the group return if the individual has total California taxable income in excess of \$1 million.

**Estimated Tax Payments** – Installments due for each taxable year beginning on or after January 1, 2010 shall be:

- 30% of the required annual payment for the 1st required installment
- 40% of the required annual payment for the 2nd required installment
- no installment is due for the 3rd installment
- 30% of the required annual payment for the 4th required installment

**Electronic Payments** – All taxpayers have the option to pay electronically using Web Pay at the FTB's website. However, certain taxpayers are required to remit their payments electronically if they make an estimated tax payment and/or extension payment exceeding \$20,000 or the total tax liability shown on their original tax return exceeds \$80,000 for any taxable year beginning on or after January 1, 2009. Once you meet the threshold, all payments regardless of amount, tax type or taxable year must be remitted electronically. For more information, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **mandatory epay**.

Any taxpayer required to remit a payment electronically who makes a payment by other means shall pay a penalty of 1% of the amount paid, unless it is shown that the failure to make a payment as required was for a reasonable cause and was not the result of willful neglect.

## K How to Make Estimated Tax Payments on Form 540-ES

Beginning with taxable years 2009 and after, taxpayers are required to remit their payments electronically if they make an estimated tax payment and/or extension payment exceeding \$20,000 or the total tax liability shown on their original 2009 tax return exceeds \$80,000. See General Information, for more details.

To make group nonresident return estimated tax payments:

1. Whether required to pay electronically or not, Web Pay may be used to make your estimated tax payments electronically. For Web Pay instructions, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **web pay**. **Do not** include estimate payments due for the business entity with your group return payments. Business entity payments must be made separate from the group payments to avoid delays and errors in processing returns.
2. If not using Web Pay, mail your estimate payments using Form 540-ES. **Caution:** If you make estimated tax payments with any other estimated tax voucher, such as the Form 100-ES, Corporation Estimated Tax, the payments will not be properly credited for the group nonresident return
3. Type or print the following information in the top margin of the Form 540-ES:  
GROUP FILING PROGRAM MS L170  
ATTN: IVS (732)
4. Enter the name, address, and FEIN as follows:
  - First name: Enter "A" if a partnership or LLC. Enter "C" if a corporation.
  - Last name: Enter "PTSP" if a partnership or LLC. Enter "SGNF" if a corporation.
  - Address: Enter the business entity's or corporation's name and address.See the sample on page 8 of this publication.
5. Mail the estimate voucher with payment to the address shown on the Form 540-ES.
6. To avoid penalties and interest, submit your payments by the estimate payment due dates. See Section B, Filing Information and Important Due Dates.
7. You may also access your account payments or tax due information at [ftb.ca.gov](http://ftb.ca.gov) and search for **myftb account**.

## L Moving Estimated Payments

You may need to move estimated tax payments "**from the group nonresident return to the individual nonresident return**" or "**from the individual nonresident return to the group nonresident return**."

**Caution:** The election to be included in the group return is irrevocable once the group return is filed for the taxable year. Therefore, after the group return is filed, individuals cannot elect out of the group return and move their share of the group return's tax payments to their individual account.

**Schedule 1067B** – Use Schedule 1067B, Group Nonresident Return Payment Transfer Request, to authorize us to move estimated tax payments.

1. Complete one Schedule 1067B to move payments to the group. Complete a **separate** Schedule 1067B to move payments to the individual. **Do not** combine these requests on one Schedule 1067B.
2. A general partner, member-manager, corporate officer, or attorney-in-fact of the business entity/corporation must sign the form.
3. Fax or mail the completed form to:  
Fax: 916.845.9392  
Mailing address:  
GROUP FILING PROGRAM MS L170  
ATTN: INFORMATION VALIDATION SECTION (732)  
FRANCHISE TAX BOARD  
PO BOX 1468  
SACRAMENTO CA 95812-1468

**Time Period to Move the Payments** – Once a request is received, it takes six to eight weeks to move the estimated tax payments and have the payments available to be claimed on the return. Allow sufficient time for the transfers to take place before filing the group and individual returns.

- If an individual files a separate return before the transfer to the individual becomes effective, the individual will not get credit for these payments when the return is processed and a tax-due notice will be issued.

- If the group nonresident return is filed before estimated tax payments can be transferred to the individual, the estimated payments may be applied to the group nonresident return during processing and be unavailable for transfer to the individual.
- If the group nonresident return is processed before estimated tax payments from an individual can be transferred to the group, a tax-due notice will be issued.

**To Ensure Proper Credit for the Estimated Tax Payments on the Individual's Return**, the individual should write "Group Return Payment" and the FEIN of the business entity/corporation to the left of the amount on line 82 of their individual Form 540NR return.

## M Important Information – How to Avoid Common Errors

**Use Forms for the Correct Tax Year** – You can download, view, and print current and prior year forms at [ftb.ca.gov](http://ftb.ca.gov).

**Fiscal Year End Returns are not Allowed** – Use a calendar year for the group nonresident return, even if the business entity/corporation has a fiscal year end. See Section A, Use a calendar year end.

Also make any estimated tax payments on a calendar year basis. See Section B, Filing Information and Important Due Dates.

**Use Web Pay or Form 540-ES to Make Estimated Tax Payments for the Group Nonresident Return** – Follow the instructions to make electronic payments on Web Pay or see Section K for mailing in your estimated tax payments. **Caution:** Beginning with taxable years 2009 and after, you may be required to make your estimated tax payments electronically. See General Information for more information. If not otherwise required by law, you may mail your estimated tax payments using 540-ES. Estimated tax payments made on Form 100-ES will not be credited to the group nonresident return.

**Election to be Included in the Group Nonresident Return is Irrevocable** – Inform individuals included in the group that once the group nonresident return is filed, it cannot be amended to either include or exclude a nonresident individual.

**Include Only Individuals in the Group Nonresident Return** – You cannot include in the group nonresident return Partnerships, LLCs, C corporations, S corporations, Estates, or Trusts (other than the grantor of grantor trusts described under IRC Section 671-679 and not recognized as a separate taxable entity for income tax purposes).

**Use Form 540NR and Attach the Schedule 1067A and a Signed Form FTB 3864** – Use the Form 540NR to file the group return. Follow the instructions in Section N for completing the return. Attach both the Schedule 1067A, Nonresident Group Return Schedule, and the form FTB 3864. An authorized general partner, member-manager, corporate officer, or an attorney-in-fact of the business entity must sign form FTB 3864. A new election must be signed each year and attached to each group nonresident return filed.

**Use Form FTB 3519 to Make an Extension Payment for the Group Nonresident Return** – Form FTB 3519, Payment for Automatic Extension for Individuals, is the extension payment voucher to use for the group nonresident return. Follow the instructions in Section O, How to Make an Extension Payment. **Caution:** The payment will not be properly credited to the group nonresident return if you use any other extension payment voucher, such as the form FTB 3537, Payment for Automatic Extension for LLCs.

## N Instructions for Completing Group Nonresident Return

First complete Schedule 1067A. Then, complete the group nonresident return using personal income tax Form 540NR. Follow the instructions for the form with the following modifications:

1. **Identify the Return as a Group Nonresident Return** – Type or print the following information in the top margin of Form 540NR; Side 1:  
GROUP FILING PROGRAM MS L170  
ATTN: IVS (732)
2. **Fiscal Year not Allowed** – You cannot file using a fiscal year end. Group nonresident returns must be for a calendar year. For more instructions and examples, see Section A, Use a calendar year end.

3. **Name and Address** – Enter the name and address as follows:
  - First name: Enter "A" if a partnership or LLC. Enter "C" if a corporation.
  - Last name: Enter "PTSP" if a partnership or LLC. Enter "SGNF" if a corporation.
  - Address: Enter the business entity's/corporation's name and address.  
See the sample on page 8 of this publication.

**Private Mail Box (PMB):** Include the PMB in the address field. Write "PMB" first, then the box number. Example: 111 Main Street PMB 123.

4. **SSN or ITIN** – Enter the FEIN of the business entity/corporation.
5. **Filing Status** – Use the Single filing status. To the right of the Single filing status, write "Group Nonresident Return."
6. Skip line 6 through line 31.
7. **Line 32, California Adjusted Gross Income**

Group nonresident return for:	Enter on Form 540NR, line 32
Shareholders/partners/members	Total from Schedule 1067A, Part I, line 1(e)
Directors	Total from Schedule 1067A, Part II, line 2(e)
Both S corporation directors and shareholders	Total from Schedule 1067A, Part II, line 3(e)

8. **Line 35, California Taxable Income** – Enter the same amount entered on line 32.
9. Skip line 36 through line 39.
10. **Line 40, CA Regular Tax Before Credits.**

Group nonresident return for:	Enter on Form 540NR, line 40
Shareholders/partners/members	Total from Schedule 1067A, Part I, line 1(f)
Directors	Total from Schedule 1067A, Part II, line 2(f)
Both S corporation directors and shareholders	Total from Schedule 1067A, Part II, line 3(f)

11. Skip line 41.
12. Line 42, enter the amount from line 40.
13. Line 49, Enter amount from Side 1, line 42
14. Skip line 50 through line 55.
15. Line 57 through line 60 Credits.

Group nonresident return for:	Enter on Form 540NR, line 57 through line 60
Shareholders/partners/members	Line 57, the amount claimed, line 58 and line 59, the credit name, code number, and total amount of each type of credit. Only credits directly attributable to the business entity's activities can be claimed. See Credits in Section H, Return for Shareholders/Partners/Members, for more information.
Directors	Skip these lines. Directors are not allowed to claim any credits.

16. Skip line 61.
17. Line 62, Add line 57 through line 60. These are your total credits
18. Line 63, Subtract line 62 from line 49. If less than zero, enter 0.
19. Skip line 71
20. **Line 72, Mental Health Services Tax (See General Information, for more information)**

Group nonresident return for:	Enter on Form 540NR, line 72
Shareholders/partners/members	Total from Schedule 1067A, Part I, line 1(i)
Directors	Total from Schedule 1067A, Part II, line 2(i)
Both S corporation directors and shareholders	Total from Schedule 1067A, Part II, line 3(i)

21. Line 74, Total Tax.

Group nonresident return for:	Enter on Form 540NR, line 74
Shareholders/partners/members	Total from Schedule 1067A, Part I, line 1(j)
Directors	Total from Schedule 1067A, Part II, line 2(j)
Both S corporation directors and shareholders	Total from Schedule 1067A, Part II, line 3(j)

22. Line 81, California income tax withheld. (Withholding from Form W-2 only.)

Group nonresident return for:	Enter on Form 540NR, line 81
Shareholders/partners/members	<b>Do not</b> make an entry. Skip to line 82.
Directors	Total from Schedule 1067A, Part II, line 2(k)

23. **Line 82, 2011 CA Estimated Tax and Other Payments.** Enter the total of any:
- California estimated tax payment you made (Form 540-ES) for 2011,
  - Overpayment from your 2010 California group nonresident return that you applied to your 2011 estimated tax, and
  - Payment you sent with form FTB 3519.

**Caution:** If claiming payments made by an individual included in the group nonresident return, you may need to have those payments moved to the group account before filing the group return. See Section L, Moving Estimated Payments.

24. Line 83, Real estate and other withholding.

Group nonresident return for:	Enter on Form 540NR, line 83
Shareholders/partners/members	The total California tax withheld from Forms 592-B and 593 for the individuals included in the group nonresident return. Attach a copy of the Forms 592-B and 593 to the group nonresident return.
Directors	<b>Do not</b> make an entry.

25. Complete the remaining lines of the Form 540NR as appropriate.

26. If an amount is due, you may make the payment online. To make a payment online, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **web pay**. If you are mailing in your payment, use black or blue ink, make the check or money order payable to the "Franchise Tax Board" for the full amount. Write the FEIN of the business entity/corporation, and "2011 Group 540NR" on the check or money order.

Make all checks or money orders payable in U.S. dollars and drawn against a U.S. financial institution.

27. Complete, sign, and attach form FTB 3864 to Form 540NR. The form FTB 3864 must be signed by an authorized person or attorney-in-fact. Signing form FTB 3864 means the business entity/corporation and all the electing individuals agree to the terms and conditions for filing a group nonresident return.

28. Attach Schedule 1067A.

29. Mail the group nonresident return using one of the appropriate addresses shown in the Refund or Amount You Owe Section on Form 540NR.

## O How to Make an Extension Payment

Get form FTB 3519, for more information.

Use form FTB 3519 only if both apply:

- You cannot file your 2011 return by April 17, 2012.
- You owe tax for 2011.

To make a group nonresident return extension payment:

- If you are making an electronic payment, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **web pay**. **Do not** include extension payments due for the business entity with your group return payments. Business entity payments must be made separate from the group payments to avoid delays and errors in processing returns. If you are mailing in your forms and payment, type or print the following information in the top margin of the form FTB 3519:

GROUP FILING PROGRAM MS L170  
ATTN: IVS (732)

- Enter the name, address, and FEIN as follows:

- First name: Enter "A" if a partnership or LLC. Enter "C" if a corporation.
- Last name: Enter "PTSP" if partnership or LLC. Enter "SGNF" if a corporation.
- Address: Enter the business entity's/corporation's name and address.
- SSN or ITIN: Enter the business entity's/corporation's FEIN.

See the sample on page 8 of this publication.

- Mail the voucher with payment to the address shown on the form FTB 3519.

**Caution:** An extension payment made with any other extension voucher, such as the form FTB 3537 for LLCs, will not be properly credited to the group.

## P How to Get Additional Information Regarding Group Nonresident Returns

**Correspondence Address** – Send correspondence regarding the group nonresident return to:

GROUP FILING PROGRAM MS L170  
ATTN: INFORMATION VALIDATION SECTION (732)  
FRANCHISE TAX BOARD  
PO BOX 1468  
SACRAMENTO CA 95812-1468

**Caution:** **Do not** mail Form 540NR or Form 540-ES to this address. Mail Form 540NR and Form 540-ES to the address shown on each form.

**Telephone:** 916.845.3465 for information on the group nonresident return.

**Fax:** 916.845.9392

**Forms by Internet** – You can download, view, and print California tax forms and publications at [ftb.ca.gov](http://ftb.ca.gov).

**Forms by Telephone and Mail** – See the back cover of the Form 540NR booklet or the business entity tax booklet for the telephone number and address to order California tax forms and publications.

**Access Your Tax Information** – Go to [ftb.ca.gov](http://ftb.ca.gov) and search for **myftb account** to view estimated tax payments, recent payments applied to your balance due, and the total balance due on your account.

Access other state agencies' websites at [ca.gov](http://ca.gov).

Fiscal year filers, enter year ending month: Year 2013

Your first name * A o r C	Initial	Last name * * P T S P o r S G N F	Your SSN or ITIN 1 2 3 4 5 6 7 8 9
If joint payment, spouse's/RDP's first name	Initial	Last name	Spouse's/RDP's SSN or ITIN
Address (number and street, PO Box, or PMB no.) C / o E N T I T Y N A M E & A D D R E S S			Apt. no./Ste. no.
City (If you have a foreign address, see instructions) E N T I T Y C I T Y		State	ZIP Code

**Payment Voucher 2**

Your first name * A o r C	Initial	Last name * * P T S P o r S G N F	Your SSN or ITIN 1 2 3 4 5 6 7 8 9
If joint payment, spouse's/RDP's first name	Initial	Last name	Spouse's/RDP's SSN or ITIN
Address (number and street, PO Box, or PMB no.) C / o E N T I T Y N A M E & A D D R E S S			Apt. no./Ste. no.
City E N T I T Y C I T Y		State	ZIP Code

**IF PAYMENT IS DUE, MAIL TO:**  
 FRANCHISE TAX BOARD  
 PO BOX 942867  
 SACRAMENTO CA 94267-0051

Amount of payment **.00**  
 If amount of payment is zero, do not mail form

Fiscal year filers only: Enter month of year end: month \_\_\_\_\_ year 2012.

Your first name * A o r C	Initial	Last name * * P T S P o r S G N F	Your SSN/ITIN or FEIN 1 2 3 4 5 6 7 8 9
If joint return, spouse's/RDP's first name	Initial	Last name	Spouse's/RDP's SSN or ITIN
Address (number and street, suite, PO Box, or PMB no.) C / o E N T I T Y N A M E & A D D R E S S			Apt. no./Ste. no. PBA Code
City (If you have a foreign address, (see page 15)) E N T I T Y C I T Y		State	ZIP Code

Date of Birth ● Your DOB (mm/dd/yyyy) \_\_\_\_/\_\_\_\_/\_\_\_\_ ● Spouse's/RDP's DOB (mm/dd/yyyy) \_\_\_\_/\_\_\_\_/\_\_\_\_

Prior Name If you filed your 2010 tax return under a different last name, write the last name only from the 2010 return.  
 ● Taxpayer ● Spouse/RDP

Filing Status  
 1 ● Single. Group Nonresident Return. 4 ○ Head of household (with qualifying person). (see page 3)  
 2 ○ Married/RDP filing jointly. (see page 3) 5 ○ Qualifying widow(er) with dependent child. Enter year spouse/RDP died \_\_\_\_.  
 3 ○ Married/RDP filing separately. Enter spouse's/RDP's SSN or ITIN above and full name here

If your California filing status is different from your federal filing status, fill in the circle here ● ○

Enter Entity FEIN \* enter A if partnership or LLC, enter C if corporation \*\* enter PTSP if partnership or LLC, enter SGNF if corporation





# Schedule 1067A Instructions

## General Information

Complete and attach Schedule 1067A to the group nonresident return (Form 540NR). Attach additional sheets, if necessary. The additional sheets must contain the same columns in the same order as the Schedule 1067A.

Use this table to determine which parts of Schedule 1067A to complete.

Group Nonresident Return for:	Complete
Shareholders/partners/members	Side 1 – Part I
Directors	Side 2 – Part II
Both S corporation directors and shareholders	Side 1 and 2 – Part I and Part II

## Specific Line Instructions for Part I

### Side 1 Entity Information

Enter the name, FEIN, DBA, and the California corporation or Secretary of State (SOS) file number of the business entity that is filing the group nonresident return on behalf of its electing shareholders/partners/members.

### Part I – Electing Shareholders/Partners/ Members Included in the Group Nonresident Return

Columns (a) and (b)

- Enter the social security number (SSN) or individual taxpayer identification number (ITIN) and name of each electing individual. If the individual has a spouse/RDP, include the spouse's/RDP's information in both columns.
- For a qualified grantor trust (described in IRC Section 671-679 and not recognized as a separate taxable entity for income tax purposes), do not enter the name of the trust. Enter the grantor's name and social security number.

Only individuals (and the grantor of a grantor trust not recognized as a separate taxable entity) can be included on the group nonresident return. Do not enter partnerships, LLCs, corporations, estates, trusts, or other entities.

**Column (c)** Enter the individual's distributive share of California source income. For example, if a partnership's taxable year ends on June 30, 2011 then report on the 2011 group return the California source income from each electing partner's Schedule K-1 (565) for the taxable year ending June 30, 2011.

**Column (d)** Deferred compensation deductions are for partners and members only. S corporation shareholders do not qualify for this

deduction. See FTB Pub. 1067, Section H, Return for Shareholders/ Partners/Members, for more information.

**Column (g)** Enter the allowable amount of credits. Only credits directly attributable to the business entity's activities can be claimed. See FTB Pub. 1067, Section H, Return for Shareholders/Partners/Members, for more information.

If the credits exceed the amount of tax for a given year and credits are available for carryover, the business entity will properly account for such credit with respect to each individual included in the group nonresident return.

**Column (h)** If the nonresident individual's CA total taxable income from all sources is more than \$1 million, then answer "Yes", If no, then answer "No".

If a taxpayer's distributive share of California source income is over \$1 million from a single business entity, then an additional 1% mental health services tax will be assessed on the **entire** California taxable income if the taxpayer elects to be part of the group return.

For individuals included in two or more group returns, the additional 1% tax applies if their combined California taxable income from all their group returns is more than \$1 million. For example, a taxpayer is included in two group returns. The taxpayer's distributive share on each group return (amount in column (c)) is less than \$1 million, however, the combined taxable income from the two group returns is over \$1 million. The taxpayer's **entire** income reported on **each** group return is subject to the additional 1% mental health services tax.

**Column (i)** If the business entity answered "yes" to the question on Schedule 1067A, Part I, column (h), then multiply the amount from column (e) by 1%.

## Specific Line Instructions for Part II

### Side 2 Entity Information

Enter the name, FEIN, DBA, and the California corporation or SOS file number of the corporation that is filing the group nonresident return on behalf of its electing nonresident directors.

### Part II – Electing Nonresident Directors Included in the Group Nonresident Return

**Columns (c) and (d)** Report each director's wages, salary, fees, or other compensation from the corporation for director services performed in California, including attendance of board of director meetings in California. Enter in Column (c) the California source amount the corporation reported on a Form 1099. Enter in Column (d) the California source amount the corporation reported on a Form W-2.

**Column (e)** Enter in Column (e) the total of Column (c) and Column (d).

**Column (h)** If the nonresident director's CA total taxable income from all sources is more than \$1 million, then answer "Yes", If no, then answer "No".

If a director's compensation from California source is over \$1 million from a single business entity, then an additional 1% mental health services tax will be assessed on the **entire** California taxable income if the director elects to be part of the group return.

For directors included in two or more group returns, the additional 1% tax applies if their combined California taxable income from all their group returns is more than \$1 million. For example, a director is included in two group returns. The director's compensation from California source on each group return is less than \$1 million, however, the combined taxable income from the two group returns is over \$1 million. The director's **entire** income reported on **each** group return is subject to the additional 1% mental health services tax.

**Column (i)** If the business entity answered "yes" to the question on Schedule 1067A, Part II, column (h), then multiply the amount from column (e) by 1%.

**Column (k)** Enter your total California income tax withheld from your Form(s) W-2, box 17 or CA Sch W-2, box 17.

□□□□

# Group Nonresident Return Payment Transfer Request

1067B

Business Entity/Corporation Name and Address	FEIN	Secretary of State (SOS) File No., if issued	Taxable Year
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Check only **one** of the boxes below. Use separate sheets if needed.  
**A.**  Move payments **from** the group **to** the individual account.  
 Original payment reduced to: \_\_\_\_\_  
**B.**  Move payments **from** the individual account **to** the group.  
 Total amount transferred to group: \_\_\_\_\_

**Important:** It takes 6 to 8 weeks to process your request to move estimated tax payments.

Name of individual and SSN or ITIN	Individual's complete address	* Taxpayer in or out	Prior year transfer	Quarter 1	Quarter 2	Quarter 3	Quarter 4	Extension payments	Total payments
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									
<b>TOTALS</b>									
Page _____ of _____									

\* If taxpayer status has changed after transfer (ie: included or excluded from group) please submit a revised 1067A with this request.

*I have been authorized by the above-named business entity/corporation and individuals to request the transfer of payments as shown above.*

Authorized Signature	Print Name	Title	Date	Telephone Number	Contact Person
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Fax or mail to: **Fax: 916.845.9392**

**Do not attach this request to the return.**  
**This request must be faxed or mailed separately from the return.**

Mailing Address: **GROUP FILING PROGRAM MS L170**  
**ATTN: INFORMATION VALIDATION SECTION (732)**  
**FRANCHISE TAX BOARD**  
**PO BOX 1468**  
**SACRAMENTO CA 95812-1468**

# 2011 Group Nonresident Return Election

# 3864

Attach to Form 540NR and to the appropriate business entity return.

Business entity's/corporation's name	FEIN	CA corporation or Secretary of State (SOS) file no.	
Business address (number and street, suite, PO Box, or PMB no.)		Telephone ( )	Nature of business activity
City, state, and ZIP Code		State in which the principal business activity is conducted	
Principal California business address	Shareholders/Partners/Members/Directors		
	Number non-electing	Number electing	

## TERMS AND CONDITIONS OF FILING A GROUP NONRESIDENT RETURN

The above business entity/corporation and its electing nonresident individuals included in the filing of the group nonresident return agree to the following terms and conditions:

- a. Attach a Signed form FTB 3864 to the Group Nonresident Return.** Each year the business entity/corporation must make an election to file a group return on behalf of its electing nonresident individuals. Make the election by attaching a completed form FTB 3864 to the group nonresident return (Form 540NR). An authorized general partner, member-manager, corporate officer, or an attorney-in-fact of the business entity/corporation must sign the form FTB 3864.
- b. Group Nonresident Return Must be a Calendar Year.** A group nonresident return is not allowed to have a fiscal year end. If the business entity has a fiscal year end, report on the 2011 group nonresident return the individual's distributive share of California source income from the business entity's taxable year ending in 2011. If the corporation has a fiscal year end, report on the 2011 group nonresident return the director's compensation that he or she received in 2011.
- c. Long Form 540NR, California Nonresident or Part-Year Resident Income Tax Return.** Use Long Form 540NR for the group nonresident return. Prepare the Form 540NR as instructed in FTB Pub. 1067, Guidelines for Filing a Group Form 540NR.
- d. Individual's Election to be Included in the Group Nonresident Return is Irrevocable.** Each year the business entity/corporation will allow each nonresident individual the election to be included in the group nonresident return. Only a qualified nonresident individual may elect to be included in the group nonresident return. Once the group nonresident return is filed for the year, the individual's election is irrevocable.
- e. Qualified Nonresident Individual.** A qualified individual must be an individual and must be a full-year nonresident of California. In addition, the income from the business entity/corporation must be the only California source income of the individual, unless the other California source income is being reported on another group nonresident return. Partnerships, LLCs, corporations, estates, trusts (other than the grantor of grantor trusts described under IRC Section 671-679 and not recognized as a separate taxable entity for income tax purposes), and other entities cannot be included on the group nonresident return.
- f. Powers-of-Attorney Maintained by Business Entity/Corporation.** The business entity/corporation shall maintain a file of powers-of-attorney executed by each electing nonresident individual. The powers-of-attorney shall authorize the business entity/corporation to include the electing nonresident individual in the group nonresident return filed. **Do not** attach the powers-of-attorney to the return.
- g. Deductions.**
  - Shareholders/partners/members are not allowed deductions except those necessary to determine each individual's distributive share of income from the business entity. However, a deduction is allowed for contributions to qualified deferred compensation plans attributable to earned income of a partner/member as provided in Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, as modified by the Revenue and Taxation Code (R&TC) beginning with Section 17501. No deduction to a qualified deferred compensation plan is allowed if the individual has earned income from any other source.
  - Directors are not allowed any deductions.

See FTB Pub.1067 for more information.

**h. Credits.**

- Shareholders/partners/members are not allowed credits except those directly attributable to the business entity's activity. In the event the allowable credits exceed the amount of tax for a given year and credits are available for carryover, the business entity will properly account for such credit with respect to each individual included in the group nonresident return.
- Directors are not allowed any credits.

See FTB Pub. 1067 for more information.

**i. Tax Assessed at the Highest Marginal Rate.** Each individual included in the group nonresident return will be assessed tax on his or her California source income at the highest marginal rate of 9.3%.

**j. Mental Health Tax.** Beginning with taxable year **2009**, individuals with more than \$1 million of California taxable income can be included in the group return. However, these individuals are subject to an additional 1% tax on their **entire** California taxable income when included in the group return. This differs from when individuals file their own return and only the taxable income **in excess** of \$1 million is subject to the additional 1% tax. Individuals should be aware of this difference when making their irrevocable election to be included in the group return.

For individuals included in two or more group returns, the additional 1% tax applies if their combined California taxable income from all their group returns is more than \$1 million. For example, an individual is included in two group returns. The individual's taxable income on each group return is less than \$1 million. However, the combined taxable income from the two group returns is over \$1 million. The individual's income reported on each group return is subject to the additional 1% tax. The business entity/corporation is responsible for finding out from each individual included in the group return if the individual has total California taxable income in excess of \$1 million. If so, it is the business entity/corporations' responsibility to report and pay the tax additional 1% tax on the group return.

**k. Estimated Tax.** The business entity/corporation shall make estimated tax payments for the group pursuant to R&TC Section 19136. Payment for the group will be made under the FEIN of the business entity or corporation as instructed in FTB Pub. 1067.

**l. Tax Assessments, Protest, Claims, Appeals, and Court Procedures.** The business entity/corporation shall receive any notices of proposed tax to be assessed and any assessments of tax with respect to the group nonresident return. Additionally, the business entity/corporation, or its designated representative, shall represent the individuals in protest, claims for refund, appeal procedures, or in court proceeding related to tax matters associated with the group nonresident filing. The business entity/corporation shall pay any tax assessments and any attributable interest and penalties for the group nonresident return. The penalties will be computed as if all the electing individuals included in the return did not participate in any other group nonresident return for that same tax year. The business entity's/corporation's agreement to pay tax, interest and penalties does not absolve the individuals of their respective obligations to pay their California taxes, interest, and penalties, if such obligations are not satisfied by the business entity/corporation.

**m. Agree to Act as Withholding Agent.** If an electing nonresident individual has a tax deficiency attributable to California source income that was distributable by the business entity or paid by the corporation to the individual for any tax year, the business entity/corporation agrees that it shall act as a withholding agent. The business entity agrees to accept (without contesting jurisdiction) Orders to Withhold against funds to be distributed to such individuals. The funds need not be paid over to the Franchise Tax Board until they are clearly identified as being currently distributable.

**n. Business Entity to File Appropriate California Return.** The business entity shall file Form 100S, California S Corporation Franchise or Income Tax Return/Form 565, California Partnership Return of Income/Form 568, Limited Liability Company Return of Income, as appropriate. A business entity doing business within and outside of California must determine the portion of the total net income that has its source in California using the allocation and apportionment provisions in the Uniform Division of Income for Tax Purposes Act (UDITPA). Refer to R&TC Sections 25120 through 25141 and applicable regulations.

**o. Corporation to File Appropriate California Return.** The corporation shall file Form 100, California Franchise or Income Tax Return, or Form 100S.

The terms and conditions set forth above are agreed to on behalf of the above-named business entity/corporation and its electing nonresident individuals. I have been authorized by the above-named business entity/corporation and its electing individuals to accept the terms and conditions set forth above.

Authorized Signature (As specified in item a.)  ▶	Title	Date	Telephone  (     )
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Print name  ▶	Business entity's name  ▶
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