

# What's New and Other Important Information for 2012

## Differences between California and Federal Law

In general, for taxable years beginning on or after January 1, 2010, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2009. 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](http://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 that is 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.

**Conformity** – For updates regarding federal acts, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **conformity**.

## 2012 Tax Law Changes/What's New

**Tax Rate Increase** – For taxable years beginning on or after January 1, 2012, the maximum personal income tax rate increased to 12.3%.

**Qualified Small Business Stock** – The California Court of Appeals has determined that provisions of R&TC Sections 18038.5 and 18152.5 are unconstitutional and therefore are invalid and unenforceable. See Schedule CA (540), line 13 instructions for more information if you reported a federal qualified small business stock (QSBS) deferral or exclusion on your federal Form 1040.

**Donated Fresh Fruits or Vegetables Credit** – For taxable years beginning on or after January 1, 2012, and before January 1, 2017, qualified taxpayers who donate fresh fruits or fresh vegetables to a California food bank may receive a credit equal to 10% of the donation's costs. For more information get form FTB 3811, Donated Fresh Fruits or Vegetables Credit or go to [ftb.ca.gov](http://ftb.ca.gov) and search for **credit for fresh fruits**.

**Voluntary Contributions** – You may contribute to the following new funds:

- California YMCA Youth and Government Fund
- California Youth Leadership Fund
- School Supplies for Homeless Children Fund
- State Parks Protection Fund/Parks Pass Purchase

**Community Development Financial Institutions Investment Credit** – The Community Development Financial Institutions Investment Credit has been extended for taxable years beginning on or after January 1, 2012, and before January 1, 2017.

**Net Operating Loss** – For taxable years beginning on or after January 1, 2012, California has reinstated the NOL carryover deductions.

For taxable years beginning in 2010 and 2011, California suspended the net operating loss (NOL) carryover deduction. Taxpayers continued to compute and carryover NOLs during the suspension period. However, taxpayers with modified adjusted gross income of less than \$300,000 or with disaster loss carryovers were not affected by the NOL suspension rules.

Also, California modified the NOL carryback provision. For more information, see form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations — Individuals, Estates, and Trusts.

## Other Important Information

**Mandatory Electronic Payments** – 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 tax return with a total tax liability over \$80,000. 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 one percent 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, electronic funds withdrawal (EFW) as part of the e-file tax return, or your credit card. For more information or to obtain the waiver form, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **mandatory e-pay**.

**Estimated Tax Payments** – Taxpayers are required to pay 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 required installment, and 30% of the required annual payment for the 4th required installment.

Taxpayers with a tax liability less than \$500 (\$250 for married/RDP filing separately) do not need to make estimated tax payments.

**Mortgage Forgiveness Debt Relief Extended** – California law conforms, with modifications, to federal mortgage forgiveness debt relief for discharges occurring January 1, 2009 thru 2012. Federal law limits the amount of qualified principal residence indebtedness to \$2,000,000 (\$1,000,000 for married filing separate). See federal Publication 544, Sales and Other Disposition of Assets, and Publication 4681, Canceled Debts, Foreclosures, Repossessions, and Abandonments, for more information. California law limits the amount of qualified principal residence indebtedness to \$800,000 (\$400,000 for married/RDP filing separate) and debt relief to \$500,000 (\$250,000 for married/RDP filing separate).

**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 Franchise Tax Board (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 payee has backup withholding, the payee must contact the FTB to provide a valid Taxpayer Identification Number, which is either the social security number (SSN) or the individual taxpayer identification number (ITIN), before filing their tax return. Failure to provide the SSN or ITIN 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**.

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

If you entered into a same sex legal union in another state, other than a marriage, and that union has been determined to be substantially equivalent to a California registered domestic partnership, you are required to file a California income tax return using either the married/RDP filing jointly or married/RDP filing separately filing status.

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

**Same-Sex Married Couples** – Married couples must file their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. Same-sex couple marriages performed in California after 5:00 pm on June 16, 2008, and before November 5, 2008, are valid marriages for California purposes.

Beginning in taxable year 2010, persons who have entered into a same-sex marriage outside the State of California that is valid according to the laws of the jurisdiction in which the marriage was contracted must file their California income tax return using either the joint or separate filing status. For more information, get FTB Pub 776, Tax Information for Same-Sex Married Couples, or go to [ftb.ca.gov](http://ftb.ca.gov) and search for **same sex married couples**.

**Direct Deposit Refund** – You can request a direct deposit refund on your tax return whether you e-file or file a paper tax return. Please be sure to fill in the routing and account numbers carefully and double-check the numbers for accuracy to avoid it being rejected by your bank.

**Group Nonresident Returns (also known as Composite Returns)** – For taxable years beginning on or after January 1, 2009:

- Group nonresident returns may include less than two nonresident individuals.
- Nonresident individuals with more than \$1,000,000 of California taxable income are eligible to be included in group nonresident returns. An additional 1% tax will be assessed on their entire California taxable income if they elect to be part of the group return.

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See FTB Pub. 1067, Guidelines for Filing a Group Form 540NR, for more information.

**Withholding on California Real Estate** – For transactions occurring on or after January 1, 2007, that require withholding, a seller of California real estate may elect an alternative to withholding 3 1/3 % (.0333) of the total sales price. The seller may elect an alternative withholding amount based on the maximum tax rate for individuals, corporations, or banks and financial corporations, as applied to the gain on the sale. The seller is required to certify under penalty of perjury the alternative withholding amount to the FTB. For installment sales occurring on or after January 1, 2009, the buyer is required to withhold on each installment sale payment if the sale of California real property is structured as an installment sale.

**Tax Shelter** – If the individual was involved in a reportable transaction, including a listed transaction, the individual may have a disclosure requirement. Attach federal Form 8886, Reportable Transaction Disclosure Statement, to the back of the California tax return along with any other supporting schedules. If this is the first time the reportable transaction is disclosed on the tax return, send a duplicate copy of the federal Form 8886 to the address below. The FTB may impose penalties if the individual fails to file federal Form 8886 or fails to provide any other required information. A material advisor is required to provide a reportable transaction number to all taxpayers and material advisors for whom the material advisor acts as a material advisor.

TAX SHELTER FILING  
ATSU 398 MS F385  
FRANCHISE TAX BOARD  
PO BOX 1673  
SACRAMENTO CA 95812-9900

For more information, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **tax shelters**.