

2016 Instructions for Form FTB 3840

California Like-Kind Exchanges

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2015**, and to the California Revenue and Taxation Code (R&TC).

What's New

Return Due Date Change

For taxable years beginning on or after January 1, 2016, the original due date for C corporations, partnerships, and limited liabilities companies (LLCs) to file their tax returns have changed. The original tax return due dates for S corporations and exempt organizations are not changing.

The extension period for filing C corporations, S corporations, and exempt organizations returns has changed from seven months to six months. See General Information C, When to File or get FTB Notice 2016-04 for more information.

General Information

In general, for taxable years beginning on or after January 1, 2015, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2015. 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 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 instructions. Taxpayers should not consider the instructions as authoritative law.

For taxable years beginning on or after January 1, 2014, California requires taxpayers who exchange real property located in California for like-kind property **located outside** of California, under IRC Section 1031, to file an annual information return, form FTB 3840, California Like-Kind Exchanges, with the Franchise Tax Board (FTB). For information on filing requirements, see General Information B, Who Must File.

California R&TC Sections 18031 and 24941 conform to IRC Section 1031, with regard to like-kind exchanges. IRC Section 1031 provides that no gain or loss is recognized if the taxpayer exchanges business or investment property solely for business or investment property of a like-kind. A valid like-kind exchange has the benefit of deferred taxation, meaning that the taxpayer does not bear a tax liability at the time of the exchange. The taxpayer recognizes the realized gain or loss when the like-kind property received is sold or disposed of in a subsequent taxable transaction.

To qualify as a like-kind exchange, the property received in the exchange must be both qualifying property and like-kind property. For more information, get federal Form 8824, Like-Kind Exchanges, IRC Section 1031, and the applicable regulations.

The source of a gain or loss from the sale or exchange of property located in California is determined at the time the gain or loss is realized. The source of such gain or loss is preserved without regard to when such gain or loss may be recognized.

Form FTB 3840 must be filed for the taxable year of the exchange and for each subsequent taxable year, generally until the California source deferred gain or loss is recognized on a California tax return. See R&TC Sections 18032 and 24953 for more information.

If the taxpayer fails to file form FTB 3840 as required, the FTB may estimate net income and assess tax plus any applicable penalties and interest.

A Purpose

Use form FTB 3840 to report like-kind exchanges of California business or investment property for out of state like-kind property, and to allocate the California source deferred gain to the properties received in the exchange.

B Who Must File

All taxpayers, regardless of residence status or commercial domicile, who exchange real property located in California for like-kind property located outside of California, must file form FTB 3840 with their California tax return. Taxpayers who exchange multiple assets involving both real and personal property located in California for like-kind property located outside of California are also subject to this requirement. Taxpayers who exchange only personal property assets are not required to file form FTB 3840.

If the taxpayer is not otherwise required to file a California tax return, the taxpayer must complete the entire form FTB 3840, including the signature area at the bottom of Side 1, and file form FTB 3840 at the address shown in General Information D, Where to File.

For purposes of the California filing requirement, the term "taxpayer" or "taxpayers" includes all individuals, estates, trusts, general partnerships, limited partnerships, limited liability partnerships, limited liability companies, and corporations.

C When to File

Form FTB 3840 must be filed for the taxable year of the exchange and for each subsequent taxable year, generally until the California source deferred gain or loss is recognized. Attach form FTB 3840 to the California tax return, or file separately as a California information return if the taxpayer does not otherwise have a California filing requirement. File by the following dates:

Individuals, Estates, and Trusts

Calendar Year: April 18, 2017
Extended Due Date: October 16, 2017

C Corporations and LLCs Classified as C Corporations

Calendar Year: April 18, 2017
Fiscal Year: 15th day of the 4th month following the close of the taxable year
Extended Due Date: October 15, or the 15th day of the 10th month following the close of the taxable year

S Corporations and LLCs Classified as S Corporations

Calendar Year: March 15, 2017
Fiscal Year: 15th day of the 3rd month following the close of the taxable year
Extended Due Date: September 15, or the 15th day of the 9th month following the close of the taxable year

Partnerships and LLCs Classified as Partnerships

Calendar Year: March 15, 2017
Fiscal Year: 15th day of the 3rd month following the close of the taxable year
Extended Due Date: September 15 or the 15th day of the 9th month following the close of the taxable year

Exempt Organizations

Calendar Year: May 15, 2017
Fiscal Year: 15th day of the 5th month following the close of the taxable year
Extended Due Date: November 15 or the 15th day of the 11th month following the close of the taxable year

Single Member Limited Liability Companies (SMLLCs)

- For SMLLCs owned by pass-through entities (partnerships, S corporations, and LLCs classified as partnerships), the original due date of the return is the 15th day of the 3rd month following the close of the taxable year. The extended due date is the 15th day of the 9th month following the close of the taxable year.
- For all other SMLLCs, the original due date of the return is the 15th day of the 4th month following the close of the taxable year of the owner. The extended due date is the 15th day of the 10th month following the close of the taxable year.

When the due date falls on a weekend or holiday, the deadline to file is extended to the next business day.

Due to the federal Emancipation Day holiday observed on April 17, 2017, tax returns filed and payments mailed or submitted on April 18, 2017, will be considered timely.

D Where to File

For taxpayers who are required to file a California tax return, attach form FTB 3840 to the tax return and file using the address for that tax return.

For taxpayers with no other California filing requirement, sign and mail form FTB 3840 to:

FRANCHISE TAX BOARD
PO BOX 1998
RANCHO CORDOVA, CA 95741-1998

E Signature

If form FTB 3840 is attached to a California tax return, no signature is needed.

If form FTB 3840 is filed separately, sign and complete the signature area on Side 1 of this form.

F Failure to File

For taxpayers who fail to file form FTB 3840 for any year in which the gain or loss is deferred from the exchange, the FTB may issue a Notice of Proposed Assessment to adjust the income for the California source deferred gain and assess tax plus any applicable penalties and interest.

G Multiple Exchanges

If the taxpayer reported more than one like-kind exchange for federal purposes in which the taxpayer gave up California property and acquired out of state like-kind property, file a separate form FTB 3840 for each such exchange.

H Multiple Asset Exchanges

A multi-asset exchange involves the transfer and receipt of more than one group of like-kind properties. For example, an exchange of land, vehicles, and cash for land and vehicles is a multi-asset exchange. An exchange of land, vehicles, and cash for land only is not a multi-asset exchange. The transfer or receipt of multiple properties within one like-kind group is also a multi-asset exchange. Special rules apply when figuring the amount of gain recognized and basis in properties received in a multi-asset exchange. For details, see Treas. Reg. Section 1.1031(j)-1. For more information, see instructions for federal Form 8824.

For California purposes, taxpayers must file form FTB 3840 if a multiple asset exchange contains both real and personal property located in California exchanged for like-kind property located outside of California. See the instructions under Schedule A, Part I, Properties Given Up, line 1, and Part II, Properties Received, line 9, for information on how to report both real and personal property.

Specific Instructions

Using black or blue ink, print the taxpayer's name, taxpayer identification number, and street address in the spaces provided at the top of the form.

Additional Information

Use the additional information field for "In-Care-Of" name, "Owner/Representative/Attention" name, and other supplemental address information only.

Foreign Address

If the taxpayer has a foreign address, follow the country's practice for entering the city, county, province, state, country, and postal code, as applicable, in the appropriate boxes. **Do not** abbreviate the country name.

General Question A through Question C

Question A – Check the box indicating whether the taxpayer is, for tax reporting purposes, an individual, estate, trust, C corporation, S corporation, partnership, limited liability company, or an exempt organization.

Question B – Check the box to indicate whether this form FTB 3840 is:

Initial FTB 3840 – Check this box if the like-kind exchange occurred in the current taxable year. Complete both sides of form FTB 3840.

Amended FTB 3840 – Check this box if correcting a previously filed form FTB 3840. Complete both sides of form FTB 3840. Attach a statement to the back of the amended FTB 3840 that explains the changes made.

Annual FTB 3840 – Check this box only if you previously filed form FTB 3840 reporting the like-kind exchange of property located in California for property located out of state, and have **not** sold or otherwise disposed of the property received. Enter the taxable year that the like-kind exchange occurred.

For example, a taxpayer exchanged like-kind California property for property located outside of California in July 2015. The taxpayer filed their initial FTB 3840 with their 2015 income tax return. In the 2016 taxable year, the taxpayer does not sell or dispose of the property received. Under California law, the taxpayer has an annual reporting requirement. The taxpayer files a form FTB 3840 for the 2016 taxable year. The taxpayer checks the "Annual FTB 3840" box and enters 2015 as the taxable year the exchange occurred.

Annual filers complete both sides of form FTB 3840. Enter the same information as reported on the initial or most recently amended form FTB 3840.

Final FTB 3840 – Check this box if this is the last form FTB 3840 that will be filed because the property received in the exchange was sold or otherwise disposed of. Enter the taxable year that the like-kind exchange occurred. Complete both sides of form FTB 3840 with same information from the previously filed form(s) FTB 3840.

Attach a statement to the back of form FTB 3840 that explains how the property received was disposed.

Question C – Check each box as applicable to indicate the type of property that was involved in the exchange. If the exchange involved both real and personal property, check both boxes.

If the exchange involved a related party, also check the "related party" box. Enter the name of the related party and the related party's social security number (SSN), individual taxpayer identification number (ITIN), or federal employer identification number (FEIN) in the space provided.

A related party includes your spouse, child, grandchild, parent, grandparent, brother, sister, or a related corporation, S corporation, partnership, trust, or estate. For special rules for exchanges between related parties, see IRC Section 1031(f) for more information.

Part I – Information on Like-Kind Exchange

When completing Part I and Part II, see the instructions below and refer to federal Form 8824 instructions.

If the "Annual FTB 3840" or "Final FTB 3840" box is checked on Question B, enter the information reported on the initial or amended form FTB 3840 on Parts I and II, line 1 through line 20. See the instructions under Question B for more information.

Line 1 through Line 6 – Enter the like-kind property descriptions and dates as shown on federal Form 8824, Part I, line 1 through line 6.

Part II – Realized Gain or (Loss), Recognized Gain, and Basis of Like-Kind Property Received

Line 7 through Line 20 – Enter the federal amounts from federal Form 8824, Part III, line 12 through line 25, on form FTB 3840, Part II, line 7 through line 20, respectively. For more information, see Specific Instructions for federal Form 8824.

Schedule A – Properties Given Up and Received

If the "Annual FTB 3840" or "Final FTB 3840" box is checked on Question B, enter the information reported on the initial or amended form FTB 3840 on Schedule A. See the instructions under Question B for more information.

Part I – Properties Given Up

Line 1 – List each property given up in the exchange. Indicate if the property was located in California and the taxpayer's percentage of ownership.

Enter the full address where the property given up was located. If the property given up does not have a street address, then provide the assessor's parcel number, the county, and the state in which the property is located.

If more than three properties were given up, enter those properties on another Schedule A (Side 2 of form FTB 3840). Attach each Schedule A to form FTB 3840.

Multiple Asset Exchanges. If personal property located in California was exchanged for personal property located outside of California as part of an exchange that included California real property exchanged for real property located outside of California, aggregate each type of like-kind personal property given up and report the aggregate as a single property. Provide the location where the personal property given up was located.

For example, if California source real property and vehicles were exchanged for real property and vehicles located outside of California, enter the real property given up as Property A, and the aggregated value of the vehicles given up as Property B.

Line 3 – Consideration/Sales price

For each property given up, enter the consideration or total sales price the taxpayer received for the property. This includes all money and notes received, plus any mortgages or other debts assumed by the buyer or paid from the proceeds of the sale, plus the fair market value of any other property or any services received.

Line 4 – Selling expenses paid/incurred

Enter selling expenses paid or incurred pertaining to the sale of each property given up and for which the taxpayer is liable. Selling expenses include commissions, advertising, legal fees, escrow fees, title certification and insurance, termite inspection fees, and loan charges paid by the seller, such as loan placement fees or “points.”

Line 6 – California adjusted basis

Enter the adjusted basis for each property given up as determined using California tax law. The California adjusted basis is the basis of the property increased or decreased by certain amounts. Increases to basis typically include:

- Capital improvements
- Assessments for local improvements
- Amounts to restore damaged property after a casualty
- Legal fees for title search or to perfect title
- Zoning costs

Decreases to basis typically include:

- Deferred gains from prior sales or exchanges
- Insurance payments for casualty losses
- Deductible casualty losses not covered by insurance
- Payments received for granting an easement or right of way
- Depreciation allowed or allowable
- IRC Section 179 deduction

The California adjusted basis of the property given up may be different from the federal basis due to depreciation methods, special credits, and accelerated write-offs. For more information, get FTB Pub. 1001, and refer to the R&TC.

Line 8 – California source deferred gain

If all the property given up in the exchange was located in California, enter the amount from Side 1, Part II, line 19, Deferred gain, adjusted for differences between federal and California law. Attach a statement that shows the adjusted deferred gain calculation.

If multiple properties were given up, and those properties were located both in and outside of California, first calculate the deferred gain amount for each property without regard to location. Then add the deferred gain or loss amounts for only the properties that were located in California and enter that amount on line 8. Attach a statement that shows how the deferred gain was calculated for each property given up.

If more than one Schedule A is attached, enter the aggregated amount of California source deferred gain on line 8, on the first Schedule A.

Part II – Properties Received

Line 9 – List each property received in the exchange. Indicate if the property is located in California and the taxpayer’s percentage of ownership.

Enter the full address where each property received is located. If the property received does not have a street address, then provide the assessor’s parcel number, the county, and the state in which the property is located.

If more than three properties were received in the exchange, enter those properties on another Schedule A (Side 2 of form FTB 3840). Attach each Schedule A to form FTB 3840.

Multiple Asset Exchanges. If personal property located in California was exchanged for personal property located outside of California as part of an exchange that included California real property exchanged for real property located outside of California, aggregate each type of like-kind personal property received and report the aggregate as a single property. Provide the location where the personal property received is located.

For example, if California source real property and vehicles were exchanged for real property and vehicles located outside of California, enter the real property received as Property D, and the aggregated value of the vehicles received as Property E.

Part III – Allocation of California Source Deferred Gain

Line 10 – Allocation of California source deferred gain to properties received

If only one property was received in the exchange, enter the amount from Schedule A, Part I, line 8, on Part III, line 10, column D.

If more than one property was received, allocate the entire California source deferred gain amount from Schedule A, Part I, line 8 to each property received in the exchange, regardless of its location. Enter the allocated California source deferred gain amount for each property received on Schedule A, Part III, line 10. Attach a statement that shows how the California source deferred gain was allocated to each property received.

Line 11 – Apportionment percentage for the taxable year of the exchange

For taxpayers required to apportion income to California using Schedule R, Apportionment and Allocation of Income, enter the apportionment percentage for the taxable year of the exchange from Schedule R, line 18a. If more than one Schedule A is attached, enter this percentage only on the first Schedule A.

Where to Get More Information

General Phone Assistance

Telephone assistance is available year-round from 7 a.m. until 5 p.m. Monday through Friday, except holidays. Hours subject to change.

Telephone: 800.852.5711 from within the United States
916.845.6500 from outside the United States

TTY/TDD: 800.822.6268 for persons with hearing or speech impairment

IRS: 800.829.4933 call the IRS for federal tax questions

Asistencia en español:

Asistencia telefónica está disponible durante todo el año desde las 7 a.m. hasta las 5 p.m. de lunes a viernes, excepto días feriados. Las horas están sujetas a cambios.

Telefono: 800.852.5711 dentro de los Estados Unidos
916.845.6500 fuera de los Estados Unidos

TTY/TDD: 800.822.6268 para personas con discapacidades auditivas o del habla.

IRS: 800.829.4933 para preguntas sobre impuestos federales

Where to Get Tax Forms and Publications

By Internet – You can download, view and print California tax forms, instructions, publications, FTB Notices, and FTB Legal Rulings at ftb.ca.gov.

By phone – You can order current year California tax forms from 6 a.m. to 10 p.m. weekdays, 6 a.m. to 4:30 p.m. Saturdays, except holidays. Call 800.338.0505 and follow the recorded instructions.

Allow two weeks to receive your order. If you live outside California, allow three weeks to receive your order. For more information, go to ftb.ca.gov.

By mail – Write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307