

2017 Instructions for Form 588

Nonresident Withholding Waiver Request

General Information

A Purpose

Use Form 588, Nonresident Withholding Waiver Request, to request a waiver from withholding on payments of California source income to nonresident payees.

Do not use Form 588 to request a waiver if you are a **foreign (non-U.S.) partner or member**.

A foreign (non-U.S.) partner or member may file a Form 589, Nonresident Reduced Withholding Request, to reduce or eliminate a partner's withholding of California tax on effectively connected taxable income (ECTI) from California sources, however a foreign (non-U.S.) partner or member may not request a withholding waiver.

Do not use Form 588 to request a waiver if you are a **seller of California real estate**. Sellers of California real estate use Form 593-C, Real Estate Withholding Certificate, to claim an exemption.

Form 588 does not apply to payments subject to backup withholding. For more information, go to ftb.ca.gov and search for **backup withholding**.

Form 588 does not apply to payments for wages to employees. Wage withholding is administered by the California Employment Development Department (EDD). For more information, go to edd.ca.gov or call 888.745.3886.

B Requirement

California Revenue and Taxation Code (R&TC) Section 18662 requires withholding 7% of income or franchise tax on certain payments made to nonresidents (including individuals, corporations, partnerships, LLCs, estates and trusts) for income received from California sources unless an approved waiver or reduction is granted. The withholding rate is 7% unless a waiver is granted by the Franchise Tax Board (FTB).

C Withholding Waivers

The FTB issues a Waiver Determination Notice for each waiver request. A withholding agent must have received the notice authorizing a waiver of withholding before eliminating withholding on payments made to nonresidents. The withholding agent retains the Waiver Determination Notice for a minimum of five years and must provide the notice to the FTB upon request.

Withholding waivers issued by the FTB apply only for the limited purpose of determining the withholding obligation under R&TC Section 18662. They **do not** apply to the taxability of income or requirement to file a tax return.

D Length of Waiver

Withholding waivers are effective for a maximum term of 24 months and will expire on December 31 of the succeeding calendar year granted.

If the waiver is granted for Reason Code A, B, C, or E, the resulting waiver will expire at the end of the succeeding calendar year granted, with limited exceptions.

If the waiver is granted for Reason Code D, the resulting waiver will expire at the end of the succeeding calendar year from the date the payee was newly admitted, with limited exceptions.

E Income Subject to Withholding

The items of income subject to withholding include, but are not limited to:

- Compensation for services performed in California by nonresidents.
- Rent paid to nonresidents on real or personal property located in California if the rent is paid in the course of the withholding agent's business.
- Royalties from natural resources paid to nonresidents from business activities in California.
- Distributions of California source taxable income to nonresident beneficiaries from an estate or trust.
- Distributions of California source taxable income to a domestic (nonforeign) nonresident S corporation shareholder, partner, or member.
- Allocations of California source income or gain to foreign (non-U.S.) nonresident partners or members.
- Prizes and winnings received by nonresidents for contests in California.
- Endorsement payments received for services performed in California.
- Other California source income paid to nonresidents.

For more information on income subject to withholding, get FTB Pub. 1017, Resident and Nonresident Withholding Guidelines.

F Exceptions to Withholding

Withholding is not required when:

- The payee is a federal, state, or foreign **government** or any of its agencies, instrumentalities, or political subdivisions.
- The payment is for goods. Get Form 587, Nonresident Withholding Allocation Worksheet.
- The payment is being made to a resident of California, an S corporation, a partnership, or a limited liability company (LLC), that has a permanent place of business in California. Get Form 590, Withholding Exemption Certificate.

- The payee is a corporation that is qualified to do business in California.
- The withholding agent's California source income to the payee does not exceed \$1,500 for the calendar year.
- The payments are for income from intangible personal property, such as interest and dividends, unless derived in a trade or business or the property has acquired a business situs in California.
- The payments are for services performed outside of California or for rents, royalties, and leases on property located outside of California.
- The payment is to a nonresident corporate director for director services, including attendance at board meetings.
- The payee is a tax-exempt organization under either California or federal law.
- The payee has a completed and signed Form 590-P, Nonresident Withholding Exemption Certificate for Previously Reported Income.
- The income is derived from qualified investment securities of an investment partnership.

G When and Where to File

Submit a request for a waiver at least 21 business days before making a payment to allow the FTB time to process the request.

Online filing – Registered users can submit Form 588 online through **MyFTB**.

- Log in to **MyFTB**.
- Select **File a Nonresident Withholding Waiver Request**.

For more information, go to ftb.ca.gov and search for **myftb**.

Paper filing – Form 588 can be submitted by mail or fax.

WITHHOLDING SERVICES AND
COMPLIANCE MS F182
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

Or

Fax to: 916.845.9512

H Requirement to File a California Tax Return

A payee's waiver determination notice on Form 588 does not eliminate the requirement to file a California tax return and pay the tax due.

You may be assessed a penalty if:

- You do not file a California tax return.
- You file your tax return late.
- The amount of withholding does not satisfy your tax liability.

For more information on California filing requirements, go to ftb.ca.gov.

I How to Claim Nonwage Withholding Credit

Claim your nonwage withholding credit on one of the following:

- Form 540, California Resident Income Tax Return
- Form 540NR Long, California Nonresident or Part-Year Resident Income Tax Return
- Form 541, California Fiduciary Income Tax Return
- Form 100, California Corporation Franchise or Income Tax Return
- Form 100S, California S Corporation Franchise or Income Tax Return
- Form 100W, California Corporation Franchise or Income Tax Return – Water's-Edge Filers
- Form 109, California Exempt Organization Business Income Tax Return
- Form 565, Partnership Return of Income
- Form 568, Limited Liability Company Return of Income

Specific Instructions

For withholding terms and definitions, go to ftb.ca.gov and search for **withholding terms**.

The requester must provide a valid Taxpayer Identification Number (TIN) as requested on this form. The following are acceptable TINs: social security number (SSN); individual taxpayer identification number (ITIN); federal employer identification number (FEIN); California corporation number (CA Corp no.); or California Secretary of State (CA SOS) file number.

To ensure timely processing, the requester must complete the entire form, sign and date the request, and attach necessary information and documents supporting the request. Failure to do so may delay issuance or denial of the waiver.

Electronic signatures shall be considered as valid as the originals.

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

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.

Part I – Withholding Agent Information

Enter only business or individual information, not both. Check the appropriate box, and provide the TIN for the business or individual making the payments. Complete a separate Form 588 for each withholding agent.

Include a telephone number and fax number, with area code, so we can contact you if we need additional information.

Part II – Requester Information Requester

The requester must check one box indicating that they are the withholding agent, payee, or authorized third party. If a box is not checked it may result in a processing delay.

Enter the business and/or individual requester name, and address to which the withholding certificate is to be mailed.

Include a telephone number and fax number, with area code, so we can contact you if we need additional information.

Part III – Type of Income Subject to Withholding

Check the box indicating the type of payment for which a waiver is being requested.

Part IV – Schedule of Payees

Enter only business or individual information for each payee, not both. Check the appropriate box and provide a valid TIN for the payee.

You must use the Schedule of Payees on Side 2 of Form 588 to report all payees.

If you are requesting a withholding waiver on multiple payees, complete and include additional copies of the Schedule of Payees from Side 2 of Form 588, as necessary. Include the requestor's name and ID number at the top of each additional page.

Do not attach your own schedules to this form. We only accept and process additional payees reported on the Schedule of Payees from Side 2 of Form 588.

If the payee is a **grantor trust**, enter the grantor's individual name and SSN/ITIN. Also enter the trust's name under the business name. If the payee is a **non-grantor trust**, enter the name of the trust and the trust's FEIN.

If the payee is a sole proprietorship, enter the sole proprietorship's name under the business name. Also, enter the sole proprietor's individual name and SSN/ITIN from the tax return filed and attach federal Schedule C (Form 1040), Profit or Loss From Business (Sole Proprietorship) or Schedule F (Form 1040), Profit or Loss From Farming, to Form 588.

Single member limited liability companies are not disregarded for California purposes. Enter the LLC's name on the business line. If you are requesting a waiver for the single member, enter the single member's individual name in a separate payee field.

If you have more than 3 payees for the period, complete and attach additional copies of the Schedule of Payees from Side 2 of Form 588. Include the requester's name and TIN at the top of each additional page.

Under “Reason for Waiver Request,” check the box for the reason code that corresponds to the payee's reason for requesting a waiver.

If the payee is a sole proprietorship or reason code C or reason E is selected, attach all of the required additional information.

If the payee is a military member or civilian in support of the military serving in a combat zone, qualified hazardous duty area, or contingency operation, select reason E and attach a copy of the orders.

Additional Information

Website: For more information go to ftb.ca.gov and search for **nonwage**.

MyFTB offers secure online tax account information and services. For more information and to register, go to ftb.ca.gov and search for **myftb**.

Telephone: **888.792.4900** or **916.845.4900**, Withholding Services and Compliance phone service

Fax: 916.845.9512

Mail: WITHHOLDING SERVICES AND COMPLIANCE MS F182
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

For questions unrelated to withholding, or to download, view, and print California tax forms and publications, or to access the TTY/TDD numbers, see the information below.

Internet and Telephone Assistance

Website: ftb.ca.gov

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 impairments

Asistencia Por Internet y Teléfono

Sitio web: ftb.ca.gov

Teléfono: 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 de habla