



Business Entity Refund/Billing Information

This insert contains refund/billing information for corporations, limited liability companies, and partnerships regarding:

- Interest.
- Penalties.
- Fees.
- Electronic Funds Transfer (EFT) requirements.
- Refund claim time frames.
- Taxpayer rights.
- Collection action alternatives.
- Collection action laws.

We refer to:

- California Revenue and Taxation Code as R&TC.
- The California Secretary of State's Office as SOS.
- Limited Liability Companies as LLCs.

All Franchise Tax Board (FTB) forms and publications we reference are available at ftb.ca.gov.

If you have questions regarding this notice, you may contact us by telephone, fax, or mail. Refer to the **Internet and Telephone Assistance** for contact information.

If you contact us, we will need your:

- Name, address, and telephone number.
- Entity's identification number.
- Enclosed notice number.

If you call us, have your entity's tax return, supporting documents, and the enclosed notice available during the call.

If you write or fax information to us, include copies of the enclosed notice and supporting documents. Send any written correspondence to:

FRANCHISE TAX BOARD
PO BOX 942857
SACRAMENTO CA 94257-0540

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

Extension of Time to File

We automatically allow an extension to file for all corporations and LLCs that are not suspended or forfeited by FTB or SOS. We allow an automatic 7 month extension for corporations (or LLCs that elect to be taxed as a corporation) and a 6 month extension for LLCs. We will not assess a delinquent penalty if you file your tax return by the extended due date. To avoid late payment penalties and interest, you must pay the tax due by the original tax return due date.

Interest Information

Generally, interest accrues on unpaid tax liabilities from the original due date of the tax return until the date we receive payment.

Interest accrues on unpaid LLC annual tax from the due date of the tax.

We also charge interest on penalties.

Refer to R&TC Sections 19521 and 19101 for more information.

We adjust interest rates semiannually (R&TC Section 19521).

We charge C corporations an interest rate that is 2 percent greater than the current rate if:

- Their total unpaid tax for any tax year exceeds \$100,000.
- They do not pay their full balance due within 30 days of the original notice date.

We do not compound the rate when we compute the estimated tax penalty. To locate both past and current interest rates, go to ftb.ca.gov and search for **interest rates**.

Penalties and Fees Information

Penalties

Estimated Tax Penalty If your corporation does not pay, pays late, or underpays an estimated tax installment, we assess a penalty. We calculate this on the unpaid amount from the earlier of the installment's due date to the date we receive payment or to the tax return's due date (R&TC Section 19142). Interest accrues on this penalty from the date of demand for payment.

LLC Estimated Fee Penalty We assess a penalty if your LLC fails to estimate and pay its annual fee by the 15th day of the 6th month of the tax year. The penalty amounts to 10% of the unpaid fee. We will not assess this penalty if your LLC pays a fee that equals or exceeds the amount it paid for the previous year. This provision affects tax years that begin on or after January 1, 2009 (R&TC Section 17942).

Delinquent Return Penalty – Corporation and Partnership If you do not file your entity's income tax return by the extended due date, we impose a penalty of 5 percent of the tax due, after applying any payments and credits made on or before the original return due date, for each month or part of the month the return is late. The maximum penalty is 25 percent. We impose the penalty from the original due date of the tax return (R&TC Section 19131). Interest accrues on this penalty from the original due date of the tax return.

Delinquent Return Penalty – LLC If you do not file your limited liability company's income tax return by the extended due date, we impose a penalty. After we deduct your timely payments and credits, we charge 5 percent monthly on the fee and/or nonconsenting nonresident members' tax indicated on your return, not to exceed 25 percent. We impose the penalty from the original tax return due date (R&TC Section 19131). Interest accrues on this penalty from the original due date of the tax return.

Delinquent Penalty – Form 199 If your organization does not file its Form 199 by the extended due date, we assess a penalty. We assess this even if it does not pay the fee. We charge \$5 per month or part of a month the Form 199 is late. The maximum penalty amounts to \$40 (R&TC Section 23772). Interest accrues on this penalty from the original due date of the tax return.

Demand to File Penalty If we send you a demand to file your entity's income tax return and you do not file it, we impose a penalty of 25 percent of the tax liability before applying any payments or credits (R&TC Section 19133). Therefore, your entity may owe penalties and interest even if its tax return shows that a refund is due. Interest accrues on this penalty from the date of the assessment notice. This penalty is in addition to the delinquent return penalty discussed above (R&TC Section 19131).

Nonqualified/Nonregistered, Suspended, Forfeited Penalty We impose a \$2,000 penalty on entities who fail to file a tax return within 60 days after we send a demand to file. This penalty applies to the following entities doing business in California:

- Nonqualified, suspended, or forfeited corporations.
- Nonregistered, suspended, or forfeited limited liability companies (R&TC Section 19135).

Late Filing Penalty – LLC and Partnership We impose a penalty if you do not file your tax return by the extended due date. The penalty is \$18 per member/partner for each month or part of the month the return is late. The maximum penalty is \$216 per member/partner. We impose the penalty from the original due date of the tax return (R&TC Section 19172). Interest accrues on this penalty from the date of demand for payment.

Late Filing Penalty S Corporation We impose a late filing penalty if an S corporation fails to file a return by the original or extended due date for tax returns with original due dates on or after January 1, 2011, for tax years beginning on or after January 1, 2010. (This penalty is also known as the per shareholder penalty). We also impose the late filing penalty for incomplete returns. The late filing penalty is \$18 per shareholder, for each month or fraction of the month the return is late (or incomplete), to a maximum of 12 months. Interest on the penalty is charged from the notice date to the date paid. We impose the Late Filing Penalty in addition to the Delinquent Penalty (R&TC Section 19172.5).

Underpayment and Monthly Penalty – Corporation and Partnership We impose a penalty if you do not pay the total amount due shown on your entity's tax return by the original due date. The penalty is 5 percent on the unpaid tax plus 0.5 percent on the unpaid tax for each month or part of a month it remains unpaid. The maximum penalty is 25 percent of the unpaid tax (R&TC Section 19132). Interest accrues on this penalty from either the original or extended due date of the tax return.

Underpayment and Monthly Penalty – LLCs We impose a penalty if you do not pay your limited liability company's:

- Annual tax by the 15th day of the fourth month of its tax year.
- Fee or nonconsenting nonresident member's tax by the 15th day of the fourth month after the end of its tax year.

The penalty is 5 percent on the unpaid tax or fee, plus 0.5 percent on the unpaid tax or fee for each month or part of a month it remains unpaid. The maximum penalty is 25 percent of the unpaid tax or fee (R&TC Section 19132). Interest accrues on this penalty from either the original or extended due date of the tax return.

Large Corporate Understatement Penalty For tax years beginning on or after January 1, 2010, we impose a penalty if your understatement of tax exceeds the greater of \$1,000,000 or 20 percent of the tax shown on your original return (R&TC Section 19138).

For tax years prior to 2010, we impose a penalty if you understated your tax by more than \$1,000,000 for any tax year that begins on or after January 1, 2003. The penalty equals 20 percent of the total understatement of tax. We assessed this penalty because your corporation's additional tax liability became final (R&TC Section 19138).

Dishonored Payment Penalty We impose a penalty if your entity's financial institution does not honor a payment you make to us by check, money order, or electronic funds transfer. For a payment of \$1,250 or more, the penalty is 2 percent of the payment amount. For a payment less than \$1,250, the penalty is \$25 or the payment amount, whichever is less (R&TC Section 19134). Interest accrues on this penalty from the date of demand for payment.

50 Percent Interest-Based Penalty We impose a penalty because your entity had a past-due tax liability that qualified for tax amnesty, but it did not resolve its tax amnesty obligations. Go to ftb.ca.gov for more information. The penalty is equal to 50 percent of the interest that accrued on the balance from the original due date of the tax to March 31, 2005. You can file a claim for refund of this penalty only on the grounds that amount of the penalty was not properly computed by us (R&TC Section 19777.5(a)(1)). Interest accrues on this penalty from the demand for payment date.

Post-Amnesty Penalty We impose a penalty when your entity owes new or additional tax on a tax year that qualified for amnesty. The penalty is equal to 50 percent of the interest that accrued on the tax assessment from the original due date of the tax to March 31, 2005. You can file a claim for refund of this penalty only on the grounds that the amount of the penalty was not properly computed by us (R&TC Section 19777.5(a)(2)). Interest accrues on this penalty from the demand for payment date.

40 Percent Accuracy Related Penalty For tax years that were eligible for tax amnesty, we may impose an accuracy-related penalty if you understated your entity's tax liability. The penalty is equal to 40 percent of the related underpayment (R&TC Section 19164). Interest accrues on this penalty from the original due date of the tax return.

SOS Certification Penalty – Corporation, LLC and LLC Filing as a Corporation SOS notified us that you did not file your entity's annual or biennial Statement of Information. Since you did not file this, we assessed a \$250 penalty (R&TC Section 19141). Interest does not accrue on this penalty. For more information regarding this penalty or to download forms, go to sos.ca.gov and search for **annual/biennial statement**. You may also call SOS at 916.657.5448.

SOS Statement by Common Interest Development Association Penalty – Domestic Non-Profit Corporation

SOS notified us that you did not file your entity's biennial *Statement by Common Interest Development Association*. Since you did not file this, we assessed a \$50 penalty (R&TC Section 19141). Interest does not accrue on this penalty. For more information regarding this penalty or to download forms, go to sos.ca.gov and search for biennial statement. You may also call SOS at 916.657.5448.

Information Return Penalty We assess a penalty for failure to file complete, correct, and timely information returns. The penalty is calculated per payee:

- \$15 if filed 1 to 30 days after the due date.
- \$30 if filed 31 days to 6 months after the due date.
- \$50 if filed more than 6 months after the due date. (R&TC Section 19183).

Nonnotification Liability We assess a liability when the real estate escrow person fails to provide written notice of the withholding requirements to the buyer. The penalty is the greater of \$500 or 10 percent of the required withholding (R&TC Sections 18662 and 18668).

Intentional Disregard Penalty We assess a penalty on any person, including the withholding agent, who intentionally disregards the filing or correct information reporting requirements. The penalty assessment is the greater of \$100 or 10 percent of the required withholding (R&TC Section 19183 and IRC 6721(e)).

Failure to Remit Withholding We assess a liability for failure to remit withholding. Any person, including the withholding agent, who fails to remit or under remits withholding is liable for the greater of:

- The amount actually withheld, plus interest.
- The amount of taxes due from the nonresident, but not more than the amount required to be withheld, plus interest (R&TC Sections 18662 and 18668).

Failure to Withhold We assess a liability for failure to withhold. Any person, including the withholding agent, who fails to withhold or under withholds withholding is liable for the greater of:

- The amount actually withheld, plus interest.
- The amount of taxes due from the nonresident, but not more than the amount required to be withheld, plus interest (R&TC Sections 18662 and 18668).

Fees

Filing Fee

If we require your organization to file Form 199, it must pay a fee. The amount depends upon when it files Form 199 and when it makes the payment (R&TC Section 23772).

The fee is \$10 if:

- Your organization files and pays by the original due date.
- Your organization files and pays after the original due date, but on or before the extended due date.

The fee is \$25 if:

- Your organization files by the original due date, but pays after that date.
- Your organization files and pays after the extended due date.

We do not apply the filing fee to the following tax-exempt organizations (R&TC Section 23701d):

- An exclusively religious organization.
- An organization controlled by a religious organization.
- A school.
- A public charity.

Cost Recovery Fees

If we must take action to resolve your entity's filing and payment delinquencies, we charge cost recovery fees. These may include filing enforcement, collection, lien, or Federal Treasury Offset Program (FTOP) fees. They may also include fees to recover the cost of seizure and sale of property (R&TC Sections 19209, 19233, 19234, 19235, 19254 and 19376; United States Tax Code Section 6402(e); and California Government Code Sections 7174, 16583.1, 27361, 27361.3, and 27361.4).

Other Penalties and Fees

For additional information about penalties and fees, refer to R&TC Part 10.2, Division 2, Chapter 4, Article 7 (R&TC Sections 19131 *et seq.*). For more information, go to ftb.ca.gov and search for **FTB 1024, Penalty Reference Chart**.

Electronic Funds Transfer (EFT) Requirements

A corporation must make all payments by EFT once it meets either of the following conditions:

- It makes an estimated tax or extension payment in excess of \$20,000.
- It has a total tax liability in excess of \$80,000.

We will assess a penalty if your corporation pays by any other means. The penalty amount is 10 percent of the amount it paid (R&TC Section 19011). Corporations required to remit payments electronically may also use Web Pay without penalty.

For more information, go to ftb.ca.gov and search for **EFT** or call the EFT Unit at 916.845.4025.

Refund Claim Time Frames

There is a time limit for requesting a refund from us. Generally, you can file a refund claim until the later of four years from the due date of your tax return, or one year from the date of overpayment (R&TC Section 19306).

For claims filed on or after January 1, 2002, you can file an informal refund claim within the above time frame if you have not paid the full amount due. An informal claim will extend your time frames and protect your right to file an appeal with the California State Board of Equalization or file suit against us in court. However, if you fully paid your tax liability more than 7 years ago, we cannot refund these amounts (R&TC Section 19322.1).

Taxpayer Rights

Our goal is to make certain we protect your rights. We want you to have the highest confidence in the integrity, efficiency, and fairness of our state tax system. The California Taxpayers' Bill of Rights (FTB 4058) includes information on state taxpayers' rights and how to request written tax advice from us. Get FTB 4058 at ftb.ca.gov or by phone or email.

Website: ftb.ca.gov
Telephone: 800.338.0505
Mail: FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0040

Taxpayers' Rights Advocate

Taxpayers who have been unable to resolve their problems with us through regular channels may contact our Taxpayers' Rights Advocate. Contacting the Taxpayers' Rights Advocate, however, is not an appeal and does not extend the period of time for filing one.

Unless you received a jeopardy assessment, you have the right to an independent administrative review before we levy your income or assets or record a tax lien if you submit a written request for review within 30 days of the date of the first tax lien notice.

You can contact the Taxpayers' Rights Advocate by mail at: Taxpayers' Rights Advocate, Executive and Advocate Services MS A381, PO Box 157, Rancho Cordova CA 95741-0157, or by phone at 800.883.5910, or you may fax to 916.843.6022.

Bill of Rights Highlights

The California Taxpayers' Bill of Rights ensures that we adequately protect the rights, privacy, and property of all California taxpayers during the process of assessing and collecting liabilities. The following information may be helpful if we begin collection actions on your entity's unpaid liability.

Collection Action Alternatives

You can prevent collection actions if you do any of the following:

- Pay your entity's unpaid liability in full.
- Enter in an installment agreement.
- File required entity tax returns or provide proof that your entity has no filing requirement.

Offer in Compromise

We provide an Offer in Compromise program for entities that cannot pay their unpaid liability. The program allows you to offer a lesser amount in payment of an undisputed final liability. For more information regarding this program, go to ftb.ca.gov and search for **4905BCT**. The search will take you to our *Offer in Compromise* booklet (FTB 4905BCT) (R&TC Section 19443).

Collection Action Laws

Third-Party Contacts

We may contact third parties to determine or collect your entity's liabilities. Subject to privacy laws and your rights as a taxpayer, you may obtain a list of those contacts within the 12-month period following the date on the enclosed notice. We must receive your request no later than 60 days after the 12-month period has ended (R&TC Section 19504.7). For more information, write to:

DISCLOSURE OFFICE
FRANCHISE TAX BOARD
PO BOX 1468
SACRAMENTO CA 95812-1468

Installment Agreement Cancellation or Denials

If we cancel your entity's formal installment agreement, or deny your request for an installment agreement, we will notify you in writing 30 days prior to the cancellation or denial of our intent. We will include an explanation for the cancellation or denial. If we cancel or deny your installment agreement, you have a right to an administrative review. To stop collection actions, you must

send us your written request for an administrative review within 30 days from the date of your cancellation or denial notice. Collection actions will resume after a determination of the administrative review has been made.

If you would like to request an administrative review, send your request, along with any supporting documents to:

FRANCHISE TAX BOARD
PO BOX 942857
SACRAMENTO CA 94257-9954

Tax Liens

If we record a notice of state tax lien, you can get it released by paying the total tax liability (including any penalties and accrued interest) for tax years represented by the lien. We record a certificate of release in the office of the county recorder where we filed the tax lien and/or with the SOS no later than 40 days after you pay the liability. If you pay by check, the 40-day period does not begin until your entity's financial institution honors the check (Government Code Sections 7174(c)(1) and 7174(e)(1)).

Unfortunately, we sometimes record a notice of state tax lien in error. If this happens to your entity, please write to us and explain why the notice of state tax lien was recorded in error. If we agree with you, we send a notice to the applicable county recorder's office and to credit reporting companies stating that we filed the tax lien in error (R&TC Section 21019).

Bank, Wage, or Other Levies

If we take your property and you believe our action is improper, you have the right to a hearing. To request a hearing, you must contact the Taxpayers' Rights Advocate within 30 days after we seize your property. At the hearing, you should provide information that demonstrates the need to change or withdraw our levy or stop the sale of your entity's property. California Code of Civil Procedure Sections 700.010 through 704.995, and R&TC Sections 18670 and 18671 govern the seizure and sale of real and personal property.

If we seize your bank account in error, and you did not contribute to that error, we may reimburse you for related bank charges. You must file your reimbursement claim within 90 days of the levy (R&TC Section 21018).

If you want to request a hearing, please call one of the appropriate telephone numbers in the Internet and Telephone Assistance Section on PAGE 1. You may also write to the address at the top left-hand corner of PAGE 1.

To submit this claim in the form of a letter, the letter must prove that:

- Our error caused the erroneous action.
- Our error was the sole cause of the charges.
- Your entity paid the charges and we did not waive or reimburse them.
- Your entity responded to our contacts and provided information and documentation we asked for to resolve the account.

Send the letter to the Taxpayers' Rights Advocate. Locate this office's contact information under Taxpayers' Rights Advocate Section of this insert.