



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/forms.

If you have questions regarding this notice, you may contact us by telephone, fax, or mail. Refer to the **Contact Us** section 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

Contact Us

Web: ftb.ca.gov
Phone: 800.852.5711 7 a.m. to 5 p.m. weekdays,
 except state holidays
 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 will not assess a delinquent penalty if you file your tax return by the extended due date. However, 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 full payment.

Interest accrues on penalties from the effective date of the penalty until the date we receive full payment (R&TC Section 19101).

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.

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 We impose a penalty if your entity does not pay, pays late, or underpays an estimated tax installment. We calculate the penalty on the unpaid amount from the due date of the estimated tax installment to the following dates (whichever is earlier):

- The date we receive your payment.
- The 15th day of the 3rd month after the close of the taxable year if filing forms 100, 100W, or 100S.
- The due date of the return if filing form 109.

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 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 a 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).

Delinquent Return Penalty – LLC If you do not file your limited liability company's income tax return by the 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).

Delinquent Penalty – Form 199 If you do not file your organization's Form 199 by the extended due date, we impose a penalty of \$5 per month for each month or part of a month the Form 199 is late. The maximum penalty is \$40. We impose the penalty from the original due date of the return. (R&TC Section 23772)

Demand to File Penalty If we send you a demand to file your income tax return or to provide us with information, and you do not comply, we impose a penalty of 25 percent of the tax on our assessment before applying any payments or credits. **Therefore, you may owe penalties and interest even if your tax return shows that a refund is due.** (R&TC Section 19133) The demand to file penalty is in addition to the 25 percent late filing penalty imposed pursuant to 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 returns by the extended due date or if the returns fail to contain the required information (incomplete). For returns filed before January 1, 2011, the penalty is \$10 per member/partner for each month or part of the month the return is late or incomplete, not to exceed five months. For returns with original due dates on or after January 1, 2011, for taxable years beginning on or after January 1, 2010, the penalty is \$18 per member/partner for each month or part of the month that the failure continues, but not to exceed 12 months. The maximum penalty is \$216 per member/partner. We impose the late filing penalty in addition to the delinquent penalty. (R&TC Sections 18633.5 and 19172)

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. 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 of the unpaid tax plus 0.5 percent of the unpaid tax for each month or part of a month it remains unpaid — not to exceed 40 months. The maximum penalty is 25 percent of the unpaid tax (R&TC Section 19132).

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 4th month of its tax year.
- Fee or nonconsenting nonresident member's tax by the 15th day of the 4th month after the end of its tax year.

The penalty is 5 percent of the total unpaid tax or fee (underpayment), plus 0.5 percent of the unpaid tax or fee for each month or part of a month it remains unpaid (monthly). The maximum penalty is 25 percent of the unpaid tax or fee (R&TC Section 19132).

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 tax 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. (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).

50 Percent Interest-Based Amnesty 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 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 only on the grounds that the amount of the penalty was not properly computed by us (R&TC Section 19777.5(a)(1)).

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)).

40 Percent Accuracy Penalty For tax years that were eligible for tax amnesty (beginning before January 1, 2003), we may impose an accuracy-related penalty if you understated your entity's liability. The penalty is equal to 40 percent of the related underpayment (R&TC Section 19164).

Secretary of State Penalty

The California Secretary of State imposes a penalty on corporations and limited liability companies that do not timely file their Statement of Information with the Secretary of State. (Corporations Code Sections 1502, 2117, 6210, 8210, 9660, and 17060)

Domestic stock corporations, foreign corporations, and limited liability companies are subject to a \$250 penalty, and domestic nonprofit corporations are subject to a \$50 penalty. (R&TC Section 19141 and Corporations Code Sections 2204, 2206, 6810, 8810, 9690, 17651(b), and 17653)

You must file the required **Statement of Information** with the Secretary of State as follows:

Domestic Stock Corporation: Due within 90 days of filing the original Articles of Incorporation and every year thereafter.

Domestic Nonprofit Corporation: Due within 90 days of filing the original Articles of Incorporation and every two years thereafter. However, credit unions and consumer cooperative corporations are required to file every year instead of every two years.

Foreign Corporation: Due within 90 days after the filing of its initial Statement and Designation and every year thereafter.

Limited Liability Company: Due within 90 days of filing the original Articles of Organization or Application for Registration and every two years thereafter.

These statements are required every one or two years (as applicable to your entity type) even if there are no changes to your information. Contact the Secretary of State with questions regarding filing the statements or assessment of the penalty at:

**STATEMENT OF INFORMATION UNIT
ATTENTION PENALTY**

**CALIFORNIA SECRETARY OF STATE PO BOX 944230
SACRAMENTO CA 94244-2300**

916.657.5448

Contact us with questions regarding payment of the penalty at the numbers shown on this insert or at ftb.ca.gov.

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

For information returns filed before 01/01/2016, the penalty is:

- \$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.

For information returns filed on or after 01/01/2016, the penalty amount is:

- \$30 if filed 1 to 30 days after the due date.
- \$60 if filed 31 days to 6 months after the due date.
- \$100 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 unless a qualified intermediary is involved in a deferred like-kind exchange. 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. For information returns filed before 01/01/2016, the penalty assessment is the greater of \$100 or 10 percent of the required withholding. For information returns filed on or after 01/01/2016, the penalty assessment is the greater of \$250 or 10 percent. (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; Internal Revenue 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 Requirement Once an entity remits an estimated tax or extension payment in excess of \$20,000 or has a total tax liability in excess of \$80,000 in any taxable year beginning on or after January 1, 1995, it must make all future payments, regardless of the taxable year or amount, through an electronic funds transfer. Payments made by other means will result in a penalty of 10 percent of the amount paid. For more information regarding this requirement, go to ftb.ca.gov and search for eft or call 800.852.2753. (R&TC Section 19011)

Claim for Refund - Time Limit

There is a time limit to request a refund from us. Generally, you can file a claim for refund until the later of four years from the due date of your return, or one year from the date of overpayment. (R&TC Section 19306) Generally, you may only request a refund when you have paid the full amount due. For claims filed on or after January 1, 2002, even if you have not yet paid the amount due in full, you can file an informal claim for refund within the time frames indicated above. An informal claim for refund will protect your right to file an appeal with the Office of Tax Appeals or to file suit against us in court until you have paid the total amount due. However, amounts paid more than seven years ago cannot be refunded. (R&TC Section 19322.1)

Rights as a Taxpayer

The California Taxpayers' Bill of Rights (R&TC Sections 21001-21028) requires that we adequately protect the rights, privacy, and property of all California taxpayers during the process of assessing and collecting taxes. 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. FTB 4058, *California Taxpayers' Bill of Rights*, includes information on state taxpayers' rights. Get FTB 4058 at ftb.ca.gov or call us at 800.338.0505 (select Personal Income Tax), or mail us at FRANCHISE TAX BOARD, PO BOX 942840, SACRAMENTO CA 94240-0040.

Taxpayers' Rights Advocate Review

You may contact the Taxpayers' Rights Advocate if you have an ongoing state income tax problem that you have been unable to resolve through normal channels. Contacting the Taxpayers' Rights Advocate, however, is not an appeal and does not extend the period of time for filing one. You have the right to an independent administrative review if we notify you that we may levy your income or assets, file or record a notice of lien, reject your request for an installment agreement, or terminate your existing installment agreement. You must submit your request for review within 30 days of the date of Final Notice Before Levy or within 30 days of the date of the Notice of State Tax Lien. (R&TC Sections 19008(e), 19225, and 21015.5)

You may contact Executive and Advocate Services for additional information or to submit your request for review.

To request an independent administrative review, call: 800.883.5910, fax: 916.843.6022, or mail: Executive and Advocate Services MS A381, PO Box 157, Rancho Cordova CA 95741-0157.

Bill of Rights Highlights

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

Alternatives to Collection Actions

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

- Pay your entity's unpaid liability in full.
- Enter into an installment agreement.
- File required entity 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/forms and search for **4905BE**. (R&TC Section 19443)

Laws Regarding Collection Actions

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 of the enclosed notice. We must receive your request no later than 60 days after the 12-month period has ended. For more information, write to: DISCLOSURE OFFICE, **FRANCHISE TAX BOARD**, PO BOX 1468, SACRAMENTO CA 95812-1468. (Revenue and Taxation Code (R&TC) Section 19504.7)

Installment Agreement Rejection or Termination

If we reject your request for an installment agreement or intend to terminate your existing installment agreement, we will notify you in writing and provide an explanation of the reason for the rejection or termination. The notice will be mailed upon rejection or 30 days prior to the date of termination. If you received an *Intent to Terminate Installment Agreement Notice*, and wish to reset your installment agreement, write to: **FRANCHISE TAX BOARD**, PO BOX 942857, SACRAMENTO CA 94257-0511, or call: 888.635.0494.

If we reject or terminate your installment agreement, you have a right to an independent administrative review. To request a review, you must send your request, in writing, within 30 days of the rejection or termination of the installment agreement, otherwise collection actions may resume. Mail your written request and supporting documents to the Taxpayers' Rights Advocate. The contact information for the Taxpayers' Rights Advocate may be found in the Taxpayers' Rights Advocate Review section.

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 the 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 California Secretary of State 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 will 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 Accounts Receivable Management Division 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. 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) The 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 you want to request a hearing, please call one of the appropriate telephone numbers in the Contact Us 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 Review Section of this insert.