



## 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](http://ftb.ca.gov/Forms).

### 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

Interest accrues on unpaid taxes from the original due date of the 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) To find current and prior interest rates, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **interest rates**, or call the telephone number in the enclosed notice.

## Penalties and Fees Information

### Penalties

**Underpayment of Estimated Tax (Under 23001 – Corporate Tax Law)** 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 (R&TC Section 19142):

- 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.

**Underpayment of Estimated LLC Fee** We impose a penalty when you fail to estimate and pay the annual fee for the taxable year. The penalty is 10 percent of the underpaid fee. (R&TC Section 17942)

### Delinquent Filing Penalty – Corporation and Partnership

We impose a penalty when your entity fails to file a tax return on or before the due date of the tax return, determined with regard to extensions, if applicable. The delinquent filing penalty is computed at 5 percent of the tax (and LLC fee, if applicable), after allowing for timely payments, for every month that the return is late, up to a maximum of 25 percent (for fraud, substitute 15% and 75% for 5% and 25%, respectively).

**Delinquent Filing 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 tax return, not to exceed 25 percent. We impose the penalty from the original tax return due date. (R&TC Section 19131)

### Delinquent Filing Penalty – Form 199 – Exempt or Unrelated Business Income

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 Penalty** We impose a penalty when we send your entity a demand to file a California income tax return or to provide us with information requested and your entity does not comply within the time period specified on the notice. The penalty is 25 percent of the tax (and LLC fee, if applicable) on our assessment before applying any payments or credits. Your entity may owe interest and penalties even if your entity's tax return shows that a refund is due. (R&TC Section 19133). The penalty is in addition to the 25 percent late filing penalty imposed pursuant to R&TC Section 19131.

### Failure to File on Demand – Nonqualified, Unregistered, Suspended, or Forfeited Entity

We impose a \$2,000 penalty if your entity is a nonqualified or forfeited foreign corporation or foreign LLC or a suspended domestic corporation or suspended domestic LLC doing business in California and fails to file a tax return within 60 days of our Demand for Tax Return notice date. (R&TC Section 19135)

**Late Filing Penalty – LLC and Partnership** We impose a penalty if your entity does not file a tax return by the extended due date or if the return fails 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 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 tax return by the extended due date or if the return fails to contain the required information (incomplete). For tax returns filed before January 1, 2011, the penalty is \$10 per shareholder 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, the 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 the total amount due shown on your entity's tax return, which may include tax and, if applicable, the LLC fee by the original due date(s). The penalty is 5 percent of the unpaid tax and/or fee, plus 0.5 percent of the unpaid tax and/or fee for each month or part of a month it remains unpaid, not to exceed 40 months. (R&TC Section 19132)

**Large Corporate Understatement Penalty** We impose a penalty when you have an understatement of tax that exceeds the greater of \$1 million or 20 percent of the tax shown on your original return for years beginning on or after January 1, 2010; or exceeded \$1 million for years beginning on or after January 1, 2003 and before January 1, 2010. The penalty is 20 percent of the 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)

**Amnesty 50 Percent Interest-Based Penalty** We impose a penalty when you have a past-due tax liability for a year that was eligible for tax amnesty (i.e., beginning before January 1, 2003), but you did not resolve your tax obligation. The penalty is 50 percent of the interest that accrued on the balance due from the original due date of the tax to March 31, 2005. (R&TC Section 19777.5(a)(1))

**Post-Amnesty Penalty** We impose a penalty when you owe new or additional tax for a year that was eligible for tax amnesty (i.e., beginning before January 1, 2003). The penalty is 50 percent of the interest computed on any final amount from the original due date of the tax to March 31, 2005. This penalty is an estimate and will be recomputed and assessed only if and when the proposed deficiency assessment becomes final. (R&TC Section 19777.5(a)(2))

**Amnesty 40 Percent Accuracy-Related Penalty** We impose a penalty when your underpaid tax is due to negligence or disregard of rules or regulations, substantial understatement of tax, or substantial valuation misstatement for a year eligible for tax amnesty (i.e., beginning before January 1, 2003). The penalty is 40 percent of the underpayment. (R&TC Section 19164(a)(1)(B))

**Secretary of State/Corporation Officer Statement 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 17702.09)

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, and 17713.09)

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**

**Failure to File Correct Information Return (withholding at source)** Generally, we impose a penalty in the amount of \$130 for each failure to file a correct information return or failure to furnish a correct payee statement. The penalty may be reduced to \$40 if any failure described in this paragraph is corrected on or before the 30th day after the failure, or reduced to \$80 if corrected after the 30th day but on or before August 1 of the calendar year in which the failure occurs. Thus, we will impose the \$130 for each required information return or payee statement when the information return or payee statement is not filed at all, or filed more than 6 months after the due date. We also impose a penalty that is the greater of \$330 or ten percent of the aggregate amount of items required to be reported correctly for each intentional disregard of the information return requirements. For information returns required to be filed in years prior to 2024, the penalty amounts may be greater than the amounts indicated in this paragraph. For more information go to [ftb.ca.gov/Forms](http://ftb.ca.gov/Forms) and search for **1150** to find FTB 1150, *Withhold at Source Liability and Penalty Information*. (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 01/01/2020, the penalty assessment is the greater of \$250 or 10 percent of the required withholding. For information returns filed on or after 01/01/2020, the penalty assessment is the greater of \$550 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 Penalty (withholding at source)** We impose a liability penalty when you fail to withhold the required amount or fail to transmit the withheld amounts to us on or before the due date. Accordingly, you are liable for the amount actually withheld, or the amount of taxes due from the taxpayer, whichever is greater, not to exceed the amount required to be withheld. (R&TC Section 18668(a))

## Fees

### Form 199 Filing Fee for Exempt Organization

For returns due on or after 01/01/2021, no filing fee is required. For returns originally due prior to 01/01/2021, refer to the following information.

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](http://ftb.ca.gov) and search for **FTB 1024**, *Penalty Reference Chart*.

**Electronic Funds Transfer Requirement** Business entities whose quarterly estimated tax payment or extension payment exceeds \$20,000 or whose total tax liability exceeds \$80,000 for any income year, are required to make all future payments by electronic funds transfer (EFT). Payments made by other means will be assessed a penalty equal to 10 percent of the amount paid. For more information, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **eft**. (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 original due date of your tax return, four years from the date the tax return was filed (if filed within the extension period), 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 balance. For claims filed on or after January 1, 2002, even if you have not yet paid the balance in full, you can file an informal claim for refund within the time frames indicated. 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 balance. 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 requires that we adequately protect the rights, privacy, and property of all California taxpayers during the process of assessing and

collecting taxes. One of our goals 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. (Revenue and Taxation Code [R&TC] Sections 21001-21028) FTB 4058C, *California Taxpayers' Bill of Rights, an Overview*, includes information about state taxpayers' rights. To get FTB 4058C, go to [ftb.ca.gov/Forms](http://ftb.ca.gov/Forms) and search for **4058C**, call 800.338.0505 (enter form code **944** when instructed), or mail: TAX FORMS REQUEST MS D120, FRANCHISE TAX BOARD, PO BOX 307, RANCHO CORDOVA CA 95741-0307.

### Taxpayers' Rights Advocate Assistance and 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. However, contacting the Taxpayers' Rights Advocate is not a protest or an appeal and does not extend the period of time for filing one. You have the right to an independent departmental administrative review of specific collection actions that may be taken by FTB. An independent departmental administrative review will only determine if any taxpayer rights were violated during the process of collecting taxes. To request an administrative review of the filing or recording of a tax lien, the request must be made within 30 days of the date of the tax lien notice. Unless the taxpayer received a jeopardy assessment, they have the right to request an administrative review before a levy (including, for example, a wage garnishment). The request must be made within 30 days of the date of the Final Notice Before Levy of the taxpayer's income or assets. The taxpayer also has a right to an administrative review of a rejection of the request for an installment agreement, or a termination of an existing installment agreement. We generally may not levy the taxpayer's property during the 30-day period after rejection or termination and, if they file a request for administrative review within 30 days of the rejection or termination, during a review of that rejection or termination. (R&TC Sections 19008, 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 following information may be helpful if we begin collection actions on a taxpayer'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.
- Make an Offer in Compromise that we accept.
- For individual taxpayers, establish that a financial hardship prevents you from paying your liability.

### 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](http://ftb.ca.gov) and search for **offer in compromise**. (R&TC Section 19443)

## Laws Regarding Collection Actions

### Third Party Contacts

We may contact third parties to determine or collect your tax 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)

### Tax Liens

If a taxpayer does not pay their entire California income tax liability at the time that it becomes due and payable, the unpaid amount, including any interest and penalties that may accrue, is subject to becoming a state tax lien. We may record a Notice of State Tax Lien in the county recorder's office of the county in which the taxpayer lives or owns real property, and file a Notice of State Tax Lien with the California Secretary of State. (R&TC Section 19221 and Government (Gov.) Code Sections 7162, 7171, 7172, 7220, 7224, 27361, and 27361.4)

If we record or file a Notice of State Tax Lien, taxpayers can get it released by paying the total tax liability (including any penalties and accrued interest) for the taxable years represented by the state tax lien. (Gov. Code Sections 7174, 7223, and 27361.3)

We record a certificate of release in the office of the county recorder where we recorded the Notice of State Tax Lien and/or file the release with the California Secretary of State no later than 40 days after a taxpayer pays the liability. If a taxpayer pays by check, the 40-day period does not begin until their financial institution honors the check. (Gov. Code Sections 7174(c)(1) and 7174(e)(1), and (f).)

Unfortunately, we sometimes record or file a Notice of State Tax Lien in error. If this happens, write to us or call 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/or to the Secretary of State, and upon request, to the major credit reporting companies stating that we recorded or filed the Notice of 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. Taxpayer's may file a claim for reimbursement of charges and fees caused by an erroneous action or collection action by us, provided they do so within 90 days of the erroneous action. (R&TC Section 21018) 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.

## 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. A 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 us or call us: **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 departmental administrative review. To request a review, you must send your request, in writing, within 30 days of the rejection or date of 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 Assistance and Review section.