



## Request for Abatement of Interest

Use FTB 3701 to request abatement of interest due to an FTB or IRS error or delay. **Do not** use FTB 3701 if you are claiming a refund of an overpayment of income taxes, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **claim for refund**. Submission of FTB 3701 does not automatically suspend collection actions.

Read the instructions on PAGE 2 on how to complete this form.

Taxpayer First Name		M.I.	Last Name	Taxpayer's Social Security Number (SSN):	
Address (number, street, and room, or suite number):				Spouse's/RDP's SSN:	
City or town			State	ZIP Code	Entity Identification Number:
Name and Address Shown on Tax Return (if different from above):			State	ZIP Code	Phone: (      )

### Explanation for Request

1. Period of time interest should be abated – From: \_\_\_\_\_ To: \_\_\_\_\_
2. TaxYear(s): \_\_\_\_\_
3. Explain why you believe interest should be abated due to any unreasonable error or delay made by an employee of the Franchise Tax Board. If the Internal Revenue Service (IRS) abated interest based on its error or delay, you must provide proof of the IRS's determination to abate interest.

If you are filing a protest or an appeal of a proposed assessment, and also wish to request an abatement of interest, you must include the request for abatement of interest with your protest or appeal.

### Franchise Tax Board Privacy Notice

To learn about your privacy rights, how we may use your information, and consequences if you do not provide information we request, go to [ftb.ca.gov/forms](http://ftb.ca.gov/forms) and search for **1131**. To request this notice by mail, call 800.338.0505 and enter form code **948** when instructed.

### Signature

Requests filed by business entities must be signed by an authorized individual, and the signature must be accompanied by the individual's title.

Under penalties of perjury, I declare that I have examined this claim, including any accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature (and title, if business entity)	Date	Signature (spouse/RDP, if joint tax year)	Date
<b>X</b>		<b>X</b>	

# Instructions for FTB 3701

## Request for Abatement of Interest

We base these instructions on California Revenue and Taxation Code Section 19104(a) and (b).

### General Instructions

#### Form Purpose

Use FTB 3701 to file a request for the abatement of interest. The Franchise Tax Board (FTB) can abate all or part of interest charged when the additional interest is attributable to certain errors or delays made by FTB or the IRS.

If you choose to file an abatement request, your unpaid balance continues to accrue interest during the time that we consider your interest abatement request and during any protest or appeal, until you pay the balance in full.

If you are claiming a refund of an overpayment of income taxes, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **claim for refund**.

#### Interest Abatement – Based on FTB Errors or Delays

The law only allows FTB to abate interest for FTB errors or delays under the following circumstances:

- The interest accrued on a deficiency or a proposed deficiency was attributable in whole or in part to any unreasonable error or delay by an officer or employee of the Franchise Tax Board (acting in his or her official capacity) in performing a ministerial or managerial act.
- The interest accrued on a payment of any liability was attributable to an officer or employee being dilatory in performing a ministerial or managerial act.
- The interest accrued on a bill or notice that FTB delayed due to a governor state of emergency or federal major disaster declaration.
- The interest at issue accrued after September 25, 1987, without regard to the tax year.
- For managerial acts, the interest at issue accrued for tax years beginning on or after January 1, 1998.
- No significant aspect of the delay or error was attributable to the taxpayer.
- The error or delay occurred after the date FTB first contacted the taxpayer, in writing, with respect to the deficiency or payment.

A general allegation that the issuance of an assessment took too long will not in itself justify the abatement of interest if the assessment was issued within the statute of limitations. Generally, FTB has four years from the return filing date or due date, whichever is later, to make an audit adjustment and issue an assessment.

#### Interest Abatement – Based on IRS Errors or Delays

The law only allows FTB to abate interest for IRS errors or delays when the IRS abated interest under the following circumstances:

- The interest accrued is attributable to an error or delay in the performance of a ministerial or managerial act by the IRS. You must provide proof that the IRS abated interest under Internal Revenue Code Section 6404(e) and the period that the IRS abated interest.
- The error or delay must have occurred on or before the IRS issued a final determination of tax.
- The deficiency upon which the federal interest abatement was allowed must be related to the state deficiency.
- The interest at issue accrued after September 25, 1987, without regard to the tax year.
- For managerial acts, only interest accrued for tax years beginning on or after January 1, 1998, may be considered.

#### Definitions:

A **deficiency** is the difference between the amount of tax shown on an original or amended tax return and the amount of tax determined by FTB.

A **managerial act** is an administrative act that occurs during the processing of a taxpayer's case, which involves the temporary or permanent loss of records. A managerial act is also the exercise of judgment or discretion that relates to management of personnel. Also, a general administrative decision such as the decision on how to organize the processing of tax returns or a delay in implementing a new computer system is not a managerial act. (Treas. Reg. 301.6404-2(b)(1)).

A **ministerial act** is a procedural or mechanical act that does not involve the exercise of judgment or discretion and that occurs during the processing of a taxpayer's case after all prerequisites to the act, such as conferences and review by supervisors, have taken place (Treas. Reg. 301.6404-2(b)(2)). A decision concerning the proper application of state (or federal) law is neither a ministerial nor managerial act.

#### Who can File

You or your authorized representative can file FTB 3701. If your authorized representative files for you, attach the original or a copy of FTB 3520 PIT, *Individual or Fiduciary Power of Attorney Declaration* or FTB 3520 BE, *Business Entity or Group Nonresident Power of Attorney Declaration*, to the FTB 3701.

#### When to File

To request an abatement of interest shown on a *Notice of Proposed Assessment*, you must include your request with your protest of a *Notice of Proposed Assessment* or your appeal of a *Notice of Action* on a protest. Otherwise, the Franchise Tax Board cannot consider your request to abate interest as it relates to the period of time prior to the liability becoming collectible. In such a case, you may lose your right to file an appeal of a determination not to abate the interest accrued prior to the liability becoming collectible.

If you wish to request the abatement of interest on a final unpaid balance due, you may file that request at any time.

If you wish to claim a refund of paid interest, be aware there is a statute of limitations. Generally, your claim can be filed no later than four years from the due date of your tax return, or one year from the date of the overpayment. If you cannot promptly pay the balance due in full, you can file an informal refund claim within either of the four year or the one year time periods. For more information, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **informal refund claim**.

#### Where to File

If you are filing a protest or appeal, attach the completed and signed FTB 3701 and mail both to the address on the notice you received from us. Otherwise, mail this completed and signed form to:

**EXECUTIVE AND ADVOCATE  
SERVICES MS A381  
FRANCHISE TAX BOARD  
PO BOX 157  
RANCHO CORDOVA CA 95741-0157  
Fax: 916.843.6022**

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## Specific Line Instructions

### Social Security Number

If you are filing FTB 3701 to request an abatement relating to a joint tax return, enter social security numbers for both you and your spouse. Effective for tax years beginning on or after January 1, 2007, for purposes of California income tax, references to a spouse also refer to a registered domestic partner (RDP), unless otherwise specified.

### Entity Identification Number

If you are filing FTB 3701 to request an abatement of interest for a corporation, a partnership, or a limited liability company, enter the entity identification number.

1. Enter the period of time for which you are requesting an abatement of interest.
2. Enter the tax year(s) for which the abatement of interest is being requested.
3. Explain in detail your reasons for filing the request:
  - Describe the circumstances of your case.
  - Describe the error or delay on the part of FTB, or provide evidence that the Internal Revenue Service abated interest based on a ministerial or managerial act.
  - State when you were first contacted by FTB in writing about the deficiency or payment.

Attach appropriate supporting evidence to the FTB 3701.

### If Your Request is Denied

If the Franchise Tax Board denies your request for an abatement of interest pursuant to R&TC Section 19104, you will receive a formal letter of denial explaining your right of appeal to the Office of Tax Appeals.

For more information regarding your appeal rights and actions go to [ftb.ca.gov](http://ftb.ca.gov) and search for **interest abatement**.

Additional information is available in FTB 58471, *Procedure for Appealing a Denial or Partial Denial of a Request for Abatement of Interest*. Go to [ftb.ca.gov](http://ftb.ca.gov) and search for **58471**.

### Formal Denial Letter Not Received From Us

If you haven't received a denial from FTB within six months of filing your request for abatement of interest pursuant to R&TC Section 19104, and you are not filing your FTB 3701 with a protest, you may consider your request "deemed denied." If that is the case, you may file an appeal with the Office of Tax Appeals. For your appeal rights, see FTB 58471.

You may contact the Franchise Tax Board at 800.852.5711, or from outside the United States, call 916.845.6500 (not toll-free).