

Request for Abatement of Interest

Read the instructions on PAGE 2 before you complete this form.

Use FTB 3701 **only** to request abatement of interest. **Do not** use FTB 3701 if you are claiming a refund for an overpayment of income taxes. For privacy information, go to **ftb.ca.gov** and search for **privacy notice**. To request this notice by mail, call 800.338.0505 and enter form code **948** when instructed. Submission of FTB 3701 does not automatically suspend collection actions.

Name:	Your Social Security Number:
Address (number, street, and room, or suite number):	Spouse's/RDP's Social Security Number:
City or town, State, and ZIP Code:	Entity Identification Number:
Name and Address Shown on Tax Return (if different from above):	Daytime Telephone Number: ()

1. Period of time interest should be abated – From: _____ To: _____
2. Tax Year(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, provide proof of the IRS's determination to abate interest.

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

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 applicable)

Date

Signature

Date

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.

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 tax 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 contacted the taxpayer, in writing, with respect to the deficiency or payment.

Normal tax return processing or audit work within the statute of limitations time period will not in itself justify the abatement of interest. Generally, FTB has four years to make an audit adjustment.

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.
- 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 can only be abated for the same time period that the IRS abated interest.
- 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 (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)).

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, *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 against the *Notice of Proposed Assessment* or your appeal from a *Notice of Action* on a protest. Otherwise, the Franchise Tax Board cannot consider your request and you may lose your right to file an appeal of any determination not to abate the interest.

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. You can also file an informal refund claim within either of the four year or the one year time periods, if you have not paid the full amount. An informal claim will protect your right to file a later appeal with the Office of Tax Appeals or file suit in court. The informal claim is perfected into a formal claim when you pay the full amount due. However, we cannot credit or refund a payment that you made more than seven years before the full amount is paid.

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 the completed and signed form to:

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

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, you will receive a formal letter of denial explaining your right of appeal to the Office of Tax Appeals.

For your appeal rights and actions, see FTB 58471, *Procedure for Appealing a Denial or Partial Denial of a Request for Abatement of Interest*.

If You Do Not Hear From Us

If you do not hear from FTB within six months of filing your request for abatement of interest, and you are not filing your FTB 3701 with a protest, you may consider your request "deemed denied" and file an appeal with the Office of Tax Appeals. For your appeal rights, see FTB 58471.

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

Your unpaid balance continues to accrue interest during the time that we consider your interest abatement request and during any appeal, until you pay the balance in full.

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