



FTB 5830C

Business Entities – Notice of Proposed Assessment Information

In this document, we refer to the California Revenue and Taxation Code as R&TC.

General Information

The accompanying *Notice of Proposed Assessment* (NPA) advises you that we intend to assess additional tax or penalties. We will take no further action before the **Protest By** date shown on the front of the notice.

Agree

If you agree with our determination as shown on the accompanying *Notice of Proposed Assessment*, we will send you a bill showing the total balance due, including tax, penalties, and interest. Interest continues to accrue until your liability is paid in full.

To request an interest computation in advance of the bill, contact us at the address or telephone number shown on the notice. For past and current interest rates, go to ftb.ca.gov and search for **interest**.

Payment Procedure

If we do not require your entity to pay by electronic funds transfer you may:

- Use Web Pay for Businesses. Go to ftb.ca.gov and search for **web pay**. You will need your Web Pay user name and password, bank account number, and routing number.
- Use a credit card. Official Payments Corporation, the third-party company FTB contracts with to process credit card payments, charges taxpayers a convenience fee for this service. Go to ftb.ca.gov and search for **credit card payment**.

- Pay by check or money order:
 - Make check or money order payable to Franchise Tax Board.
 - On the payment, write your entity's full name, California identification number, and the taxable year shown on the accompanying notice.
 - Attach the payment on the copy of the notice and mail to:
FRANCHISE TAX BOARD
PO BOX 942857
SACRAMENTO CA 94257-0021
- Pay in person at a Franchise Tax Board field office. Go to ftb.ca.gov and search for **field offices** for pay in person locations.

If we require your entity to pay by electronic funds transfer you must make payment using:

- Web Pay for Businesses. (See instructions above.)
- Credit card. (See credit card instructions above.)
- Electronic funds transfer (EFT). To make a payment through EFT:
 - Register your entity by completing an FTB 3815, *Authorization Agreement for Electronic Funds Transfer*.
 - Remit your entity's payment using EFT.

If you are required to pay by electronic funds transfer, payments made by other means will result in a penalty of 10 percent of the amount paid. (R&TC Section 19011)

Protest Procedures

If you choose to protest our proposed assessment, you must submit your protest by the **Protest By** date. Follow the online or written protest filing instructions below. (R&TC Section 19041) **Filing a protest will not stop the accrual of interest.**

Online Protest

1. Go to ftb.ca.gov and select **Register** or log in to your **MyFTB**.
2. From the options listed, select **Account** and then **Proposed Assessments**. Select the **NPA number** for the proposed assessment you want to protest and follow the online protest instructions.

Written Protest

File your written protest by mail or fax by the **Protest By** date shown on the first page of the notice.

Your written protest must include:

- Entity's name and address.
- Entity's California identification number (CCN, FEIN, SOSID).
- Amounts and tax years you wish to protest.
- Statement of facts.
- Arguments, evidence, and documentation that substantiate your position, including legal authorities.
- Any portion of the amount at issue that you concede.
- Entity officer's signature or your authorized representative's signature.
- Name, title, and daytime phone number of the contact person handling the protest.

If you wish to authorize someone to represent you regarding your protest, see the Power of Attorney for Tax Matters section.

For proper handling of your protest, include a copy of the Notice of Proposed Assessment.

Mail: PROTEST SECTION MS F340
FRANCHISE TAX BOARD
PO BOX 1286
RANCHO CORDOVA CA 95741-1286

Fax: 916.364.2754

If you do not submit your protest by the **Protest By** date on your notice, the assessment becomes final and we bill you for the proposed assessment, including penalties and any accrued interest. (R&TC Section 19042)

We will grant you a hearing if you request one in your protest. Your authorized representative may represent you at the hearing. Once we consider your protest and make a decision, we will send you written notification.

Power of Attorney for Tax Matters

If you wish to authorize someone to represent you on your state income tax matters (including your protest), you may file a Power of Attorney (POA) declaration with the California Franchise Tax Board (FTB). We recommend that you and your selected representative register with MyFTB and electronically file a POA declaration with FTB. For more information on how to register with MyFTB, go to ftb.ca.gov and search for **poa information**.

If you file your POA declaration by paper, indicate how you have an applicable exception to submitting online by indicating on FTB 3520, *Power of Attorney Declaration*. If you submit a declaration by paper without an exception, we will process it. However, our processing time frames for paper declarations will take longer than declarations submitted online. For more information on the paper exceptions, go to ftb.ca.gov and search for **poa information**, or call us at 800.852.5711.

In order to be timely a protest must be submitted to FTB by the **Protest By** date on the enclosed notice, so plan accordingly. POA representatives who have already received confirmation that FTB has processed the online POA declaration may use MyFTB to file a protest online. Otherwise, POA representatives may submit a protest in writing along with a copy of the POA declaration.

Settlement Option

We are authorized to settle civil tax matters in dispute. We define a civil tax matter in dispute as the protest of an NPA, an appeal to the Office of Tax Appeals, or an outstanding claim for refund, which has been through the audit process. The purpose of the settlement program is to negotiate settlements of civil tax matters in dispute consistent with a reasonable evaluation of the costs and risks associated with the litigation of these matters. (R&TC Section 19442)

If you initiate and make a good faith settlement offer, we may negotiate a settlement with you regarding your entity's California income or franchise tax issues in dispute. **However, you must first file a protest according to the procedures outlined in this document (see the Protest Procedures).**

In deciding whether to accept your offer into the settlement program, we do not consider your entity's ability or inability to pay. We only consider the hazards and risks associated with the issues in dispute.

For forms, instructions, and more information on how you can initiate a settlement, go to ftb.ca.gov and search for **ftb notice 2007-2**. You can also contact our Settlement Bureau at 916.845.5034.

Interest Information

Generally, interest accrues on unpaid liabilities from the original due date of the return until the date we receive full payment. **Refer to R&TC Sections 19521 and 19101 for more information.** Interest accrues on unpaid LLC annual tax from the due date of the tax. We also charge interest on penalties. 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 taxable 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** or call us at the Telephone Assistance number shown below.

Penalties

Accuracy and Fraud Penalties

Under certain circumstances, if you substantially understate your tax liability, we may impose **one** of the following penalties:

- An accuracy penalty equal to 20 percent of the related underpayment.
- A fraud penalty equal to 75 percent of the related underpayment. (R&TC Section 19164)

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)

Delinquent Return Penalty

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 return. (R&TC Section 19131)

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.

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 \$1250 or more, the penalty is 2 percent of the payment amount. For a payment less than \$1250, the penalty is \$25 or the payment amount, whichever is less. (R&TC Section 19134)

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)

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 date we receive your payment or to the due date of the return, whichever is earlier. To locate both past and current interest rates, go to ftb.ca.gov and search for **interest rates**. (R&TC Sections 19142 and 19161)

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. This penalty is not part of the deficiency amount and will be recomputed and assessed only if and when the proposed deficiency assessment becomes a final assessment. You can file a claim for refund of this penalty on the grounds that the amount of the penalty was not properly computed by us. (R&TC Section 19777.5(a)(2))

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)

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)

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 a protest and does not extend the period of time for filing one. To file a protest, please follow the procedures explained on this insert.

Unless you received a jeopardy assessment, you have the right to an independent administrative review before we levy your income or assets if you submit your written request 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.

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.**

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

Asistencia Por Internet y Teléfono

Sitio web: **ftb.ca.gov**
Teléfono: 800.852.5711
dentro de los Estados Unidos
916.845.6500
fuera de los Estados Unidos
TTY/TDD: 800.822.6268
para personas con discapacidades auditivas o del habla