



FTB 7275

Personal Income Tax Notice of Proposed Assessment Information

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

General Information

The *Notice of Proposed Assessment* (NPA) informs you that we intend to assess additional tax and/or penalties. You have a right to protest the NPA, which must be submitted within 60 days of the NPA date, or submitted by the Protest By date. (R&TC section 19041) We will take no further action before the **Protest By** date of the enclosed notice. You do not currently owe the amount shown on the NPA. If you choose to protest, it may take several months to resolve your account. If you wish to limit the accrual of interest on the proposed assessment amount, you may make a payment even if you protest the NPA.

Interest

Interest accrues on additional taxes 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) To find current and prior interest rates, go to ftb.ca.gov and search for **interest rates** or call the phone number on the enclosed notice.

Additional interest accrues from the NPA date (notice date) to the date we receive your payment in full. However, we charge no additional interest if we receive your payment in full within 15 days of this notice date.

Agree and Make an NPA Payment

If you agree with the proposed assessment amount, you may pay the additional tax, penalties, and interest on the notice as an NPA Payment. Refer to the Payment Procedures section. Do not submit Form 540X, *Amended Individual Income Tax Return*.

If a balance due exists after the proposed assessment amount becomes a final liability, we will send you a bill.

Disagree and Make a Tax Deposit

If you disagree with the proposed assessment amount, you may file a protest. You may pay the amount shown on the notice as a Tax Deposit to limit the accrual of interest without losing your right to protest the assessment. Refer to the Payment Procedures section. Also refer to California Form 3576, *Pending Audit Tax Deposit Voucher for Individuals*. Go to ftb.ca.gov and search for **3576**. (R&TC Section 19041.5)

If the proposed assessment amount becomes a final liability, we will apply your Tax Deposit to satisfy the final liability. If we withdraw or reduce the proposed assessment, any remaining amount will be held as a Tax Deposit. For additional information, go to ftb.ca.gov and search for **3581** to find FTB 3581, *Tax Deposit Refund and Transfer Request*.

Existing Balance Due on Tax Year

If you choose to make a Tax Deposit payment, we will apply your payment to satisfy any balance due on your account for the same tax year and treat the remaining amount as a Tax Deposit for the protested NPA.

No Tax Return Filed

If you wish to make a payment, but you did not file a tax return for the tax year, pay online using Web Pay (choose the Notice of Proposed Assessment payment type) or pay by mail with a copy of the enclosed *Notice of Proposed Assessment*.

No Action

If you take no action by the Protest By date, then the proposed assessment amount will become due and payable after the Protest By date shown on the first page of the notice. If you previously made payment(s) on the proposed assessment amount, we will apply your payment(s) to the liability and bill you for any remaining balance.

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 your:

- Name, address, and daytime phone number.
- Your social security or taxpayer identification number.
- Amounts and tax years you wish to protest.
- Statement of facts.
- Arguments, evidence, and documentation that substantiate your position, including legal authorities.
- Signature or your authorized representative's signature.

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. (California 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.

Payment Procedures

If you have a mandatory e-pay requirement, follow the online payment instructions below. If you do not have a mandatory e-pay requirement, you may pay your proposed assessment amount by either method below.

Online

- Go to ftb.ca.gov and search for **web pay**.
- Select Web Pay for Individuals.
- If you agree with the assessment amount, choose Notice of Proposed Assessment as your payment type.
- If you disagree with the assessment amount, choose Tax Deposit as your payment type. If you have not filed a tax return for the tax year, choose Notice of Proposed Assessment as your payment type.
- Follow the online instructions.

Mail

- Write your full name and account number on your payment.
- Make check or money order payable to Franchise Tax Board.
- If you agree, mail payment (avoid staples or tape) and a copy of the *Notice of Proposed Assessment* to the address on the notice.
- If you disagree and filed a tax return for the tax year, refer to California Form 3576, *Pending Audit Tax Deposit Voucher for Individuals*. Go to ftb.ca.gov and search for **3576**.
- If you disagree and have not filed a tax return for the tax year, mail your payment and a copy of the *Notice of Proposed Assessment* to the address on the notice.

Mandatory e-Pay Requirement

Effective January 1, 2009, if your estimated tax or extension payment exceeds \$20,000, or your tax liability exceeds \$80,000 for any tax year that begins on or after January 1, 2009, you are required to remit all payments electronically. Once you meet the threshold amount and mandatory e-pay requirement for that payment, all subsequent payments regardless of type, amount, or tax year must be paid electronically. Failure to comply with this requirement will result in a penalty of 1 percent of the amount paid, unless your failure to pay electronically was for reasonable cause and not willful neglect. (R&TC Section 19011.5)

If you are required to make payments electronically and you wish to make a tax deposit, you must also remit the tax deposit payment electronically. **Do not** mail the tax deposit voucher. If you are required to pay electronically, you may pay your liability online. Go to ftb.ca.gov and search for **web pay**.

You may request a written waiver of the mandatory e-pay requirement if you feel your tax payment or total tax liability does not accurately represent your current tax liability. Go to ftb.ca.gov and search for **4107**.

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.

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 tax return, or one year from the date of overpayment. (R&TC Section 19306) 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 California State Board of Equalization or to file suit against us in court until you have paid the total amount due. However, amounts paid more than seven years before the date the total amount due is fully paid cannot be refunded. (R&TC Section 19322.1)

Settlement Program Option

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) A civil tax matter in dispute includes a protest of a *Notice of Proposed Assessment*. **If you wish to request participation in the settlement program, you must first follow the Protest Procedures to file a protest of the Notice of Proposed Assessment.**

Participation in the settlement program is at our discretion. To decide whether to accept your request to participate in the settlement program, we do not consider your ability or inability to pay. We only consider the costs and risks of litigation associated with the issues in dispute.

For more information on how to request participation in the settlement program, see FTB Notice 2007-2, *Settlement of Civil Tax Matter Disputes*, at ftb.ca.gov.

Penalties

Accuracy and Fraud Penalty

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

- An accuracy-related 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 (i.e., beginning before January 1, 2003), if you understated your liability, we may impose an accuracy-related penalty equal to 40 percent of the related underpayment. (R&TC Section 19164)

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.

Late Filing Penalty

If you do not file your tax return by the extended 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 tax return due date, for each month or part of a month the tax return is late. The maximum penalty is 25 percent. We impose the penalty from the original due date of the tax return. For a tax return that shows a balance due, the minimum penalty for filing a tax return more than 60 days late is \$100 (\$135 for tax years beginning on or after January 1, 2010) or 100 percent of the tax due after applying timely payments and credits, whichever is less. (R&TC Section 19131)

Post-Amnesty Penalty

We impose a penalty when you owe new or additional tax on a tax year that was eligible for tax amnesty (i.e., beginning before January 1, 2003). 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. The amount of the penalty shown on the NPA is an estimate and cannot be protested. The penalty will be recomputed and assessed if and when the proposed assessment becomes a final liability. You can file a claim for refund of amounts paid to satisfy this penalty only on the grounds that we did not properly compute the amount of the penalty. (R&TC Section 19777.5(a)(2))

Rights as a Taxpayer

One of our goals at the Franchise Tax Board 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 Pub. 4058, *California Taxpayers' Bill of Rights*, includes information on state taxpayers' rights. You can order the *California Taxpayers' Bill of Rights* by:

Website: **ftb.ca.gov** and search **Bill of Rights**
Telephone: 800.338.0505 (Select Personal Income Tax Forms)
Mail: FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0040

In keeping with the *California Taxpayers' Bill of Rights*, 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, follow the instructions in the Protest Procedures section.

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.

Franchise Tax Board Privacy Notice

For more information 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** and search for **privacy notice**. To request this notice by mail, call 800.338.0505 and enter form code **948** when instructed.

Connect With Us/Conéctese Con Nosotros

Web: ftb.ca.gov

Phone/Tel: 800.852.5711 | 7 a.m. to 5 p.m. weekdays, except state holidays/7 a.m. a 5 p.m. de lunes a viernes, excepto días feriados

916.845.6500 | from outside the United States/fuera de los Estados Unidos

TTY/TDD: 800.822.6268 | for persons with hearing or speech impairments/para personas con discapacidades auditivas o del habla