



State of California
Franchise Tax Board

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Top Twelve Tax Scams

We strive to create a fair tax system that provides the services and information to help taxpayers file accurate and timely tax returns and pay the proper amount owed. Promoters of fraudulent tax scams attempt to cheat our tax system contributing to California's increasing \$10 billion estimated tax gap, the difference between what taxpayers owe and what they pay voluntarily.

We continue efforts to counter fraudulent activity through audit enforcement, partnering with the Internal Revenue Service (IRS), and public education. In 2011, we identified fraudulent claims of \$59.3 million, and even stopped a \$34.7 million refund. This brochure helps you identify and avoid the twelve most common tax scams affecting California taxpayers. Several popular California tax scams appear on the 2013 IRS "Dirty Dozen Tax Scams" list. For additional information on federal tax scams, go to irs.gov and search for **Dirty Dozen**.

We list California's top twelve tax scams in no particular order. This list is not all-inclusive.

1. Identity Theft

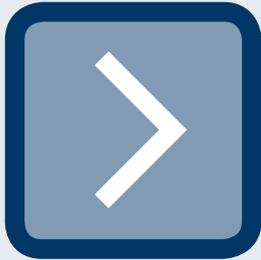
Identity theft occurs when a person knowingly transfers or uses, without lawful authority, the identification of another person with the intent to commit any unlawful activity. The Better Business Bureau estimates that more than 11.6 million Americans were victims of identity theft in 2011. Identity theft costs a staggering \$54 billion a year to businesses and consumers.

IRS and FTB use a comprehensive strategy to prevent, detect, and resolve identity theft cases timely. Furthermore, we never collect confidential taxpayer information through email or phone solicitation. You should never provide personal information by phone or email to persons who can't verify their government employee status.

More than one tax return filed in your name or documentation that you received wages from an unknown employer may be an indication that you were victimized. If you believe identity theft affected your tax records, contact our Identity Theft Team.

- **Website:** Go to ftb.ca.gov and search for **identity theft resolution**
- **Phone:** 916.845.3669
- **Mail:**

IDENTITY THEFT TEAM MS A462
FRANCHISE TAX BOARD
PO BOX 2952
SACRAMENTO CA 95812-2952



Tax Return Preparer Fraud

2. Tax Return Preparer Fraud

About 60 percent of taxpayers use professional tax preparers to prepare and file their tax returns. Most tax preparers provide honest service to their clients. However, as with any other business, some tax preparers prey on unsuspecting taxpayers. Choose carefully when you hire a tax preparer. Be cautious of tax preparers who promise guaranteed or inflated refunds and base their fee on your refund amount. Federal courts have issued hundreds of injunctions ordering individuals to cease tax return preparation, and the Department of Justice has pending complaints against many others. In an effort to reduce tax preparer fraud, IRS now requires an issued Preparer Tax Identification Number for each tax preparer. For more information on how to select a tax preparer, get FTB 982, *How to Select an Income Tax Preparer*, or go to [ftb.ca.gov](https://www.ftb.ca.gov) and search for **FTB 982**.

It does not matter who prepares your income tax return. You are legally responsible for all the information entered on your tax return. You are also ultimately responsible for paying the correct amount of tax and any applicable interest and penalties.

Tax Shelters

3. Frivolous Arguments

Frivolous scam promoters encourage you to make unreasonable and outlandish claims to avoid tax liabilities. They promote baseless arguments that include:

- The system is voluntary and you do not have to file a tax return or pay taxes.
- You can ignore all taxable income.
- You violate your constitutional right against self-incrimination when you file a tax return.

We adopted IRS' list of frivolous tax arguments, explained in IRS Notice 2008-14 and IRS Publication, *The Truth About Frivolous Tax Arguments*. While you have the right to contest your tax liabilities in court, no one has the right to disobey the law, and anyone who submits a frivolous position could be subject to a \$5,000 penalty.

4. Tax Shelters

Abusive tax shelters are transactions marketed with the promise of tax benefits with no correlating risk of economic losses. These transactions typically have no economic purpose other than reducing taxes. While steep penalties are imposed on promoters of abusive tax shelters, you are ultimately responsible for paying the correct amount of tax and any applicable interest and penalties. As the old saying goes, "If it sounds too good to be true, it probably is."

Frivolous Arguments

5. Offshore Accounts

Over the years, numerous individuals evaded taxes by hiding income in offshore banks, brokerage accounts, or nominee entities using bank cards (i.e., credit/debit cards). While you may have legitimate reasons to maintain financial accounts abroad, you still need to fulfill your tax reporting requirements. Taxpayers who maintain offshore accounts and do not comply with tax reporting requirements are breaking the law and risk significant penalties and fines, as well as the possibility of criminal prosecution. IRS has enlisted the help of banks, such as Swiss bank UBS, as part of a deferred prosecution agreement, to provide the United States government with the identities of, and account information for, certain American customers of Swiss bank UBS's cross-border business. IRS shares this information with us and we continue to actively audit suspected unreported income from offshore accounts.

Phishing

6. Phishing

Phishing is typically carried out with the help of unsolicited email or a fake website to lure and prompt potential victims to surrender valuable personal and financial information. Armed with this information, a criminal can commit identity theft or financial theft. We never collect confidential taxpayer information through email or phone solicitation. If you receive an unsolicited email from us or an organization linked to us, such as Electronic Federal Tax Payment System (EFTPS), call us at 916.845.7057, or email phishing@ftb.ca.gov.

7. Misleading Letters

California corporations and limited liability companies (LLCs) are not required to file annual board meeting minutes with any government agency, and LLCs can file the required Statements of Information directly with the California Secretary of State (SOS) at sos.ca.gov for a \$20 fee. In this scam, business entities receive letters to file annual board meeting minutes or Statements of Information and pay a higher fee. The letters originate from a variety of sources with names that seem official, such as “Compliance Annual Minutes Board” or “Board of Business Compliance Annual Minutes Division.” The letters cite various corporation code sections (e.g., 1500, 600, and 9510), request the completion and submission of a form along with a fee amount, and imply that failure to reply can suspend your entity’s powers, rights, and privileges.

More recently, LLCs are the target of a misleading letter scam. LLCs receive letters from the “Annual Filing Division” or the “Annual Review Board” again citing various corporation codes, but request the LLC to file a Statement of Information, instead of Board Minutes. The letter seems official and includes the

LLC’s name, address, LLC number, and fee due date. The letter threatens penalties and fines if the LLC does not submit the information or pay them.

Products or services offered in these letters are not approved or endorsed by any government agency. These letters are not from the state of California. LLCs that submit fees and file through them or a third party do not meet the statutory obligation to file a Statement of Information directly with SOS.

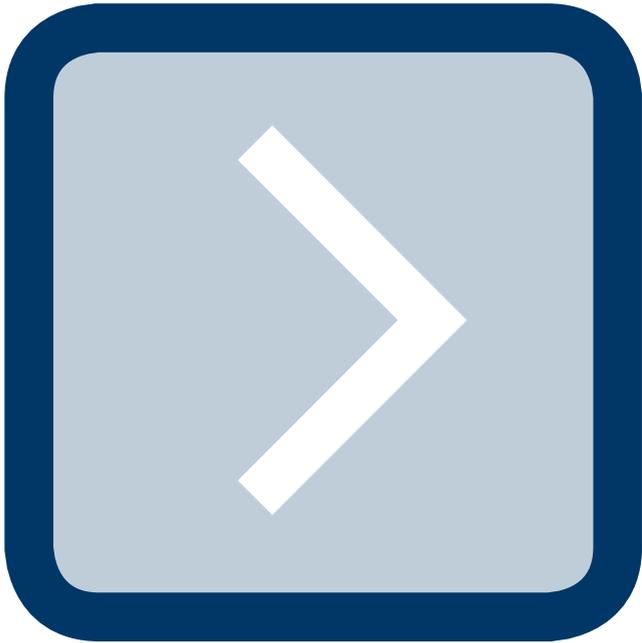
If you receive one of these fraudulent solicitation letters, mail a written complaint and include the entire solicitation to: CALIFORNIA OFFICE OF THE ATTORNEY GENERAL, CALIFORNIA DEPARTMENT OF JUSTICE, PUBLIC INQUIRY UNIT, PO BOX 944255, SACRAMENTO, CA 94244-2550. More information is available on the California Office of the Attorney General’s website at oag.ca.gov.

Misleading Letters

Moving a Business Out of State

8. Moving a Business Out of State

Some tax-planning advisors and promoters mislead business entities doing business in California to form in a state, such as Nevada, that has no income or franchise tax to avoid California income taxes. If your business performs any business activities in California, it is subject to California tax and filing requirements regardless of where it is organized or incorporated. An entity is considered doing business in California if it actively engages in any transaction for financial gain or profit and when any of its members, managers, or other agents conducts business in California on behalf of the entity, regardless of where the entity primarily conducts business. In addition, non-California residents who receive income from a partnership, LLC, or S corporation that is doing business in California may be required to pay California tax. For more information on qualifying or registering your business entity, go to sos.ca.gov, or call 916.657.5448. If you would like more information on this topic, go to ftb.ca.gov and search for **FTB 689**, *Read the Fine Print Forming a Business Entity Outside of California*.



Disguised Corporate Ownership

9. Disguised Corporate Ownership

Domestic shell corporations and other entities are formed and operated in certain states for the purpose of disguising business or financial activity ownership. Once formed, these anonymous entities are used to facilitate underreporting of income, nonfiling of tax returns, listed transactions, money laundering, financial crimes, and possibly terrorist financing. We work closely with IRS to identify these entities and bring their owners into compliance.

10. Trust Misuse

For years, unscrupulous promoters have urged taxpayers to transfer assets into trusts. While there are legitimate trust uses for tax and estate planning, some highly questionable transactions promise taxable income reduction, deduction for personal expenses, and reduced estate or gift taxes. Such trusts rarely deliver promised tax benefits and are primarily used to avoid income tax liability and hide assets from creditors, including FTB and IRS. Improper use of private annuity trusts and foreign trusts to shift income and deduct personal expenses has increased. We are actively examining these trust arrangement types. You are encouraged to seek professional advice before you enter a trust agreement.

Trust Misuse

11. False Form 1099 Refund Claims

In this ongoing scam, the perpetrator files a fake information return, such as federal Form 1099-OID, *Original Issue Discount* (OID). The perpetrator reports phony OID income and tax withheld amounts to “justify” filing a false tax return to get a refund of this fraudulently created overpayment of “taxes.” In other cases, individuals make refund claims based on the bogus theory that the federal government maintains secret United States’ citizen accounts. They think they can gain account access by issuing Forms 1099-OID to FTB and IRS. Don’t fall prey to people who encourage you to claim deductions or credits you are not entitled to claim or allow others to file false returns with your information. If you participate in such scams, you face financial penalties or even criminal prosecution.

False Form 1099 Refund Claims

12. Charitable Organizations and Deductions Abuse

Along with IRS, we continue to uncover intentional charitable organization abuse. This includes arrangements that improperly shield income or assets from taxation when the donor maintains control of donated assets or income from donated property and where several organizations claim the full value of the same noncash donation. Often these donations are highly overvalued or the charitable organization allows the donor to repurchase the item later at a price set by the donor.

Charitable Organizations and Deductions Abuse

Report Suspected Tax Fraud

If you suspect an individual or business is not in compliance with California income tax laws, you can report it to us.

Contact Us

- **Website:** Go to ftb.ca.gov and search for **report fraud**.
- **Phone:** 800.540.3453
8:30 a.m. to 4 p.m. weekdays, except state holidays.
- **Fax:** 916.843.2060.
- **Mail:**
TAX INFORMANT HOTLINE MS F310
FRANCHISE TAX BOARD
PO BOX 1565
RANCHO CORDOVA CA 95741

For Additional Information:

Go to ftb.ca.gov
Call us at 800.852.5711

For General Information:

Go to taxes.ca.gov

Please include the following details, if available:

- Individual/business name.
- Marital status.
- Spouse/registered domestic partner name.
- Individual/business address.
- Alleged tax violation.
- How you became aware of the alleged violation.
- Availability of supporting documents.
- Asset information (e.g., vehicles, property, etc.).
- Have you provided this information to IRS or other state agency? If yes, please provide the agency/department name and contact person.
- Do you have reason to believe the taxpayer is dangerous?
- Your contact information.
- Your relationship to the taxpayer.

Get FTB 1131, *Franchise Tax Board Privacy Notice*, at ftb.ca.gov or call us at 800.338.0505. If outside the United States, call 916.845.6500.

We do not require any identifying information. However, if you choose to provide your personal information, we will treat your information as confidential, unless compelled by law.