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Last Revision: 10/05/18

8.0.1.1 Correspondence Processing – Guidelines

Background

Franchise Tax Board (FTB) responds to all incoming correspondence, typically in an attempt to resolve a tax issue. The correspondence is either scanned into Case Management (CM) or manually uploaded to the Taxpayer Folder (TPF). Each FTB employee assigned to work assigned or unassigned correspondence exercises reasonable judgment to complete the assignment in a timely manner. FTB responds and acknowledges correspondence in the order of its received date or the order of priority. However, FTB does give consideration to the urgency of a request. Correspondence in relation to statutory deadlines or those involving any taxpayer penalties may require priority action ((***)).

FTB answers or acknowledges all solicited or unsolicited correspondence received, in response to our requests for specific information such as:

- Filing requirement
- Audit
- Head of household (HOH)
- Etc.

Several factors need to be considered in determining the appropriate course of action when processing correspondence, such as:

- What entity should the correspondence be associated to?
- How was the correspondence received?
- Should the correspondence be uploaded to the TPF?
- Is the correspondence related to another correspondence?
- Is there any activity that has created an unresolved issue?

FTB policy applies to all correspondence except in scenarios where the customer does not anticipate a response. FTB may respond to correspondence in writing, by telephone, or Live Chat, depending on the nature of the inquiry and the urgency of the response.

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Attach To's (A/T)

Taxpayers often send correspondence as a result of a request from FTB for specific information. The correspondence received may have future bearing on an account. Examples are:

- Formal claims for refund
- Protest Letters
- Erroneous Refund Letters
- Notice of Action on claims
- Requests for installment agreements
- Information regarding financial hardships

In most cases, accounts can be resolved without requesting a return from the taxpayer. Before requesting a return, the FTB employee should first review TPF to verify a return can be located. If the return is located, then review the return information.

In the event the correspondence is not located on TPF, the faxed information, correspondence received, or copy of our reply should be placed on the taxpayer's TPF account.

Purpose

FTB employees must make every effort to be a responsive and credible resource in assisting taxpayers to resolve any tax issues or related concerns in a timely manner.

Responsibility

FTB employees are responsible for following unit guidelines in responding to correspondence. See a lead or supervisor for specific turnaround timeframes.

Every effort should be made to address the incoming correspondence on first contact. A one-and-done approach should be taken. In addition, this may require resolving outstanding CM assignments in addition to the

correspondence you received. This will help to ensure we are addressing all of the taxpayer's questions in a timely manner.

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Action

FTB employees will adhere to the following procedures after receiving correspondence:

- Respond to the correspondence in the order received
- Work the account until the issues and concerns are resolved
- Process priority workload (i.e. revivors)

When FTB employees receive correspondence either by CM, fax, email, and the correspondence is not located on TPF, the correspondence needs to be placed in TPF along with the FTB reply. In the event the correspondence has been previous uploaded, the FTB employee will need to upload the reply. The FTB employee will follow unit guidelines for uploading documents into the TPF or creating cases in Case Management (CM).

All information, such as faxed information, correspondence received, and/or a copy of our reply should be placed on the taxpayer's account.

Misrouted correspondence should be routed to the appropriate CM workbasket for proper handling.

FTB employees will use plain language and avoid using abbreviations when entering TPF or CM comments to document the resolution or outcome of the taxpayer's correspondence such as:

- Unprofessional language
- Confidential or proprietary information
- FTB internal terminology
 - FAN (Frivolous)
 - Fraud
 - CIB (Criminal Investigation Bureau)
 - TI or BETS commands
 - Etc.

Note: If the correspondence contains new address, phone number, etc. information from the taxpayer, the FTB employee must document the new information in TPF and update the account.

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/22/2018

8.0.2 1 Manual and Rush Refunds

Background

Refunds are normally processed automatically by Business Entities Tax Systems (BETS) or the Taxpayer Information (TI) System. However, there may be cases where a manual or rush refund is required. The request for a refund in these situations must be prepared manually.

Section 19341 of the California Administration Tax law requires interest to be allowed on overpaid returns **when** the refund warrant is not dated within 90 days from the original return due date or the received date of the return, whichever is later.

Purpose

Manual and rush refunds are issued to ensure any credit balance due to the taxpayer is returned and to ensure the accounting system doesn't automatically issue a refund.

Responsibility

It is the responsibility of FTB employees to identify situations that may require a manual or rush refund.

Do not refund credit balances if one of the following conditions exists:

- The business entity is suspended or forfeited (either by FTB or SOS)
- The taxpayer is in bankruptcy.
- The current date is beyond expiration of the statute of limitations to credit or refund and overpayments

The following situations may require that a return be filed before issuing a manual refund:

- An amended return claiming a refund of ((***) or more.
- The return is needed to determine the validity of a credit.
- A taxpayer is requesting the refund of withholding or estimate payments.

The following are examples of when a manual refund may be required:

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The following are examples of when a rush refund may be required:

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Action

FTB employees must follow unit procedures to determine if a criterion exists for processing a manual or rush refund. ((***)

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- An amended return is filed after a return warrant has been reissued

Note: A rush refund must be mailed to the taxpayer within seven to ten working days after Fiscal Control submits the paperwork to the State Controller's Office.

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.0.2.2 Erroneous Refund

Background

An erroneous refund is a refund that a taxpayer or business entity (BE) receives for which they are not entitled. Examples of erroneous refunds are:

- A duplicate refund is issued in error.
- Payments are applied to an incorrect taxpayer or Business Entity account.
- Payments intended as estimated tax payments or NPA payments are incorrectly processed.
- Estimated tax payments or NPA payment are incorrectly processed as bill payments or return payments.
- A manual refund and an automated refund were issued for the same credit balance.
- A refund issued to the wrong taxpayer or BE from an incorrect account.
- A refund issued due to a transaction that created an "erroneous" credit balance.
- A refund directly deposited into the wrong account.

Purpose

The purpose is to identify the erroneous refund, notify the taxpayer and correct the account in a timely and efficient manner.

Responsibility

Franchise Tax Board (FTB) employees are responsible for notifying the taxpayer or BE regarding the process to return the refund that they received in error. An erroneous refund letter or a Notice of Proposed Assessment (NAP) needs to be issued to the taxpayer. Once the money has been received from the taxpayer, FTB employees need to ensure that the money has been credited to the correct liability.

Note: FTB must notify the taxpayer or BE within the **latter** of:

- Two years after the refund or credit was made or allowed.

- During the period within which FTB may issue a Notice of Proposed Assessment (NPA). (In general, normal statute of limitations (SOL) for a deficiency assessment is the later of four years after the original due date or date the return was filed. There may be waivers or other issues that extend the SOL. Anything beyond the normal SOL must be referred to a lead or supervisor.)

Action

When FTB employees discover that a refund was issued in error, they will mail an Erroneous Refund Letter to the taxpayer or Business Entity. The taxpayer or Business Entity is required to return the original refund warrant if it was not cashed, or send the amount due on the Erroneous Refund Letter if the refund warrant was cashed. Advise the taxpayer or BE to attach the original refund warrant to the Erroneous Refund Letter for proper processing.

BE Collector Responsibility:

- BE Suppress the case with an automatic release date
- BE Defer suspension, if appropriate
- BE Issue the appropriate erroneous refund letter

BE Erroneous Refund Letter:

- FTB 4159 BC AR: partial or full refund issued in error

Personal Income Tax (PIT) Erroneous Refund Letters:

- FTB 4178: full refund issued in error
- FTB 9884: partial refund issued in error
- ECOM Letter (with EPAL paragraph codes):
 1. Paragraph ((***)for partial repayment
 2. Paragraph ((***)for refunds with interest
 3. Paragraph ((***)for full repayment
 4. Paragraph ((***)for misapplied NPA payment and full repayment is required

The paragraphs above may be used in any of the situations where they are applicable.

Taxpayers or Business Entity have 30 days from the date FTB sends the Erroneous Refund Letter for repayment before they become responsible for the interest on the erroneous refund amount.

When an erroneous refund is identified, FTB employees should:

- Credit the proper taxpayer or Business Entity account and/or tax year(s).
- Issue the Erroneous Refund Letter.
- Allow the taxpayer or BE 30 days to remit the funds.
- If appropriate, take collection actions if the funds are not returned within 30 days.

Interest Due: R&TC Section [19104\(c\)](#) states we cannot charge interest until 30 days from the date of an Erroneous Refund Letter.

We will **not** abate interest on erroneous refunds if the taxpayer, Business Entity or related party caused the erroneous refund in any way.

If an erroneous refund is past the SOL, enter detailed comments in Taxpayer Folder why an erroneous refund letter was not sent. BE Collections will also submit a support request to write-off the balance so the entity will not continue receiving bills for the refund.

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Revenue and Taxation Code Sections [19104](#) and [19411](#)

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.0.2.3 Claim for Refund

Background

A claim for refund is a request for a credit or refund of an amount of overpaid tax. The claim may be formal or informal. The following taxpayers:

- Individuals
- Corporations
- Exempt Organizations
- Financial Institutions
- Partnerships
- Limited Liability Companies (LLC)

Formal Claim

The law provides recourse through the formal claim for refund process when one of the following situations occurs within the statute of limitations (SOL):

- The taxpayer or business entities files an amended return reducing the liability on the taxpayer or business entities original return that was previously paid in full, or
- The taxpayer or business entities disagrees with an assessment of tax and/or penalties or interest, but pays the amount of additional tax and/or penalties or interest, then sends a letter requesting the amount paid be refunded.

Informal Claim

Prior to January 1, 2002, taxpayers or business entities making installment payments on a balance due could not file a valid claim for refund until the full amount due was paid. Beginning January 1, 2002, the taxpayer is able to file an informal claim for refund within the even though the full amount due has not been paid.

The informal claim will delay the expiration of the SOL for that claim. This informal claim is perfected into a formal claim and considered filed when the full amount due has been paid. At that point, the Franchise Tax Board (FTB) can take formal action on the claim and can either allow the claim or deny the claim in whole or in part. In the case of an informal claim that has been perfected by full payment, no overpayment may be credited or refunded to the taxpayer if the overpayment was received more than seven years prior to full payment.

Request for Penalty Abatement:

A request for penalty abatement may be considered an informal or formal claim for refund, accordingly, if the abatement of the penalty would result in an overpayment on the taxpayer's account. If the request for penalty abatement would merely reduce the balance due, the request for penalty abatement is not a claim for refund.

Recourse(s)

The taxpayer may also file an appeal with Office of Tax Appeals if any of the following applies:

- FTB disallows the claim for refund.
- FTB fails to mail a Notice of Action on the claim within six months after a formal claim for refund is filed, or an informal claim for refund is perfected. In such cases, the taxpayer or BE may consider the claim disallowed/denied.

Note: If the taxpayer or BE disagrees with the Office of Tax Appeals decision, their recourse is to file a lawsuit in Superior Court to claim the refund.

Purpose

The claim for refund process provides the taxpayer a means to establish entitlement to an overpayment of tax, penalties, fees, or interest and to request a credit or refund of the overpayment.

Responsibility

FTB employees must be aware of the taxpayer's option to file a formal or informal claim for refund.

These requests should be resolved at the initial point of contact to prevent unnecessary Advocate referrals, Office of Tax Appeals, or Superior Court lawsuits.

Claims for refund should be analyzed on a case by case basis, taking into consideration all facts and circumstances involved in each particular case to determine if the claim for refund should be approved or denied.

Action

FTB employees should inform the taxpayer the claim **must** be in writing and include the following information:

- Signature of the taxpayer or BE's authorized representative.
- Specify the grounds on which the claim is based.
- Taxpayer or BE's name, address, phone number, and identification number.
- Tax year of the claim.
- Amount of the claim.
- Basis of the claim.
- Statement of facts.
- Documents that support the claim.

Once the taxpayer files a formal or informal claim for refund or penalty abatement request, FTB employees will forward the claim or request to the Collection Advisory Team (CAT).

All requests for abatement and claims for refund should be reviewed to determine if the taxpayer is requesting abatement of a penalty based on reasonable cause. All the facts in each case must be considered when determining reasonable cause. ((***) The examples listed below may constitute reasonable cause depending upon the circumstances involved in each individual case.

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The following examples do not constitute reasonable cause:

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If a taxpayer does not agree with your determination of an interest or penalty waiver request, they have every right to file a claim for refund on amounts paid as penalty and interest.

When making your penalty waiver determination, you must not mislead the taxpayer into thinking that paying the amount due will result in a refund through a claim for refund.

If the taxpayer provides the same justification in their request for abatement as the taxpayer does in their claim for refund, the taxpayer will likely obtain the same result. CAT reviews written requests for claim for refunds with the same standards you used for the request for penalty abatement you denied.

If the claim for refund is denied, the taxpayer may dispute FTB's decision by filing an appeal with Office of Tax Appeals. The taxpayer must file the appeal with the Office of Tax Appeals within 90 days from the date the Notice of Action was mailed.

Reference

Revenue and Taxation Code Sections [19301-19302](#), [19322](#), and [19322.1](#)

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.0.3.1 Bad Check or Dishonored Payment Penalty

Background

There is no specific provision that requires the Franchise Tax Board (FTB) to reimburse taxpayers for bank fees charged due to a stop payment being placed on a payment that has been made to FTB, but never received also known as:

- Dishonored Payment Penalty
- Bad Check Penalty
- Dishonored Remittance Penalty

Per [Revenue and Taxation Code \(R&TC\) Section 19134](#), FTB imposes a penalty when the taxpayer's bank or financial institution does not duly honor the taxpayer's check or other method of payment (credit card, EFT, or money order). FTB imposes the penalty on all dishonored payments, regardless of the tax year. The amount of the dishonored payment determines the amount of the penalty. As of January 1, 2011, if the amount of payment is less than \$1,250.00, the penalty is \$25.00. If the payment is greater than \$1,250.00, the penalty is two percent of the amount of the dishonored payment. In addition to the dishonored payment penalty, the taxpayer will be assessed a late payment or delinquent penalty.

[R&TC Section 19132\(b\)](#) states that for the same taxable year, the late payment penalty (combination of the underpayment and monthly penalties) may not be assessed if the demand penalty ([R&TC Section 19133](#)) and delinquent penalty ([R&TC Section 19131](#)) are assessed.

The dishonored payment penalty applies to the following entities:

- Individuals
- Estates
- Trusts
- C corporation
- S corporation
- General partnerships
- Limited partnerships
- Limited liability partnerships
- Limited liability companies (treated as partnerships)

- Limited liability companies (treated as corporations)
- Exempt organizations with unrelated business income

The taxpayer may receive a waiver/cancellation of the late payment penalty for reasonable cause due to an error on the part of FTB. If it is shown the original check was received but not cashed by FTB and the taxpayer sends in a replacement check with a copy of the stop payment order for the original check and requests a waiver of the bank fee, the replacement check will be given the received date of the original payment.

However, the dishonored payment penalty should not apply if the payment was made in good faith and with reasonable cause to believe that it would be duly paid, such as a bank or IRS error.

Note: If a taxpayer places a stop payment on the check and FTB processes the first check, the taxpayer will receive a bad check penalty on the account.

Note: The taxpayer will receive either the late payment, delinquent, or demand penalty, but only one will apply.

Purpose

The department does not have the authority to reimburse the taxpayer for the stop payment charge. However, if FTB waives/cancels the dishonored payment penalty, the associated penalty(s) will need to be adjusted.

Responsibility

FTB employees are responsible upon contact from the taxpayer regarding the dishonored payment penalty to have the taxpayer submit their request for a waiver/reduction in writing.

The following may be considered:

- If bank error, taxpayers are required to fax the FTB employee an explanation from the bank stating the check was dishonored in error, and the account contained enough funds at the time the taxpayer submitted the check or payment.
- If the bank placed a hold on the account such as "the death of the taxpayer."
- If the request was dishonored by the bank due to "invalid banking information," the dishonored payment penalty should **not** be canceled.

- If FTB advised the taxpayer to place a stop payment on the check and to reissue another check, we can waive any dishonored payment penalties that post as a result.
- If the taxpayer has three or more dishonored payment penalties in one year, the penalty should not be waived/canceled.

Action

Once the information is received, the FTB employee will evaluate the claim and either approve or deny the taxpayer's request to cancel the dishonored payment penalty, and/or reduce/cancel the late payment, delinquent, or demand penalty.

If possible, the FTB employee should make an effort to pull the original return to see if there is a check attached before instructing the taxpayer to send another check. If we do determine that another check should be sent, we should advise the taxpayer that he or she will not be reimbursed for any bank fees incurred in stopping payment on the original check.

If the information shows the payment was not honored due to incorrect account information or insufficient funds, inform the taxpayer the dishonored payment penalty is valid and any other associated penalty (i.e. late payment, delinquent, or demand penalty). Comment ARCS and Taxpayer Folder (TPF) with the decision.

If the information demonstrates the dishonored payment penalty should be reduced/canceled, send FTB 4277, Penalty Cancellation. Reduce/cancel any other associated penalty(s) (late payment, delinquent or demand penalty) due to the dishonored payment. Comment TI, ARCS, and Taxpayer Folder (TPF) to state why the penalty(s) was adjusted.

Reference

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[Revenue and Taxation Code \(R&TC\) Section 19134](#)

[R&TC Section 19132\(b\)](#)

[R&TC Section 19133](#)

[R&TC Section 19131](#)

[4277 ARCS \(9-2006\)](#)

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/15/2018

8.0.3.2 Erroneous Levy- Bank Charge Reimbursement/Third Party Fee Reimbursement

Background

[R&TC Section 21018](#) provides Franchise Tax Board (FTB) to reimbursements of bank or third-party fees or charges associated with an erroneous levy, erroneous processing action, or an erroneous collection action, that are not otherwise waived by the bank or third party. To request reimbursement, the taxpayer or business entity must submit a letter (claim) within 90 days of the levy explaining the error and attach a copy of the bank statement showing the bank fees charged and provide proof of the following:

- The erroneous levy was caused by an error made by FTB.
- The bank charges were solely the result of FTB's levy.
- The bank did not waive the bank charges.
- Prior to levy, the taxpayer responded to all contacts by the department and provided all requested information.

Charges and fees that may be reimbursed must be the usual and customary charges and fees imposed by the bank or third party in the ordinary course of business.

Purpose

Reimbursement of bank fee provides compensation to the taxpayer or business entity of fees incurred as a direct result of an erroneous FTB processing or collection action.

Responsibility

FTB employees are responsible upon receipt of the taxpayer's claim, to evaluate the information and either deny or accept the claim to reimburse the bank or third party fee within thirty days from the date the claim is received.

Action

FTB employees must advise the taxpayers to submit their request in writing. The written request for reimbursement must be sent within 90 days of the

erroneous collection action. (The period may be extended at FTB's discretion.) The request must explain in writing the error and provide proof of the following:

- The erroneous collection action was caused by an FTB error.
- The bank or other third party charges were solely the result of FTB's erroneous collection action.
- The bank or other third party has not waived the bank charges.
- Prior to the erroneous collection action, the taxpayer responded to all contacts by the department and provided all requested information.

Upon receipt of a claim, the FTB employee must evaluate the information and either deny the claim or submit it for approval to a collection supervisor.

FTB is required to respond to the claim within 30 days from the date the claim is received.

Bank fee should be reimbursed:

- An FTB collector agrees to release an Order to Withhold for Taxes (OTW) but fails to place a case hold. A second OTW is issued. The second bank fee should be reimbursed.
- An FTB collector agrees to delay collection action with a case hold. The collector fails to place the case hold and an OTW is issued. The bank fee should be reimbursed.
- A Filing Enforcement (FE) is set up on the wrong account and the correct entity never received proper notice. This is an erroneous FE and any levy issued is erroneous.
- The address where FTB sent the notices was not the address provided by the entity prior to the issuance of the OTW.

Bank fee should not be reimbursed:

- Notices were sent to a valid address and the entity elected not to respond to the notices until the OTW was issued. We should not reimburse the bank fee.
- FTB met the due process requirement if any notices were sent to the last known address on file. If the notices were sent to the entity's old address and the entity **has not updated** their address with FTB, we should not reimburse the bank fee.

If the claim is approved:

- FTB employees may call the bank and advise that the OTW was sent in error and ask if the fee can be reversed. If “yes”, send the following sentence on a fax cover sheet a long with a copy of the OTW release:
 - “The Order to Withhold that was sent to you was in error, please reverse any fees that the taxpayer was charged”.
- If the bank will not reverse the fee per a phone call do the following:
 - Complete form FTB 5116 ARCS to Notify the taxpayer of the approval.
 - Attach the claim and form FTB 5116 ARCS to the completed form FTB 6278, Request for Services, and obtain your supervisor’s initials.
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- FTB employee will uploads all documents to the Taxpayer Folder (TPF)
- Enter comments into ARCS/TPF/TI/BETS

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If the claim is denied:

FTB must notify the claimant in writing of the reason(s) for the denial. Send form FTB 5116 ARCS to the taxpayer indicating the reason(s) for the denial.

If the taxpayer or business entity does not agree with the decision, the taxpayer may contact the advocate office at the following address:

TAXPAYER ADVOCATE BUREAU MS A381
FRANCHISE TAX BOARD
 PO BOX 157
 RANCHO CORDOVA, CA 95741-0157

Note: Before the taxpayer or business entity is referred to the advocate office, they must go through normal FTB business cannels.

Reference

[Revenue and Taxation Code Section 21018](#)

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[Form FTB 5116](#)

[Form FTB 7518](#)

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/22/2018

8.0.4.1 Funds Transfer between Business Entities and Personal Income Tax

Background

A funds transfer may be required if payments or credits were erroneously applied and belong to:

- A Personal Income Tax (PIT) account but posted to a business entity's (BE) account
- A business entity's account but posted to a PIT account
- Another state agency. See CPM Section 7.0.4.1 Interagency Intercepts.

Purpose

The purpose of a funds transfer is to allocate erroneously applied funds to the proper account and to prevent erroneous billings and refunds.

Responsibility

It is the responsibility of Franchise Tax Board (FTB) employees to take the necessary steps to confirm ownership of the payment and apply it correctly. Ownership can be shown by a copy of the original check that has the document locator number (DLN) stamped on the front or face of the check.

Action

FTB employees will contact the BE or taxpayer and obtain a copy of the canceled check, that may have been misapplied, by either mail or fax. FTB employees should compare the information on the check to the account it applied to and the account the BE or taxpayer claims it was intended to be applied. Check for the following:

- Do the name(s) on the check match the account the payment has posted too?
- Is the check from a personal account?
- Is the check from a corporate account?
- Does the memo field reference the social security number?
- Does the memo field reference the corporation number?

FTB employees should cross reference the copy of the payment they received from BE or taxpayer to the copy of the payment posted in the Taxpayer Folder.

FTB employees are responsible for checking the dates of penalty assessments against the dates of the payments when a payment has been misapplied. FTB employees may need to cancel the penalties if the misapplied payment was the original cause of the penalty.

How to Request a Funds Transfer

Use online ((****)), **FUND TRANSFER REQUEST**, to request a fund transfer to or from a BE or PIT, or to another state agency.

BE Payments

Request BE Support reverse the payment in Business Entities Tax System (BETS) conversation ((****)) before you request a fund transfer out of BETS.

Instructions

Do not leave any fields blank. Each field must contain an entry to successfully submit the form. Enter **N/A** in any fields for which you do not have an entry.

ITEM	FIELD NAME	INSTRUCTIONS
1	Requester	Requester's first and last name.
2	Telephone #	Requester's telephone number (include area code and prefix if outside FTB central office).
3	Date	MM/DD/YYYY
4	FUND TRANSFER FROM	Click on the drop-down arrow to select a fund.
5	Other Fund or Agency	If Other was selected in field 4, enter the name of the fund or agency from which you want to transfer funds.

6	Name	Taxpayer's name.
7	Account #	Taxpayer's SSN, TPID, corporation number, or other business entity ID.
8	Document #	The document number of the payment being transferred.
9	Effective Date	The effective date of the payment being transferred.
10	Document Amount	The entire amount of the payment. Even if you are only transferring a portion of the payment, enter the full amount of the payment here.
11	FUND TRANSFER TO	Click on the drop-down arrow to select a fund. Transfers to and from the same fund should not be submitted on this form.
12	Other Fund or Agency	If Other was selected in field 11, enter the name of the fund or agency from which you want to transfer funds.
13	Name	Taxpayer's name.
14	Account #	Taxpayer's SSN, TPID, corporation number, or other business entity ID.
15	Post to Year	Calendar or fiscal year to which funds are being transferred (MM/YY).
16	Transfer Amount	Amount of payment in field 10 that is being transferred. All or a portion of the payment may be transferred.
17	Submit	Click to submit your request to Fiscal Controls.
18	Reset	Click to clear all entries and start over.

((***)Call Fiscal Controls for the status of a funds transfer request. See FTB Internal Contact list.

Reference

((***)

((***)

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.0.5.1 Interest Abatement/Waiver

Background

Taxes are due and payable as of the original due date of the taxpayer's return (without regard to extension). If the tax reported on the taxpayer's return is not paid by the original due date, or if the Franchise Tax Board (FTB) assesses additional tax, the law provides that interest must be computed and charged on the balance due. FTB is not allowed to abate interest except where authorized by law. Interest is not a penalty imposed on the taxpayer, and there is no reasonable cause exception to the imposition of interest. It is simply compensation for the use of money.

However, the Revenue and Taxation Code (R&TC) provides that FTB may abate interest under certain circumstances. See interest abatement provisions below.

- FTB Error or Delay in Ministerial or Managerial Act. (R&TC Section 19104(a) and Internal Revenue Code (IRC) Section 6404)(e))
- Financial Hardship – PIT only. (R&TC Section 19112)
- Erroneous Refunds. (R&TC Section 19368 and 19104(c) and IRC Section 6404)
- Written Reliance on Chief Counsel Ruling. (R&TC Section 21012) and IRC Section 6404)
- Disaster Loss. (R&TC Section 18572 and 19109 and IRC Section 6404)
- Presidentially-Declared disaster area. FTB is required to abate interest for individuals in a disaster area, for the extended period of time to file a return or pay, allowed under R&TC Sections 18572 or 18567. FTB may also abate interest attributable to any delay in mailing a notice into a disaster area or Governor declared State of Emergency area.
- Military rules. (R&TC 18570 & 18571/IRC 7508)
- Advocate Relief for erroneous action or inaction in processing or unreasonable delay by FTB. Application of this law is only allowed when interest cannot be abated under any other provision. (R&TC Section 21004)

Purpose

The laws regarding interest abatement/waiver either allows FTB to exercise its discretionary authority to abate interest (R&TC Sections 19104(s) and (c), 19112, 21004, and 21012) or interest may be abated by operation of law (R&TC Sections 18570, 18572, and 19109).

Responsibility

When a taxpayer inquires about interest abatement/waiver, FTB should advise them of the law. If FTB employees determines that the taxpayer may qualify for one of the provisions above, advise them of the documentation necessary to submit their request. ((****))

Action

The scenarios below provide information on where to submit specific requests.

If the request is based on FTB Error or Delay in Ministerial or Managerial Act, include FTB 3701, Request for Abatement or Financial hardship, and submit to:

COLLECTION ADVISORY TEAM MS A240
FRANCHISE TAX BOARD
PO BOX 2952
SACRAMENTO CA 95812-2952

FTB 3701 may **not** be used to claim a refund for overpaid taxes.

If the request is based on Written Reliance on Chief Counsel Ruling, submit to:

LEGAL DIVISION MS A260
FRANCHISE TAX BOARD
PO BOX 1720
RANCHO CORDOVA CA 95741-1720

If the request is based on Advocate Relief Provisions, include FTB 3705, Request for Taxpayer Advocate Equity Relief, and submit to:

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

The respective area is responsible for assuring the taxpayer receives a written response with applicable appeal rights.

If the request is received by fax or mail, create a case in Case Management and route to the Collection Advisory Team. Follow your unit's EDR procedures.

Reference

((***)

((***)

((***)

((***)

Interest Abatement Law Summaries ((***)

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.1.1.1 Tax Computations

Background

A tax computation is used when a business entity requests a written computation of all transactions on their account. The tax computation will include filed and non-filed tax periods. Tax periods as a result of a Corporate Filing Enforcement should not be included on the tax computation unless it has been finalized.

The computation may be for one account period or multiple account periods and consists of the following information when applicable:

- Taxes
- Penalties
- Interest
- Fees
- Payments and credits
- Payment transfers, when / where
- Overpayments
- Balance due amounts
- Assessments

The tax computation program now displays the four AB911 write off types. ((****))

Purpose

When requested, tax computations provide the entity with a written breakdown of their account.

Responsibility

Franchise Tax Board (FTB) employees are responsible for providing a tax computation upon the entity's request. When a business entity requests a written tax computation, authorized users complete and send the computation through BE Tax Computation. Users must select the BE Tax Computation Icon located on their desktop, and close any open Excel files and any unnecessary applications. Select the necessary tax year(s) for the

computation, then enter the following information into the Tax Computation System:

- Account Type
- Account Number
- Person working the account. Enter the following user information:
PUC and Initials
- Forecast date
- Tax years
- Business Types

The remainder of the tax computation letter will automatically populate. Once the information has been populated into the tax computation spreadsheet, remember to verify the figures using Business Entities Tax System (BETS) to ensure the debits and credits match with the figures in BETS. Make the correction on the spreadsheet before sending the information to the taxpayer. Users then print the tax computation and cover page.

Users should:

- Follow unit procedures for issuing tax computations
- Send (FTB Form 1138), *Business Entity Refund/Billing information* with the tax computation.
- Place a copy in the Taxpayer Folder

Action

FTB employees should use BETS, Automated Interest Program (ADINT), and the eLetter system to complete the Tax Computation Guide ((***)).

Reference

((***)

((***)

((***)

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.1.1.2 Priority Process

Background

Franchise Tax Board (FTB) employees may request Business Entities Section (BES) to priority process a tax return or payment document, if it is past the [BES processing time frame](#) and the document meets priority processing criteria. This time frame is determined by the time elapsed between the in date of the return, (the day it was received at FTB), and the date the return is processed.

Priority processing criteria includes:

((***)

- Extreme hardship on the part of the business entity.
- Involuntary collection action taken by the department prior to payment posting to Business Entities Tax System (BETS) or issuance of Order to Withhold.
- ((***)

The following criteria are exceptions to the time frames:

- Bankruptcy information exists in BETS.
- The taxpayer has requested an Offer in Compromise.
- Request for [NCNR fund transfer](#).

Priority processing criteria does **not** include:

- ((***)
- ((***)
- ((***)
- ((***)
- ((***)

Purpose

Based upon the criteria above, priority processing may be requested to expedite return and/or payment processing.

Responsibility

FTB employees should identify and request priority processing for accounts meeting the outlined criteria as appropriate. In general, the request for priority processing should be completed, if the return received date is outside the current processing time frames ((***)

Action

FTB employees will request priority processing via the [BES priority processing request form](#) ((***)).

Before a return is submitted to be priority processed, FTB employees must check to see if:

- The return is an amended return.
- The return is a duplicate.
- The duplicate return has an in date prior to the return posted as the original.
- The return posted to the correct corporation.

Note: Accounts cannot have any tax returns in suspense prior to being discharged. All tax returns must be priority processed before the support request to discharge the account can be submitted.

Reference

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 07/5/2018

8.1.1.3 Revenue Agent Report (RAR)

Background

The Franchise Tax Board (FTB) partners with the Internal Revenue Service (IRS) to share information on tax adjustments. Revenue Agent Reports (RARs) inform FTB of changes or revisions resulting in a credit or deficiency. The RAR is a detailed document that outlines the IRS examiner's audit findings. In turn, FTB issues a Notice of Proposed Assessment (NPA) that informs the taxpayer of our intent to assess additional tax, penalties, and interest as a result of the RAR. If an amended return is not filed within the specified time frame, Audit will adjust the accounting period via the NPA.

Purpose

The purpose of a federal RAR is to inform FTB about changes or revisions which might create state tax adjustments.

Responsibility

FTB employee should ensure proper notification is provided to the entity if an RAR has been issued.

Action

FTB employee may receive documentation from the entity resulting in additional adjustments. In these cases, FTB employee should forward the documents to Audit for review ((***)). FTB employee should collect the proper amount due based on the approved audit adjustments.

Generally, taxpayers are required to notify us within six months of any federal adjustments. They must also report the federal adjustment in sufficient detail to allow computation of required to report federal adjustment. Unless, the federal adjustments increase the taxpayer's California income tax if they owe more tax.

If the IRS changes result in a refund due to the taxpayer from California, the taxpayer must claim the refund within two years of the date of the final federal determination or normal statute, whichever period expires later. Taxpayers can either file an amended return to make changes to their California return or send copies of the federal changes to:

Fax

916.843.2269

Mail

FEDERAL STATE SPECIAL AUDIT SECTION MS F310
FRANCHISE TAX BOARD
PO BOX 1998
RANCHO CORDOVA CA 95741-1998

In most accounts, taxpayers **must** provide IRS Form 4549 or 5278, Notice of Tax Examination Changes. Taxpayers can also provide IRS transcripts or closing letters. A transcript alone is not sufficient supporting documentation.

In accounts where the FTB audit, resulting from an RAR, has gone final and the taxpayer claims there was a change to the IRS audit, the taxpayer must provide a copy of the final action determination letter from the IRS. The action determination letter should be forward to the FTB audit liaison.

If ARM Division employee receive RAR information from a taxpayer, they will now be able to route it directly to the Fed/State Special Audit Section (FSSAS) ((***)).

Exception: Tribal information is handled manually by routing the information to Federal/State Examination Section.

If the information is received by fax or other manual means, ((***)) assignment so it can be worked by Audit. Add comments into Taxpayer Folder.

Reference

Revenue and Taxation Code Sections [18622](#), [19059](#), and [19060](#)

((***)

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 07/5/2018

8.1.1.4 Withhold at Source

Background

Withholding at Source is a prepayment of the income or franchise tax due on the payment of California source income for non-wage withholdings. It is not an additional tax because the payee will be allowed to offset the tax due on the return with credit for the tax withheld at the source.

Withholding applies to payments of California source income to:

- Non-California corporations
- Non-California partnerships
- Nonresident estates and trusts
- Partnerships allocating California source income to foreign partners

An exemption certificate or a determination letter from the Franchise Tax Board (FTB) waiving withholding does not eliminate the requirement to file a California tax return and pay the tax due.

Withholding agents are required to submit [Form 592, Resident and Nonresident Withholding Statement](#), and provide vendors/payees with [Form 592-B, Resident and Nonresident Withholding Tax Statement](#), showing their total income subject to withholding, and the total California tax withheld for the year.

Examples of income types that may be required to have withholding of tax at source, include, but are not limited to:

- Compensation for services performed in California by nonresidents.
- Payments to nonresidents for rents or royalties on property (real or personal) located in California.
- Distributions of California source income to nonresident beneficiaries from an estate or trust.
- Partnership income or gain allocable under [Internal Revenue Code \(IRC\) Section 704](#) to a foreign nonresident partner.
- Distributions of California source income to a domestic (non-foreign) nonresident partner.
- Other payments of California source income made to nonresidents.

A database of withholding payment information is maintained separately in the Withholding Services and Compliance Section. Therefore, nonresident taxpayers from whom taxes were withheld may receive a Notice of Tax Return Change (TRC). The taxpayer should be referred to the Withholding Services and Compliance Section, unless the "withholding" was actually non-consenting nonresident member tax paid by a Limited Liability Company.

Purpose

The Withholding at Source program ensures California source income is subject to California income or franchise tax.

Responsibility

Any person making payments on California source income for nonresidents are required to withhold seven percent (7) of the gross payment or distribution amount if the payments are for:

- Services performed by independent contractors
- Rents
- Royalties
- Trust income
- Partnership income
- Prizes and winnings received by nonresidents for contest in California

California real estate sales are subject to 3 1/3 percent withholding of the sales price unless the seller qualifies for an exemption or exclusion.

Exceptions to Nonresident Withholding

Generally, you do not need to withhold if any of the following exceptions apply. The payee:

- Is qualified with the California Secretary of State to do business in California.
- Has a permanent place of business in California.
- Is an individual who is a California resident.
- Is a tax-exempt entity under California or federal law.
- Is a government entity.

- Provides only goods or materials.
- Received a withholding waiver from FTB pursuant to [Form 588, Nonresident Withholding Waiver Request](#).
- Meets one of the other exceptions listed on [Form 590, Withholding Certificate](#).

Failure to withhold the required amount and remit it to the FTB will result in a failure to withhold penalty.

A reduced rate will only be considered if it has been requested and the amount is determined by FTB.

FTB employees will contact Withhold at Source to request payments be applied to the entity's account.

Action

When the entity states they had Withhold at Source, perform the following steps:

- Obtain form FTB 592-B, Nonresident Withholding Tax Statement.
- Contact the Withhold at Source liaison and route the form FTB 592-B to them.
- Document the case clearly and change the follow-up date (30 days) to allow time for the Withhold at Source Unit to review the form.
- If the withhold amount fails to satisfy the balance on the case, then get a commitment from the entity to pay the remaining balance while form FTB 592-B is being reviewed.

When a Withhold at Source payment posts to BETS with a return due date, use ((****)) to determine if an estimate penalty is due.

Note: Follow unit procedures to have the payment applied.

Reference

((****))

[Form FTB 592](#)

[Form FTB 592A](#)

[Form FTB 592B](#)

[Revenue and Taxation Code Section 18662](#)

((****))

((***)

Form 592, Resident and Nonresident [Withholding](#) Statement – Most Common Errors

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 07/5/2018

8.1.1.5 Amended Returns

Background

An amended tax return is filed when there is a correction and/or adjustment to the original or amended return on file. Taxpayers may amend business entity returns as a result of an omission or underreporting of income, discrepancies in deductions or credits, failure to claim allowable deductions or credits, or notification from the Internal Revenue Service (IRS) that adjustments were made on the federal tax return.

Purpose

Amended returns allow taxpayers to make corrections and/or adjustments to the original or amended business entity return. The process of amending a business entity return assists Franchise Tax Board (FTB) in making correct adjustments and educates taxpayers on how to correctly complete their return.

Responsibility

FTB employees should recommend that a business entity files an amended return if the information appearing on the original return or on a previously amended return is not correct.

For example, the entity:

- Did not report an item of income or underreported an item of income.
- Claimed erroneous deductions or erroneous credits.
- Did not claim allowable deductions or allowable credits.
- Was notified by the IRS that adjustments were made to their federal return.

Action - Collection Procedures for Amended Returns BE

IF	AND	THEN
The business entity is in good standing with FTB and (SOS)	You can locate a copy of the amended return accessing BETS ((****)), or Taxpayer Folder (TPF)	Review the return for completeness and accuracy (signature, FEIN/Entity number, accounting period, correct legal name) prior to making a determination to delay collection action.
The business entity is in good standing with FTB and SOS.	You are unable to locate a copy of the return accessing BETS ((****)) or TPF	Obtain a copy of the return from the business entity and review the return for completeness and accuracy (signature, FEIN/Entity number, accounting period, correct legal name) prior to making a determination to delay collection action.
The business entity has a Suspended/Forfeited status,		<ul style="list-style-type: none"> • Check to see that the return is coded informational only. • Check comments to verify FTB Form 4056 was sent to the business entity advising that the return cannot be processed until revived. • Have the business entity resubmit the amended return for processing. Follow unit procedures for reviving the entity.
The business entity has a Suspended/Forfeited status,	There is no record of the return on BETS ((****)) or TPF	<ul style="list-style-type: none"> • Inform the business entity that we cannot process the amended return until the entity returns to good standing. • Use unit procedures to provide revivor requirements.
The business entity has a Suspended/Forfeited status,	The amended return will resolve the balance.	<ul style="list-style-type: none"> • Route the account to the appropriate holding state in ARCS • Release OTW/COTW if appropriate • Follow revivor procedures • Send amended return(s) for processing

		<ul style="list-style-type: none"> Advise entity balance is subject to change after revivor and processing of amended return.
The business entity has a Suspended/Forfeited status,	Amended return will result in a reduced or increased balance due.	<p>Work with the entity to obtain:</p> <ul style="list-style-type: none"> Payment in full (PIF) Installment agreement (I/A) Modify existing levies to ensure only the correct amount of tax is collected Ensure all penalty(s) are recalculated appropriately <ul style="list-style-type: none"> Once entity is compliant (PIF and filed), revive and send amended return for processing Advise entity balance is subject to change after revivor and processing of amended return.
Amended return is based on an audit (IRS or FTB)		<ul style="list-style-type: none"> Contact the ARM Audit Liaison who will work with audit employees to determine if the return is complete and accurate. Allow time for the audit issue to be resolved Delay collection action by placing a 90 day ARCS case hold. If no ARCS case, 90 days suppression in BETS
Amended return will result in a refund within statute		<ul style="list-style-type: none"> Route to appropriate hold state Release OTW/COTW if appropriate Ensure all penalty(s) are recalculated appropriately
The Amended return was filed to correct a return type:	Amended return will resolve the BETS balance	<ul style="list-style-type: none"> Cease collection action. Route to appropriate hold state Release OTW/COTW if appropriate Ensure all penalty(s) are recalculated appropriately

<p>The Amended return was filed to correct a return type:</p>	<p>Amended return will result in additional balance due</p>	<p>Work with the entity to obtain:</p> <ul style="list-style-type: none"> • PIF • I/A • Modify existing levies to ensure only the correct amount of tax is collected • Ensure all penalty(s) are recalculated appropriately
---	---	---

Amended returns will fall out to complex resolution for manual processing only when a situation exists. For general, multistate, and exempt corporations, the time frame is 12 months from the received date unless referred to audit. Limited Liability Company and Partnership, it is 12 months from received date. ((***)

If an amended return processing time exceeds posted timeframes, see your lead for priority processing. When an amended return is updated to BETS, the information on the amended return will replace the information from the original return in the tax year. The business entity will be notified of any adjustment made to the amended return during processing with a Notice of Tax Return Change (NTRC). NTRCs are automatically generated for all amended returns. ((***) ((***) ((***)

((***) ((***) ((***)

If the BES unit received an amended return for the current or prior tax year and the business entity is in good standing, an auditor will review the return for correctness:

- If the amended return is correct, it will be processed.
- If there is an issue with the amended return, the return will be forward to audit for future review.

If the business entity is not in good standing, the amended return will not be processed and will be placed in BETS ((***) as an informational return.

- Send the business entity an Administrative Correspondence (ADCORR) Letter
- If the business entity responds they will process based on business entity information
- If the business entity does not respond, they will post the amended to BETS as an original

A multiple return situation will exist only when more than one return for the same business entity and tax year posts with the same Business Entity Number. All multiple returns will be resolved by the Complex Resolution Unit.

Reference

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.1.2.1 Refund Trace

Background

A refund trace is the process used to determine if a paper refund warrant has been cashed, or a direct deposit refund (DDR) has been received by the business entity taxpayer or other authorized person.

Purpose

FTB employee may need to initiate a refund trace if a taxpayer reports:

- A paper refund warrant is lost, stolen, destroyed, or never received, or
- A direct deposit refund was not electronically deposited into the taxpayer's bank account.

Note: A refund trace of a paper refund warrant is also known as a stop payment because once a refund trace is initiated, it will place a stop payment on the original paper refund warrant.

Responsibility

FTB employees are responsible for identifying situations that may require a refund trace.

Action

Paper Refund Warrant

1. Determine whether a refund trace is appropriate.
 - a. If a taxpayer claims a paper refund warrant was received and it has been at least 25 working days from the issue date, then confirm the taxpayer's mailing address is current and update as necessary.
 - i. If it is less than one (1) year from the issue date, then FTB staff should request a refund trace.
 - ii. If it is more than one (1) year but less than 3 years from the issue date, then FTB employee may request a refund trace.

- iii. If it is more than three (3) years from the issue date, then FTB employee should not request a refund trace. Instead, ask the taxpayer to submit a claim to replace the refund warrant using Form 3900B Replacement Warrant Claim (Business Entity).
- b. If a taxpayer claims a paper refund warrant was received and then subsequently lost, stolen or destroyed, and
 - i. If it is less than one (1) year from the issue date, then FTB employee should request a refund trace.
 - ii. If it is more than one (1) year but less than 3 years from the issue date, then FTB employee may request a refund trace.
 - iii. If it is more than three (3) years from the issue date, then FTB employee should not request a refund trace. Instead, ask the taxpayer to submit a claim to replace the refund warrant using Form 3900B Replacement Warrant Claim (Business Entity).
- c. Do not initiate a refund trace if **any** of the following conditions exist:
 - i. Refund warrant posted as returned in BETS:
 - ii. Refund fully offset to another agency.
 - iii. Refund applied to any outstanding liabilities; or
 - iv. Timeframe for BES return processing has not elapsed.
2. To request a BE refund trace/stop payment of a paper refund warrant:
 - a. Complete FTB 6264, Business Entity Refund Stop Payment/Trace Request.
 - b. Attach a screen print of the LIA/Coll List screen from R208 to form FTB 6264 with the refund highlighted.
 - c. Route form FTB 6264 and the attachments to **BE Refund Warrant Desk**, MS F-283.
 - d. Comment the account in BETS and/or Taxpayer Folder.
 - e. Advise the taxpayer of the approximate timeframe to receive refund trace/stop payment results (currently 3 months) (time frame).

Note: If the refund warrant was not cashed within one year of the issue date, the warrant is no longer valid (Stale Date Warrant), and a new warrant will need to be issued.

Direct Deposit Refund (DDR)

1. Determine whether a DDR refund trace is appropriate
 - If it is less than 10 business days from the original issue date or transaction date of the DDR, a refund trace cannot be requested through the DDR liaison.
 - If it is more than 10 business days from the original issue date or transaction date of the DDR:
 - Confirm bank name, routing, and account numbers, and update as necessary.
 - Request a copy of taxpayer's bank statement for the period covering the original issue date or transaction date of the DDR, and upload information to the Taxpayer Folder (TPF).
 - Confirm bank contact information (representative, phone, and fax number), and update as necessary.
 - Confirm account period ending (APE) involved.
 - Confirm amount of refund.
 - Email **DDR liaison** with the information listed above at FTB FSB CASES technical support.
 - Advise the taxpayer of the approximate timeframe to receive refund trace payment results ((***)). (time frame).

FTB employee must follow unit procedures to contact the Returned Warrant Desk or the DDR liaison to initiate the refund trace.

Reference

((***)
 FTB 6264
 ((***)
 FTB 3900B

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/22/2018

8.1.3.1 Revivor/Restoration/Discretionary Revivors

Background

In order to conduct business within California, the business entity (corporation, limited partnership, limited liability company (LLC), or exempt entity) must generally either be registered with the California Secretary of State, or if a non-California business entity, qualify to do business with the California Secretary of State (SOS). A corporation, LLC, or exempt entity that is in compliance with these requirements is said to be in "good standing."

A corporation, LLC, or exempt organization may be suspended (domestic entities) or have its powers forfeited (foreign entity) by either the Franchise Tax Board (FTB) or SOS under Revenue & Taxation Code (R&TC) Sections [23301](#) and [23301.5](#) and Corporations Code Section [2205](#). The corporation's powers may be suspended or forfeited by either agency independently or simultaneously. In addition, per Assembly Bill 339, Uniform Limited Partnership Act of 2008, domestic limited partnerships that **cancelled on or after January 1, 2008** with SOS may be revived to ACTIVE status by filing a Limited Partnership Certificate of Revival with SOS. A confirmation letter issued by FTB must accompany the Certificate of Revival request made to SOS.

Revivor

A suspended or forfeited corporation or LLC, filing as a corporation or partnership, is no longer a legal entity. A suspended or forfeited entity may request to have their rights, powers, and privileges reinstated (revived).

Restoration

An entity will have its suspended status restored if it is determined that the suspension was made in error by FTB. An entity that is restored is treated as though it was never suspended. (R&TC Section [23305c](#))

Purpose

The purpose of reviving/restoring is to reinstate the entity's rights, powers, and privileges back to "good standing."

Responsibility

FTB employee must be able to identify and provide correct revivor requirements, and/or recognize when a restoration is needed.

Once an entity is suspended, the entity's name becomes available to be reissued by the SOS. If a reviving entity's name is no longer available, the entity will be notified by the FTB Revivor Unit and advised to contact the SOS. Through the SOS, they can reserve a name, obtain a reservation number, and amend the articles of incorporation to reflect the new name. This will delay the revivor process.

The entity may file the certificate of revivor with the county recorder if the entity wishes to make their status a matter of public record in the county in which they conduct business.

Once the revivor requirements are completed, upload the requirements to the Taxpayer Folder (TPF).

Action

Revivor

To revive, the entity must:

- File all delinquent returns from the date of incorporation. If the entity is suspended before the due date of the current year return the entity is not entitled to the automatic extension.
- Pay any balance due which could include:
 - Taxes
 - Penalties (including SOS penalty)
 - Interest
 - Fees
- File a signed [FTB 3557 BC](#), Application for a Certificate of Revivor, for corporations, [FTB 3557 LLC](#) for LLCs, or FTB 3557A for walk-through revivors.
- Obtain a Notice of Proposed Relief from Suspension letter from SOS, only if suspended by SOS.
- Complete and submit [FTB 3557C LP PC](#), Application for Confirmation Letter for Limited Partnership Revival.

- Form LP 4/7, Limited Partnership Certificate of Cancellation
- Form LP 2, Amendment to Certificate of Limited Partnership
- Form LP 10, Restated Certificate of Limited Partnership
 - Show the election to be governed by the Act of 2008.

If the entity is suspended by SOS only, FTB employee must advise them to contact SOS directly.

Note: Domestic limited partnerships that canceled their registration before January 1, 2008, have the same requirement as above, with the additional requirement of providing a copy of one of the following SOS file dated documents that shows they elected to be under the Uniform Limited Partnership Act of 2008. Exempt organization revivor information is located in [CPM Section 4.1.7.12](#) or contact the exempt unit for assistance. (See Internal Contact List)

When an entity requests to be revived, FTB employee must:

- Provide Revivor Requirements and FTB 4005 if requested (depending on entity type) according to unit procedures.
- Partnership – Issue FTB 4005 C P ARCS, Compliance Requirements letter, listing all missing tax returns and payments required. On eligible years, assess the amnesty penalty.
- Inform the entity to write “LP Revival” in red at the top of the first page of each tax return being filed. If only payment is required, “LP Revival” in red should be written on the top of the payment or voucher.
- Once the entity has complied with the requirements listed on FTB 4005 J LP PC, Limited Partnership Confirmation Letter Requirements, the collector will issue FTB 4057 LP PC, Confirmation Letter for Limited Partnership Revival. The lead **must** approve the letter before it's mailed out).
- Check the Bank and Corporation Master file (BCM)/microfiche/Foxpro when the suspension date precedes the earliest income year shown on BETS to see if there are any missing years or discharged amounts.
- Request estimates due (if applicable) for the current year, however, they may be revived without paying the estimate payment.
- Address Relief from [Contract Voidability](#) options. Any contracts entered into by a corporation while it was suspended or while its powers were forfeited are voidable.

- The entity must submit FTB 2518, An Application for Relief from Contract Voidability or submit a letter indicating the income year(s) for which relief is requested signed by a corporate officer.
- If FTB 2518 is submitted, payment for the penalty must accompany the application for Relief from Contract Voidability.
- Obtain a signed Application for Certificate of Revivor [form FTB 3557](#) (depending on entity type, or form FTB 3557A if a 'walk-through' is necessary).
- Inform the entity to contact SOS if suspended or forfeited by the SOS **only** to request a revivor. In addition, FTB employee should address all outstanding FTB collection issues.
- If the entity meets all requirements, follow unit procedures on submitting a revivor request.
- To revive an entity must be in complete compliance with filing and paying all outstanding liability from the date of incorporation or conducting business in California including and amnesty penalty or fees.
- Document "All" requirements clearly in ARCS/BETS/TPF. Indicating what returns and payments have been requested as part of the revival process.

The contract voidability penalty is assessed at \$100 per **day** for the period which relief is requested, but not to exceed a total penalty equal to the amount of the tax and fee (for LLC fee) that would be imposed for that period. The penalty shall be at least the amount of the minimum tax. (R&TC Section 23305.1)

Walk-Through Revivor

Under certain circumstances, an entity may request a walk-through revivor. A walk-through revivor is a one-day process and requires an entity's authorized representative to personally appear at a field office.

The business entity must provide one of the documents listed below naming the business entity in the document to be considered for a walk-through revivor:

- Show proof with a copy to be in either litigation or escrow.
- Show proof with a copy to have either pending loans or a pending federal grant.

The Corporation or LLC must:

- File all tax returns from the incorporation year through current.
- Pay all tax, penalties, fees, and interest due with certified funds (money orders and cashier’s checks).
- Address Relief from Contract Voidability options.
- Not provide Cash (there are exceptions to the no cash rule).
- Pay a \$56 walk-through revivor fee in separate certified funds (money orders and cashier’s checks).
- LLCs do not pay the walk-through revivor fee.
- File a signed Walk-Through Revivor Application, (FTB Form 3557A).
- Any stockholder, creditor, member, general partner, officer, or any person that has interest in suspension or forfeiture relief can sign the application on the business entity’s behalf.
- All field offices offer appointments for completing a walk-through revivor.

FIELD OFFICE	FOR WALK-THROUGH REVIVOR
Sacramento	Contact the field office directly for additional information
Santa Ana	
Los Angeles	
Oakland	
San Diego	

A letter from their attorney, CPA, or officer will not be verification of the facts for a walk-through revivor.

Restoration

If an entity is erroneously suspended or forfeited, FTB employee must restore the entity as though it was never suspended/forfeited. The entity must provide proof the suspension or forfeited was done erroneous. If no proof is provided, the entity will need to complete the revivor process.

An erroneous suspension may be due to, but not limited to:

- Not allowing a full 12 months for a return to post from the end of the accounting period.
- Not allowing a full 11 months from the date of the first billing for failure to pay.
- A company that proves they have no filing requirement based on their exemption.
- A tax return that has been filed timely, but has not posted to BETS.
- A payment that has been paid timely, but has not posted to BETS.

If the name is no longer available, the entity must contact the SOS.

FTB employee will document the TPF account as to why the entity qualifies for a restoration, and submit a request for the restoration to take place.

Discretionary Revivors

Discretionary revivors are only authorized under R&TC 23305b. FTB employee does not offer a discretionary revivor to the taxpayer. Discretionary revivors are only discussed when the contact specifically refers to this law section. We may revive a corporation to good standing without payment in full if reviving them will increase our chance of collecting the balance in full. Discretionary revivors are rarely approved and must be approved by a lead and/or supervisor. Follow your unit procedures. Reasons for Discretionary:

- Litigation
- Escrow or Loan pending
- Business or Occupational License
- Contracts

DISCRETIONARY PROCESS

- All requests will be screened to ensure the requirements are met under Revenue and Tax Code Sections 18601 (Filing of Returns) and 23305b.
- The reason for the request will be investigated for immediate collection opportunity, and to verify the request is valid.

- The financial condition of the business entity must be reviewed, a completed financial statement is required. (See CPM section 4.1.2.7).
- If there is no immediate method to collect the total amount due, the focus will turn to collecting **any** reasonable amount up front, and securing the remaining balance. The collector should utilize all available resources to negotiation terms that ensure FTB's best interests are being met.
- If the request clearly does not meet FTB business needs, it will be denied. This is a judgment call by the (CART) collector based on the information provided. (See internal contact listor Discretionary revivor).
- Any agreement to grant a discretionary revivor may **not** necessarily include an agreement to stay collection activity. Any future collection action should remain an option.
- Any collection actions, including liens, must be in place prior to granting a discretionary revivor.

Discretionary revivor must be approved by a lead and/or supervisor. Follow your unit procedures.

Reference

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[Revenue and Taxation Code Sections 23304.1, 23305, 23305b, and 23305.1](#)

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 07/5/2018

8.1.4.1 Contract Void Status

Background

Business entities that are not qualified or not registered through California Secretary of State (SOS) but are conducting business have a filing requirement. These entities cannot be suspended, but are subject to contract void status (C/V).

Non-Qualified – A foreign corporation which conducts business in California which have not qualified with California SOS

Unregistered – An entity that conducts business in California which has not registered with California SOS.

Unincorporated – Any other entities (LLC, LP, LLPC, etc.) but not a corporation.

If a non-qualified entity, with an assigned Franchise Tax Board (FTB) account number, fails to pay its taxes, penalties, and interest or fails to file a return, the entity may be subject to contract voidability (C/V). Any contracts entered into after the C.V status is assessed, become voidable.

Note: The C/V status has no bearing on the non-qualified (NQ's) rights to overpayments, claims, and extensions to file.

Purpose

Any suspended or forfeited business entity loses its rights, powers and privileges to operate business in California. As a result, any contract entered into, while suspended or forfeited is subject to be voided by the party(s) who entered into the contract with the business entity.

Although a NQ corporation cannot be suspended or forfeited, it can be subjected to a status of contract void.

Responsibility

The contract voidability penalty applies to the following business entities:

- C corporation
- S corporation
- Limited liability companies treated as corporation

- Exempt organizations with unrelated business income
- Exempt LLC organization with unrelated business income

It is FTB employee's responsibility to ensure [due process](#). A Final Notice Before Contract Voidability (FTB 2517) must be mailed to the entity at least 60 days prior to the date of contract voidability. If the contract voidability notice is not issued in 90 days (date certain) from the Final Notice Before Contract Voidability, the process must start over.

These notices are generated from Business Entities Accounts Receivable Collection System (BE ARCS), and inform the entity of the:

- Proposed date of the action.
- The income period that subjects the entity to the action.
- The balance due for each period.
- The applicable Revenue and Taxation Codes.

If the entity does not comply within 60 days from the mail date, the entity will receive FTB 2516, Notice of Contracts Subject to Voidability and any contracts made by the entity in California will be voidable at that time.

Any NQ/Non-registered entities have a C/V status, and decide to gain compliance with purchasing C/V Relief, they will be required to do the following:

- File all delinquent returns
- Pay all past due tax, penalties, fees, any other amounts due, and interest
- File form FTB 2518 –Application for Relief from Contract Voidability (including the requested period of relief and the form must be signed by the entity's officer or an authorized representative) and pay all the applicable C/V penalties for the requested relief period. FTB will change their C/V status to "Active" effective the start date of the requested relief period and ends the date of compliance.

Note: Any NQ/Non-registered entities have a C/V status, and decides to gain compliance *without* purchasing C/V Relief (C/V declined), they will be required to file all delinquent returns and pay all past due taxes, penalties, fees, any other amounts due, and interest. FTB will change their C/V status to "Active" with the effective date of compliance. A clear note should be indicated on BETS, and Taxpayer Folder regarding the C/V declined and the effective date of the entity's status.

Action

FTB employee may defer contract voidability status in BE ARCS ((***)). The cutoff date to defer contract voidability status in ARCS is approximately 5 business days prior to the contract voidability date. The cut-off for deferring C/V status by the green-line process is approximately two business days before the C/V date.

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 07/55/2018

8.1.4.2 Relief from Contract Voidability

Background

Every contract made in California by an entity during the period of Franchise Tax Board (FTB) suspension, forfeiture, or contract void status is voidable. Such contracts will remain voidable and unenforceable by the entity unless relief from contract voidability is applied for and granted by FTB.

Prior to January 1, 1994, a qualified business entity that wanted to be granted relief from contract voidability had to make a request at the same time the business entity applied for revivor.

Beginning January 1, 1994, a qualified business entity no longer needs to make the request for relief from contract voidability at the time of revivor. The business entity may now apply for relief from contract voidability after reviving.

Domestic Corporation - A corporation that is registered with California Secretary of State (SOS).

Qualified - A **foreign corporation** that is organized in another state or foreign country that has obtained certification from California SOS to conduct business in California.

Registered – A foreign non-corporate entity that has register with California SOS to conduct business in California.

Purpose

The purpose of relief from contract voidability is to allow business entities, registered or non-registered, the opportunity to make their voidable contracts enforceable.

Responsibility

To be relieved from contract voidability, the business entity must do all of the following:

- Provide FTB with an application of Relief from Contract Voidability (FTB form 2518) or submit a letter indicating the taxable year(s) for which relief is requested and signed by the business entity officer or the authorized representatives.

- Include on the application the period for which relief is requested
- File all tax returns.
- Pay all taxes, additions to tax, penalties, interest, and any other amounts due.
- Pay any penalties imposed for the period for which relief is requested.

Upon completion of the requirements, a Certificate of Relief from Contract Voidability (FTB Form 2519) will be issued to the business entity.

For exempt organization or trust, the penalty shall not exceed the total tax amount imposed upon its unrelated business taxable income for the period for which relief is requested.

When computing the penalty for a return that is not yet due, the minimum franchise tax will be considered the tax due for the period. The penalty will **not** be increased if a subsequent tax return is filed with a tax assessment more than the minimum tax.

It is the responsibility of FTB employee to offer relief of contract voidability during the revivor process.

Note: Entities suspended or forfeited by the Secretary of State (SOS) only are not subject to contract voidability, but do lose their corporate rights as described in Section 7.1.4.1.

Note: Corporations or exempt organizations revived prior to 1990 were not eligible for relief of contract voidability.

Note: Once assessed, the Contract Voidability penalty cannot be waived or withdrawn for reasonable cause.

Action

Any business entities registered with the SOS, with contracts that are voidable due to non-compliance, may be relieved of contract voidability by completing the following requirements:

- File all delinquent tax returns.
- Pay all delinquent taxes, additions to tax, penalties, fees, interest, and any other amounts due.
- File FTB 3557, Application for Certificate of Revivor.

- File FTB 2518, Application of Relief from Contract Voidability, or, in lieu of the application, by submitting a letter indicating the taxable year the relief is requested.
- Pay contract voidability penalty. (The contract voidability penalty is assessed at the rate of \$100 per day, but it is limited to the amount of the tax due for each accounting period requested, not to exceed \$36,500 for each accounting period. When calculating the Contract Voidability penalty for LLCs, the limitation includes both the LLC Annual Tax and the LLC Fee. When computing the penalty for a return not yet due, the penalty will be based upon minimum tax.)

If relief from contract voidability is requested during the revivor process, the entity can choose the beginning tax year of the relief period. The relief period can start on either the:

- Beginning of the tax year of suspension or forfeiture.
- Beginning of any tax year after the tax year of suspension or forfeiture.

The relief period ends on the date of revivor.

If relief from contract voidability is requested subsequent to revivor, the period for requested relief shall begin on the date the entity was suspended or forfeited and end on the date of revivor.

Non-qualified Corporations and LLCs treated as Corporations with an FTB assigned number can choose the start of the relief period during or even after they have brought themselves into compliance. The relief period can start on either the:

- Beginning of the tax year the contracts became voidable.
- Beginning of any tax year after the contracts became voidable.

The relief period ends when the Non-qualified Corporation or the LLC treated as a corporation bring themselves into compliance.

FTB employee must:

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Reference

[Revenue and Taxation Code Sections 23304.1, 23304.5, and 23305.1](#)
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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 07/5/2018

8.1.5.1 Tax Credits (Special)

Background

California special tax credits may be used to reduce the current year's tax liability for a business entity. If the current year's tax liability is reduced to the minimum tax, additional credits may be carried over. Special credits may not be used against Alternative Minimum Taxes. Although special credits maybe used to reduce tax liability, the liability may not be reduced below the minimum tax for any tax year.

Some business entities may claim these credits on paper or on e-file returns. The proper special credit forms must be attached to either the paper or e-file return to claim these credits.

Note: Taxpayers must file [Form 3540, Credit Carryover and Recapture Summary](#) to calculate and claim carryover credits for repealed credits that no longer have separate credit forms.

The courts have consistently maintained that income tax deductions are a matter of legislative grace, and the taxpayer who claims a deduction has the burden of proving, by competent evidence, that the business entity is entitled to that deduction.

Purpose

Tax credits are used to reduce an entity's current year tax liability, or if the credit's provisions allow, credits can be carried forward if the current year's tax liability is reduced to the minimum tax without using all of the credits.

Responsibility

It is the responsibility of Franchise Tax Board (FTB) employee to assist the business entity with tax credit questions.

If the business entity does not attach the required special credit form, Franchise Tax Board (FTB) will reject the return and send a letter to the filer stating that the return cannot be processed until the required form(s) are attached.

The following are some of the most common special tax credit claimed:

- Donated Fresh Fruits or Vegetables

- California Motion Picture and Television Production
- Donated Agricultural Products Transportation
- Enhanced Oil Recovery
- Enterprise Zone Hiring Credit
- Manufacturing Enhancement Area Credit
- Research Credit
- Targeted Tax Areas (TTA) Hiring Credit

Action

FTB Employee should:

- Review return summary on Business Entities Tax System.
- Pull the return of the tax year in question.
- Verify the claimed credit was processed correctly.
- Follow unit procedures for resolution.

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 07/5/2018

8.1.6.1 BE Support Account Adjustments

Background

The Advisory Analysis and Service Bureau (AASB) supports the ARM Division. Collection Account Resolution Services (CARS), Group C, BE Collection Support (BECS) within the ARM Division and is responsible for processing Business Entities, PTSP, and LLC transaction workloads in Business Entity Tax System (BETS). CARS-C provided support for Suspension/Revivor related requests, suspense payments, discharge transactions, and assists other units with temporary needs that result from legislation or special projects in support of Franchise Tax Board (FTB).

Purpose

CARS-C provides services to Business Entity (BE) Collection Employees including; assisting with the Suspension Process within the specified criteria and scheduled deadlines. The primary customers are the Reactive and Proactive Collection Groups, but we also process workloads for the BE Bankruptcy Unit. In addition, CARS is available to process these workloads:

- Missing Year Notice of Proposed Assessments
- BE Discharge Report
- Advocate Office referrals

Responsibility

It is the responsibility of the BE Support Group to support the ARM Division collection employees and adjust taxpayers' accounts to ensure that:

- Actions are taken in a timely manner.
- Sound technical conclusions are made.
- Taxpayers' Bill of Rights are protected.

Collection employees will follow unit procedures and the [BETS Transactions guidelines](#) when submitting BE support requests.

In addition to collecting taxes, FTB support employees must inform collectors when they cannot perform a requested transaction.

Action

BETS transactions are returned to the requestor when further clarification is required or when a request is not able to be processed. CARS-C employees provides an explanation is provided when the request cannot be processed. CARS-C uses the following process when requests are returned.

- FTB business entity number
- Business entity name
- Tax Year(s)
- Type of transaction request
- Reason for the request
- User Id, payroll unit number, User Id phone number, source code, reason code

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Reference

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.2.1.1 Tax Returns, Forms, and Document Requests

Background

When working an account, it may become necessary to obtain a tax return or additional documentation to achieve account resolution. The Receiving & Data Storage Section (RDSS) maintains the following documents available upon Franchise Tax Board (FTB) employee request:

- Payment documents (e.g., estimate payment vouchers)
- Paper transactions
- Machine condensations
- Withhold purge
- Corporation purge
- Filing enforcement purge
- Tax Returns

Note: RDSS has withhold (W/H) purge information for tax years 1984-1989 and Filing Enforcement (FE) purge information for tax years 1977-1994, ((***)). ([See Section 4.2.1.11 Withhold Purge File - Microfiche Requests](#))

The Forms Request System (FRS) is an online program that allows FTB employees to request tax booklets, forms, schedules and/or publications to be mailed to taxpayers, authorized taxpayer representatives, and tax professionals.

Purpose

A tax return, form, and/or document search provides FTB employees additional information that may be used to resolve the case or make appropriate adjustments.

Responsibility

FTB employees are responsible for identifying scenarios in which a tax return request, form or document search is required. In addition to tax returns, RDSS is responsible for the retention of Personal Income Tax (PIT) estimate and extension payment documents stored four and one half years from the received date. Manual transaction documents are stored for four and one

half years from the date of the transaction, with the exception of manual refunds, which are stored for seven (7) years.

Action

The following methods may be used to view/request PIT returns:

- The Return tab of Taxpayer Folder
- [Return on Demand Scanning \(RODS\)](#) (use this method whenever possible Taxpayer Folder (TPF) [Section 430550](#))
- [Rush request](#)
- Using ((***)
- EDR (Retention information)

Note: ((***)

Recharging Returns: It may be necessary to request a tax return from RDSS. RDSS provides return(s) to employees upon request and maintains a record of the individual and unit in possession of the return. If a return is requested while in possession of another individual, the individual may route the return to the requester making RDSS aware of the exchange. This process is referred to as recharging a return.

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Forms may be requested through the Forms Request Input Screen (FRS)

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For Additional Information On Recharging Returns:

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For additional information on form requests:

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 08/01/2018

8.2.1.2 Turnaround Documents and Entity Changes

Background

During the course of Skip Tracing (CPM Section 5.2.1.1 Skip Tracing Introduction) Franchise Tax Board (FTB) employees may issue requests for information including, but not limited to:

- Address verification
- Contact information
- Employment verification
- Asset information

When the requested information is received it is referred to as a **turnaround** document.

In addition to turnaround documents, FTB employees occasionally will receive requests from taxpayers via telephone, letter, email, or fax asking that their personal information be updated. A taxpayer's personal information (which identifies the taxpayer's Social Security Number, Taxpayer Identification number (also known as a TPID), name, mailing address, guardian/executor name, telephone, address source, address date and address status) is updated in Taxpayer Folder (TPF).

Purpose

Inputting the status of turnaround documents and updating entity information expedites collection actions by having the most current information available.

Responsibility

FTB employees are responsible for updating the information received on turnaround documents or entity change requests onto the appropriate system.

Action

Within two to three business days, FTB employees will enter the most pertinent information received on turnaround documents into TPF, the Taxpayer Information (TI) system, or the Accounts Receivable Collection System (ARCS), depending on the nature of the correspondence. By

entering this information, employees will see why the information was changed or what information was received.

For TPF information, follow unit procedures.

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 08/01/2018

8.2.1.3 Limited Retention File (LIM)

Background

The Receiving and Data Services and Storage Section (RDSS) maintains a file of tax returns and other information beyond the normal destruction date for record retention. This file is referred to as the Limited Retention File (LIM). In addition to tax returns, the following information may be available by RDSS:

- Copies of audit files
- Proposed assessments
- Correspondence

Purpose

The purpose of LIM is to allow additional time for document retention.

Responsibility

Franchise Tax Board employees must know that select documents will be kept past their normal destruct date.

Action

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 08/28/2018

8.2.1.4 Withhold at Source

Background

Withholding at Source is a prepayment of the income (or franchise) tax due on the date(s) California source income was earned. It is not an additional tax because the payee will be allowed to offset the tax due on the return with credit for the tax withheld at source.

Purpose

The purpose of the California Withhold at Source program is to ensure that California source income is subjected to California income tax.

Responsibility

Franchise Tax Board (FTB) employee should be aware of the withhold rate on California sourced income found on the [Instructions for forms 592, 592-A, and 592-B](#). Additionally, FTB employee should be aware of income that is not taxable by California in reference to withhold at source.

Per [Revenue and Taxation Code Section 18662](#) any individual or entity making payments of California source income are subject to withholding at source.

Income Subject to Withholding at Source:

- Income or gain allocations to domestic (non-foreign) nonresident partners or members.
- Payments to nonresident independent contractors for services performed in California by, entertainers, athletes, and speakers.
- Rents or lease payments where the property is located in California.
- Royalty payments where the property is located in or has acquired a business situs (legal jurisdiction or taxation) in California.
- Trust distributions to nonresident beneficiaries.
- Estate distributions where the decedent was a nonresident.
- Distributions to domestic (non-foreign) nonresident S corporation shareholders, partner, or members.

- Any disposition from the sale or exchange of California real estate by California resident and nonresident individuals and non-California business entities.
- Prizes and winnings received by nonresidents for contests in California.

Income **not** Subject to Withholding:

- Payments for goods.
- Payments to a tax-exempt entity, insurance company, the Internal Revenue Service, or qualified pension or profit sharing plan.
- The vendor or payee receives a written authorization from FTB waiving the withholding.
- Payments for services performed outside California, for rents, royalties, etc.

Action

FTB employee should verify through the Taxpayer Information (TI) system withhold at source display ((***) or by contacting the Withholding Services and Compliance Section ((***) or mail at:

STATE OF CALIFORNIA
 WITHHOLDING SERVICES AND COMPLIANCE MS F182
FRANCHISE TAX BOARD
 PO BOX 942867
 SACRAMENTO CA 94267-0651

((***)

Reference

[Revenue and Taxation Code Section 18662](#)
[Withholding Services and Compliance Section](#)

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/29/2018

8.2.1.5 Filing Enforcements

Background

The Filing Enforcement (FE) Processing Service enables Franchise Tax Board (FTB) to efficiently identify, notify, and secure returns from businesses and individuals who did not file a return(s) when they have a requirement.

[Revenue and Taxation Code Section 19087](#) provides the legal authority for the FE Program. The Integrated Nonfiler Compliance (INC) system is used by FTB to identify and secure compliance from individuals and business entities who have failed to file California tax returns. Prior to the implementation of the INC system in May 2001, the FE file was used to identify taxpayers who appeared to have a filing requirement with California, but FTB had no record of a return. The FE file was used to:

- Display up to three years of FE assessments.
- Display entity, account status, and income information.
- Issue FE demand letters ((****)).
- Compute a proposed tax liability.
- Allow FTB staff to make certain online changes to the file, prior to the issuance of a Notice of Proposed Assessment (NPA).

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Purpose

INC is used to identify taxpayers who appear to have a filing requirement with California where FTB has no record of a return being filed. FEs are used to enforce the filing of a tax return for non-compliant taxpayers and ultimately, through the collection program, take action to secure compliance, if necessary.

Responsibility

Whether a taxpayer is responding to a Request or Demand for Tax Return notice, or FTB is contacting the taxpayer regarding an FE, FTB employee is responsible for explaining the FE and the basis of the assessment and related penalty(s).

Action

FTB employee can locate FE information for:

- 1994 and prior using FE purge microfiche
- 1995-1998 using the FE file
- 1999 to current using the INC system

Reference

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[Revenue and Taxation Code Section 19087](#)

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 07/5/2018

8.2.1.6 Amended Returns

Background

An amended tax return is filed when there is a correction and/or adjustment to the original or amended return on file. Taxpayers may amend returns as a result of an omission or underreporting of income, discrepancies in deductions or credits, failure to claim allowable deductions or credits, notification from the Internal Revenue Service (IRS) that adjustments were made on the federal tax return, or a change in the filing status.

Purpose

Amended returns allow taxpayers to make corrections and/or adjustments to the original or amended return. The process of amending a return assists Franchise Tax Board (FTB) in making correct adjustments and educates taxpayers on how to correctly complete their return.

Responsibility

FTB employees should recommend that an individual file an amended return if the information appearing on the original or on a previously amended return is not correct.

For example, the individual:

- Did not report an item of income or underreported an item of income.
- Claimed erroneous deductions or erroneous credits.
- Did not claim allowable deductions or allowable credits.
- Was notified by the IRS that adjustments were made to their federal return.

Action - Collection Procedures for Amended Returns for PIT

IF	AND	THEN
A return or amended return is filed by a taxpayer whose account	TP is in possession of a copy of the return	<ul style="list-style-type: none"> • Ask the taxpayer to provide a copy of the amended return. • Review the return for completeness and accuracy prior to making a determination to delay collection action.

is in collections	If the amended return is based on an audit (IRS or FTB)	<ul style="list-style-type: none"> • Have your Lead contact the ARM Audit Liaison who will work with audit staff to determine the accuracy of the return. • If it is determined the amended return is complete and accurate, and reduces or cancels the taxpayer's liability, delay collection action to allow time for the audit issue to be resolved.
	If an outstanding liability is due from an amended return	<ul style="list-style-type: none"> • Work with the taxpayer to obtain payment in full (PIF) or, • Establish an installment agreement (I/A) or modify existing levies to ensure only the correct amount of tax is collected.
	If the amended return has a zero liability	<ul style="list-style-type: none"> • Delay collection action and place a six month case hold on the account to allow time for the amended return to be processed. Release COTW(s), OTW(s), and/or EWOT(s). If an installment agreement is in place, terminate the agreement and apply any payments on the open year(s) other than the year being amended.
	If it is determined an amended return may be incomplete, inaccurate, or there is no change to the tax due	<ul style="list-style-type: none"> • Consult with your Lead or Supervisor to determine the next action; if additional analysis is necessary, it may be appropriate for your Lead to contact the Audit Liaison who will work with audit employees. • After careful review, collection action may continue as normal.

Amended returns will fall out to complex resolution for manual processing only when a situation exists that Taxpayer Information (TI) cannot resolve. **The amended return will not post on TI until it has been resolved.** It will only show ((***) as received and that it has been sent ((***) to be processed.

((***)

- Comments in TI and Taxpayer Folder indicate the Audit business area is still working the account, these comments may provide you with information showing the amended return may not be accepted. If the amended return status is not clear, follow your unit procedure to have your lead contact the Audit Liaison who will work with audit employees.

If an amended return processing time exceeds posted timeframes, see your lead for priority processing. When an amended return is updated to TI, the information on the amended return will replace the information from the original return in the tax year. The taxpayer will be notified of any

adjustment made to the amended return during processing with a Return Information Notice (RIN). In the summer of 2015, the RIN name was replaced with Notice of Tax Return Change (TRC). ((***) (***))

((***) (***))

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If the Information Validation Section (IVS), Complex Validation unit received an amended return for the current tax year and no original return is posted, they will suspend the "Single Amended" in the Amended Return No Original (ARNO) File until August 1.

After August 1, IVS will:

- Send the taxpayer an Administrative Correspondence (ADCORR) Letter
- Process the return based on taxpayer information, if the taxpayer responds, they
- Post the amended return to TI as the original, if the taxpayer does not respond,
- Only allow Renter's Credit or withholding credits if it is substantiated

A multiple return situation will exist only when more than one return for the same taxpayer and tax year posts with the same Social Security Number. All multiple returns will be resolved by the Complex Resolution Unit. The Unassigned Correspondence Group will only work returns with different Taxpayer Identification numbers or if there was an error made in processing the multiple returns.

Reference

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[Amended Individual Income Tax Return - Form FTB 540x](#)

[Amended Individual Income Tax Return - Form FTB 540x instructions](#)

((***)

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.2.1.7 Estates and Trusts

Background

An **Estate** of a decedent is the total property, real and personal, which was owned by a decedent prior to the distribution of the property, whether the property is to be distributed:

- In accordance with the terms of a will, or
- Pursuant to the inheritance laws in the state of domicile of the decedent when there is no will.

A **Trust** is a legal arrangement created by a grantor whereby a fiduciary is to hold and administer certain property for the benefit of designated beneficiaries. Trusts are typically memorialized by an instrument setting forth the provisions of the trust and subject to administration under the laws of the state. The following are various types of trusts:

- Revocable Trust – May be revoked at any time by the grantor
- Irrevocable Trust - Cannot be revoked by the grantor
- Complex Trust – (which distributes principal (corpus), or that may have a charitable beneficiary. A trust may change from simple to complex and back. In its final year, it must be a complex trust) - a trust that (1) accumulates some portion of its annual earnings and adds them to corpus; (2) a trust that makes charitable contributions during the year; or (3) a trust that makes distributions from principal during the year.
- Simple Trust – A trust that distributes all current annual income during the taxable year.
- Testamentary Trust – a trust that arises only after the death of a decedent. This type of trust is created by will.
- Inter vivos Trust – a trust created during the lifetime of the grantor.
- Charitable Trust – trust created for the benefit of a charity or charitable organizations. Certain charitable trusts are permissible as tax exempt organizations by statute, such as Charitable Remainder Trusts, and Charitable Lead Trusts. These types of trusts must strictly adhere to the federal rules prescribing their use.
- Spendthrift Trust – A trust that contains certain limitations on the use and application of distributions to the beneficiary. Many trusts also contain “spendthrift provisions” containing similar language.

- Qualified Terminable Interest Property Trust (QTIP) –A term defined by the Internal Revenue Code as property that may be granted to a surviving spouse for a term of a life estate while still permitting use of the marital estate tax deduction.

((***)

A **Fiduciary** is a guardian, trustee, executor, administrator, receiver, conservator, or any person (individual or corporate) responsible for the custody and/or administration of property of any person, estate, or trust.

Purpose

Estates and Trusts allow Franchise Tax Board (FTB) to collect tax on income created by the grantor for the benefit of designated beneficiaries.

Responsibility

FTB employees must identify when a fiduciary is required to file a Fiduciary Income Tax Return, [form FTB 541](#) for an estate or trust.

Estate:

Revenue and Taxation Code Section 18505 requires a fiduciary of an estate to file returns on behalf of the decedent for the year in which the death occurred, and for prior years, if returns for those years should have been filed but were not filed by the decedent.

Trust:

A trust is a legal arrangement under which property is held by one party (trustee) for the benefit of another (beneficiaries or remainderman). A trust separates legal title and beneficial title. There are many types of trusts. They may be revocable or irrevocable. Their income distributions may be required or discretionary and simple or complex. The trust instrument will detail the trust requirements (stipulations). Depending on the instrument and timing of California's adjustment, the tax consequence can be to the grantor, beneficiary, or trust. For example, a revocable trust is taxable to the grantor. A required distribution is taxable to the beneficiary. A discretionary distribution is taxable to the trust. The trust instrument will detail if the trust is revocable, and if income distributions are required or discretionary.

All of the income derived from trust sources within California is reportable to California and is taxable.

Income is reportable to the trust based on the residence of the trustees and noncontingent beneficiaries.

Taxpayers will receive an [IRS Schedule K-1 \(Form 1041\)](#), Beneficiary's Share of Income Deductions, Credits, etc., and possibly a [FTB Schedule K-1 \(541\)](#), Beneficiary's Share of Income Deductions, Credits, etc., reporting the trust's distributed income. Income reported on FTB Schedule K-1 (541) is taxable to the beneficiaries as follows:

- California resident beneficiaries are required to report all income regardless of source on their personal income tax return.
- California nonresident beneficiaries are only required to pay California personal income tax on Schedule K-1 (541) income sourced to California.

For a trust of any kind to exist there must be:

- A settlor/grantor
- A trustee
- A beneficiary
- Assets
- An instrument or agreement

Definitions:

Settlor or Grantor: The person who transfers assets into a trust for the benefit of another. Interchangeable with Settlor, Grantor or Donor.

Trustee: The person or corporation that holds legal title to the trust's assets. Entity trustee is typically named in a trust instrument and will manage the property owned by the trust and distribute any income according to the document.

Beneficiary: A beneficiary means a person with a current or future beneficial interest in property, whether that interest derives from an estate or a trust.

Property: A trust is created only if there is trust property.

Trust instrument (agreement): This contains the conditions and limitations concerning all property in the trust and all parties having an interest in the

trust. The instrument specifies the trustees, beneficiaries, remaindermen, revocability, assets, distributions, and termination.

A fiduciary is required to:

- Notify all creditors or potential creditors (Probate Code 9050)
- Seek out and gather all assets of the decedent (Probate Code 9650)
- Maintain bank accounts, investments, property, and business of the decedent (Probate Code 9700)
- Administer the property in accordance with the instructions of the decedent or grantor (trust), and in compliance with local law
- Pay all valid debts and expenses
- File required returns and pay taxes
- Distribute the property or the income to the proper beneficiaries
- Trustees are further subject to requirements imposed by the Probate Code, such as duties to administer the trust, duty of loyalty, dealing impartially with beneficiaries, avoiding conflict of interest, etc. (Probate code section 16000, et seq.) Trustees must also comply with the Uniform Prudent Investor Act and must report information and account to beneficiaries.

Note: The Fiduciary can be held personally liable for failing to pay the tax liabilities of the decedent or estate. Revenue and Taxation Code Section 19516.

Action

FTB employees will inform the fiduciary (or one of the joint fiduciaries) that they must file a [form FTB 541](#) for the estate or trust for which the fiduciary acts. ((****))

Estate

Accounts are identified as decedent accounts after it has been confirmed the date of death by researching the following resources:

- Confirm the Date of Death if not indicated on TI Status
 - Sources of Decedent Information:
 - Third Party Contact(s): Last known employers, spouses, landlords, neighbors and relatives

- Department of Motor Vehicles database
- Lexis/Nexis – Available from the Social Security Administration files
- Internet

Locate Probate Information for the Deceased Taxpayer

Once the death has been confirmed, the collector can enter the date of death in the Taxpayer Information TI system and the collection account will be automatically routed to the probate group for further investigation and account resolution.

If, in the course of collecting an account, the collector identifies or gathers probate information, that information should be forwarded to the probate group to file a creditor claim.

If the account has a liable spouse on any open years, continue collection on the account through the liable spouse. Contact the Decedent unit for a probate check and to update the account with the decedent flag in ARCS. FTB employees should obtain probate information from the liable spouse and forward it to the Probate group.

If no probate information for the deceased taxpayer is available through sources indicated and the liability is joint, the surviving spouse cannot be located or it has been determined a hardship would result from involuntary collection action, the account should be routed to the Decedent unit with a discharge recommendation for the liable spouse. The Decedent unit will determine the outcome of the account.

When FTB employees discovers the probate has been closed, FTB employees may still be able to collect from the fiduciary or the beneficiaries. The probate may be closed but the exposure to liability for the decedent's unpaid taxes may be transferred to the fiduciary and beneficiaries of the estate.

Beneficiaries of the estate, those individuals that received assets from the taxpayer's estate, can also be held liable for the decedent's unpaid taxes. Revenue and Taxation Code Section 19071 and 19073 establishes the secondary liability of a transferee of property of a taxpayer for the unpaid tax liability of that taxpayer.

Every fiduciary who pays in whole, or in part, any claim other than claims for taxes, administration expenses, funeral expenses, expenses of last illness or family allowances is personally liable to the state for the unpaid taxes,

interest, and penalties up to the amount of the improper distribution or payment (Revenue and Taxation Code Section 19516).

In instances where the fiduciary knew of the liability and elected not to resolve it, the representative can be held personally liable for the outstanding tax, penalty, and interest of the decedent.

In order to hold the fiduciary personally liable, FTB must first prove the assets were improperly distributed in violation of the order of priority, (Probate Code Section 11420) and the fiduciary had personal knowledge of our claim to the estate assets.

In order to hold the fiduciary or beneficiaries liable for the estate's outstanding tax obligation, the liability must be transferred. (See CPM section 7.1.3.4 transferee)

Trust

FTB collectors should always make contact with the Trustee. The Trustee may have the authority to make voluntary payments on the beneficiary's tax debt, even over the objections of the beneficiary.

The proper mechanism for reaching assets in a trust is a Nominee action. (See CPM Section 9.0.3.6 and 7.1.3.4 for Ralite Decision)

Indicators a trust may be abusive:

- Grantors retain complete use and control of a trust asset.
- Creation of the trust does not change any economic relationship or there is no economic purpose of the trust.
- Trustee does not have any control over trust assets.
- Assets flow in and out of the trust for the benefit of the grantor/beneficiary.
- Concealment of the identity of the grantor, trustee, and beneficiaries.

Trust Documents

Real property must be in writing and signed by the trustor, trustee, or agent.

Reaching Trust Assets

- Assets in an inter vivos trust are reachable.
- If the trustor is deceased, estate law governs.
- If the taxpayer is the beneficiary, distributions are reachable by levy.

Collector's Responsibilities:

The collector should obtain a copy of the trust or trust documents and review the documents with his/her lead. Then the lead will consult the Collection Advisory Team (CAT) for guidance. A copy of the trust may be obtained using a blank (fillable) Demand for Information (FTB 4973) to the trustee or a Subpoena Duces Tecum. The following information should be requested in the Demand for Information (FTB 4973):

- Name of the trust
- Copy of the trust (including amendments) or the formal written agreement
- Type of trust
- Revocable or irrevocable trust
- Name of the Trustor/Settlor
- Name of the Trustee
- Name, address and phone number of the beneficiary(s)
- List of all known assets, including all bank accounts owned or operated and under the control of the trustee.
- List of any trust assets sold
- Amount of funds or list of physical assets (including their value) transferred to the beneficiary(s)
- Solvent or insolvent

Once the collector has obtained a copy of the trust and analyzed the information, the collector should work with their lead to request approval (by CAT) for a transferee action. Requests must be made in writing in a narrative format and must provide the background of the case.

If the transferee action is approved by CAT, prepare the OTW, COTW, EWOT, or lien, using the transferee's name. The name must appear as in the following example:

John J. Jones, Transferee of the John J. Jones Family Trust.

Reference

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[Franchise Tax Board Estates and Trusts Forms](#)

((***)

Additional Estate and Trust Forms:

- Fiduciary Income Tax Return [form FTB 541](#), [form FTB 541 Instructions](#)
- Allocation of Estimated Tax Payments to Beneficiaries [form FTB 541-T](#), [form FTB 541-T Instructions](#)
- Payment Voucher for Automatic Extension for Fiduciaries [form FTB 3563](#)
- Request for Estate Income Tax Clearance Certificate [form FTB 3571](#)
- Underpayment of Estimated Tax by Individuals and Fiduciaries [form FTB 5805](#), [form FTB 5805 Instructions](#)
- Income Tax Return for Qualified Funeral Trusts [form FTB 541-QFT](#), [form FTB 541-QFT Instructions](#)
- Tax on Accumulation Distribution of Trusts [form FTB 5870](#)

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.2.1.8 Frivolous Activity-Non Filer (FAN)

Background

A Frivolous Activity Non-Filer (FAN) is an individual who has made or makes a formal objection against filing tax returns, paying taxes, and obeying tax laws. A formal objection is made through anti-tax correspondence (Filing Enforcement notices, billings, letters to audit, etc.). A frivolous activity scheme is any scheme with the purpose of expressing dissatisfaction with the tax laws by either interfering with the administration of laws or attempting to illegally avoid tax liabilities. At this time, only Personal Income Tax Filers are considered FANs with FTB. Frivolous correspondence from Businesses should not be routed to the FAN Unit.

Correspondence from a FAN may include, but are not limited to the following:

- Cites constitutional basis for exemption from income taxes.
- Mentions "legal tender" (gold and silver).
- Contains reference to [R&TC Section 18401](#).
- Claims "vow of poverty" (usually a religious belief).
- Contains reference to the [Uniform Commercial Code \(UCC\)](#).
- Cites Franchise Tax Board (FTB) lacks jurisdiction to require payment of tax.
- Cites court cases to support nontaxable income.
- Cites arguments against taxation.
- Mentions Non Resident Alien/Federal Zone Arguments.
- Mentions Non Taxpayer/ Tax Protesters.
- Files Affidavit of Notice of Default.

Purpose

FTB allows taxpayers protest rights if they dispute the validity of an assessment. Frivolous protest correspondence received (timely or untimely) in response to a Notice of Proposed Assessment (NPA) should be routed to the Special Programs Workbasket and a category of "FAN." The right to protest an assessment is provided in the [Taxpayers' Bill of Rights](#).

Responsibility

Effective January 1, 2016, correspondence received via Case Management will automatically be routed to the FAN unit once it is associated to a FAN account. After the correspondence is reviewed by the FAN unit, it will be routed to the assigned collector or assigned unit as indicated in ARCS. The FAN unit will comment the Taxpayer Folder (TPF) that FAN Unit has reviewed. FAN accounts that have been reviewed by the FAN Unit will indicate "FAN Review" in the subject line. If the comments indicate a PASS letter has been sent to the taxpayer and you need a copy of the PASS letter, please send an email to FTB FAN.

When an NPA protest is filed by a FAN, the FAN unit will review the proposed assessment against the protest to determine the validity. If the taxpayer requests a hearing in the protest, the FAN unit will take the appropriate actions in accordance with the Taxpayers' Bill of Rights. The FAN Unit is the only unit that handles NPA protest on FAN accounts. These requests **must** be in writing. If you have any questions, please send an email to FTB FAN.

If an EWOT or Hardship hearing is requested, refer to ((****)). The FAN unit does not handle this type of protest requests.

Action

Because all FAN correspondence will be funneled through the FAN Unit, all correspondence on FAN accounts will be worked as any regular correspondence. Correspondence does not need to be sent back to the FAN Unit for review. For any questions please, see the links below, contact the FAN Unit (see internal contact list), or email the FAN unit at FTB FAN.

If you are threatened by a FAN or a FAN's representative, please notify the FAN Unit via email with the details. This includes threats made against you or your family and/or threats of liens or legal actions being taken against you personally because you have refused to release a legal action or cancel a tax liability.

Reference

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 07/6/2018

8.2.1.9 Tax Computations

Background

Franchise Tax Board (FTB) uses tax computations to help taxpayers understand the debits and credits on their account. The tax computation letter details the debits and credits on each tax year requested. The letter includes the tax liability, penalties, fees, and any credits, including payments, to the account. The tax computation can be requested for one tax year or multiple tax years.

The tax computation program now displays the four AB911 write off types. Please refer to the [AB911 Project Reference Guide](#) for more information.

Purpose

The purpose of a tax computation is to aid the taxpayer in understanding their balance due and how it was derived.

Responsibility

FTB employees is responsible for initiating a tax computation upon a request from the taxpayer.

Action

A tax computation can be performed three ways:

- Tax Computation program through the Taxpayer Information (TI) system, Electronic Communication System (ECOM) ((***)
- Manually. Use [FTB 6716](#).
- Tax Computation program.

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Place the completed tax computation into the Taxpayer Folder (TPF) of the applicable taxpayer by uploading the correspondence.

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 07/06/2018

8.2.1.10 Pending Federal Cases

Background

While servicing an account, Franchise Tax Board (FTB) employee may receive notification from the taxpayer that the Internal Revenue Service (IRS) is reviewing their account, or the account is under reconsideration which will take six months or longer to resolve. When correspondence is received that indicates there is a pending federal case that may take more than six months to resolve, you may need to contact a Collection Advisory Team (CAT) advisor via the [ASK Cat email ID](#) to determine how to handle the case.

Note: Only cases that IRS correspondence has identified may take longer than six months to resolve should be considered pending federal account.

Purpose

Knowledge of procedures, when dealing with pending federal accounts, ensures that correspondence pertaining to a pending federal issue is routed to specialized employee. Furthermore, it reduces the amount of turnaround time in response to the taxpayer ((***)).

Responsibility

FTB employee is responsible for recognizing incoming correspondence that indicates a pending federal case and forwarding it if it states that it will take longer than six months to resolve.

Action

When it has been identified that an account is a pending federal account, the account may contain open tax years unrelated to the pending federal issue.

Refer to your unit procedures and/or the ((***) for additional information under the "Audit Information" section.

OPEN Tax Years Exist on a Pending Federal Account

If it is determined the correspondence should be referred to Audit for review, a correspondence assignment must be created in Case Management (CM). Scan the document or convert the faxination into a PDF on the ((***) prior to taking the steps below:

- Verify in TI or NDF that the audit type is either: CP2000, RAR, HOH, or STARS (except tribal).
- Verify the correspondence received from the taxpayer consists of the necessary supporting documentation for audit review.
- Route the assignment to the "Audit" Workbasket from the dropdown list.
- Update the Assignment Category to "Clerical Liaison" from the dropdown list.
- In the notes section enter the following information:
 - Audit type (CP2000,RAR,HOH, STARS)
 - Revenue code
- Comment the Taxpayer Folder.
- Place appropriate case hold in the Accounts Receivable Collection System (ARCS), per your unit procedures.

Important Reminders

Lead Review: All audit referrals need to be reviewed and approved by your lead. Please refer to your unit procedures on how your business area will be handling the review process.

Uploading of Documents: Please refer to your unit procedures on how your business area will be handling the uploading of documents to CM.

Routing Workaround: With EDR release R2.3.2 (at the end of February 2016), you will no longer have to update the assignment category to "Refer to Other Area" first, you will be able to re-categorize directly to "FSSAS Clerical Liaison."

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All Tax Years are Pending Federal

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Reference

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 07/06/2018

8.2.2.1 Refund Trace

Background

A refund trace is the process used to determine if a paper refund warrant has been cashed, or a direct deposit refund (DDR) has been received by the taxpayer or other authorized person. This request allows FTB employee to request a trace on a refund.

Note: Once a trace has been initiated, it will place a stop payment against the refund warrant.

Purpose

FTB employee may need to initiate a refund trace if a taxpayer reports:

- A paper refund warrant is lost, stolen, destroyed, or never received, or
- A direct deposit refund was not electronically deposited into the taxpayer's bank account.

Note: A refund trace of a paper refund warrant is also known as a stop payment because once a refund trace is initiated, it will place a stop payment on the original paper refund warrant.

Responsibility

FTB employees are responsible for identifying situations that may require a refund trace.

Action

Paper Refund Warrant

1. Determine whether a refund trace is appropriate.
 - a. If a taxpayer claims a paper refund warrant was received and it has been at least 25 working days from the issue date, then confirm the taxpayer's mailing address is current and update as necessary.

- i. If it is less than one (1) year from the issue date, then FTB employee should request a refund trace.
 - ii. If it is more than one (1) year but less than 3 years from the issue date, then FTB employee may request a refund trace.
 - iii. If it is more than three (3) years from the issue date, then FTB employee should not request a refund trace. Instead, ask the taxpayer to submit a claim to replace the refund warrant using Form 3900A Replacement Warrant Claim (Personal Income Tax).
- b. If a taxpayer claims a paper refund warrant was received and then subsequently lost, stolen or destroyed, and
- i. If it is less than one (1) year from the issue date, then FTB employee should request a refund trace.
 - ii. If it is more than one (1) year but less than 3 years from the issue date, then FTB employee may request a refund trace.
 - iii. If it is more than three (3) years from the issue date, then FTB employee should not request a refund trace. Instead, ask the taxpayer to submit a claim to replace the refund warrant using Form 3900A Replacement Warrant Claim (Personal Income Tax).
- c. Do not initiate a refund trace if any of the following conditions exist:
- i. Refund warrant posted as return in TI
 - ii. Refund fully offset to another agency
 - iii. Refund applied to any outstanding liabilities; or
 - iv. Timeframe for return processing has not elapsed

There are two methods for initiating a refund stop payment on a paper refund automated and manual:

Automated

((****)) ((****))

- When we request an automated stop payment on a refund, we send the taxpayer the State Controller's Office (SCO) form STD 435, **Request For Duplicate Controller's Warrant/Stop Payment** to sign and return to SCO.

Manual

- Complete SCO form [STD 435](#) for the taxpayer. The form is available as a fillable online form. Print and mail the form directly to the taxpayer to sign and send to SCO.

A stop payment, whether automatic or manual, is not initiated until the taxpayer receives, signs, and sends the SCO form [STD 435](#) to SCO Staff cannot request a trace if the:

- Taxpayer address has a returned mail status.
- Refund status is returned or stopped.
- Refund was issued within the last five days.
- The trace has been requested within the last 30 days.
- Refund was a Direct Deposit Refund (DDR).
- The amount was intercepted by another agency.
- The amount of the refund was applied to Voluntary Contributions.
- The refund was applied to any other outstanding liabilities.

Whenever a taxpayer reports a refund has been lost, stolen, or destroyed, FTB employee should initiate a refund trace. ((***)

Once a trace has been initiated due to the refund being lost or stolen, FTB employee should:

- Mail a Personal Income Tax Refund Inquiry, [form FTB 4220](#) or [form FTB 4221](#) to the taxpayer
- ((***)
- Advise the taxpayer of the approximate timeframe to receive refund trace/stop payment results (currently 3 months)
- ((***)

Once a trace has been initiated due to the refund being destroyed, FTB employee should:

- ((***)
- Notify the taxpayer in writing they will receive a Request for Duplicate Controller's Warrant ([STD 435 Request for Duplicate Controller's Warrant/Stop Payment](#)) from the State Controller's

Office. The taxpayer will then need to return the request to the Controller for a duplicate refund to be issued.

- ((***)

In the event a trace is unable to be initiated via TI, a manual refund trace should be completed. A manual refund trace should only be done if FTB employee is unable to perform an automated trace or stop payment through TI.

If a manual refund trace has been initiated due to the refund being lost or stolen, FTB employee should:

- Mail a Personal Income Tax Refund Inquiry [form FTB 4221](#) to the taxpayer.
- Complete [STD 435 Request for Duplicate Controller's Warrant/Stop Payment](#).
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If a manual refund trace has been initiated due to the refund being destroyed, FTB employee should:

- Complete [STD 435 Request for Duplicate Controller's Warrant/Stop Payment](#).
- Notify the taxpayer in writing they will receive a Request for Duplicate Controller's Warrant from the SCO. The taxpayer will then need to return the application to SCO for a duplicate refund to be issued.
- ((***)
- ((***)

Note: If the refund warrant was not cashed within one year of the issue date, the warrant is no longer valid (Stale Date Warrant), and a new warrant will need to be issued.

Direct Deposit Refund (DDR)

2. Determine whether a DDR refund trace is appropriate

- If it is less than 10 business days from the original issue date or transaction date of the DDR a refund trace cannot be requested through the DDR liaison.
- If it is more than 10 business days from the original issue date or transaction date of the DDR:
 - Confirm bank name, routing, and account numbers, and update as necessary
 - Request a copy of taxpayer's bank statement for the period covering the original issue date or transaction date of the DDR, and upload information to the Taxpayer Folder (TPF)
 - Confirm bank contact information (representative, phone, and fax number), and update as necessary
 - Confirm account period ending (APE) involved
 - Confirm amount of refund
 - Email **DDR liaison** with the information listed above at FTB FSB CASES technical support.
- Advise the taxpayer of the approximate timeframe to receive refund trace payment results ((***)).

FTB employee must follow unit procedures to contact the Returned Warrant Desk or the DDR liaison to initiate the refund trace.

Reference

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[STD 435 Request for Duplicate Controller's Warrant/Stop Payment](#)

((***)

[4406 Replacement Warrant Claim](#)

[FTB 3900A](#)

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 10/22/2018

8.2.2.2 1099G Report of State Income Tax Refund

Background

Under Federal information reporting laws, the department is required to annually report to the taxpayer and the Internal Revenue Service (IRS) information about state tax refunds and interest paid. Franchise Tax Board's (FTB) Report of State Income Tax Refund [FTB 1099-G](#) is a statement used to notify taxpayers of the California Personal Income Tax (PIT) refund amount, credit, or offset they received of ten dollars or more for a specific tax year. A separate 1099-G is issued for each tax year an overpayment occurred. Only taxpayers that itemize their federal return should receive a 1099G. The refund amount in Box 2 may need to be reported on the taxpayer's IRS return if the taxpayer claimed state income tax payments as an itemized deduction on Schedule A of the IRS return and received a FTB refund. If this amount is included in the Federal Adjusted Gross Income (AGI), a taxpayer may subtract it on California Schedule CA. These refunds are reported as overpayments and are considered as refunded whether they are:

- Paid to the taxpayer by check or direct deposit.
- Offset against other liabilities such as tax, penalties, or interest. ([7.2.5.2 Franchise Tax Board \(FTB\) Offset Of Taxpayer Refunds](#))
- Credited toward estimated tax payments.
- Intercepted by (offset to) a state, city, county agency, or the IRS. ([7.2.5.1 General Interagency Intercept Information](#)).

The reported refund amount includes any [voluntary contributions](#) the taxpayer designates on their tax return, but does not include refunded amounts that the taxpayer may have claimed as a [Child and Dependent Care Expense Credit](#).

Purpose

The purpose of the form FTB 1099-G is to inform the taxpayer that a State Income Tax overpayment of ten dollars or more was reported to the IRS.

Responsibility

FTB employees is responsible to verify and respond to taxpayer's inquiries on the form FTB 1099-G notifications.

Action

FTB employees should refer taxpayer questions on reporting the refund to the instructions for Federal Form 1040 or contact the IRS at 800.829.1040.

The refunded amount may need to be reported on the taxpayer's IRS return if they claimed state income tax payments as an itemized deduction on Schedule A of their Federal Income Tax Return and received a refund from their California State Income Tax Return. If the amount is included in the Federal AGI, the taxpayer may subtract it on California Schedule CA.

Reference

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[Instructions for form 1099-G](#)

[1099G Frequently Asked Questions](#)

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.2.3.1 California Special Credits

Background

Taxpayers may qualify for California special credits on their tax returns. These credits may be applied to reduce the current year tax liability, or may be carried over to future years if the current tax liability is reduced to zero. Most special credits require the taxpayer complete a form and attach it to their paper or e-file return. This allows Franchise Tax Board (FTB) to validate whether the taxpayer is eligible for the special credit(s). If the taxpayer does not attach the required special credit form, FTB rejects the return and sends an alert to the filer that the return cannot be processed until the required form is attached.

Purpose

California special credits provide tax relief to those who qualify.

Responsibility

FTB employees are responsible to educate taxpayers on California's special credits. If the credit was disallowed, inform the taxpayer why the credit was not allowed.

If the required form was not attached, allow the taxpayer to send in the required form to complete the processing of the return.

Action

Several of the special credits allow carryover to future years. Refer to the specific section in the RACK to determine which credits will be allowed to carryover, the years it is allowed and the minimum amount to be carried over.

FTB employees should refer to the [Tax Credit for Individuals – Credit Chart](#) ((***) for assistance with California special credits.

Reference

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[Tax Credit for Individuals – Credit Chart](#)

Note: (()) = Indicates confidential and/or proprietary information.

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8.2.3.2 Child and Dependent Care Expense Credit

Background

The Child and Dependent Care Expense tax credit is computed as a percentage of the federal child and dependent care credit. This credit is available to people who, in order to work or to look for work, have to pay for child care services for dependents under age 13. The credit is also available to those who have paid for care of a spouse or a dependent of any age who is physically or mentally incapable of self-care.

The credit is a percentage based on adjusted gross income of the amount of work-related child and dependent care expenses paid to a care provider. The credit can range from 20 - 35% of their qualifying expenses, depending upon income.

For tax years beginning on or after January 1, 2000 and before January 1, 2011, the child and dependent care credit was refundable. After January 1, 2011 it became a [non-refundable credit](#). For tax years 2011 and after, the credit is applied against the individual's net tax liability. If the credit exceeds the net tax liability, the excess credit **cannot** be refunded or credited to any other amount due.

Purpose

The Child and Dependent Care Expense tax credit is allowed for certain households and dependent care expenses that an individual has incurred during the year that allowed the individual to seek or maintain gainful employment.

Responsibility

It is the responsibility of Franchise Tax Board (FTB) employees to educate the taxpayer on what the Child and Dependent Care Expense Credit is and the [criteria that must be met to qualify](#) for the credit. Additionally, FTB employees are responsible for communicating the basis of denial of this credit to the taxpayer.

Note: The credit cannot be shared. Only one person or couple may claim the credit for a qualifying person.

Action

All taxpayers must attach the correct Child and Dependent Care Expense Credit forms (e.g., [IRS form 2441](#), [form 3506](#)) to their return or the credit **may be denied** during return processing.

Reference

[What is and how do I qualify for the Child and Dependent Care Expense Credit?](#)

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[IRS Form 2441](#)

[Form 3506](#)

[Internal Revenue Code Title 26](#)

[IRS Publication 503 Child and Dependent Care Expenses](#)

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Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.2.3.3 State Disability Insurance (SDI)

Background

Taxpayers who have had more than the maximum amount of State Disability Insurance (SDI) or Voluntary Plan Disability Insurance (VPDI) withheld are allowed a refund of the excess amount withheld.

SDI is a state tax assessed on an employee's wages. The tax goes into a fund, maintained by the State of California Employment Development Department (EDD) that is used to pay disability benefits.

SDI is paid by the employee and is withheld from the employee's wages by their employer. (If the employer pays the SDI tax, the employer must include the benefit in the employee's wages. Therefore, the employee is still considered to have paid the SDI.)

The amount of SDI withheld is shown on IRS Form W-2, box 14.

The following are individuals who may or may not have SDI withheld from their wages:

- Private employees - under California State Law SDI is mandatory and will be withheld by their employers.
- Public employees - employees of a government agency (e.g., state, county, and city) may or may not have SDI deducted.
- Employer / Self-Employed - SDI is not mandatory, but it can be paid voluntarily under an elective coverage agreement.

VPDI is a private disability insurance plan that meets the requirements of, and is approved by, the State of California.

The amount of VPDI withheld is shown as "VPDI" on IRS Form W-2.

Purpose

SDI and VPDI are state income taxes that are withheld from a taxpayer's earnings to pay for future disability benefits.

Responsibility

Franchise Tax Board (FTB) employees are responsible for informing taxpayers of the procedure to claim excess SDI on their income tax returns.

Action

If the taxpayer had two or more employers during the tax year, and the combined SDI deducted exceeds the maximum amount of SDI for that year, the excess is allowed as either a credit against the net tax liability or refunded.

Note: The employer must withhold at the proper rate.

Excess SDI is claimed on the California Individual Income Tax Return 540 or 540NR in the payments section. Returns claiming excess SDI or VPDI must be filed within three years of the return due date, excluding extensions.

The following will be allowed as Excess SDI:

- California SDI Withheld.
- Employee contributions made to the California State Disability Insurance Fund are eligible to be claimed as Excess SDI. The "Name of State" or "Name of Locality" box on the W-2 Form will usually indicate CASDI.
- Voluntary Plan Disability Insurance (VPDI) qualifies for this credit because it is deducted from the employee's wages. The "Name of Locality" box on the W-2 Form will usually indicate V/PL DI.
- Same Employer/Different Employer State ID Number - If a taxpayer has more than one W-2 form from the same employer, but the State ID Numbers are different, the credit may be allowed.
- Same Employer/Same SEIN - If a taxpayer has more than one W-2 Form from the same employer and has the same SEIN but different wage withholding and SDI amounts, the credit may be allowed (FTB will not treat as a duplicate).
- Self-Employed - Self-Employed persons who have paid disability contributions to EDD and also have an employer who has withheld SDI can qualify for Excess SDI credit. Verification is made through canceled checks to EDD and W-2 Forms.

Note: One fourth of one percent of taxable wages is paid by self-employed persons to cover additional administration costs. This amount cannot be considered in the computation for excess SDI.

The following does not qualify as Excess SDI:

- Other states' SDI.

- If the taxpayer submits a W-2 Form claiming SDI credit withheld by another state, the amount will be disallowed. The taxpayer must request the excess amount from that particular state.
- Over withholding from one employer.
 - A taxpayer who worked for only one employer who withheld more than the allowable amount of SDI and/or VPDI for the applicable tax year should be referred back to the employer for reimbursement.

Reference

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Note: (()) = Indicates confidential and/or proprietary information.

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8.2.4.1 Substitute W-2

Background

The Substitute W-2 form [FTB 3525 ARCS](#) can be used instead of an original W-2 form when the taxpayer has been unsuccessful at obtaining an original W-2 form from their employer.

Purpose

The Substitute W-2 form allow taxpayers the ability to claim income and withholding credits on their returns in the event they are unable to obtain an original W-2.

Responsibility

Franchise Tax Board (FTB) employees are responsible to either provide taxpayers with a Substitute W-2 form or refer them to the FTB public website (ftb.ca.gov) to download the form.

Action

FTB employees should provide taxpayers with Substitute W-2 forms when the taxpayer has exhausted all other options in acquiring originals from their employers. Withholding credit information may be obtained from the Employment Information Data Base, for 1996 and subsequent years, which is used for verification of wage withholding. FTB staff may view online employer and employment information that reflects what the employer reported to the Employment Development Department. ((***)

Note: For years prior to 1996 [see Section 4.2.1.11](#) Withhold Purge File - Microfiche Requests.

Reference

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Note: (()) = Indicates confidential and/or proprietary information.

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8.2.4.2 W-2 Withholding Credits

Background

[Revenue and Taxation Code Section 19002](#) and the regulation promulgated thereunder (18 California Code of Regulations, Section 19002) require all W-2 withholding credits to be applied against all tax years that the credits were withheld. These credits must be applied to tax years even if a tax return has not been filed.

When Franchise Tax Board (FTB) is unable to verify the withholding credits, FTB will deny part or all of the withholding credit claimed on a return. When withholding credits are disallowed, the taxpayer will need to verify the proper amount of withholding credits before the credit is allowed. This may cause a burden on the taxpayer, especially when the taxpayer's employer is out of business.

Purpose

Applying W-2 withholding credits against all tax years that the credits were withheld ensures the taxpayer is given proper credit for taxes paid.

Responsibility

FTB employees are responsible for making adjustments when non-applied W-2 withholdings are discovered.

FTB can deny the credit if the documents provided by the taxpayer appear to be fraudulent or no evidence exists to support the withholding credits were withheld. FTB has the final decision regarding questionable withholding credits.

Action

FTB employees must apply adjustments when non-applied withholding credits are discovered. These adjustments should be made when the withholding credits will change the current amount due or refund amount. A withholding credit will not be refunded to the taxpayer or applied to additional outstanding liabilities without the filing of a tax return. ([Revenue and Taxation Code Section 19307](#))

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Please use the list of resources below to locate and verify a taxpayer's California wage withholding (See your unit procedures before allowing withholding within the Taxpayer Information (TI) system):

- Check for withholding credits in the SA file within TI or TPF California Wages and Withholdings.
- Check Year History in TI for withholding credits if a return was filed after a filing enforcement (FE) proposed assessment (PA) went final.
- Check Taxpayer Folder for withholding credits by searching for the taxpayer's return/W-2's.
- Check for withholding credits in the Integrated Non-filer Compliance system (INC).
- Check for withholding credits on the taxpayer's Notice of Proposed Assessment (NPA) in the NDF system.
- Check the Employment Search by SEIN Criteria Screen (EE) in TI if you have the employer's SEIN number or Employee Search Page.
- Request a copy of the W-2 (showing the withholding credits) to be faxed directly to you.
- Request the taxpayer's last year-to-date check stub to be faxed directly to you.
- Locate an Employment Development Department (EDD) Liaison within your business area (if applicable).
- The PIT Filing Enforcement System, located on the FTB Navigation System, can be used to find wage withholding information from 1995 to 1998.
- Check the Accounts Receivable Collection System (ARCS) History to verify if an FE purge was already performed (especially during the Amnesty period from 2004 through 2005).
- A FE purge located on microfiche can be used to obtain income information on the basis of an FE and it can include wage withholding information from 1977 to 1994 ((****)).
- Check the AR file for withholding credits for years prior to July 1993.
- If you are unable to locate a taxpayer's wage withholding through any of the resources listed above, and the taxpayer believes withholding was deducted from their earnings, contact the Collection Advisory Team for assistance in determining if a

withholding estimation is warranted. This option is for rare cases that are dealing with older tax years.

Once the documentation is reviewed and FTB employees have verified the withholding amount indicated on the W-2/payroll stub is valid or has been reported to FTB by EDD, the additional withholding credits should be allowed.

If the withholding amount does not match or is unable to be verified, the withholding credits will be disallowed.

Note: Withholding credits older than four years cannot be refunded or credited to another tax year. See [Revenue and Taxation Code Section 19306](#) and Section 4.2.1.17 Statute Of Limitations (SOL).

Effective January 1997, the Employment Information Data Base, (for 1996 and subsequent years) may be accessed and used for verification of wage withholding. FTB employees may view online employer and employment information that reflects what the employer reported to the EDD. ((***)

Reference

[Revenue and Taxation Code Section 18551](#)

Note: (()) = Indicates confidential and/or proprietary information.

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Last Revision: 09/04/2018

8.2.4.3 Non-Resident Withholdings

Background

Non-residents are subject to withholdings on payments for compensation of personal services including payments to independent contractors, payment for professional services, patent royalties, prizes, wages, etc., provided the income is attributable to California, as specified in Revenue and Taxation Code Section 18662, and the regulations promulgated thereunder, including Regulation Section 18662-0 through 18662-6, and Section 18662-8.

The following situations are subject to withholding in California:

- Wages paid to a non-resident employee (U.S. resident) who performs all services within California are subject to withholding, and personal income tax must be withheld from all wages paid.
- Wages paid to a non-resident employee (U.S. resident) who performs services both within and outside of California; however, only the wages for services performed in California are subject to California personal income tax.

Exception:

- Non-resident members of the U.S. Armed Forces stationed in California are not subject to California personal income tax.
- Wages paid to a non-resident (U.S. resident) who performs services outside of the U.S. are not subject to personal income tax withholding and the wages are not reportable.

Purpose

The purpose of non-resident withholdings is to ensure state taxes are paid on income earned by non-residents working in California.

Responsibility

Franchise Tax Board (FTB) employees are responsible to inform non-residents working in California of their withholding requirements. The following are subject to nonresident withholding:

- Entertainers and speakers
- Independent contractors

- Recipients of rents and royalties
- Partnership distributions
- Beneficiaries of estates and trusts
- Prizes and winnings
- S Corporation nonresident shareholders
- Trustee

In addition: The nonresident program administer, Withholding Services and Compliance Services also includes California real estate withholding.

The following are **not** subject to nonresident withholding:

- Payments for goods
- Payment to a corporation, partnership, or Limited Liability Company that has a permanent place of business in California or is registered with the Secretary of State Office.
- Payments to a tax-exempt entity.
- The payee receives a written authorization from FTB waiving the withholding requirements.
- Payment for income from intangible personal property, such as interest or dividends unless derived in a trade or business or the property has acquired a business situs in California.
- Payments for services performed outside California.

Action

Wages paid to a non-resident (U.S. resident) from an income source attributable to California are subject to withholding. FTB employees should advise non-residents of their filing requirements.

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8.2.5.1 Voluntary Contributions

Background

A voluntary contribution is an election made by the taxpayer to designate amounts on their California tax return to charitable funds allowed by Franchise Tax Board (FTB).

The individuals electing to contribute must use their own funds (payments and credits) in excess of their tax liability. The contribution must be of \$1 or more and in whole dollar amounts.

Purpose

Voluntary contributions allow taxpayers to designate amounts of their tax refunds to charitable funds.

Responsibility

FTB will apply voluntary contributions to designated charitable funds elected by the taxpayer.

Action

A taxpayer due to receive a refund may elect to direct all or a portion of the refund to a voluntary contribution fund on their tax return.

Note: The taxpayer cannot change the amount of the voluntary contribution

If a voluntary contribution is claimed on a return and is disallowed or revised because of an error, a Notice of Tax Return Change (NTRC) will be generated.

For a list of voluntary contributions, visit the [FTB public website](#).

Reference

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Note: (()) = Indicates confidential and/or proprietary information.

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8.2.6.1 PIT Account Adjustments

Background

The Advisory Analysis and Services Bureau (AASB) supports ARM Division. CARS-B is a Personal Income Tax (PIT) Support Group within the ARM Division and is responsible for processing transactions in the Taxpayer Information (TI) system, levies, and assisting other units with temporary needs that result from legislation or special projects. CARS-B provides an array of services and currently works 24 different workloads in support of Franchise Tax Board (FTB).

Purpose

CARS-B supports the nine Accounts Receivable Collection System (ARCS) PIT (Automated) functional areas and the Discharge functional area for all levies. They work all levy correspondence received from payers/employers in response to an FTB levy, within specified criteria. They process TI transactions for Reactive groups and process some workloads for Proactive Groups. In addition, CARS-B is available to process these workloads:

- Microfiche Requests
- Integrated Non-filer Compliance transactions
- ARCS Payer File updates
- Earnings Withholding Order for Taxes Non-Compliance work lists
- PIT Discharge Report

Responsibility

It is the responsibility of the PIT Support Group to support the collection employees and adjust taxpayers' accounts to ensure that:

- Actions are taken in a timely manner.
- Sound technical conclusions are made.
- Taxpayers' Bill of Rights are protected.

In addition to collecting taxes, FTB support group must inform collectors when they cannot perform a requested transaction.

Action

TI transactions are returned to the requestor when further clarification is required or when a request is not able to be processed. CARS-B employees provides an explanation when the request cannot be processed. Transactions should include the following information:

- FTB ID/TPID
- Taxpayer Name
- Tax Year(s)
- Type of transaction request
- Reason for the request

CARS-B uses the following process when we return transactions:

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Most request are completed within 24 hours. However for rush requests, use email ID, ((***)).

Reference

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Note: (()) = Indicates confidential and/or proprietary information.

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