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**2.1  
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Provisions prohibiting the unauthorized viewing, use and disclosure of confidential information help us administer the income tax laws of the State of California by encouraging taxpayers to make full and truthful information disclosure, without fearing that we will inappropriately give information to other parties without a need to know.

Failing to keep information confidential could subject you to disciplinary proceedings, loss of employment, and criminal penalties.

Additional information is available at the Disclosure Office webpage.

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<p><b>2.2</b> <b>CONFIDENTIAL</b> <b>INFORMATION</b> <b>DEFINED</b></p>	<p>Confidential information is all information submitted to, or developed within, the department and not specifically made public by law.</p> <p>Treat information received or developed during the audit as confidential information unless it is specifically made public by law. It is the auditor's responsibility to maintain the security of all confidential information during the audit process and to prevent any unauthorized disclosure. Confidential information generally includes federal and state tax information. We do not have authority to use this information for any purpose not specified by law.</p> <p style="text-align: right;">Rev. 7/17</p>
<p><b>2.2.1 Need to Know/Right to Know</b></p>	<p><b>Need-to-know</b> means the necessity to obtain specific information to execute your official responsibilities as outlined in your duty statement. Even if you have the authority to access taxpayer information, you must have an approved business reason to access such information and access to the confidential information must be necessary for you to perform your official duties (MAP 2.5.1 Authorized Access). Always question the need to know of every information request.</p> <p><b>Right to know</b> is the right to access information based on statute, court order, or decisional law. Taxpayers also have the right to submit evidence to correct and complete records.</p> <p>The law states that to simply VIEW taxpayer data where you have NO NEED or RIGHT TO KNOW is an Unauthorized Access (MAP 2.4.1 Unauthorized Access).</p> <p style="text-align: right;">Rev. 7/18</p>
<p><b>2.3</b> <b>UNAUTHORIZED</b> <b>USE, INSPECTION</b> <b>AND DISCLOSURE</b></p>	<p>Under R&amp;TC Section 19542, any willful unauthorized inspection, use or disclosure of confidential information, is punishable by law. <b>Inspection</b> is any examination of confidential information.</p>

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	<p>Under R&amp;TC Section 19542.1(b), we must notify the affected taxpayer of unauthorized inspection, or disclosure of confidential tax information.</p> <p>Under Civil Code Section 1798.29, we must notify the affected taxpayer when there is unauthorized access made and we reasonably believe that confidential information was acquired by an unauthorized individual. The consequences of violating these rules are severe, including dismissal, criminal prosecution, and a civil suit by the taxpayer.</p> <p>The taxpayer notification provisions are the same for federal and state. State employees are subject to the federal law provisions regarding unauthorized access, use and disclosure of federal tax information we receive from the IRS. You must clearly identify the source of information whenever any file contains information we obtained outside our offices from sources other than FTB.</p> <p>R&amp;TC Section 19542.1 makes punishable as a misdemeanor:</p> <ul style="list-style-type: none"><li>• Willful unauthorized inspection of tax return information.</li><li>• Unwarranted use or disclosure of tax return information.</li></ul> <p>We must notify the affected taxpayer of the unauthorized inspection, use, or unwarranted disclosure when criminal charges are filed for willful unauthorized inspection or unwarranted disclosure.</p> <p style="text-align: right;">Rev. 7/17</p>
<p><b>2.4</b> <b>UNAUTHORIZED</b> <b>ACCESS,</b> <b>DISCLOSURE AND</b> <b>ACQUISITION</b> <b>(UNAX)</b></p>	<p>The Taxpayer Browsing Protection Act makes unauthorized inspection (or browsing) of federal taxpayer information a felony. The penalty for unauthorized browsing is, <b>a fine in an amount not exceeding \$5,000, or imprisonment of not more than five years, or both, together with the costs of prosecution.</b> The provisions extend the prohibition to state employees with access to federal information.</p> <p>UNAX requires concealment of all confidential taxpayer data (including Revenue Agent Reports, 8796-A requests) at all times, from everyone, except those working on the case. The Disclosure Office recommends using a Confidential Coversheet (FTB 7805) for this purpose.</p>

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- Do **not** place -documents containing confidential taxpayer data in in-baskets or leave them on desks unless covered by FTB 7805, or turned over.
  
- Put away, cover with FTB 7805 or turn over all confidential information when another person enters your workstation.
  
- Turnover, cover, or put away taxpayer documents if you leave your desk, even momentarily.
  
- Place all confidential data in drawers, boxes, or shelving that conceals taxpayer identity when you leave the office.

**NOTE:** State employees are subject to the federal law provisions regarding unwarranted disclosure or use and any willful unauthorized inspection of federal tax information that we receive from the Internal Revenue Service.

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**2.4.1**  
**Unauthorized**  
**Access**

An unauthorized access is made any time employees access data and/or a system for reasons that are not necessary to perform their job duties. The Taxpayer Browsing Protection Act makes unauthorized inspection (or browsing) of federal taxpayer information a felony.

*Examples and scenarios of Unauthorized Access (UNAX):*

1. Accessing or attempting to access files in FTB systems (PASS, TI, TPF, BETS, etc.) without a business need to know. This includes access or attempted access to find out how a case that is no longer or never was assigned to you is currently being, or was, handled in Audit, the Protest Section, or in Legal without a business need to know. Curiosity as to how a particular case is being worked or came out never constitutes a business

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need to know because it is not necessary to access the information to perform your official job duties.

2. Following a case that is no longer assigned to you without an FTB business need to know.
3. Accessing any individual or entity's account without an FTB business need to know.
4. Looking at confidential information on or in another employee's desk, computer, or in-basket without an FTB business need to know.
5. Accessing external systems (DMV, BOE, CDTFA, EDD, TDS, Lexis Nexis, etc.) without an FTB business need to know.
6. Accessing under ANY circumstances your own account or the accounts of your family, friends, neighbors, etc.
7. Accessing any information for personal interest or gain/use, monetary gain, curiosity, or intentional harm.

Report the UAD within 24 hours of the incident. Use the DARTS automated input form to send the information electronically to the Disclosure Officer (Disclosure Section).

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**2.5 AUTHORIZED  
DISCLOSURE OF  
INFORMATION**

California Civil Code Section 1798.30 - 1798.44 mandates disclosing information to individual taxpayers and their authorized representatives. Taxpayers and their authorized representatives can receive copies of their audit files once the audit

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review process is completed. We assert that the audit is not complete until the review process is complete. Sometimes, we issue Notices of Proposed Assessment before the review to protect the statute of limitations. Still, we will not disclose the audit file to the taxpayer until the review process is complete. We charge \$0.10 per page for copies of completed audit files.

The **audit file** includes:

- The Narrative Report.
- The Event Log.
- All working papers, and supporting material.

In general, taxpayers **may not see** any document, or portion of a document that discloses:

- Proprietary systems information (e.g., PFK indicators and system access codes) (Govt. Code section 6254.9).
- Other proprietary information.
- Audit selection standards (R&TC Section 19544).
- Information from or about informants (Govt. Code Section 6254(f)).

The IRS/FTB Exchange of Information Agreement prohibits disclosing information from the IRS to anyone other than the taxpayer or authorized representative. We cannot provide other states with copies of information we receive from the IRS.

We may disclose information from or about a taxpayer's affiliate to the taxpayer or authorized representative if it is relevant to determining the taxpayer's franchise/income tax liability (see MAP 2.9 Disclosure in Judicial or Administrative Tax Proceedings).

If the Protest Unit handled the case, taxpayers and authorized representatives may obtain copies of the protest file. In general, we must disclose the protest-hearing officer's reports and all work papers and supporting material.

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	<p>Fully explain the above guidelines if taxpayers request copies of their audit files before the review process is complete.</p> <p>Before releasing any of the above information, contact the Disclosure Office for approval at 916.845.3226.</p> <p>See MAP 2.6 Disclosure Guidelines – Corporations; and see MAP 2.8 Disclosure Guidelines – Partnerships, for specific business entity disclosure information.</p> <p style="text-align: right;">Rev. 7/17</p>
<b>2.5.1 Authorized Access</b>	<p>You are authorized to access data and department systems only when you have an FTB business need to know. This means you must need to access the information to perform your official job duties.</p> <p><i>Examples and scenarios of Authorized Access (with a business need to know):</i></p> <ol style="list-style-type: none"><li>1. Working on cases currently assigned to you.</li> <li>2. Providing on-the-job training to others by accessing cases currently assigned to you.</li> <li>3. Providing research information on a case while working with or for another business area, as specifically requested by that business area and with the permission of the responsible owner of the case.</li> <li>4. Accessing the case information as requested by the responsible owner to provide ongoing case guidance, consultation, and/or support. You are deemed under these circumstances to be directly working on the case in performance of your official job duties.</li></ol>



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5. Accessing the event log and/or the *Audit files* in another case with similar issues or for a previous cycle when the current cycle is assigned to the auditor, and the auditor needs to access the information to perform his or her official job duties with respect to the case assigned to him or her.
  
6. If the auditor has a business need to know information contained in the Protest Section or Legal tabs in PASS, the auditor should contact Protest Section management or the attorney currently assigned the case (or Legal management if that attorney is no longer with the department) for assistance in obtaining the necessary information, regardless of whether the case is currently open or has been closed.
  
7. Protest Section management has reached out to an Audit supervisor regarding a possible training issue stemming from a protested audit coming from that Audit supervisor's unit. If the necessary information is not provided by the Protest Section outside of PASS, and if Protest Section management asks the Audit supervisor to do so, the Audit supervisor may access the account/case to address the training issue.
  
8. Accessing case information of a closed audit that was assigned to you because you have a similar issue on a current audit and want to use the IDRs and AIPS from the closed audit.

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**2.6 DISCLOSURE  
GUIDELINES -  
CORPORATIONS**

The Corporation Tax Law is quite specific about disclosure of business activities information for corporate taxpayers.

We can disclose the following **public** information so long as the request for information states the names of the entities as to which information is desired and only if there is no reason to believe that the information will be used for commercial list purposes:

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- Corporate title.
- Corporate number.
- Date of commencement of business in this state.
- Taxable year adopted.
- Filing date of return.
- Name, date, and title of individuals signing affidavit to return.
- Due date of taxes.
- Total amounts of unpaid balances (tax, penalty, interest and fees). This may be broken down on an annual basis.
- Entity address.
- Private address of officers and directors, if that information is on the tax return or the Secretary of State file.

(R&TC Section 19543)

Corporate taxpayers and their authorized representatives may obtain copies of their audit files once the review process is complete. The department asserts the audit is not complete until the review process is complete. We disclose non-proprietary information to corporate taxpayers when the audit is complete before the discovery process in Superior Court litigation, although no statute requires it. Although we are not mandated by law to provide corporate audit information, this practice generally conforms to the provisions of the Information Practices Act, which mandates disclosing information to individual taxpayers (California Civil Code Section 1798.30 - 1798.44).

The **audit file** includes:

- Narrative Report.
- Event Log.
- All work papers and supporting material.

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	<p>Corporate taxpayers may not see any document, or portion of a document, such as:</p> <ul style="list-style-type: none"><li>• Proprietary systems information (Govt. Code Section 6254.9).</li><li>• Other proprietary information.</li><li>• Audit selection standards (R&amp;TC Section 19544).</li><li>• Information from or about informants (Govt. Code Section 6254(f)).</li></ul> <p>Before releasing any of the above information, contact the Disclosure Office for approval at 916.845.3226.</p> <p>At times, an audit or protest file contains nonaffiliated taxpayer information used as reference material. The information is pertinent to the analysis and determinations being made in the present audit or protest. Taxpayers or their representatives often ask for copies of their audit or protest files. To avoid an inadvertent disclosure of another taxpayer's information, this information should be included in the audit or protest file as an exhibit. It should be clearly identified, using red ink or red pencil: <b>CONFIDENTIAL TAXPAYER INFORMATION</b>. This will help ensure that taxpayer information is not inadvertently disclosed.</p> <p>MAP 2.6.2    Corporations – Shareholders Access to Records MAP 2.6.3    Information on Individual Shareholder Returns MAP 2.6.4    Group Return of Nonresident Shareholders</p> <p style="text-align: right;">Rev. 7/17</p>
<p><b>2.6.1 Disclosure of Corporate Taxpayers' Files</b></p>	<p>The following guidelines have been developed for the disclosure of certain taxpayer files. Refer to the Security and Disclosure Manual for additional guidance.</p> <p><b>What to Disclose:</b></p> <p><b>Audit File:</b> Taxpayers and their authorized representatives may obtain copies of their audit file. This includes the narrative, event log, and all work papers and supporting material. However, they may not obtain any document, or portion of a document, that discloses proprietary information (audit selection criteria), or information from or about third parties unrelated to the taxpayer. In particular, review notes are not subject to disclosure because they typically contain recommendations and analysis of the strengths and weaknesses of a case. This</p>

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would include review notes of the supervisor and the review staff in the Technical Resource Section.

**IRS Information:** The IRS/FTB Exchange of Information Agreement prohibits the disclosure of information received from the IRS to anyone other than the taxpayer or their authorized representative. For example, we cannot provide other states, counties or local governments with copies of information we received from the IRS.

**Affiliated Entity Information:** Information from or about an affiliate may be disclosed to the taxpayer or their authorized representative if it is relevant to the determination of the taxpayer's franchise/income tax liability. See R&TC Section 19545. For example, assume Taxpayer A and Taxpayer B is affiliated and filed their California returns on a separate company basis. Audit determines that A and B are unitary. Each taxpayer is entitled to obtain information regarding their affiliates' income and apportionment factor denominators because such information is relevant to the determination of the taxpayer's California franchise/income tax liability.

**Protest File:** Taxpayers and their authorized representatives may obtain copies of the protest file if the audit staff handled the case. In general, the information that must be disclosed includes the protest hearing officer's reports and all work papers and supporting material. We are not required to provide copies of any document, or portion of a document, that discloses the hearing officer's opinion, judgment, analysis of the strengths and weaknesses of the proposed assessment, or information from or about third parties unrelated to the taxpayer.

**When to Disclose:**

**Audit File:** Copies of audit files will not be provided until the staff in the Technical Resource Section has completed its review (if necessary). For example, notices of proposed assessment are occasionally issued prior to the case being reviewed in order to protect the statute of limitations. In such situations, the audit file will not be disclosed to the taxpayer until Technical Resource Section completes its review.

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	<p><b>Protest File:</b> Copies of protest files will not be provided until the Notice of Action on Protest has been issued. The protest file for cases handled by FTB Legal Branch may not be disclosed.</p> <p>The above guidelines should be explained to taxpayers that request a copy of their audit file prior to the case completing review, or to taxpayers that question why items such as review notes were not provided. These taxpayers should be advised that although there is no statutory requirement to disclose audit files to corporate taxpayers prior to the discovery process in Superior Court litigation, long-standing department practice is to disclose nonproprietary information when the audit is complete. This practice generally conforms to the provisions of the Information Practices Act (IPA), which mandates the disclosure of information to individual taxpayers. (California Civil Code Section 1798.30 - 1798.44) The department's position is that the audit is not complete until the completion of the review process.</p> <p>We charge \$.10 per page for copies of the completed audit file.</p> <p style="text-align: right;">Rev. 7/17</p>
<p><b>2.6.2 Corporations - Shareholder Access to Records</b></p>	<p>The shareholder's access to information depends upon whether the shareholder is an officer or director of the corporation. The shareholder's stock ownership percentage is <b>not</b> a factor in determining what you can release to the shareholder.</p> <p><b>Officer/Director</b></p> <p>A shareholder who is an officer or director of a corporation is entitled to most information we maintain on the corporation, including:</p> <ul style="list-style-type: none"><li>• The corporate return and all supporting schedules, including any Schedule K-1s filed with the return.</li><li>• Most other records we have that pertain to the corporation. These records include a printout, or transcript, of the corporate account and most of the audit report, including the narrative report, work papers,</li></ul>

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letters, and supporting documents (see MAP 2.5 Authorized Disclosure of Information.)

- Information directly relating to the resolution of tax issues in a judicial or administrative proceeding (see MAP 2.9 Disclosure in Judicial or Administrative Tax Proceedings.)

The Disclosure Office must review the records for any information exempt from disclosure, including proprietary information and informants' identities prior to releasing the information.

We do not release copies of the audit report until after we have closed the examination and issued an assessment, refund, or no-change letter. See MAP 2.5 Authorized Disclosure of Information.

Usually, shareholders owning 100 percent of a corporation's stock are officers or directors of the corporation. However, a 100 percent shareholder might not be an officer or director of the corporation. Regardless of percentage of stock ownership, the above disclosure guidelines apply only to shareholders who are officers or directors of the corporation and the corporation's authorized representative.

### **Other Shareholders**

Shareholders who are not corporate officers or directors may have access to the following limited information:

- The Schedule K-1 that pertains to them. Shareholders cannot access a copy of the corporate return, nor any of the Schedule K-1s relating to the other shareholders.
- The portion of the audit report pertaining to the adjustment passed through to them. See MAP 2.5 Authorized Disclosure of Information.
- The amount of the adjustment allocated to them. The shareholder may not access the amount of the adjustment allocated to any of the other shareholders.

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	<ul style="list-style-type: none"><li>• Information that directly relates to the resolution of tax issues in a judicial or administrative proceeding. See MAP 2.9 Disclosure in Judicial or Administrative Tax Proceedings.</li></ul> <p>Before we can release the records, the Disclosure Office reviews them for any information exempt from disclosure or that the shareholder may not access. See MAP 2.5 Authorized Disclosure of Information, for a description of the information exempt from disclosure, and our practice concerning the release of audit and hearing officer reports.</p> <p><b>NOTE:</b> Under R&amp;TC Section 19545, the transactional relationship criteria would apply more often to shareholders who are not officers or directors of an S Corporation. For example, if we revise the Accumulated Adjustments Account and the adjustment passes through to the shareholder, the shareholder may receive a copy of the Account that was filed with the corporate return. This information has a direct transactional relationship to the adjustment on the shareholder's individual return.</p> <p style="text-align: right;">Rev. 7/17</p>
<b>2.6.3 Information on Individual Shareholder Returns</b>	<p>We cannot disclose information on a shareholder's tax return to the corporation or the other shareholders.</p> <p style="text-align: right;">Rev. 7/17</p>
<b>2.6.4 Group Return of Nonresident Shareholders</b>	<p>R&amp;TC Section 18535 provides that certain nonresident shareholders may file a group nonresident return on Form 540NR. Each shareholder included in the filing group is entitled to the following information:</p> <ul style="list-style-type: none"><li>• Form 540NR (side 1 and 2).</li><li>• Schedules attached to the Form 540NR, showing the computation and apportionment of California source income, losses, deductions, and credits.</li><li>• Parts of any schedule attached to the Form 540NR that show the shareholder's distributive share of the corporate and California source income, losses, deductions, credits, and the computation of tax on the shareholder's distributive share.</li></ul>

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	<p>We cannot disclose any information to an individual shareholder that shows other shareholders' allocation of corporate and California source income or tax computations.</p> <p style="text-align: right;">Rev. 7/17</p>
<b>2.7 DISCLOSURE GUIDELINES - INDIVIDUALS</b>	<p>If requested by the individual taxpayer, we can disclose the following information:</p> <ul style="list-style-type: none"><li>• Closed audit reports.</li><li>• Copies of tax returns.</li><li>• Account transcripts.</li><li>• Collection progress reports.</li><li>• Closed investigation reports.</li><li>• Information from outside sources (IRS, DMV, and Board of Equalization) which is maintained within the audit file.</li></ul> <p>Individual taxpayers and their authorized representatives can receive copies of their audit files once the review process is completed. Sometimes, we issue Notices of Proposed Assessment before reviewing the case to protect the statute of limitations. We do not disclose the audit file to the taxpayer until the review process is complete. We disclose nonproprietary information when the audit is complete. The audit is not complete until the review is complete. Our practice generally conforms to the provisions of the Information Practices Act, which mandates the disclosure of information to individual taxpayers (California Civil Code Section 1798.30 - 1798.44).</p> <p>The <b>audit file</b> includes:</p> <ul style="list-style-type: none"><li>• The Narrative Report.</li><li>• The Event Log.</li><li>• All working papers, and supporting material.</li></ul> <p>Individual taxpayers may not see any document, or portion of a document, which discloses:</p> <ul style="list-style-type: none"><li>• Proprietary systems information (Govt. Code section 6254.9).</li></ul>



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	<ul style="list-style-type: none"> <li>• Other proprietary information.</li> <li>• Audit selection standards (R&amp;TC section 19544).</li> <li>• Information from or about informants (Govt. Code section 6254 (f)).</li> </ul> <p>All requests should be in writing. All representatives must provide an authorized power of attorney from the taxpayer.</p> <p>Before releasing any of the above information, contact the Disclosure Office for approval at 916.845.3226.</p> <p style="text-align: right;">Rev. 7/17</p>
<p><b>2.8 DISCLOSURE GUIDELINES - PARTNERSHIPS</b></p>	<p>Partnerships and their authorized representatives may obtain copies of their audit files once the review process is completed. We disclose nonproprietary information to a partnership when the audit is complete before the discovery process in Superior Court litigation, although no statute requires it. This practice generally conforms to the provisions of the Information Practices Act, which mandates disclosing information to individual taxpayers (California Civil Code Section 1798.30 - 1798.44). The department asserts that the audit is not complete until the review process is complete.</p> <p>The type of partnership concerned determines to whom you may disclose information.</p> <p>MAP 2.8.1 Partners' Returns  MAP 2.8.2 General Partnership  MAP 2.8.3 Limited Partnership  MAP 2.8.4 Other Entities (LLC, REMICS)  MAP 2.8.5 Group Return of Nonresident Partners</p> <p style="text-align: right;">Rev. 7/17</p>
<p><b>2.8.1 Partners' Returns</b></p>	<p>We cannot disclose information on a partner's tax return to the partnership or the other partners, regardless of the type of partnership or type of partner.</p> <p style="text-align: right;">Rev. 7/17</p>
<p><b>2.8.2 General Partnership</b></p>	<p>A general partnership has the following characteristics:</p>

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	<ul style="list-style-type: none"><li>• Two or more partners.</li><li>• The partners function as one for the management of the partnership.</li><li>• All partners are liable for the partnership's total debts.</li></ul> <p>General partnerships are not required to file with the Secretary of State or pay a minimum tax. General partnerships are subject to the personal income tax disclosure provisions (see MAP 2.7 Disclosure Guidelines – Individuals). All our information for a general partnership is confidential, and cannot be released to the public.</p> <p><b>General Partnerships – Public Information</b></p> <p>General Partnerships are subject to the personal income tax disclosure provisions (see MAP 2.7 Disclosure Guidelines – Individuals). All of our information on the partnership is confidential, and cannot be released to the public.</p> <p><b>General Partner's Access to Records</b></p> <p>The partnership's authorized representative and all partners are entitled to most information that we maintain on the partnership, including:</p> <ul style="list-style-type: none"><li>• The complete partnership return and all supporting schedules, including all Schedule K-1s filed with the return.</li><li>• Most of our other records pertaining to the partnership, including a printout, or transcript, of the partnership account and most of the audit report (narrative report, workpapers, letters, and supporting documents.)</li><li>• Information that directly relates to the resolution of tax issues in a judicial or administrative proceeding. (See MAP 2.9 Disclosure in Judicial or Administrative Tax Proceedings, for additional information.)</li></ul> <p>See MAP 2.5 Authorized Disclosure of Information, for additional information.</p> <p>Before we can release the records, the Disclosure Office must review them for any information exempt from disclosure.</p> <p style="text-align: right;">Rev. 7/17</p>
<b>2.8.3 Limited Partnership</b>	<p>Generally, a limited partnership has the following characteristics:</p> <ul style="list-style-type: none"><li>• Two or more partners with at least one general partner and one limited partner.</li></ul>

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- General partners manage the partnership's daily business activities and each general partner is individually liable for the partnership's total debt.
- Limited partners do not share in the management of the partnership and each partner's liability is limited to the amount that they have invested in the partnership.

Limited partnerships register with the Secretary of State. Those doing business in California must pay a minimum annual tax under the provisions of R&TC Section 17935.

**Limited Partnerships- Public Information**

We can disclose the following information on limited partnerships to the public:

- Partnership name and address.
- Date of registration with the Secretary of State.
- Tax year adopted.
- Due date of the partnership return.
- Whether a return was filed.
- Filing date of the partnership return.
- Total unpaid amount (including tax, penalty, and interest) for each tax year, without a breakdown.
- Status of the partnership (e.g., terminated or Secretary of State registration withdrawn.)
- Name, date signed, and title of the person who signed the return.
- Industry code.

**NOTE:** Names and addresses of the partners are not public information.

**Limited Partners' Access to Records**

A partner's access to information depends on whether the partner is a general partner or a limited partner.

The authorized representative of the limited partnership and the general partners are entitled access to the same information as those of a general partnership (see MAP 2.8.2 General Partnership).

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	<p>The limited partners of the partnership are entitled access to the following limited information:</p> <ul style="list-style-type: none"><li>• The partnership return, including supporting schedules, with the exception of the Schedule K-1s. Limited partners are entitled to see only a copy of the Schedule K-1 pertaining to them. We do not allow limited partners any access to the Schedule K-1s pertaining to the other partners.</li><li>• The printout or transcript of the partnership account and the portion of the audit report (narrative, work papers, letters, and supporting documents) pertaining <b>only</b> to the adjustment passed through to them. (See MAP 2.5 Authorized Disclosure of Information, for additional information.)</li><li>• The amount of adjustment allocated to them. <b>Limited partners cannot see the amount of the adjustment allocated to any of the other partners.</b></li><li>• Information that directly relates to the resolution of tax issues in a judicial or administrative proceeding. See MAP 2.9 Disclosure in Judicial or Administrative Tax Proceedings.</li></ul> <p>Before we can release the records, the Disclosure Office must review them for any information exempt from disclosure or that the limited partner cannot see. (See MAP 2.8.2 General Partnerships)</p> <p style="text-align: right;">Rev. 7/17</p>
<p><b>2.8.4 Other Entities (LLC, REMICS)</b></p>	<p>Other types of entities, such as Limited Liability Companies and Real Estate Mortgage Investment Conduits, may elect treatment as a partnership for tax purposes. Generally, these entities have more characteristics in common with limited partnerships than with general partnerships. You should apply the disclosure guidelines on limited partnerships to these entities. (See MAP 2.8.3 Limited Partnerships)</p> <p>Investors in Limited Liability Companies and Real Estate Mortgage Investment Conduits may be known as members or owners rather than <b>partners</b>. Members or owners have some of the same characteristics as a general or limited partner.</p>

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	<p>Consider whether the investors manage the entity's business and if they have liability for the entity's debts.</p> <p>If you have reviewed the general disclosure rules and you cannot decide if you should disclose the information, then do not disclose the information. Tell the partner or representative you are not sure if you can provide the requested information, and that you will call back to confirm your findings. Discuss the issue with your supervisor and, if necessary, contact the Disclosure Office.</p> <p style="text-align: right;">Rev. 7/17</p>
<p><b>2.8.5 Group Return of Nonresident Partners</b></p>	<p>R&amp;TC Section 18535 says that certain nonresident partners and Limited Liability Company members may file a group nonresident return on Form 540NR. Each partner or member in the filing group is entitled to the following information:</p> <ul style="list-style-type: none"><li>• Form 540NR (side 1 and 2).</li><li>• Schedules attached to the Form 540NR, showing the computation and apportionment of California source income, losses, deductions, and credits.</li><li>• Parts of any schedule attached to the Form 540NR that show the partner's distributive share of the partnership and California source income, losses, deductions, credits, and the computation of tax on the partner's distributive share.</li><li>• We cannot disclose any information to a partner or member about the other partners' allocation of partnership and California source income or tax computations.</li></ul> <p>If you have reviewed the general disclosure rules and you cannot decide if you should disclose the information, then do not disclose it. Tell the partner/member or representative that you are not sure if you can provide the requested information, and that you will call back to confirm your findings. Discuss the issue with your supervisor and, if necessary, contact the Disclosure Office at 916.845.3226.</p> <p style="text-align: right;">Rev. 7/17</p>

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<b>2.9 DISCLOSURE IN JUDICIAL OR ADMINISTRATIVE TAX PROCEEDINGS</b>	<p>We may disclose return or return information in a judicial or administrative proceeding pertaining to tax administration, if certain criteria apply (R&amp;TC Section 19545). Administrative proceedings include audits, protest hearings, and collection actions. We may disclose information to taxpayers if:</p> <ul style="list-style-type: none"><li>• The proceeding relates to determining or collecting their tax liability.</li><li>• The treatment of an item on the return directly relates to resolving an issue in the proceeding.</li><li>• The information directly relates to a transactional relationship between them and a person who is a party to the proceeding, and directly affects how an issue will be resolved.</li></ul> <p style="text-align: right;">Rev. 7/17</p>
<b>2.10 REQUESTS FOR INFORMATION</b>	<p>R&amp;TC Section 19542 through R&amp;TC Section 19571 permits disclosing limited information.</p> <p>We do not give income tax returns or related information to Political Reform Audit Program personnel to perform political reform audits.</p> <p>MAP 2.10.1 Taxpayer's Request for Copy of Tax Return MAP 2.10.2 Federal Tax Return Information MAP 2.10.3 Other State Agencies Requests for Information</p> <p style="text-align: right;">Rev. 7/17</p>
<b>2.10.1 Taxpayer's Request for Copy of Tax Return</b>	<p>We will provide a copy of personal income tax and business entity tax returns filed by the taxpayer, upon request. We charge \$20, in advance, per tax year for the copies.</p> <p>Taxpayers should send their request and payment to:</p> <p>DATA STORAGE FRANCHISE TAX BOARD PO BOX 1570</p>

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	<p>RANCHO CORDOVA CA 95741-1570</p> <p>We waive the fees if the taxpayer states they are the victim of a designated California or federal disaster. Auditors should not be receiving payment for copies of tax returns. The Data Storage Section should handle these requests.</p> <p>See MAP 2.5 Authorized Disclosure of Information, if a taxpayer requests copies of our audit working papers.</p> <p style="text-align: right;">Rev. 7/17</p>
<p><b>2.10.2 Federal Tax Return Information</b></p>	<p>Authority to inspect a state tax return does not necessarily imply authority to inspect tax information received from the Internal Revenue Service. IRC Section 7213(a)(2) makes the unauthorized disclosure of IRS data by state employees a felony punishable by a fine, imprisonment, or both.</p> <p>The IRS has stringent requirements for protecting Federal Tax Information (FTI), or any document received directly from the IRS. These requirements are outlined in the IRS Publication 1075 and include requirements for both computer security and paper documents containing FTI (e.g., copies of returns, files, documents, letters, RARs and <b>no record</b> responses). To ensure we are protecting confidential data used to do our business, the Disclosure Office recommends using a Confidential Coversheet (FTB 7805) as an additional layer of protection for both IRS and State data. The 7805 includes information and legal references for unauthorized inspection, disclosure, adjustment, destruction, or misuse of both State and/or Federal information. It is your responsibility to protect and secure all confidential tax information whether maintained on your desk, contained in a lock drawer or cabinet, or whether you're traveling with confidential information.</p> <p>In addition to the 7805, if IRS source data becomes part of an audit file (i.e., FedSTAR, BMF/IMF transcript, copies of federal returns, etc.), the auditor should stamp (in red ink) the face of the document <b>CONFIDENTIAL IRS INFORMATION</b> and stamp the cover of the audit file <b>FILE CONTAINS CONFIDENTIAL IRS INFORMATION</b>.</p> <p>If you have any questions, please contact your supervisor.</p> <p style="text-align: right;">Rev. 7/17</p>

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<p><b>2.10.3 Other States Agencies Requests for Information</b></p>	<p>Other States' requests for information are only provided by designated Franchise Tax Board employees. Franchise Tax Board designees are authorized to receive, request and disclose confidential tax information with those states, counties, and local governments with which we have reciprocal agreements. See the Disclosure Office Website for a listing of designated employees.</p> <p><b>NOTE:</b> We cannot provide Other State Agencies copies of information we receive from the IRS.</p> <p style="text-align: right;">Rev. 7/17</p>
<p><b>2.11 TAXPAYER ADVOCATE, PUBLIC AFFAIR &amp; LEGISLATIVE SERVICES REFERRALS</b></p>	<p><b>Taxpayer Advocate Referrals</b></p> <p>If any of the following elected public officials or any of their assistants makes direct contact by email, telephone, or written correspondence, tell your supervisor and refer the contact to the Taxpayer Liaison Section of the Taxpayer Advocate Bureau.</p> <ul style="list-style-type: none"><li>• Federal or state legislators or their staff.</li><li>• Franchise Tax Board member or their staff.</li><li>• Board of Equalization member or their staff.</li><li>• Governor or his staff.</li></ul> <p>The Taxpayers' Bill of Rights established the Taxpayer Rights Advocate to resolve taxpayer complaints. The Taxpayer Liaison Section handles all written correspondence mailed to the Advocate, all contacts from elected public officials, and classified account requests.</p> <p>Refer immediately any written correspondence with a <b>cc</b> to the Taxpayer Advocate to the Advocate Office regardless of the letter's addressee. The Taxpayer Liaison Section will determine if the Taxpayer Advocate Office must resolve the matter.</p>



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If taxpayers ask for the Taxpayer Advocate, give them the following address:

EXECUTIVE LIASION SECTION MS381

FRANCHISE TAX BOARD

PO BOX 157

RANCHO CORDOVA CA 95741-0157

Do the same for letters addressed to or containing **cc's** to any of the above or:

- Executive Officer.
- Chief Executive Officer.
- Director.

Please call the Taxpayer Advocate Bureau if you have any questions about referrals.

**Public Affairs Referrals**

If taxpayers indicate that they have communicated with elected officials, newspapers, or television stations, etc., photocopy the taxpayer's letter and our reply, notify your supervisor, and send a copy of each letter to the Public Affairs Office. This type of case needs priority handling.

You should refer any contacts from a newspaper or other publication to the Public Affairs Office.

**Legislative Services Bureau Referrals**

If an outside source contacts you about legislation, tell your supervisor and refer the contact immediately to the Legislative Services Bureau. The Bureau ensures that that we present consistency on legislative matters.

Occasionally, we ask our staff to testify with bill sponsors at legislative hearings. Our management must approve this participation. The Bureau Director gives final approval.

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<b>2.12 INTERNET MAIL AND SECURE ELECTRONIC COMMUNICATIONS (SEC)</b>	<p>We have the ability to receive and send electronic mail over the Internet. This tool can be used to accommodate business-driven needs. However, because regular Internet email may be processed through private service providers and transmitted through unsecured lines, the security and confidentiality of the information cannot be ensured.</p> <p>Secure Email enables FTB staff to encrypt confidential state tax information and other private or sensitive business information before sending an email outside of the department. Refer to the Disclosure Office homepage for more information on the Secure Email.</p> <p>If a taxpayer or representative sends confidential information via Internet email, you may review the data. However, if the taxpayer or representative requests receipt of emailed correspondence, you must use Secure Email and encrypt your reply response. Call the taxpayer or representative to acknowledge receipt of emailed correspondence.</p> <p>Do not confirm an audit appointment via Internet email, even if requested by a taxpayer or representative. You risk making an unauthorized disclosure because email is transmitted through unsecured lines.</p> <ul style="list-style-type: none"><li>• Do not exchange confidential information with a taxpayer or representative by regular Internet email under any circumstance.</li><li>• Do not use the Internet unless you are an authorized employee who has completed the Internet Service Application (Form FTB 6614) and attended Internet training.</li><li>• Do not use the Internet through stand-alone PASS laptops (laptops not connected to the PASS network).</li></ul> <p>Do not access the Internet through Franchise Tax Board owned equipment using a personal account at any time.</p> <p style="text-align: right;">Rev. 7/17</p>
<b>2.12.1 Outlook Email to Locate Returns or Audit Files</b>	<p>For normal procedures for requesting tax returns, see MAP 9.3 Requesting State Tax Returns and Prior Audit Reports.</p>

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Use Outlook email to request assistance in locating tax returns or the audit file ONLY if Data Storage **cannot** locate the requested information. However, you must **limit** your search to areas where there is a reasonable probability for finding the returns or audit file.

- Do not send an email to **All Audit Users**. **All Audit Users** includes areas outside of MSA and GTA. Use discretion when choosing email addresses.
- Do not include the taxpayer's name, ID number, or SSN in the email subject line. This procedure is consistent with federal email policies.
- When accessing email through OWA from a non-FTB system, do not save the email including attachments to the non-FTB system.
- Use Skype for Business as an alternative for communicating confidential or sensitive information since it is restricted to internal users only.
- Avoid sending emails containing large lists of confidential taxpayer data. Lists may be shared via PASS or a shared network folder in which a link is sent to recipients. Please contact the help desk for assistance in establishing shared network folders.

If PASS or a shared network folder prove to be impractical for sharing lists, the list may be sent as an attachment in an email, however it must be password protected prior to attaching and sending.

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**2.13 TRAVELING WITH CONFIDENTIAL TAXPAYER INFORMATION**

Many auditors check-in audit bags at airports or carry them inside the plane. These may contain tax returns and audit workpapers. All checked and carry-on baggage may be screened by airport personnel. The screening process may be done at a location away from you. **NOTE:** Airport security procedures are subject to change depending on the National Security Alert level.

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Transportation Security Administration (TSA) guidelines for checking baggage at airports say to leave checked baggage unlocked. This raises a concern because audit bags may include taxpayer confidential information.

If you are traveling through airports with confidential tax information:

- Cover the face of all returns and workpapers with a piece of blank paper or cardboard so that the name and other confidential taxpayer information are not readily visible during security checks. You may use FTB 7805 for this purpose.
- Spread out your books and documents in your audit bags. This may reduce the likelihood that TSA will examine your bag.

If checked baggage is screened during the check-in process:

- Keep your audit bags unlocked during the physical screening process.
- Secure or lock the audit bag upon completion of the physical screening process.

If your checked bag is not screened during the check-in process:

- Keep the audit bag unlocked. Otherwise, the screener will break the lock if it is screened at a later time after it is checked.
- If your baggage is opened, the screeners will secure it with a tamper evident seal and place a notice in your bag alerting you that they opened your bag for inspection.

If you believe there was an unauthorized disclosure as a result of the screening process, contact your supervisor or the Disclosure Office immediately.

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**2.14 OFF-SITE  
SECURITY  
CONSIDERATIONS**

We must exercise due diligence to protect the confidentiality of all information by restricting use of PASS PC equipment and the PASS system. Use these guidelines

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to protect the security of all confidential information. Use extra caution when appropriate.

- Do not leave the PC on and unattended.
- Do not let family members or friends access the laptop, tax return, and other case-related information while you are telecommuting.
- Do not leave the PC or audit records in an unsecured location, such as a vehicle.
- Do not leave the PC unattended while connected to the system, or when using the PC to work offline.
- Physically secure the PC to reduce the risk of theft.
- Physically secure any diskettes that contain confidential information.
- Use the screen-saver password feature when using your PC.

For more information, see Statement of Incompatible Activities and Rules of Conduct for Department Employees (FTB Policy File 4130); Confidentiality and Security of Data (FTB Policy 9201); FTB Computer Access Request Procedures (FTB General Procedures Manual 7010); FTB Information Security Policy; FTB Disclosure Manual; or Contact the FTB Disclosure Office at 916.845.3226 or visit the Disclosure Office Website.

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**2.15**  
**DESTRUCTION OF**  
**CONFIDENTIAL**  
**INFORMATION**

**Paper Items**

Place all paper items containing confidential taxpayer information into confidential destruction bins or shred them immediately. Return confidential material obtained in the field to our office for proper destruction.

**Storage Media (e.g., disks, CD-ROMs, USB drives, etc.)**

All storage media containing confidential taxpayer information, which is no longer needed, should be walked over to the designated IT Service Tech. IT will destroy or dispose of these items.

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<b>2.16 IDENTITY VERIFICATION</b>	<p>It is important to verify the identity of an individual taxpayer, business representative and/or Power of Attorney representative (as well as establish the right-to-know) before disclosing any confidential tax information.</p> <p>Auditors will apply Identity Verification to verify the identity of an individual taxpayer, business representative and/or a Power of Attorney representative to avoid unauthorized disclosure.</p> <p>Auditors will apply Identity Verification <b>on the first audit contact</b> by asking the taxpayer or representative to provide specific confidential information such as name, ID and/or address. Since an audit cycle generally takes several months to complete, it is not necessary to apply Identity Verification on every contact with the taxpayer or representative.</p> <p>For more information regarding Identity Verification, refer to the EPM.</p> <p><b>Enhanced Identity Verification</b></p> <p>Auditors must apply Enhanced Identity Verification procedures in the following situations:</p> <ul style="list-style-type: none"><li>• Any EASE related contact (EASE is used to set up a new MyFTB account), or</li><li>• When a call is received and the ONLY reason for the call is to request a change of address over the phone.</li></ul> <p>For complete rules and procedures, refer to Enhanced Identity Verification in the EPM.</p> <p style="text-align: right;">Rev. 7/17</p>
<b>2.17 IMPLIED CONSENT</b>	<p>Implied Consent allows a representative, whom does not have an active POA declaration, to discuss limited confidential information with FTB. Refer to MAP 3.3.1.1 for more information.</p> <p>Implied consent is generally established when a representative has details from the account or an FTB notice or letter, such as an Information Document Request (IDR) or Initial Contact Letter (ICL).</p>

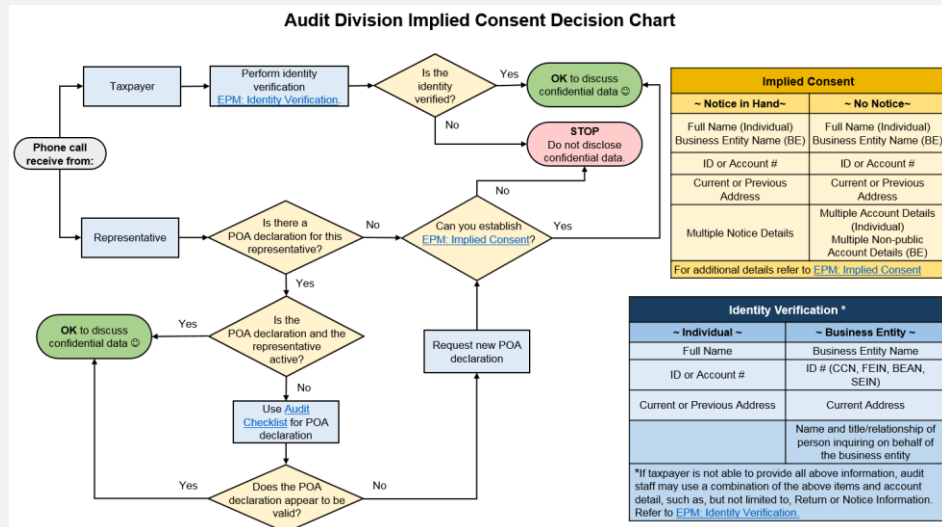
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Implied consent must be established before the auditor can start working with the representative in a limited capacity. When using **implied consent**, audit staff:

- May share information verbally with the representative (including the content of IDRs, etc.).
- Cannot provide any written communication to the representative (e.g., IDR).
- Will send or email the written correspondence directly to the taxpayer until the POA is approved.
- May assist with checking on the status of the POA declaration in TPF and verbally communication the status with the representative.

The auditor must never provide written information or copies of notices to representatives based on implied consent. For ongoing communications with a representative, request a POA declaration be filed by the taxpayer or representative.

For complete rules and procedures, refer to the EPM Implied Consent.



(Click on the image to access a PDF version of the Audit Division Implied Consent Decision chart that can be printed for auditor reference.)