

**8. CASE SERVICING SECTION**

**8. CASE SERVICING SECTION** ..... 1

8.1 BUSINESS ENTITIES ..... 3

8.1.1 Returns And Correspondence ..... 3

8.1.1.1 Correspondence Processing ..... 3

8.1.1.2 Tax Computations ..... 4

8.1.1.3 Priority Process ..... 6

8.1.1.4 Revenue Agent Report (RAR) ..... 8

8.1.1.5 Withhold At Source ..... 9

8.1.2 Fees ..... 11

8.1.2.1 Bank Fee Reimbursement ..... 11

8.1.3 Interest ..... 13

8.1.3.1 Waiver Of Interest ..... 13

8.1.4 In House Money Transfer ..... 15

8.1.4.1 Funds Transfer Between Business Entities And Personal Income Tax ..... 15

8.1.5 Refunds ..... 17

8.1.5.1 Claim For Refund ..... 17

8.1.5.2 Erroneous Refund ..... 19

8.1.5.3 Refund Trace (Stop Payment) ..... 21

8.1.5.4 Manual and Rush Refunds ..... 22

8.1.6 Revivors ..... 24

8.1.6.1 Revivor/Restoration ..... 24

8.1.7 Contract Voidability ..... 27

8.1.7.1 Contract Void Status ..... 27

8.1.7.2 Relief From Contract Voidability ..... 29

8.1.8 California Special Credits ..... 31

8.1.8.1 Tax Credits (Special) ..... 31

8.1.9 BE Support ..... 31

8.1.9.1 Account Adjustments ..... 31

8.2 PERSONAL INCOME TAX ..... 34

8.2.1 Returns And Correspondence ..... 34

8.2.1.1 Tax Return, Forms, And Document Requests ..... 34

8.2.1.2 Turnaround Documents And Entity Changes ..... 36

8.2.1.3 Limited Retention File (LIM) ..... 38

8.2.1.4 Withhold At Source ..... 39

8.2.1.5 Funds Transfer ..... 40

8.2.1.6 Correspondence Processing – Guidelines ..... 42

8.2.1.7 Filing Enforcements ..... 44

8.2.1.8 Amended Returns ..... 46

8.2.1.9 Estates And Trusts ..... 48

8.2.1.10 Frivolous Activity – Non Filer (FAN) ..... 50

CALIFORNIA FRANCHISE TAX BOARD

- 8.2.1.11 Tax Computations ..... 52
- 8.2.1.12 Pending Federal Cases ..... 54
- 8.2.2 Refunds ..... 56
  - 8.2.2.1 Manual and Rush Refunds ..... 56
  - 8.2.2.2 Refund Trace or Stop Payment ..... 58
  - 8.2.2.3 Erroneous Refund ..... 60
  - 8.2.2.4 1099G Report of State Income Tax Refund ..... 61
- 8.2.3 Bank Fees..... 63
  - 8.2.3.1 Reimbursement of Stop Payment Fee..... 63
- 8.2.4 California Special Credits ..... 65
  - 8.2.4.1 California Special Credits ..... 65
  - 8.2.4.2 Child and Dependent Care Expense Credit ..... 66
- 8.2.5 Claims and Denials ..... 68
  - 8.2.5.1 Claim For Refund ..... 68
  - 8.2.5.2 State Disability Insurance (SDI) ..... 70
- 8.2.6 Withholding ..... 73
  - 8.2.6.1 Substitute W-2 ..... 73
  - 8.2.6.2 W-2 Withholding Credits Without The Return ..... 74
  - 8.2.6.3 Non-Resident Withholdings..... 75
- 8.2.7 Voluntary Contributions ..... 77
  - 8.2.7.1 Voluntary Contributions ..... 77
- 8.2.8 Interest Abatement And Waiver ..... 78
  - 8.2.8.1 Interest Abatement And Waiver ..... 78
- 8.2.9 PIT Support..... 78
  - 8.2.9.1 Account Adjustments..... 79

## **8.1 BUSINESS ENTITIES**

### **8.1.1 Returns And Correspondence**

#### **8.1.1.1 Correspondence Processing**

##### **Background**

---

Franchise Tax Board (FTB) may receive written correspondence from an entity attempting to resolve a tax issue, request a protest, or check on a payment.

##### **Purpose**

---

FTB staff must make every effort to be a responsive and credible resource in assisting entities with the efforts to resolve any tax issues or related concerns in a timely manner.

##### **Responsibility**

---

It is FTB's responsibility to answer and/or acknowledge correspondence within a timely manner from the date the correspondence was received.

##### **Action**

---

FTB staff 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

##### **Reference**

---

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.1.1.2 Tax Computations

#### Background

---

A tax computation is used when the business entity requests a written computation of all transactions on their account. The tax computation will include filed and non-filed tax periods. If the business entity is not positive of their tax on a non-filed year(s), the tax computation will be determined by minimum tax for those tax years. This basis is just an estimate, and may change pending the actual tax reported for those tax years.

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

#### Purpose

---

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

#### Responsibility

---

Franchise Tax Board (FTB) staff is responsible for providing a tax computation upon the entities request.

#### Action

---

FTB staff should use the Business Entities Tax System (BETS), Automated Interest Program (ADINT), and the eLetter system to complete the Tax Computation Guide ((\*\*\*\*)).

## Reference

---

((\*\*\*)

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.1.1.3 Priority Process

#### Background

---

Franchise Tax Board (FTB) staff may request Business Entities Section (BES) to priority process a tax return or payment document if it is past the BES processing timeframe and the document meets priority processing criteria. This timeframe 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:

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

Priority processing criteria does **not** include:

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

#### Purpose

---

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

#### Responsibility

---

FTB staff should identify and request priority processing for accounts meeting the outlined criteria as appropriate.

#### Action

---

FTB staff will submit a support request to have returns priority processed from suspense.

Before a return is submitted to be priority processed, FTB staff must do the following:

- Check to see if the return is an amended return
- Check to see if the return is a duplicate

- Check to see if the duplicate return has an in date prior to the return posted as the original
- Check to see if the return belongs to the corporation it has posted to
- Make sure payments are moved with the return

**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

---

((\*\*\*)

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.1.1.4 Revenue Agent Report (RAR)

#### Background

---

Franchise Tax Board (FTB) partners with the Internal Revenue Service (IRS) to share information on tax adjustments. One example is a Revenue Agent Report (RAR). RARs inform FTB of changes or revisions resulting in a credit or deficiency.

If an amended return is not filed within the specified time frame, audit will adjust the accounting period via a Notice of Proposed Assessment (NPA).

#### Purpose

---

The purpose of an RAR is to inform FTB of changes or revisions at the federal level to allow for possible state tax adjustments.

#### Responsibility

---

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

#### Action

---

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

#### Reference

---

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

((\*\*\*\*))

**NOTE:** ((\*\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)



### 8.1.1.5 Withhold At Source

#### Background

---

Withholding at Source is a prepayment of the income or franchise tax due on the payment of California source income. 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 any entity making 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 FTB 592-B](#) information to FTB for nonresidents, and provide vendors/payees with form FTB 592-B, showing their California income and withholding amounts for the year.

Examples of income types that may be required to have withholding at the 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 Return Information Notice (RIN). 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 (LLC).

**Purpose**

---

The Withholding at Source program ensures California source income is subject to California income or franchise tax. Generally, withholding will be seven percent of the total payments, or a reduced rate or amount determined by FTB. A reduced rate will only be considered if it has been requested.

**Responsibility**

---

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

**Action**

---

Follow unit procedures to have the payment applied.

**Reference**

---

[Form FTB 592](#)

[Form FTB 592A](#)

[Form FTB 592B](#)

[Revenue and Taxation Code Section 18662](#)

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

## **8.1.2 Fees**

### **8.1.2.1 Bank Fee Reimbursement**

#### **Background**

---

An entity may file a claim with the Franchise Tax Board (FTB) for reimbursement of bank fees (charges) incurred as a direct result of an erroneous levy/Order To Withhold (OTW) by FTB.

#### **Purpose**

---

The reimbursement process compensates the entity of bank charges incurred as a direct result of an erroneous levy/OTW.

#### **Responsibility**

---

It is the responsibility of FTB staff to determine if the claim is valid. FTB has 30 days to respond to the entity's letter/claim.

#### **Action**

---

FTB staff should advise the entity to submit a letter within 90 days of the levy explaining the error, and that the bank did not waive the charges. The letter must provide proof of the following:

- Erroneous levy was caused by an FTB error
- Bank fees (charges) were solely the result of the erroneous FTB levy
- Charges were not waived by the bank
- Taxpayer responded to all the requested information by FTB prior to the erroneous levy

Once the claim is received, FTB staff has 30 days to review and send a response to the entity as follows:

- If the claim is denied, FTB staff will send form FTB 5116 to explain the claim denial.
- If the claim is granted, FTB staff will complete form FTB 5116, and form FTB 7518, and submit both to the unit lead for approval.
- ((\*\*\*\*))
- FTB staff must forward a copy of the form FTB 5116 to the entity, send all remaining documents to the corporate folder, and document the account.

## Reference

---

### [Revenue and Taxation Code Section 21018](#)

((\*\*\*)

((\*\*\*)

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.1.3 Interest

#### 8.1.3.1 Waiver Of Interest

##### Background

---

The Franchise Tax Board (FTB) is given authority to waive interest in certain circumstances.

- When the debtor is unable to pay the interest solely because of extreme financial hardship resulting from a catastrophic circumstance or significant disability. (This does not apply to business entities; see Revenue and Taxation Code Section 19112)
- When an unreasonable error or delay is attributable to an officer or employee of the FTB performing a ministerial or managerial act.
- When the IRS has abated interest for administrative or managerial reasons on an assessment that we have followed.

The assessment of interest is not a penalty. The law requires that interest be charged because it compensates the state for the debtor's use of money after the due date of the tax.

##### Purpose

---

Business entities may request the waiver of the interest assessed to their account. Limited circumstances warrant the waiver of interest and must meet the provisions of the Revenue and Taxation Code that allow for an interest waiver.

- [Revenue and Taxation Code Section 19104](#) provides the FTB with discretionary authority to waive interest when the interest is attributable to an unreasonable error or delay by an officer or employee of the FTB in the performance of a ministerial or managerial act. A ministerial act is defined in Treasury Regulation section 301.6404-2(b).
- [Revenue and Taxation Code Section 19104](#) authorizes the FTB to waive any interest accruing from a deficiency based on a final federal determination of tax, for the same period that interest was abated on the related federal deficiency amount under [Internal Revenue Code Section 6404\(c\)](#).

- [Revenue and Taxation Code Section 21012](#) provides for the waiver of interest in certain circumstances when a debtor, after submitting a formal written request for advice to FTB and receiving a written response, thereafter reasonably relies on that advice and fails to make a timely return or payment. This section applies only to the debtor that made the written request and properly relied on such advice. In support of the request for interest waiver under this section, the debtor must provide a copy of the original written request, a statement made under penalty of perjury setting forth the facts on which the claim for waiver is made and any other information which FTB may require.

### **Responsibility**

---

When a business entity inquires about an interest waiver, FTB staff should advise the entity of the law and send [form FTB 3701](#) (Interest Waiver Request).

### **Action**

---

FTB staff should route interest waiver requests to the Collection Advisory Team (CAT). Once CAT receives the request for the waiver of interest, the supervisor will assign the request to an advisor. The advisor will review the request and determine whether to approve or deny the request.

After approval or denial is determined, the advisor will inform the user, and the debtor in writing of the amount of interest to be waived. The advisor will make any necessary case adjustments and enter comments on the case. The advisor will ensure the debtor is informed of the applicable appeal rights in the correspondence sent to the debtor.

### **Reference**

---

Internal Revenue Code: [U.S. Tax Code On-Line](#)  
[Form FTB 3701](#)

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

## **8.1.4 In House Money Transfer**

### **8.1.4.1 Funds Transfer Between Business Entities And Personal Income Tax**

#### **Background**

---

A funds transfer may be required if money was erroneously applied and belongs to:

- A Personal Income Tax (PIT) account and was posted to a business entity's account
- A business entity's account and was posted to a PIT account
- Another state agency. See Section 7.1.6.1 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) staff 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 of the check.

#### **Action**

---

FTB staff will contact the business entity or taxpayer and obtain a copy of the canceled check, by either mail or fax, which may have been misapplied. FTB staff should compare the information on the check to the account it applied to and the account the business entity or taxpayer is claiming it should have been applied to. The following are items to check for:

- 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 staff should cross reference the copy of the payment they received from the entity or taxpayer to the copy of the payment posted on Image Delivery Application Expansion ((\*\*\*\*)).

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

## Reference

---

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)



## **8.1.5 Refunds**

### **8.1.5.1 Claim For Refund**

#### **Background**

---

A claim for refund may be formal or informal. The following entities may file a claim for refund:

- 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 occur within the statute of limitations:

- The entity files an amended return reducing the liability on the entity's original return that was previously paid in full, or
- The entity 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:**

Entities making installment payments on a balance due cannot file a valid formal claim for refund until the full amount due is paid. Beginning January 1, 2002, entities may file an informal claim for refund within the statute of limitations (SOL) even though the full amount due has not been paid. The informal claim will delay the expiration of the statute of limitations and protect the taxpayer's rights to appeal to the Board of Equalization (BOE) or file suit in Superior Court. 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.

An entity may also file an appeal with BOE 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 this case, the taxpayer may consider the claim disallowed/denied.

**NOTE:** If the entity disagrees with the BOE decision, the recourse is to file a lawsuit to claim the refund in Superior Court.

### **Purpose**

---

The claim for refund process provides the entity a means by which to request a refund when in disagreement with an assessment.

### **Responsibility**

---

It is the responsibility of FTB staff to be aware of the entity's option to file a formal or informal claim for refund.

### **Action**

---

FTB staff should inform the entity to include the following information when filing the claim for refund:

- Claim for refund must be in writing
- Signature of the entity's authorized representative
- Specify the grounds on which it is based
- Business entity's name, address, phone number, and identification number
- Tax year the claim is for
- Amount of the claim
- Basis of the claim
- Statement of facts
- Documents that support the claim

Once the entity returns their formal or informal claim for refund, FTB staff will forward the entity's request to the Collection Advisory Team (CAT).

### **Reference**

---

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

((\*\*\*)

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.1.5.2 Erroneous Refund

#### Background

---

Occasionally, Franchise Tax Board (FTB) will issue a refund in error to business entities.

A refund is considered to be erroneous if the refund was:

- Issued due to a transaction that created an "erroneous" credit balance
- Based upon misapplied payments
- Issued to the wrong entity or from an incorrect account
- A manual refund and an automated refund were issued for the same credit balance

#### Purpose

---

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

#### Responsibility

---

It is the responsibility of FTB staff to issue the erroneous refund letter to the entity and ensure that the money has been credited to the correct liability.

**NOTE:** FTB must notify the entity 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 supervisor/lead.)

#### Action

---

When an erroneous refund is identified FTB staff should:

- Credit the proper entity and/or tax year(s)
- Issue the erroneous refund letter
- Allow the entity 30 days to remit funds
- Take collection actions if the funds are not returned within 30 days

**Reference**

---

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

((\*\*\*)

((\*\*\*)

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.1.5.3 Refund Trace (Stop Payment)

#### Background

---

A refund trace (aka: stop payment) is the process used to determine if a refund warrant was cashed by the business entity or other authorized person.

#### Purpose

---

A refund trace (aka: stop payment) should be initiated if a refund is:

- Lost
- Stolen
- Destroyed
- Not received by the business entity and 25 days have elapsed from the issue date. (The 25-day waiting period does not apply if the refund was lost, destroyed, or stolen.)

#### Responsibility

---

Franchise Tax Board (FTB) staff's responsibility is to:

- Confirm the address is current
- Be familiar with the process
- Initiate appropriate action within the timeframes
- Provide time frame to the business entity

#### Action

---

FTB staff must follow unit procedures to contact Fiscal Control to initiate the refund trace.

**NOTE:** If the refund warrant was not cashed within one year of the issue date, the warrant is no longer valid, and a new warrant will need to be issued.

#### Reference

---

((\*\*\*)  
((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.1.5.4 Manual and Rush Refunds

#### Background

---

Refunds are normally processed automatically by Business Entities Tax Systems (BETS). 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.

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

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

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

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

#### Purpose

---

A rush refund must be prepared manually and is required when one of the above situations exists and the system would not automatically issue a refund.

#### Responsibility

---

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

#### Action

---

FTB staff must follow unit procedures to determine if a criterion exists for processing a manual or rush refund.

**NOTE:** A rush refund must be mailed to the taxpayer within 7-10 working days after Fiscal Control submits the paperwork to the State Controller's Office.

## Reference

---

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

## 8.1.6 Revivors

### 8.1.6.1 Revivor/Restoration

#### Background

---

Revivor:

A suspended or forfeited corporation, or a Limited Liability Company (LLC), filing as a corporation or partnership, may request to have their rights, powers, and privileges reinstated (revived).

To revive, the entity must:

- File all delinquent returns
- Pay any balance due which could include:
  - Taxes
  - Penalties (including Secretary of State (SOS) penalty)
  - Interest
  - Fees
- File a signed Application for a Certificate of Revivor ([form FTB 3557BC](#) for corporations, [form FTB 3557LLC](#) for LLC, or form FTB 3557A for walk-thru revivors)
- Obtain a Notice of Proposed Relief from Suspension letter from SOS (only if suspended by the Franchise Tax Board (FTB) and SOS)
- Confirm name availability with SOS

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

**NOTE:** Exempt organization revivor information is located at section 4.1.7.12 Exempt Corporations Suspension/Revivor.

Restoration:

An entity will have its suspended status restored if it is determined that the suspension was in error. 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 the filing system
- A payment that has been paid timely, but has not posted to the filing system



**Purpose**

---

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

**Responsibility**

---

FTB staff must be able to identify and provide correct revivor requirements, and/or recognize when a restoration is needed. Under certain circumstances, an entity may request a walk-thru revivor. A walk-thru revivor is a one-day process and requires an entity's authorized representative to personally appear at a field office. The entity must have a pending escrow, pending loan, or pending litigation to be considered for a walk-thru revivor. A fee will be charged for a walk-thru revivor. Follow unit procedures prior to approving a walk-thru revivor.

A suspended 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 must reserve a name (and 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.

**NOTE:** Prior to January 1, 1994, a Certificate of Inactivity was issued to some entities requesting to revive. The Statement of Inactivity was filed to account for years when the corporation was not doing business, and took the place of corporate returns during that period. The Certificate of Inactivity is no longer used. This is important to the extent that if a Statement of Inactivity was accepted, returns are not considered "missing" for the period covered by the statement.

**Action**

---

Revivor:

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

- Complete the Revivor Requirements form FTB 4005 (depending on entity type) according to unit procedures.
- 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 the estimate payment.
- Address Relief from Contract Voidability options.
- Obtain a signed Application for Certificate of Revivor [form FTB 3557](#) (depending on entity type, or form FTB 3557A if a 'walk-thru' is necessary).
- Inform the entity to contact SOS if suspended or forfeited by the SOS **only** to request a revivor. In addition, FTB staff should address all outstanding FTB collection issues.
- If the entity meets all requirements, call in revivor to the Revivor Desk or route form FTB 3557 to Revivor Unit (following unit procedures).

#### Restoration:

If an entity is erroneously suspended or forfeited, FTB staff must restore as though the entity was never suspended/forfeited. If the name is no longer available, the entity must contact SOS.

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

#### Reference

---

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

((\*\*\*)

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

## **8.1.7 Contract Voidability**

### **8.1.7.1 Contract Void Status**

#### **Background**

---

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. Any contracts entered into after the contract voidability status is assessed, become voidable.

**NOTE:** The status of “Contract Void” has no bearing on the non-qualified (NQ’s) rights to overpayments, claims, and extensions to file.

If a foreign entity NOT qualified to do business in California and NOT having been assigned an FTB account number fails to file a return, any contract entered into within California can be declared voidable during the “applicable period.”

When any corporation has a status of contract void, and decides to gain compliance, they will be required to file all delinquent returns, pay all past due tax, penalties, fees, and interest. Along with this, the non-qualified corporation will be required to purchase relief from contract voidability for each accounting period the entity had the status of contract void.

**NOTE:** Qualified California corporations are not required to purchase relief from contract void when they revive. Purchasing relief from contract void is an option.

#### **Purpose**

---

Although a non-qualified corporation cannot be suspended or forfeited, it can be subjected to a status of contract void. Subjecting a non-qualified corporation to a status of contract void is used as an effective tool to gain compliance.

#### **Responsibility**

---

It is FTB staff’s responsibility to ensure due process. A Final Notice Before Contract Voidability (Form 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 Form FTB 2516 Notice of Contracts Subject to Voidability and any contracts made by the entity in California will be voidable at that time.

### Action

---

FTB staff may defer contract voidability status in BE ARCS ((\*\*\*\*)). The cut off date to defer contract voidability status in ARCS is approximately 10 days prior to the contract voidability date.

### Reference

---

((\*\*\*\*))

((\*\*\*\*))

((\*\*\*\*))

**NOTE:** ((\*\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.1.7.2 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.

During the revivor process a qualified entity may choose the accounting period to begin relief from contract voidability. Once the revivor is complete, the period for which relief is requested shall start at the beginning of the chosen taxable year and end on the date the relief is granted.

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

Non-qualified entities with contract void status must purchase relief from contract voidability for all periods to be reinstated to an active status.

Any FTB suspended, forfeited, or nonqualified corporation/exempt organization, with contracts that are voidable due to noncompliance, may be relieved of contract voidability by completing the following requirements:

- Filing all delinquent tax returns
- Paying all delinquent taxes, penalties, fees, and interest
- Filing form FTB 3557
- 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 computing the penalty for a return not yet due, the penalty will be based upon minimum tax.)

If a foreign corporation NOT qualified to do business in California and NOT having an FTB assigned account number fails to file a return, any contract entered into within California can be declared voidable during the “applicable period.”

The applicable period begins on the later of:

- The first day of the taxable year for which the corporation has failed to file a return or pay taxes.

The applicable period ends on the earlier of the date the corporation:

- Qualifies to do business in this state
- Obtains an account number from FTB

**NOTE:** Entities suspended or forfeited by SOS only, are not subject to contract voidability, but do lose their corporate rights as described in Section 7.1.4.1 Suspension and Forfeiture General Information. Corporations or exempt organizations revived prior to 1990 were not eligible for relief of contract voidability.

### **Purpose**

---

The purpose of relief from contract voidability is to allow entities the opportunity to make their voidable contracts enforceable.

### **Responsibility**

---

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

### **Action**

---

FTB staff must:

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

### **Reference**

---

[Revenue and Taxation Code Sections 23304.1, 23304.5, and 23305.1](#)

((\*\*\*\*))

**NOTE:** ((\*\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

## 8.1.8 California Special Credits

### 8.1.8.1 Tax Credits (Special)

#### Background

---

California special tax credits may be used to reduce the current year's tax liability to zero. If the current year's tax liability is reduced to zero, additional credits may be carried over. Special credits may not be used against Alternative Minimum Taxes.

**NOTE:** Taxpayers must file [form FTB 3540](#) to calculate and claim carryover credits.

#### Purpose

---

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

#### Responsibility

---

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

#### Action

---

FTB staff should:

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

#### Reference

---

((\*\*\*)  
((\*\*\*)  
((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

## **8.1.9 BE Support**

### **8.1.9.1 Account Adjustments**

#### **Background**

---

BE Collection Support (BECS) is a Support Group for the Special Programs Bureau. Our specialties are the process of BETS Transactions and Suspension/Revivor Process and assist other units with temporary needs that result-from legislation or special projects. Various units that normally process their own Revivor Requirements or workloads will periodically use our services when their backlogs are high or may require too much time. BECS provides an array of services.

#### **Purpose**

---

BECS provides services to the BE ARM Division Collection Staff. We assist our customers with the Suspension Process within the specified criteria and meet all deadlines. Our primary customers are the Reactive and Proactive Collection Groups, but we also process workloads for the Bankruptcy Collection Groups. In addition, we are available to process these workloads:

- Missing Year Notice of Proposed Assessments
- Payor File updates
- BE Discharge Report
- PICL Cleanup
- Offsets
- Business Transfers
- Bankruptcy
- Advocate Office

#### **Responsibility**

---

It is the responsibility of the BE Support Staff to support the collection staff and adjust the taxpayer account 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 staff must inform collectors when they cannot perform a requested transaction.



**Action**

---

We return BETS transactions when we require further clarification or when we are unable to process a request. We explain why we cannot process a request. BECS uses the following process when we return requests.

**Reference**

---

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

## **8.2 PERSONAL INCOME TAX**

### **8.2.1 Returns And Correspondence**

#### **8.2.1.1 Tax Return, 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 Data Services and Storage Section (DSSS) maintains the following documents available upon Franchise Tax Board (FTB) staff request:

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

**NOTE:** DSSS 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 staff to request tax booklets, forms, schedules and/or publications to be mailed to taxpayers, authorized taxpayer representatives, and tax practitioners.

##### **Purpose**

---

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

##### **Responsibility**

---

FTB staff are responsible for identifying scenarios in which a tax return request, form or document search is required. In addition to tax returns, DSSS 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 10 years.

##### **Action**

---

The following methods may be used to request PIT returns:

- Online through the Taxpayer Information System (TI)

- Rush request
- ((\*\*\*\*))

**NOTE:** The online request through TI should be used whenever possible.

((\*\*\*\*))

**Recharging Returns:** It may be necessary to request a tax return from DSSS. DSSS provides return(s) to staff 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 DSSS aware of the exchange. This process is referred to as recharging a return.

((\*\*\*\*)) ((\*\*\*\*))

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

**Reference**

---

((\*\*\*\*))  
((\*\*\*\*))  
((\*\*\*\*))  
((\*\*\*\*))  
((\*\*\*\*))

For Additional Information On Recharging Returns:

((\*\*\*\*))  
((\*\*\*\*))  
((\*\*\*\*))  
((\*\*\*\*))

For additional information on form requests:

((\*\*\*\*))  
((\*\*\*\*))  
((\*\*\*\*))  
((\*\*\*\*))  
((\*\*\*\*))  
((\*\*\*\*))

**NOTE:** ((\*\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.2.1.2 Turnaround Documents And Entity Changes

#### Background

---

During the course of Skip Tracing (Section 5.2.1.1 Skip Tracing Introduction) Franchise Tax Board (FTB) staff 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 staff occasionally will receive requests from taxpayers via telephone, letter, or fax requesting that their personal information be updated. When a taxpayer's personal information (information which identifies the taxpayer; Social Security Number (SSN), Taxpayer Identification (TPID) number, name, mailing address, guardian/executor name, telephone, address source, address date and address status) is updated in the entity screen on the Taxpayer Information (TI) system the transaction is referred to as an *entity change*.

#### Purpose

---

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

#### Responsibility

---

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

#### Action

---

FTB staff will enter the information received on turnaround documents into TI or Accounts Receivable Collection System (ARCS) depending on the nature of the correspondence.

((\*\*\*\*)) ((\*\*\*\*))

## Reference

---

((\*\*\*)

((\*\*\*)

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.2.1.3 Limited Retention File (LIM)

#### Background

---

The Data Services and Storage Section (DSSS) maintain 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 DSSS:

- Copies of audit files
- Proposed assessments
- Correspondence

#### Purpose

---

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

#### Responsibility

---

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

#### Action

---

((\*\*\*)

#### Reference

---

((\*\*\*)  
((\*\*\*)  
((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 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) staff 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 staff 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.

#### Action

---

FTB staff should verify through the taxpayer Information (TI) system withhold at source display ((\*\*\*) or by contacting the withholding services and compliance section at 916-845-4900

((\*\*\*)

#### Reference

---

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

((\*\*\*)

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.2.1.5 Funds Transfer

#### Background

---

A funds transfer may be required if money was erroneously applied and belongs to:

A Personal Income Tax (PIT) account that was posted to a business entity's (BE) account

A BE account that was posted to a PIT account

Another state agency, see Interagency Intercepts (see section 7.2.5.1 General Interagency Intercept Information)

#### Purpose

---

The purpose of a funds transfer is to allocate the funds to the proper account.

#### Responsibility

---

It is the responsibility of Franchise Tax Board (FTB) staff to take the necessary steps to confirm ownership of the payment(s) 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 on the check.

#### Action

---

FTB staff will contact the taxpayer and obtain a copy of the canceled check, by either mail or fax, which may have been misapplied. FTB staff should compare the information on the check to the account it applied to and the account the taxpayer is claiming it should have been applied to. The following are items to verify:

- 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 a social security number?
- Does the memo field reference a corporation number?

FTB staff should cross reference the copy of the payment they received from the taxpayer and the copy that posted on Image Delivery Application Expansion ((\*\*\*\*)). (See section 5.2.1.11 Image Delivery Application Expansion ((\*\*\*\*)))

FTB staff will be responsible for checking the dates of penalty assessments against the dates of the payments when a payment was misapplied. FTB staff may need to cancel the penalties if the misapplied payment was the original cause of the penalty.



## Reference

---

((\*\*\*\*))

((\*\*\*\*))

((\*\*\*\*))

**NOTE:** ((\*\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.2.1.6 Correspondence Processing – Guidelines

#### Background

---

Franchise Tax Board (FTB) answers or acknowledges all unsolicited correspondence, typically in the order it is received. However, FTB does give consideration to the urgency of a request. Correspondence in relation to statutory deadlines or those involving taxpayer penalties may require priority action ((\*\*\*\*)).

Unsolicited correspondence is any written communication FTB receives that is not in response to our requests for specific information. FTB policy applies to all correspondence except in scenarios where the customer does not anticipate a response. FTB may respond to correspondence in writing or by telephone, depending on the nature of the inquiry and the urgency of the response.

((\*\*\*\*))

((\*\*\*\*))

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

#### 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 claim for refund
- Letter of protest
- Erroneous refund letter
- Notice of action on claims

In most cases, accounts can be resolved without requesting a return. The faxed information, correspondence received, or copy of our reply should be retained and attached to the return. An **Attach To (A/T)** is used to attach the item to be retained to a return in the Data Services and Storage Section (DSSS).

#### Purpose

---

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

**Responsibility**

---

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

**Action**

---

When FTB staff receives information from skip tracing correspondence, they must document new information.

((\*\*\*\*))

**Reference**

---

((\*\*\*\*))

((\*\*\*\*))

((\*\*\*\*))

((\*\*\*\*))

((\*\*\*\*))

For additional information on Sensitive Correspondence:

((\*\*\*\*))

**NOTE:** ((\*\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.2.1.7 Filing Enforcements

#### Background

---

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

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

((\*\*\*\*))

#### Purpose

---

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

#### Responsibility

---

Whether a taxpayer is responding to a Demand for Tax Return notice, or FTB is contacting the taxpayer in regards to an FE, FTB staff are responsible for explaining the FE and the basis of the assessment.

#### Action

---

FTB staff can locate FE information prior to 1998 through the Taxpayer Information (TI) system. The INC system holds the FE information for tax years 1999 through current.

## Reference

---

((\*\*\*)

((\*\*\*)

((\*\*\*)

((\*\*\*)

[Revenue And Taxation Code Section 19087](#)

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.2.1.8 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 aids Franchise Tax Board (FTB) in making correct adjustments and educates taxpayers on how to correctly complete their return.

#### Responsibility

---

FTB staff 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

---

Taxpayers will request adjustments to their original return by filing an amended tax return by completing [form FTB 540X](#) or a second [form FTB 540](#) or [form FTB 540NR](#) that is clearly marked "Amended." ((\*\*\*\*))

Amended returns are processed in the same manner as an original return. Each return can be viewed on:

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

Amended returns will fall out to complex resolution for manual process only when a situation exists that 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.

((\*\*\*)

If an amended return 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). ((\*\*\*) ((\*\*\*)

((\*\*\*) ((\*\*\*)

((\*\*\*)  
((\*\*\*)  
((\*\*\*)

- o ((\*\*\*)
- o ((\*\*\*)
- o ((\*\*\*)
- o ((\*\*\*)

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 (SSN).

The Complex Resolution Unit will resolve all multiple returns. The Unassigned Correspondence Group will only work returns with different Taxpayer Identification (TPID) Numbers or if there was an error made in processing the multiple returns.

**Reference**

---

((\*\*\*)  
((\*\*\*)  
((\*\*\*)  
((\*\*\*)  
((\*\*\*)

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

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.2.1.9 Estates And Trusts

#### Background

---

An *Estate* is the total property of whatever kind that is owned by a decedent prior to the distribution of that property - either:

In accordance with the terms of a will, or

By laws of inheritance in the state of domicile of the decedent when there is no will.

A *Trust* is a legal entity created by a grantor for the benefit of designated beneficiaries under the laws of the state and the mandates of a valid trust instrument. The following are various types of trusts:

- Revocable Trust
- Irrevocable Trust
- Trust Instrument
- Complex Trust
- Testamentary Trust
- Intervivos Trust
- Simple Trust

((\*\*\*\*))

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

A fiduciary is usually required to:

- Take charge of property.
- 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.

**Action**

---

FTB staff 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. ((\*\*\*)

**Reference**

---

((\*\*\*)

((\*\*\*)

((\*\*\*)

((\*\*\*)

[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.

[Return to the Table of Contents](#)

### 8.2.1.10 Frivolous Activity-Non Filer (FAN)

#### Background

---

An Income Non Filer (FAN) is an individual or group 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 (FE 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.

A letter from a Non Filer 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 [Tax Law 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 non taxable income
- Cites arguments against taxation
- Mentions Non Resident Alien/Federal Zone Arguments
- Mentions Non Taxpayer/ Non Filer
- Files Affidavit of Notice of Default

#### Purpose

---

FTB allows taxpayers protest rights (*see section 4.2.1.15 Protest Rights*) if they dispute the validity of an assessment by our department. The right to protest and assessment is provided in the [Taxpayer Bill of Rights](#).

#### Responsibility

---

FTB staff are responsible for identifying correspondence received as possible frivolous activity information. If FTB has previously received protest correspondence from the taxpayer, it will be reflected on the account. ((\*\*\*\*))

When a protest is filed, the department will reconsider the assessment of the deficiency and, if the taxpayer has so requested in the protest, will grant the taxpayer or the taxpayer’s representative an oral hearing.

#### Action

---

Follow unit procedures after identifying incoming correspondence from a Non Filer. For additional procedures on Non Filers correspondence see the links below.

**Reference**

---

((\*\*\*)

((\*\*\*)

((\*\*\*)

((\*\*\*)

[The Tax Protester FAQ](#)

[Tax Protest Movement](#)

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

[Return to the Table of Contents](#)

### 8.2.1.11 Tax Computations

#### Background

---

A tax computation is a letter sent to a taxpayer that details their debits and credits on their account. The tax computation letter includes the tax liability, penalties, fees, and any credits to the account. The tax computation letter can be requested for one tax year or multiple tax years.

#### Purpose

---

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

#### Responsibility

---

Franchise Tax Board (FTB) staff are 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 TI  
Electronic Communication System (ECOM) ((\*\*\*\*))  
((\*\*\*\*))

((\*\*\*\*))

1. ((\*\*\*\*))
2. ((\*\*\*\*)) ((\*\*\*\*))
3. ((\*\*\*\*))
4. ((\*\*\*\*))
  - ((\*\*\*\*))
  - ((\*\*\*\*))
  - ((\*\*\*\*))
  - ((\*\*\*\*))
  - ((\*\*\*\*))
  - ((\*\*\*\*))

((\*\*\*)

5. ((\*\*\*)

6. ((\*\*\*)

7. ((\*\*\*)

8. ((\*\*\*)

9. ((\*\*\*)

10. ((\*\*\*)

**Reference**

---

((\*\*\*)

((\*\*\*)

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

**8.2.1.12 Pending Federal Cases**

**Background**

---

While servicing a case, Franchise Tax Board (FTB) staff may receive notification from the taxpayer that the Internal Revenue Service (IRS) is reviewing their case, or the case 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, this information should be forwarded to the Revenue Recovery Services Bureau Audit liaison, ((\*\*\*\*)) **(NOTE: Only cases that IRS correspondence has identified that may take longer than six months to resolve should be considered pending federal cases.)** ((\*\*\*\*))

**Purpose**

---

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

**Responsibility**

---

FTB staff are 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 a case is a pending federal account, the account may contain open tax years unrelated to the pending federal issue.

**If OPEN Tax Years Exist on a Pending Federal Case:**

((\*\*\*\*))  
 ((\*\*\*\*))  
 ((\*\*\*\*)) ((\*\*\*\*))

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

**If ALL Tax Years are Pending Federal**

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

((\*\*\*\*))

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

**Reference**

---

**NOTE:** ((\*\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

## 8.2.2 Refunds

### 8.2.2.1 Manual and Rush Refunds

#### Background

---

A manual refund worksheet ((\*\*\*) may need to be completed when:

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

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

- An amended return claiming a refund of \$10,000 or more.
- The return is needed to determine the validity of a credit.

A rush refund may be required when:

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

#### Purpose

---

Manual and rush refunds are issued to ensure any credit balance due to the taxpayer is returned.

#### Responsibility

---

FTB staff should identify when a manual or rush refund is necessary.

#### Action

---

FTB staff should refer to unit procedures for issuing manual or rush refunds.

((\*\*\*)

- ((\*\*\*)



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

## Reference

---

((\*\*\*)  
((\*\*\*)  
((\*\*\*)  
((\*\*\*)  
((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.2.2.2 Refund Trace or Stop Payment

#### Background

---

((\*\*\*)

**NOTE:** ((\*\*\*)

#### Purpose

---

A refund trace is used to determine if a refund warrant was cashed by the taxpayer or other authorized persons prior to reissuing a new refund once a taxpayer reports the refund has been lost, stolen or destroyed.

#### Responsibility

---

Franchise Tax Board (FTB) staff are responsible for requesting a refund trace or stop payment when a taxpayer reports their refund has been lost, stolen, or destroyed.

#### Action

---

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

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

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

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

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

((\*\*\*) A manual refund trace should only be done if FTB staff are unable to perform an automated trace or stop payment through the TI System.

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

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

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

If a manual refund trace has been initiated due to the refund being destroyed, FTB staff should:

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

## Reference

---

((\*\*\*)  
((\*\*\*)  
((\*\*\*)  
((\*\*\*)

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

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.2.2.3 Erroneous Refund

#### Background

---

An erroneous refund is a refund to which a taxpayer is not entitled. Erroneous refunds occur when:

- Duplicate refund is issued in error
- Payments are applied to an incorrect Social Security Number (SSN) or Taxpayer Identification (TPID) number
- Estimate payments are processed as a bill payment or return payment

#### Purpose

---

Erroneous refund procedures help Franchise Tax Board (FTB) staff identify when a refund was issued in error and how to return the erroneous refund amount.

#### Responsibility

---

FTB staff are responsible for notifying the taxpayer how to return the refund that they received in error.

#### Action

---

When FTB discover that a refund was issued in error, they must mail an Erroneous Refund Letter ((\*\*\*) to the taxpayer. The taxpayer is required to return the original refund warrant if it was not cashed, or send the amount on the erroneous refund letter if the refund warrant was cashed.

Taxpayers have 30 days from the date FTB sends the demand for repayment before they will be responsible for interest on the erroneous refund amount.

#### Reference

---

((\*\*\*)  
((\*\*\*)  
((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

#### 8.2.2.4 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 tax refunds and interest paid. Franchise Tax Board's (FTB) Report of State Income Tax Refund ((\*\*\*\*)) is a statement used to notify taxpayers the amount of the California Personal Income Tax (PIT) refund, credit, or offset they received of ten dollars or more for a specific tax year. The refund amount in Box 2 may need to be reported on the taxpayer's Federal Income Tax Return if the taxpayer claimed state income tax payments as an itemized deduction on Schedule A of the Federal Income Tax Return and received a refund from the California State Income Tax Return. If this amount is included in the Federal Adjusted Gross Income, 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 (See section 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 Internal Revenue Service (IRS) (See Section 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 1099G is to inform the taxpayer that a State Income Tax overpayment of ten dollars or more was reported to the Internal Revenue Service (IRS).

##### Responsibility

---

FTB staff are responsible to verify and respond to taxpayer's inquiries on the form FTB 1099G notifications.

##### Action

---

FTB staff 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 taxpayers Federal Income Tax 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 Adjusted Gross Income, the taxpayer may subtract it on California Schedule CA.

## Reference

---

((\*\*\*)

[Notice Information for Individuals](#)

((\*\*\*)

((\*\*\*)

[Instructions for form 1099-G](#)

[1099G Frequently Asked Questions](#)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### **8.2.3 Bank Fees**

#### **8.2.3.1 Reimbursement of Stop Payment Fee**

##### **Background**

---

There is no specific provision that requires 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. However, a taxpayer may receive reimbursement for a stop payment fee if they send a replacement check along with a copy of the stop payment order for the original check and request waiver of the bank fee. The bank fee may then be reimbursed as if the original check was received on its issue date.

**NOTE:** If a taxpayer places a stop payment on the check and FTB receives it as a bad check, there may be a bad check penalty on the account.

##### **Purpose**

---

Reimbursement of a stop payment fee provides compensation to the taxpayer when a bank fee has been charged due to the original payment not being received and proof of payment can be supplied.

##### **Responsibility**

---

FTB staff are responsible upon receipt of the taxpayer's claim, to evaluate the information and either deny or accept the claim to reimburse a stop payment bank fee.

##### **Action**

---

FTB staff will advise taxpayers to submit their request for reimbursement of a bank fee for a stop payment in writing. Once received, FTB staff will evaluate the claim and either approve or deny the taxpayer's claim requesting reimbursement of stop payment fees.

If the claim is approved FTB staff will:

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

If the claim is denied FTB staff will:

((\*\*\*)

## Reference

---

((\*\*\*)

((\*\*\*)

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)



## 8.2.4 California Special Credits

### 8.2.4.1 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 several may be carried over to future years if the current tax liability is reduced to zero.

#### Purpose

---

California special credits provide tax relief to those who qualify.

#### Responsibility

---

Franchise Tax Board (FTB) staff are responsible to educate taxpayers on California's special credits.

#### Action

---

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

#### Reference

---

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

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.2.4.2 Child and Dependent Care Expense Credit

#### Background

---

The Child and Dependent Care Expense Credit is a refundable tax credit that 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 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.

#### Purpose

---

The Child and Dependent Care Expense Credit is allowed for certain household 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) staff to educate the taxpayer on what the Child and Dependent Care Expense Credit is, and the [criteria that must be met to qualify](#). Additionally, FTB staff are responsible for communicating the basis of denial of this credit to the taxpayer.

#### Action

---

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

## Reference

---

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

[Who is a qualifying individual for the Child and Dependent Care Expense Credit?](#)

((\*\*\*)

((\*\*\*)

[Form IRS 2441](#)

[Form FTB 3506](#)

[Internal Revenue Code Title 26](#)

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

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

## 8.2.5 Claims and Denials

### 8.2.5.1 Claim For Refund

#### Background

---

A claim for refund may be **formal** or **informal**. The following may file a claim for refund:

- Individuals
- Corporations
- Exempt Organizations
- Financial Institutions
- Partnerships
- Limited Liability Companies

#### Formal Claim:

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

- The taxpayer files an amended return reducing the liability on their original return that was previously paid
- The taxpayer 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:

Taxpayers making installment payments on a balance due cannot file a valid *formal claim for refund* until the full amount due is paid. Beginning January 1, 2002, taxpayers may file an *informal claim for refund* within the statute of limitations even though the full amount due has not been paid. The informal claim will delay the expiration of the statute of limitations and protect the taxpayer's rights to appeal to the Board of Equalization (BOE) or file suit in Superior Court. This informal claim is perfected into a formal claim and considered filed when the full amount due has been paid. At that point, 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.

#### Recourse(s):

- File an Appeal with BOE 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 this case, the taxpayer may consider the claim disallowed (denied).
- If the taxpayer disagrees with the BOE decision, the recourse is to file a lawsuit to claim the refund in Superior Court.

### **Purpose**

---

The Claim for Refund process provides the taxpayer a means by which to request a refund when in disagreement with an assessment.

### **Responsibility**

---

It is FTB staff's responsibility to be aware of the taxpayer's options to file a formal or informal claim for refund.

### **Action**

---

FTB staff should inform the taxpayer to include the following information when filing the claim for refund:

- The claim for refund must be in writing
- Signature of the taxpayer or the authorized representative
- It must specify the grounds on which it is based
- The tax year the claim is for
- The amount of the claim
- The basis of the claim
- Statement of facts
- Documents that support the claim

### **Reference**

---

((\*\*\*)  
((\*\*\*)  
((\*\*\*)

**NOTE:** ((\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### **8.2.5.2 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 withheld.

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

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

The amount of SDI withheld is shown on the form W-2.

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

- All 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, city) may or may not have SDI deducted
- Employer / Self-Employed - SDI is not mandatory, it can be paid voluntarily under an elective coverage agreement

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

The amount of VPDI withheld is shown as "VPDI" on the 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) staff 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 combined they deducted more than the maximum amount of SDI for that year, the excess is allowed as either a credit against the net tax liability and/or refunded.

**NOTE:** The employers must have withheld at the proper rate.

Excess SDI is claimed on the 540 or 540NR California Individual Income Tax Return 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 will usually indicate V/PL DI.
- Same employer/Different Employer State ID Number - If a taxpayer has more than one W-2 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 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 /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

---

((\*\*\*)  
((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)



## 8.2.6 Withholding

### 8.2.6.1 Substitute W-2

#### Background

---

The Substitute W-2 form ((\*\*\*)\*) 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, form FTB 3525 ARCS, allow taxpayers the ability to claim withholding credits on their returns in the event they are unable to obtain an original W-2.

#### Responsibility

---

Franchise Tax Board (FTB) staff are responsible to provide taxpayers with substitute W-2 form FTB 3525 ARCS information.

#### Action

---

FTB staff should provide taxpayers with substitute W-2 forms ((\*\*\*)\*) when the taxpayer has exhausted all other options in acquiring originals from their employers.  
((\*\*\*)\*) ((\*\*\*)\*) ((\*\*\*)\*)

**NOTE:** For years prior to 1996 see Section 4.2.1.11 Withhold Purge File - Microfiche Requests.

#### Reference

---

((\*\*\*)\*)  
((\*\*\*)\*)  
((\*\*\*)\*)

**NOTE:** ((\*\*\*)\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.2.6.2 W-2 Withholding Credits Without The Return

#### Background

---

[Revenue and Taxation Code Section 19002](#) requires all W-2 withholding credits 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.

#### 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

---

Franchise Tax Board (FTB) staff are responsible for making adjustments when non-applied W-2 withholdings are discovered.

#### Action

---

FTB staff must apply adjustments when non-applied withholding credits are discovered. These adjustments should only be made when the withholding credits will change the current amount due. 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](#))

**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).

((\*\*\*) (\*\*\*) (\*\*\*)

#### Reference

---

((\*\*\*)  
[Revenue and Taxation Code Section 18551](#)

**NOTE:** ((\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

### 8.2.6.3 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.

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. Only the wages for services performed in California are 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.

**Exception:** Non-resident members of the U.S. Armed Forces stationed in California are not subject to California personal income tax.

#### 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) staff are responsible to inform non-residents working in California of their withholding requirements.

#### Action

---

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

## Reference

---

((\*\*\*)

((\*\*\*)

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

## **8.2.7 Voluntary Contributions**

### **8.2.7.1 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 tax liability. The contribution must be of \$1 or more 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 once the return has been filed.

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

#### **Reference**

---

((\*\*\*)

((\*\*\*)

**NOTE:** ((\*\*\*) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

## **8.2.8 Interest Abatement And Waiver**

### **8.2.8.1 Interest Abatement And Waiver**

#### **Background**

---

[Revenue and Taxation Code Section 19104](#) provides the Franchise Tax Board (FTB) with discretionary authority to abate interest on deficiencies or payments when:

- The interest is attributable to an error or delay by an officer or employee of FTB in the performance of a ministerial or managerial act.
- The error or delay was due to an employee of the Internal Revenue Service (IRS) and the basis of the abatement is identified on a final federal determination of tax.

[Revenue and Taxation Code Section 19112](#) provides for interest to be waived for any period for which FTB determines that an individual demonstrates inability to pay interest solely because of extreme financial hardship caused by significant disability or other catastrophic circumstance.

[Revenue and Taxation Code Section 21012](#) provides for interest to be waived when the taxpayer relied on written advice from FTB and failed to make a timely return or payment based on that advice.

#### **Purpose**

---

Interest abatement and waiver allows FTB to exercise its discretionary authority to abate interest.

#### **Responsibility**

---

To abate interest all of the following conditions must be met:

- A ministerial act has occurred and the interest at issue accrued after September 25, 1987, without regard to income or tax year; or for income years beginning on or after January 1, 1998 a managerial act has occurred and the interest at issue accrued after September 25, 1987.
- No significant aspect of the error or delay is attributable to the taxpayer.
- The unreasonable error or delay occurred after the date FTB contacted the taxpayer, in writing, with respect to the deficiency or payment.

**Action**

---

FTB staff should advise the taxpayer or their representative to request an abatement of interest in all cases where it appears abatement is warranted by filing a Request for Abatement of Interest ((\*\*\*\*)). Requests for interest abatement should be submitted to the Interest Abatement Coordinator for the requester's specific area. Forms submitted by representatives should include a Power of Attorney (original or copy). See Section 3.2.1.4 Power Of Attorney (POA).

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

**Reference**

---

((\*\*\*\*))  
((\*\*\*\*))  
((\*\*\*\*))  
((\*\*\*\*))

**NOTE:** ((\*\*\*\*)) = Indicates confidential and/or proprietary information.

[Return to the Table of Contents](#)

## **8.2.9 PIT Support**

### **8.2.9.1 Account Adjustments**

#### **Background**

---

The Collection Services Group (CSG) is a PIT Support Group for the Special Programs Bureau. Our specialties are processing TI transactions, levies and assist other units with temporary needs that result from legislation or special projects. We perform TI transactions that require longer time frames to complete, for other units. CSG provides an array of services.

#### **Purpose**

---

CSG supports the Nine PIT (Automated) Functional Areas and the Discharge Functional Area for all levies. We work all Levy Correspondence received from payers/employers in response to an FTB levy, within specified criteria. We process TI transactions for Reactive groups and process some workloads for Proactive Groups. In addition, CSG is available to process these workloads:

- Microfiche Requests
- INC Transactions
- Payer File updates
- EWOT Non-Compliance Work lists
- PIT Discharge Report

#### **Responsibility**

---

It is the responsibility of the PIT Support Staff to support the collection staff and adjust the taxpayer account 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 staff must inform collectors when they cannot perform a requested transaction.



**Action**

---

We return transactions when we require further clarification or when we are unable to process a request. We explain why we cannot process a request.

**Reference**

---

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

[Return to the Table of Contents](#)