



STATE OF CALIFORNIA
Franchise Tax Board

Minimum Tax and Annual Tax Exemption for Deployed Military

Economic and Statistical Research Bureau

Summary of Reporting Requirement

This report is intended to fulfill the Franchise Tax Board's (FTB) obligation under Assembly Bill 308 (Chapter 421, Statutes of 2019) which amended Revenue & Taxation Code sections 17941 and 23153 and included language requiring the Franchise Tax Board to annually report by January 1, to the Legislature, the number of corporations and limited liability companies that are small businesses solely owned by a deployed member of the United States Armed Forces in the state that is not required to pay the annual tax or the minimum franchise tax, the number of individuals employed by those businesses, and the number of these businesses that closed.

Prepared by the Staff of the
Franchise Tax Board
STATE OF CALIFORNIA

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Background

Under Chapter 421 of the Statutes of 2019 (AB 308), for taxable years beginning on or after January 1, 2020, and before January 1, 2030, a deployed member of the United States Armed Forces is not required to pay the annual tax or the minimum franchise tax if their small business meets all the following requirements:

- The business is solely owned by a deployed member of the United States Armed Forces who has been called to active duty or active service during a period when a Presidential Executive order specifies that the United States is engaged in combat or homeland defense. This does not include temporary duty for the sole purpose of training or processing or a permanent change of station.
- The business is a corporation or a limited liability company (LLC) with total income from all sources derived from or attributable to California of two hundred fifty thousand dollars (\$250,000) or less.
- The business is a corporation or an LLC that operates at a loss or has ceased operations.

Under state law, all corporations doing business in California are required to pay a franchise tax equal to 8.84 percent of the corporation's taxable income apportioned to California. In addition, a minimum franchise tax of \$800 is imposed on every corporation that is incorporated in this state, qualified to transact intrastate business in this state, or doing business in this state. The corporation must pay the greater of the franchise tax or the minimum franchise tax. Furthermore, under existing law, every corporation incorporated or doing business in this state qualifies for a first-year exemption from the minimum franchise tax (AB 10, Statutes of 1998).

Under state law, every LLC that is organized or doing business in this state is required to pay an annual tax in the amount equal to the minimum franchise tax. Additionally, for taxable years beginning on or after January 1, 2021, and before January 1, 2024, every LLC doing business in the state qualifies for a first-year exemption from the annual tax (AB 85, Statutes of 2020).

This report is intended to fulfill the reporting requirements mandated by Chapter 421 of the Statutes of 2019 (AB 308) for the January 1, 2024, report year.

Franchise Tax Board Statutory Reporting Requirements

In accordance with Section 41 of the Revenue and Taxation Code, the Franchise Tax Board is required to report to the Legislature, beginning no later than January 1, 2021, and each year thereafter through and including January 1, 2031. The report shall include annual data on:

- The number of qualifying corporations and LLCs that are small businesses solely owned by a deployed member of the United States Armed Forces in this state.
- The number of individuals employed by those businesses.
- The number of these businesses that closed.

Data

The January 1, 2024, report includes data for corporations and LLCs where the tax return indicated the taxpayer owned a qualified small business and was deployed for combat or homeland defense under a Presidential Executive order.

The data in the table below shows taxable years 2021 and 2022, as available on September 28, 2023. For the 2021 taxable year, 33 qualified corporations and LLCs elected to report that the owner of the small business was a deployed member of the United States Armed Forces. Of the 33 returns, 20 were initial or first year returns that may have also qualified for the first-year exemption from annual or minimum tax. The number of businesses that closed is too small to be disclosed under state privacy rules. Additionally, because the number of employees is not reported on the tax return, the information is not available for the 2021 taxable year. However, beginning in taxable year 2022, taxpayers can report the number of employees on the form 4197.

Data for the 2022 taxable year is incomplete and will be updated in next year's report. The due date for filing 2022 tax returns was extended several times by the IRS due to the winter storms occurring in January of 2023. The FTB believes that some taxpayers may have taken advantage of the extended due date of November 16, 2023.

	Tax Year 2021	Tax Year 2022
Number of Qualified Corporations and LLCs	33	<i>a</i>
Number of Individuals Employed by Qualified Corporations or LLCs	n/a	<i>a</i>
Number of Qualified Corporations or LLCs Indicating their Business Closed	<i>a</i>	<i>a</i>

a - Data for statistical tabulations prepared at the state level may not be released for cells containing data for fewer than 10 returns.

n/a – This information was not reported. Information is not reported on tax return and as a result, is not captured. Starting in taxable year 2022, the taxpayer can provide this information on Form 4197.

The Information processed to date indicates that very few taxpayers have benefited from the annual tax or the minimum franchise tax exclusion. The FTB will continue to undertake efforts to improve taxpayer awareness about this benefit.