



Tax News

November 2020

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Legislative update 2020

The following bills impacting FTB were chaptered in the second half of the 2019-2020 session of the California State Legislature.

[AB 85](#) (Chapter 8, Statutes of 2020), Budget Trailer Bill - State Taxes and Charges

- Sections 6 and 14: For taxable years 2020, 2021, and 2022, under the California Personal Income Tax Law (PITL) and under the Corporation Tax Law (CTL), required that business tax credits reduce tax liability by no more than \$5 million. This provision extended the credit carryover period for credits disallowed under this provision.
- Sections 7 and 15: Extended the new motion picture production credit carryover period from six to nine years.
- Sections 8 and 16: Suspended the use of Net Operating Loss (NOL) deductions, for taxable years 2020, 2021, and 2022. The suspension does not apply to taxpayers, under PITL, with a net business income or modified adjusted gross income of less than \$1 million, or to taxpayers under CTL with income subject to tax of less than \$1 million. This provision also extended the carryover period for NOL deductions disallowed under this provision.
- Sections 9, 10, 11 and 24: Provided for a first year exemption from the annual tax for limited partnerships, limited liability companies, and limited liability partnerships under the PITL.
- Section 13: Under the CTL, allows the credit related to new advanced strategic aircraft to reduce tentative minimum tax.
- Sections 12, 17, 18 and 19: For the Individual Shared Responsibility Penalty, modified collection priority; limited the maximum monthly penalty for a responsible individual with a household size of five or more; corrected references to “responsible individual” and “applicable household member;” and exempted the FTB regulations from the Administrative Procedures Act requirements until January 1, 2022.

[AB 93](#) (Chapter 19, Statutes of 2020), California Earned Income Tax Credit (CalEITC)/Young Child Tax Credit (YCTC) /Identification numbers. AB 93 was replaced with provisions of AB 1876 discussed below.

Under the PITL, the CalEITC was modified by removing restrictions on the use of certain SSNs and allowed the limited use of federal ITINs by eligible individuals. Eligible individuals are those with a qualifying child under six years old as of the last day of the taxable year and other specified individuals. As a result of the changes to the CalEITC, this act also expanded eligibility for the YCTC.

[AB 1876](#) (Chapter 87, Statutes of 2020), California Earned Income Refundable Tax Credit (CalEITC)/ Young Child Tax Credit (YCTC)/Identification Numbers

Under the PITL, the CalEITC was further modified (and effectively superseded AB 93). These changes allow the use of federal ITINs for all eligible individuals, eligible individuals' spouses, and qualifying children.

[AB 102](#) (Chapter 21, Statutes of 2020), Retirement Savings Trust Act (CalSavers)

- Under the Government Code (GC), the California Secure Choice Retirement Savings Trust Act was renamed to the CalSavers, and authorized the CalSavers Retirement Savings Board (CalSavers Board) to enforce eligible employer compliance. This includes referring noncompliant employer accounts to the FTB for collection, as specified, and making other changes.
- Under the Revenue and Taxation Code (R&TC), authorized the FTB to take specified collection action for an eligible employer referred by the CalSavers Board for noncompliance and conduct eligible employer appeals related to the imposition of penalties for noncompliance.

[AB 107](#) (Chapter 264, Statutes of 2020), Tax Voucher Study/Disclosure

- Required the FTB to consult with the Department of Finance and the Treasurer to create a plan for a California Economic Improvement Tax Voucher Program to be considered by the legislature.
- Allows FTB to share information with the Department of Social Services and the Employment Development Department for specific purposes.

[AB 276](#) (Chapter 62, Statutes of 2020), Coronavirus Aid, Relief, and Economic Security Act (CARES) Act-Qualified Employer Plan Loans

Under the PITL, conformed California law to a provision of the CARES Act (Public Law 116-136) relating to loans from qualified retirement plans.

[AB 323](#) (Chapter 341, Statutes of 2020), Worker Status: Newspapers and Advertising Outreach

Extended the exemption for newspaper distributors or carriers to January 1, 2022, and deleted the condition that a newspaper carrier work under a contract with a newspaper publisher or distributor.

[AB 499](#) (Chapter 155, Statutes of 2020), State Agencies Report When Full Social Security Number (SSN) Mailed

Under the GC, restricted a state agency from sending mail to an individual that contains an individual's SSN, as specified, and created a reporting requirement. FTB is currently in compliance with this requirement.

[AB 846](#) (Chapter 322, Statutes of 2020), Public Officers or Employees Declared to be Peace Officers

- Under the GC, modified the minimum standards for public officers and peace officers and required a study, review, and update of related regulations and screening materials.
- Under the Penal Code, required entities that employ peace officers to review and modify peace officer job description to emphasize community-based, collaborative policing.

[AB 1577](#) (Chapter 39, Statutes of 2020), Treatment of Loans Forgiven Under the Paycheck Protection Program

Under the PITL and CTL, excluded from gross income covered loan amounts forgiven pursuant to the federal CARES Act (Public Law 116-136), Paycheck Protection Program and Health Care Enhancement Act (Public LAW 116-139), or the Paycheck Program Flexibility Act of 2020 (Public Law 116-142) for taxable years beginning on and after January 1, 2020.

[AB 2068](#) (Chapter 173, Statutes of 2020), California Firefighters' Memorial Fund and California Peace Officer Memorial Foundation Fund

Renamed and extended the repeal dates for the California Firefighters' Memorial Voluntary Tax Contribution Fund and the California Peace Officer Memorial Foundation Voluntary Tax Contribution Fund.

[AB 2247](#) (Chapter 99, Statutes of 2020), Dependent Exemption Credit/Alternate Identifying Information

Under the PITL, allowed a taxpayer with a nonresident alien dependent who is ineligible to receive a federal ITIN the option of providing other identifying information, as prescribed by the FTB, for purposes of the dependent exemption credit.

[AB 2257](#) (Chapter 38, Statutes of 2020), Employee Classification—Employees and Independent Contractors

- Exempted additional occupations and business relationships from the presumption that a worker is an employee unless certain conditions are met.
- Repealed section 2750.3 of the Labor Code related to determining if a worker is an employee or independent contractor under the "ABC" test and added Article 1.5

(commencing with section 2775) to Chapter 2 of Division 3 of the Labor Code to revise these provisions.

- Amended the R&TC to add definitions of “employee” to specific parts of the R&TC by reference to the Labor Code.

[AB 2660](#) (Chapter 102, Statutes of 2020), Nonresident Group Return with Nonresident Aliens

Allowed a nonresident group return to be filed on behalf of electing nonresident aliens receiving California source income.

[AB 2699](#) (Chapter 289, Statutes of 2020), Allow Additional Specified State Agencies to Obtain for Use by the Agency’s Sworn Officers Handguns Otherwise Barred from Sale, Possession, or Use within the State

Under the Penal Code, modified the exception to the prohibition on the sale and purchase of certain handguns to allow additional state agencies to obtain such handguns for use by the agency’s sworn members.

[AB 3362](#) (Chapter 360, Statutes of 2020), State Bar Nontax Debt Collection – Client Security Fund

Among other provisions, allowed the FTB to collect monetary sanctions and costs related to the State Bar of California’s Client Security Fund reimbursement provisions, as specified.

[AB 3372](#) (Chapter 297, Statutes of 2020), Electronic Withholding Orders/Water’s-Edge Election and Doing Business

- Provision No. 1: Electronic Withholding Orders
Allowed electronic delivery of withholding orders and related notices or documents.
- Provision No. 2: Water’s-Edge Election and Doing Business
Amended the water's-edge election law to maintain an otherwise-valid water’s-edge election if a unitary foreign affiliate becomes a taxpayer solely due to California’s “doing business” statute.

[SB 587](#) (Chapter 229, Statutes of 2020), California Sea Otter Voluntary Tax Contribution Fund

Renamed and extended the repeal date for the California Sea Otter Voluntary Tax Contribution Fund.

[SB 592](#) (Chapter 230, Statutes of 2020), Code of Civil Procedure – Jury Selection

Under the Code of Civil Procedure, provided that a list of resident state tax filers will be an additional appropriate source list used for jury selection.

[SB 934](#) (Chapter 59, Statutes of 2020), Eliminate the Tax-Exempt Application Fee and the Form 199 Filing Fee

Eliminated the fee for submission of a tax-exempt application and the annual information return filing fee applicable to exempt organizations.

[SB 1371](#) (Chapter 370, Statutes of 2020), Code Maintenance

Made numerous technical, non-substantive changes as a matter of code maintenance to various California codes, including to the R&TC.

[SB 1409](#) (Chapter 114, Statutes of 2020), CalEITC Non-filer Report

Required the FTB to analyze and develop a plan to increase the number of claims of the CalEITC and the federal Earned Income Tax Credit.

[SB 1447](#) (Chapter 41, Statutes of 2020), Small Business Hiring Credit (aka Main Street Credit)

- Created a small business hiring credit for qualified small business employers subject to receiving a tentative credit reservation. In lieu of the credit under the PITL or CTL, an irrevocable election could be made to apply the credit amount against qualified sales or use taxes, as specified.
- Specified the California Department of Tax and Fee Administration will administer the tentative credit reservation process and allocate the credit, not to exceed a cumulative total of one hundred million dollars (\$100,000,000).
- Established a reporting requirement for the CDTFA and the FTB.

Standard deductions, exemption amounts, and tax rates for 2020 tax year

Each year, we update for inflation (based on the California Consumer Price Index (CCPI) as defined in the Revenue and Taxation Code), the California:

- Standard deduction.
- Personal/Senior exemption amounts.
- Tax rate schedules.

The inflation rate, as measured by the CCPI for all urban consumers from June of 2019 to June of 2020, was 1.4%.

The standard deduction amount for single or separate taxpayers will increase from \$4,537 to \$4,601 for tax year 2020.

For married filing/Registered Domestic Partner (RDP) jointly, qualifying widower, or head of household taxpayers, the standard deduction increases from \$9,074 to \$9,202 for tax year 2020.

The personal and senior exemption amount for single, married/RDP filing separately, and head of household taxpayers will increase from \$122 to \$124 for the 2020 tax year 2020. For joint or surviving spouse taxpayers, the personal and senior exemption credit will increase from \$244 to \$248 for the tax year 2020.

The dependent exemption credit will increase from \$378 per dependent claimed in 2019 to \$383 per dependent claimed for 2020.

2020 California Tax Rate Tables

Schedule X

Use if your filing status is Single or Married/RDP Filing Separately

If the amount on Form 540, line 19 is

Over -	But not over -	Enter on Form 540, line 31
\$ 0	\$ 8,932	\$ 0.00 + 1.00% of the amount over \$0
8,932	21,175	89.32 + 2.00% of the amount over 8,932
21,175	33,421	334.18 + 4.00% of the amount over 21,175
33,421	46,394	824.02 + 6.00% of the amount over 33,421
46,394	58,634	1,602.40 + 8.00% of the amount over 46,394
58,634	299,508	2,581.60 + 9.30% of the amount over 58,634
299,508	359,407	24,982.88 + 10.30% of the amount over 299,508
359,407	599,012	31,152.48 + 11.30% of the amount over 359,407
599,012	AND OVER	58,227.85 + 12.30% of the amount over 599,012

Schedule Y

Use if your filing status is Married/RDP Filing Jointly or Qualifying Widow(er)

If the amount on Form 540, line 19 is

Over -	But not over -	Enter on Form 540, line 31
\$ 0	\$ 17,864	\$ 0.00 + 1.00% of the amount over \$0

If the amount on Form 540, line 19 is

Over -	But not over -	Enter on Form 540, line 31
17,864	42,350	178.64 + 2.00% of the amount over 17,864
42,350	66,842	668.36 + 4.00% of the amount over 42,350
66,842	92,788	1,648.04 + 6.00% of the amount over 66,842
92,788	117,268	3,204.80 + 8.00% of the amount over 92,788
117,268	599,016	5,163.20 + 9.30% of the amount over 117,268
599,016	718,814	49,965.76 + 10.30% of the amount over 599,016
718,814	1,198,024	62,304.95 + 11.30% of the amount over 718,814
1,198,024	AND OVER	116,455.68 + 12.30% of the amount over 1,198,024

Schedule Z

Use if your filing status is Head of Household

If the amount on Form 540, line 19 is

Over -	But not over -	Enter on Form 540, line 31
\$ 0	\$ 17,864	\$ 0.00 + 1.00% of the amount over \$0
17,864	42,353	178.64 + 2.00% of the amount over 17,864
42,353	54,597	668.36 + 4.00% of the amount over 42,353
54,597	67,569	1,158.06 + 6.00% of the amount over 54,597
67,569	79,812	1,936.38 + 8.00% of the amount over 67,569
79,812	407,329	2,915.82 + 9.30% of the amount over 79,812
407,329	488,796	33,374.90 + 10.30% of the amount over 407,329
488,796	814,658	41,766.00 + 11.30% of the amount over 488,796
814,658	AND OVER	78,588.41 + 12.30% of the amount over 814,658

[More information on wildfire/disaster relief](#)

We published an article in our October Tax News, [Disaster Relief 2020](#), outlining how to file for taxpayers in designated disaster areas. Since that time, additional information has been released about special tax filing relief for Californians affected by recent wildfires.

We will extend the time to file 2019 tax returns and pay 2020 estimated taxes due during the disaster period until January 15, 2021, for affected taxpayers in the following counties - Fresno, Los Angeles, Madera, Mendocino, San Bernardino, San Diego, Siskiyou, Napa, Shasta, and Sonoma. This matches the relief that the IRS has provided for these fires. (Announcements [IR-2020-237](#); [CA-2020-07](#)).

Visit the Governor's state of emergency declarations and executive order for more information:

- [September 25](#)
- [September 28](#)
- [Executive order](#)

Go to the [California Taxpayers Affected by September Wildfires Granted Extension to File and Pay](#) press release for more information.

[California conformity with IRAs for 2020](#)

We have received several questions about California conformity with federal law regarding individual retirement accounts (IRAs). The Internal Revenue Service (IRS) is not requiring a required minimum distribution from your IRA for 2020.

[Does California conform?](#)

Yes. For calendar year 2020, California includes a temporary waiver of the required minimum distribution requirement.

The federal CARES Act waives required minimum distributions (RMDs) during 2020 for IRAs.

In our May 2020 Tax News article, [California's conformity with the Federal CARES Act](#), we shared with you that California generally conforms to pension-related items including the minimum distribution rule changes. This occurs because California law ([R&TC Section 17501](#)) provides for conformity (adoption) of any changes in IRC 401, unless our State Legislature were to pass a change in law (to provide otherwise). As this did not occur, California law adopted the changes to IRC 401 made by the CARES Act with no modification.

[Reminder: New credit to help small businesses](#)

In our [October Tax News](#), we published an article about the new Small Business Hiring Credit (SBHC) (SB 1447) available for small businesses impacted by economic disturbances in 2020.

Taxpayers can use the credit against income taxes, or can make an irrevocable election to apply the credit against sales and use taxes. The credit is equal to \$1,000 for each increase in qualified employees, as measured in monthly full-time employee equivalents. The total amount of credit for each employer cannot exceed \$100,000.

To qualify for the credit, taxpayers (employers) must:

- Have 100 or fewer employees on December 31, 2019 (all employees, including part-time employees).
- Have experienced a 50% decrease in gross receipts from April to June, 2020, compared to the gross receipts from April to June 2019.
- Apply for a tentative credit reservation from CDTFA during the period of December 1, 2020 through January 15, 2021.
- Not be required or authorized to be included in a combined report.

Visit [Small Business Hiring Credit](#) for additional information regarding these and other requirements for the credit.

Visit the [California Department of Tax and Fee Administration's website](#) and search for small business hiring credit for information regarding:

- The tentative credit reservation
- Making the election to claim the credit against your sales and use taxes

Exempt organization filing due dates

Exempt organizations are required to file annual information returns by the 15th day of the 5th month following the close of their taxable year.

We grant an automatic 6-month extension to file a return if both of the following apply:

- The organization is not suspended on the original due date.
- The organization's return is filed on or before the extended due date.

Exempt corporations and other exempt filers were affected by COVID-19. As a result, filing dates and payment dates were changed to July 15, 2020. However, extended due dates did not change. While payments were due July 15, 2020, automatic extensions were granted until November 15.

Organizations that follow a calendar year-end should plan to file Form 199 or FTB 199N by November 15 to avoid late fees and penalties.

Refer to our [Business Due Dates](#) webpage for more information; and, also, go to our [COVID-19 Extension to File and Pay](#) webpage to view the changes to these due dates

Our exempt organization call center is available to assist nonprofits with questions concerning exemption, missing returns, or balances due.

Contact us

Phone:

(916) 845-4171

(916) 845-6500 (outside the U.S.)

Weekdays, 7 AM to 4:30 PM

Closed state holidays

Mail:

Exempt Organization Unit MS-F120

Franchise Tax Board

PO Box 1286

Rancho Cordova CA 95741-1286

Visit [Charities and nonprofits](#) webpage for more information.

Ask the Advocate

Change is in the air

After nearly six years as the Taxpayers' Rights Advocate, Susan Maples recently rotated to a new position within the Franchise Tax Board. Susan is now the Director of the Economic and Statistical Research Bureau here at FTB. We anticipate there will be a new Taxpayer Advocate appointed early in 2021. In the meantime, Advocate team members will continue to handle any issues that arise.

Management rotations are a standard practice here at FTB. These allow our current and future leaders to broaden their knowledge of FTB's many business areas and ensure continuity for the Department going forward.

During her time as the Advocate, Susan worked tirelessly with taxpayers, tax professionals and practitioner organizations to resolve issues and improve how you conduct business with FTB. During her tenure, she earned the respect of those she served and she will be greatly missed by everyone.

We will introduce the new Advocate to you in an upcoming addition of Tax News, once the appointment is made – stay tuned!

MyFTB Corner

Expanding the collection notices available online



As of September 14, 2020, Power of Attorney (POA) representatives who have multiple specific year authorization for a client can now view most multiple year collection notices for that client in MyFTB. Notices are only visible to the representative if the years listed on the notice are included in the representative's specific year authorizations for the client. Before this change, notices that included multiple years were only visible to POA representatives that had all years authorization. Collection notices listing multiple years sent prior to September 14, 2020, still require all year authorization to view.

Example #1: If a notice includes tax years 2017 and 2018 and the POA is authorized for tax years 2017, 2018, and 2019. The POA representative would be able to view the notice because they have authorization for all the years listed on the notice.

Example #2: If a notice includes tax years 2017 and 2018 and the POA is authorized for tax years for 2018, 2019 and 2020. The POA representative would not be able to view the notice because they do not have authorization for all the years listed on the notice. In this example the representative is not authorized for the 2017 tax year so they would not be able to view this notice.

Notices visible to a POA representative are also dependent on the representative's online access level for the client. POA representatives with limited online access will only be able to view notices sent in the last 12 months.

Due to FTB procedures, not all notices and correspondence may be visible to the representative.

All About Business

Reminder: File C Corporation returns by November 15, 2020

The original due date of a C corporation's return is the 15th day of the fourth month following the close of the C corporation's taxable year, which is generally April 15.

New for this year ([FTB Notice 2019-07](#)), for taxable years beginning on or after January 1, 2019 we will allow an automatic seven-month extension. This applies to all taxpayers in good standing filing:

- Form 100, California Corporation Franchise or Income Tax Return (including REITs, REMICs, and RICs)
- Form 100W, California Corporation Franchise or Income Tax Return – Water's-Edge

The 7-month automatic extension does not apply to payment of the C Corporation's tax liability. Normally, the C corporation is required to pay its tax liability by the original due date of April 15, regardless of whether it files its return later using the seven-month extension. Due to the COVID-19 pandemic, the original due date was moved to July 15 and tax liability payments were due at that time, while the extended due date to file a C corporation's return remains November 15, 2020. (Returns filed on November 16, will be treated as timely filed returns because November 15th is a Sunday.)

If a C corporation does not file its return by the extended filing deadline, then the extension does not apply. Any applicable late filing fees will be calculated from the original due date of July 15, for this year only, instead of the normal April 15 due date.

For more information about C Corporation and other business entity due dates, visit our [Business Due Dates](#) webpage. Refer to our [COVID-19 Extension to File and Pay](#) webpage to view the changes to these due dates.

Event Calendar

As part of education and outreach to our tax professional community, we participate in many different presentations and fairs. We provide a [calendar](#) that shows the events we attend (virtually), as well as other events happening with us, such as interested party and board meetings.