



# FTB 7275

## Personal Income

## Tax Notice of

## Proposed

## Assessment

## Information

In this document, we refer to the California Revenue and Taxation Code as R&TC.

### General Information

The Notice of Proposed Assessment informs you that we intend to assess additional tax or penalties. We will take no further action before the *protest by* date shown on the front of the notice.

### Agree

If you agree with the proposed assessment, pay the additional tax, penalties, and interest on the notice. Do not submit Form 540X, *Amended Individual Income Tax Return*. Additional interest accrues from the date of the notice to the date we receive your payment. However, we charge no additional interest if we receive your payment in full within 15 days of the accompanying notice date.

### Payment Procedure

To receive proper credit for your payment, do the following (for electronic payment options and requirements see **E-Pay Requirement**):

- Provide a check or money order payable to the Franchise Tax Board.
- On your payment, write your social security or taxpayer identification number and the taxable year shown on the accompanying notice.
- Mail your payment and a copy of the notice to:  
FRANCHISE TAX BOARD  
PO BOX 942867  
SACRAMENTO CA 94267-0021

#### E-Pay Requirement

California R&TC Section 19011.5 requires taxpayers to remit all tax payments electronically when their estimated tax or extension payments exceed \$20,000 or their total tax liabilities exceed \$80,000, for tax years beginning on or after January 1, 2009.

For electronic payment options, go to **ftb.ca.gov** and enter **mandatory e-pay** in the search field.

You may request a written waiver of the mandatory e-pay requirement if you feel your tax payment or total tax liability is not representative of your current tax liability. To obtain the waiver form, go to **ftb.ca.gov** and search for **FTB 4107**.

### Protest

If you disagree with the proposed assessment, you can file a protest with us by the *protest by* date shown on the front of the accompanying notice. If you do not file your written protest by this date, the assessment will become final and we will bill you for the amount due, including penalties and interest. (R&TC Sections 19041 and 19042)

#### Filing a protest will not stop the accrual of interest.

Due to workload constraints, it may take several months to resolve your protest. We will not charge additional interest if we receive payment in full within 15 days of the accompanying notice date. If you pay the additional tax, penalties, and interest due, or pay the full amount under our tax deposit procedure, you will stop the further accrual of interest without losing your right to contest the disputed amount. If we withdraw or reduce the amounts on our notice, we will pay interest on any overpaid amount as the law allows. (R&TC Sections 19041.5, 19335, and 19340 – 19343) See **Payment Procedure** for payment options.

### Protest Procedure

Your written protest must clearly state what you are protesting and must be filed by the *protest by* date shown on the front of the accompanying notice. Include:

- Your name and address.
- Your social security or taxpayer identification number.
- The amounts and taxable years you are protesting.
- A statement of facts.
- Points in support of your position.
- Your explanation of why you believe our assessment is wrong.
- Your signature or your authorized representative's signature.
- Your daytime telephone number or your authorized representative's name, daytime telephone number, and mailing address.
- A copy of the Notice of Proposed Assessment.
- A completed FTB 3520, *Power of Attorney Declaration for the Franchise Tax Board*, if you want someone to represent you during the protest process. Specific instructions for completing and filing a Power of Attorney declaration are available at **ftb.ca.gov**.

Mail your protest to:

PROTEST CONTROL DESK MS F340  
FRANCHISE TAX BOARD  
PO BOX 1286  
RANCHO CORDOVA CA 95741-1286

**Or to expedite your protest**, fax it to 916.364.2754.

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We will grant you a hearing if you request it in your protest. Your authorized representative may represent you at the hearing. Once we consider your protest and make a determination, we will send you a written notification.

## Refund Claim Time Frames

There is a time limit for requesting a refund from us. Generally, you can file a refund claim until the later of four years from the due date of your return, or one year from the date of overpayment. (R&TC Section 19306) For claims filed on or after January 1, 2002, you can file an informal refund claim within the time frames indicated above even if you have not paid the full amount due. An informal claim will extend your time frames and protect your right to file an appeal with the Board of Equalization or file suit against us in court. However, we cannot refund any partial payments that were made more than seven years prior to the date that you satisfied the tax in full. (R&TC Section 19322.1)

## Settlement Program Option

The purpose of the settlement program is to negotiate settlements of civil tax matters in dispute consistent with a reasonable evaluation of the costs and risks associated with the litigation of these matters. (R&TC Section 19442) A civil tax matter in dispute includes a protest of a Notice of Proposed Assessment. **If you wish to request participation in the settlement program, you must first file a protest of the Notice of Proposed Assessment, following the procedure above (see Protest Procedure).**

Participation in the settlement program is at our discretion. In deciding whether to accept your request to participate in the settlement program, we do not consider your ability or inability to pay. We only consider the costs and risks of litigation associated with the issues in dispute. If you are unable to pay, see the Bill of Rights Highlights, Alternatives to Collection Actions, below.

For more information on how to request participation in the settlement program, see FTB Notice 2007-2, *Settlement of Civil Tax Matter Disputes* at [ftb.ca.gov](http://ftb.ca.gov).

## Interest

Interest is **not** a penalty. The law requires that we charge interest because it compensates the state for the taxpayer's use of money after the due date of the tax. Interest accrues on unpaid liabilities from the original due date of the return until the date we receive payment in full. We also charge interest on penalties. (R&TC Section 19101)

## Penalties

### Accuracy and Fraud Penalty

Under certain circumstances, if you understate your tax liability, we may impose a penalty equal to 20 percent of the related underpayment. We may also impose a fraud

penalty equal to 75 percent of the related underpayment. (R&TC Section 19164)

### 40 Percent Accuracy Penalty

For tax years that were eligible for tax amnesty, we may impose an accuracy-related penalty if you have understated your liability. The penalty is equal to 40 percent of the related underpayment. (R&TC Section 19164)

### Demand for Return or Information Penalty

If we send you a demand to file your income tax return or to provide us with information, and you do not comply, we impose a penalty of 25 percent of the tax on our assessment before applying any payments or credits. Therefore, you may owe penalties and interest even if your tax return shows a refund due. This penalty may be in addition to any 25 percent late return penalty. (R&TC Section 19133)

### Late Payment Penalty

If you do not send the total amount due shown on your tax return by the original due date, we impose a 5 percent penalty on the unpaid tax. We also impose a penalty of 0.5 percent of the unpaid tax for each month or part of a month it remains unpaid. The maximum penalty is 25 percent of the unpaid tax. We charge the penalty even if there is an extension of time to file a return. (R&TC Section 19132)

### Late Return Penalty

If you do not file your income tax return by the extended due date, we impose a penalty of 5 percent of the tax due, after applying any payments and credits made on or before the original due date, for each month, or part of a month the return is late. The maximum penalty is 25 percent. We impose the penalty from the original due date of the return. For a return that shows a balance due, the minimum penalty for filing a return more than 60 days late is \$100 (\$135 for tax years beginning on or after January 1, 2010) or 100 percent of the tax due after applying timely payments and credits, whichever is less. (R&TC Section 19131)

### Post-Amnesty Penalty

We impose a penalty when you owe new or additional tax on a tax year that qualified for tax amnesty. The penalty is equal to 50 percent of the interest that accrued on the tax assessment from the original due date of the tax to March 31, 2005. You cannot protest this penalty. You can file a claim for refund of this penalty only on the grounds that the Franchise Tax Board did not properly compute the amount of the penalty. (R&TC Section 19777.5(a)(2))

## Cost Recovery Fees

We charge you cost recovery fees if we must take collection action to resolve your filing and payment delinquencies. Cost recovery fees may include a filing enforcement fee, a collection fee, a lien fee, and fees to cover the cost of seizing and selling property. (R&TC Sections 19254, 19209, 19221, 19233, and 19234)

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# Bill of Rights Highlights

The California Taxpayers' Bill of Rights ensures that we adequately protect the rights, privacy, and property of all California taxpayers during the process of assessing and collecting taxes. The following information may be helpful to you if we begin collection action on your tax liability.

## Alternatives to Collection Actions

If you contact us, you can prevent collection action by doing any of the following:

- Pay your tax liability in full.
- Make an installment agreement.
- File any required returns or provide proof that no return is due.
- Make an Offer in Compromise that we accept.
- Establish that your financial hardship prevents you from paying this liability.

## Laws Regarding Collection Actions

**Third Party Contacts:** We may contact third parties to determine or collect your tax liabilities. To the extent the law allows, we will provide you, upon your request, a list of individuals or organizations we contacted during the 12-month period following the date of the enclosed notice. We must receive your request no later than 60 days after the 12-month period has ended. (R&TC Section 19504.7)

**Installment Agreement Cancellation:** If we cancel your installment agreement, we will notify you in writing 30 days prior to the cancellation. (R&TC Section 19008)

**Tax Liens:** If we file a tax lien, you can get it released by paying the total tax liability (including any penalties and accrued interest) for the tax years represented by the lien. We will record a certificate of release in the office of the county recorder where we filed the tax lien and/or with the California Secretary of State no later than 40 days after you pay the liability. If you pay by check, the 40-day period does not begin until your financial institution honors the check. (Government Code Sections 7174(c)(1), 7174(e)(1), and 7174(f))

Unfortunately, we sometimes file a tax lien in error. If this happens to you, write to us and tell us why you think we are wrong. If we agree with you, we will send a notice to the applicable county recorder's office and to the major credit reporting companies in that county stating that we filed the tax lien in error. (R&TC Section 21019)

**Bank, Wage, or Other Levies:** If we take your property and you believe our action is improper, you have the right to a hearing. At the hearing, you should provide information that demonstrates to us the need to change or withdraw our levy or stop the sale of your property.

We may reimburse you for charges you paid which were imposed by unrelated third party businesses because of our erroneous levy, erroneous processing action, or erroneous collection action.

You must meet the following criteria for reimbursement:

- The erroneous levy, erroneous processing action, or erroneous collection action was caused by our error.
- You responded to all our contacts before the erroneous levy, erroneous processing action, or erroneous collection action.
- The unrelated third party has not waived or reimbursed the charge.

Reimbursed charges and fees would be limited to the usual and customary charges and fees imposed by the third party in the ordinary course of business. Claims for reimbursement of these third party fees must be made within 90 days from the date of the erroneous levy, erroneous processing action, or erroneous collection action. (R&TC Section 21018)

The California Code of Civil Procedure Sections 700.010 through 704.995, and the California R&TC Sections 18670 and 18671 govern the seizure and sale of real and personal property. The California Code of Civil Procedure Sections 706.020 through 706.154 govern wage garnishment.

## Rights as a Taxpayer

One of our goals at the Franchise Tax Board is to make certain we protect your rights. We want you to have the highest confidence in the integrity, efficiency, and fairness of our state tax system. The *California Taxpayers' Bill of Rights* (FTB Pub. 4058) includes information on your rights as a state taxpayer and how to request written tax advice from the Franchise Tax Board.

You can order the *California Taxpayers' Bill of Rights* by:

- Telephone: 800.338.0505  
(Select Personal Income Tax Forms)
- Mail: FRANCHISE TAX BOARD  
PO BOX 942840  
SACRAMENTO CA 94240-0040
- Website: [ftb.ca.gov](http://ftb.ca.gov) and search **Bill of Rights**

In keeping with the *California Taxpayers' Bill of Rights*, taxpayers who have been unable to resolve their problems with us through regular channels may contact our Taxpayers' Rights Advocate. Contacting the Taxpayers' Rights Advocate, however, is not a protest and does not extend the period of time for filing one. To file a protest, follow the protest procedure explained in this insert.

Unless you received a jeopardy assessment, you have the right to an independent administrative review before we levy your income or assets if you submit a written request within 30 days of the date of the first notice of levy. You can also request review of a tax lien by submitting a written request for review within 15 days of the date of the first tax lien notice.

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You can contact the Taxpayers' Rights Advocate by:

Website: **ftb.ca.gov**

Mail: EXECUTIVE LIAISON SECTION MS A381  
FRANCHISE TAX BOARD  
PO BOX 157  
RANCHO CORDOVA CA 95741-0157

Telephone: 800.883.5910

Fax: 916.843.6022

## Franchise Tax Board Privacy Notice

The privacy of your income tax information is of the utmost importance to us.

### Your Rights

You have a right to see our records that contain your personal information. We must tell you why we ask for your income tax information and to whom we may provide it. You also have the right to question the accuracy of the information contained within your file.

### Your Responsibilities

If you meet certain income requirements, you must file a return on the forms we prescribe. When you file the return and related documents, you must include your social security number for identification and return processing. (R&TC Sections 18501, 18621, and 18624)

### Reasons for Information Requests

We ask for return information so we can administer tax laws fairly and correctly. We may request additional information to resolve audit or collection issues. You must furnish all information we request.

### Consequences of Noncompliance

We charge penalties and interest if you meet income requirements but fail to file a return, provide the information we ask for, or if you provide fraudulent information. In certain cases, if you provide fraudulent information, we may pursue criminal prosecution. We also may disallow your claimed exemptions, exclusions, credits, deductions, or adjustments. This could increase your tax liability, or delay or reduce any refund.

## Information Disclosure

The law allows us to disclose your tax information to:

- The Internal Revenue Service.
- Other states' income tax officials.
- The Multistate Tax Commission.
- Appropriate California government agencies and officials.
- Third parties when necessary to determine or collect your tax liabilities.

If you owe us money, we can disclose the amount due to employers, financial institutions, county recorders, vacation trust funds, process agents, or others who may hold assets belonging to you.

## Responsibility for the Records

The director of the Processing Services Bureau maintains Franchise Tax Board's records. You can get information about your records by:

Telephone: 800.852.5711 within the United States  
916.845.6500 outside of the  
United States

Mail: DISCLOSURE OFFICER MS A181  
FRANCHISE TAX BOARD  
PO BOX 1468  
SACRAMENTO CA 95812-1468

## Internet and Telephone Assistance/Asistencia Por Internet y Teléfono

Website/Sitio web: **ftb.ca.gov**

Telephone/Teléfono: 800.852.5711 from within the  
United States/dentro de los  
Estados Unidos  
916.845.6500 from outside the  
United States/fuera de los  
Estados Unidos

TTY/TDD: 800.822.6268 for persons with  
hearing or speech  
impairments/personas con  
discapacidades auditivas y del  
habla