



FTB 7268 LLC Limited Liability Company Collections Information

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

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 actions on your entity's unpaid liability.

Alternatives to Collection Actions

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

- Paying your entity's unpaid liability in full.
- Making arrangements to pay or file at a later date.
- Filing any required entity returns or providing proof that no return is due.
- Making an Offer in Compromise that we accept.

Offer in Compromise

We provide an Offer in Compromise program for entities that cannot pay their unpaid liability. The program allows you to offer a lesser amount in payment of an undisputed final liability. For more information regarding this program, go to our website at ftb.ca.gov and search for **4905BE**. The search will take you to our *Offer in Compromise for Business Entities* booklet (FTB Pub. 4905BE). (R&TC Section 19443)

Laws Regarding Collection Actions

Third Party Contacts

We may contact third parties to determine or collect your entity's 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)

Payment Agreement Termination

If we terminate your entity's promise to pay agreement, we will notify you in writing 30 days prior to the termination. (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 entity's financial institution honors the check. (Government Code Sections 7174(c)(1) and 7174(e)(1))

Unfortunately, we sometimes file a tax lien in error. If this happens to your entity, please 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 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 entity's property.

If we seize your entity's bank account in error, and you did not contribute to that error, we may reimburse you for related bank charges. You must file your reimbursement claim within 90 days of the levy. (R&TC Section 21018)

The California Code of Civil Procedure Sections 700.010 through 704.995, and the California Revenue and Taxation Code Sections 18670 and 18671 govern the seizure and sale of real and personal property.

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 if you have not paid the full amount due. An informal claim will extend your time frames and extend your right to file an appeal with the California State Board of Equalization or file suit against us in court. However, if you fully paid your tax liability more than seven years ago, we cannot refund these amounts. (R&TC Section 19322.1)

TELEPHONE AND INTERNET ASSISTANCE

From within the United States, call (800) 852-5711
From outside the United States, call. (916) 845-6500

Website at: ftb.ca.gov

Assistance for persons with disabilities: We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments please call TTY/TDD (800) 822-6268.

COLLECTION COST RECOVERY FEES

Collection Fee

We charge a collection fee to entities that require us to take collection action to resolve filing and payment delinquencies. (R&TC Section 19254 and Government Code Section 16583.1)

Filing Enforcement Fee

We charge a filing enforcement fee to entities that do not file a tax return by the date indicated on our written demand to file a tax return. (R&TC Section 19254)

Lien Fee

We charge a lien fee to entities with delinquent liabilities when we file a state tax lien with the county recorder or the California Secretary of State. (R&TC Section 19221 and Government Code Section 7171)

FEE AND TAX

Limited Liability Company Fee

In addition to an annual tax, limited liability companies are subject to an annual fee which is due on the original return due date. We base the fee on total income reportable to California. The California Revenue and Taxation Code defines total income as the sum of worldwide gross income plus the cost of goods sold in connection with the entity's trade or business. We treat the annual fee like a tax for purposes of assessment, collection, and penalties. (R&TC Sections 17941 and 17942)

Non-consenting Nonresident Member's Tax

Every nonresident individual member or foreign entity member must sign the Limited Liability Company's List of Members and Consents (form FTB 3832), and return it with Form 568 (Limited Liability Company Return of Income). If a member does not sign the List of Members and Consents, the company must pay tax on the member's distributive share of income at the highest marginal rate. We consider any amount the company pays as payment from the member. (R&TC Section 18633.5)

PENALTIES

40 Percent Accuracy Penalty

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

50 Percent Interest Based Penalty

We imposed a penalty because your entity had a past-due tax liability that qualified for tax amnesty, but it did not resolve its tax amnesty obligations. Go to our website at ftb.ca.gov for more information. The penalty is equal to 50 percent of the interest that accrued on the balance from the original due date of the tax to March 31, 2005. You can file a claim for refund of this penalty only on the grounds that the amount of the penalty was not properly computed by the Franchise Tax Board. (R&TC Section 19777.5(a)(1))

Accuracy and Fraud Penalty

Under certain circumstances, if you understate your entity's tax liability, we may impose a 20 percent accuracy penalty on the understatement. We may also impose a 75 percent fraud penalty on any portion of the understatement that is attributable to fraud. (R&TC Section 19164)

Delinquent Return Penalty – Limited Liability Company

If you do not file your limited liability company's income tax return by the extended due date, we impose a penalty. After we deduct your timely payments and credits, we charge 5 percent monthly on the fee and/or non-consenting nonresident members' tax indicated on your return, not to exceed 25 percent. We impose the penalty from the original return due date. (R&TC Section 19131)

Demand to File Penalty

If we send you a demand to file your entity's income tax return and you do not file it, we impose a penalty of 25 percent of the tax liability before applying any payments or credits. **Therefore, your entity may owe penalty and interest even if its tax return shows that a refund is due.** This penalty is in addition to the 25 percent delinquent return penalty. (R&TC Section 19133)

Dishonored Payment Penalty

We impose a penalty if your entity's financial institution does not honor a payment you make to us by check, money order, or electronic funds transfer. For a payment of \$750 or more, the penalty is 2 percent of the payment amount. For a payment less than \$750, the penalty is \$15 or the payment amount; whichever is less. (R&TC Section 19134)

Late Filing Penalty – Limited Liability Company

We impose a penalty if you do not file limited liability company returns by the extended due date. The penalty is \$10.00 per member for each month or part of the month the return is late. The maximum penalty is \$50 per member. We impose the penalty from the original due date of the return. (R&TC Section 19172)

Post-Amnesty Penalty

We impose a penalty when your entity owes new or additional tax on a tax year that qualified for 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 amount of the penalty was not properly computed by the Franchise Tax Board. (R&TC Section 19777.5(a)(2))

Secretary of State Penalty

The California Secretary of State imposes a \$250 penalty if your limited liability company does not file a biennial Statement of Information. (California Corporations Code Sections 17060 and 17651[b])

For more information, contact:

CALIFORNIA SECRETARY OF STATE
LIMITED LIABILITY COMPANY
PENALTY UNIT
PO BOX 944228
SACRAMENTO CA 94244-2280

Underpayment and Monthly Penalty – Limited Liability Company

We impose a penalty if you do not pay your limited liability company's:

- Annual tax by the 15th day of the fourth month of its taxable year.
- Fee or non-consenting nonresident members' tax by the 15th day of the fourth month after the end of its taxable year.

The penalty is 5 percent on the unpaid tax or fee, plus 0.5 percent on the unpaid tax or fee for each month or is 25 percent of the unpaid tax or fee. (R&TC Section 19132)

Interest

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)

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:

Mail: FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0040

Website: ftb.ca.gov and search for **Bill of Rights**

In keeping with the California Taxpayers' Bill of Rights, we have a **Taxpayers' Rights Advocate** who reviews cases where taxpayers have been unable to resolve their problems with us through regular channels.

You have the right to an independent administrative review if we levy your income or assets, or file a tax lien. You must submit your request for review within 30 days of the date of the levy notice or within 15 days of the date of the tax lien notice.

You can contact the **Taxpayers' Rights Advocate** by:

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

Website: ftb.ca.gov