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California LLC electing S corporation treatment .... *Page 1*

Reviving a suspended business entity .... *Page 3*

2023 California Tax Rates, Exemptions, and Credits .... *Page 6*

Tips for settling tax matters with the FTB and CDTFA .... *Page 8*

Taxpayer unable to establish that it was a disregarded limited partnership .... *Page 10*

CFO is responsible person for debts incurred before his time ....*Page 11*

Disaster postponements for California nonresidents .... *Page 12*

How to apportion trust income for part-year residents .... *Page 12*

Breaking down the madness of the California method .... *Page 14*

Proposition 19 questions answered .... *Page 15*

Lights are off on California energy credits .... *Page 18*

Thumb Tax .... *Page 19*

California LLC electing S corporation treatment

SMLLCs waiting for S corporation election approval can still make a passthrough entity tax prepayment.

By Sandy Weiner, J.D.
California Editor

As a result of California's passthrough entity elective tax, we are seeing more and more SMLLCs electing S corporation status and applying for and obtaining approval for a retroactive S corporation election.

We've been receiving a lot of questions from tax professionals about what this means for the California return.

Some of the key issues that arise are:

- Which tax identification number should the taxpayer use?
- What happens to the LLC fees and taxes that were already paid in?
- Can the taxpayer make the passthrough entity tax prepayment before the S corporation election is approved?

California corporation numbers

When an LLC elects to be taxed as a corporation, the IRS handles the transition smoothly because the taxpayer must file federal Form 8832, Entity Classification Election. This alerts the IRS that the LLC will

now be filing a corporate return. For federal purposes, the entity uses the same taxpayer identification number before and after the election.

However, because the California Secretary of State does not get a copy of the Form 8832, and LLCs do not have a SOS corporation number, two problems may arise:

- Estimated tax payments may not be properly posted; or
- When the taxpayer files the first corporate return, the FTB may send nonfiling notices when they can't find the LLC return.

The FTB is aware of the problem and has implemented a few internal procedures that may help some taxpayers.

The FTB will assign and mail a corporation number immediately after the entity makes its first estimated tax payment or files its first corporate return. LLCs electing S corporation status can use their FEIN or SOS number until they receive the corporation number from the FTB.

Practice Pointer

Use a corporate estimated tax voucher to pay corporate estimated tax for an LLC taxable as a corporation.

If there are problems, contact the Tax Practitioner Hotline for resolution:

(916) 845-7057

Once your client gets the assigned corporation number from the FTB, enter this number in the box labeled "California corporation number" on all estimated tax vouchers and tax returns going forward.

Previously paid LLC taxes and fees

One question that arises concerns what happens when the S corporation election is granted retroactively after the LLC has already paid its $800 annual tax (due the 15th day of the fourth month of the LLC's taxable year) and the LLC estimated fee (due the 15th day of the LLC's sixth month of the current tax year). How can the entity make sure that the previously paid annual tax and fee are properly credited?

We asked the FTB the best way to handle this. The following is their response:

If the entity has already filed their original Form 568 for the 2022 tax year and it is a calendar year filer (1/1/2022 – 12/31/2022), the entity would need to file a Form 568 and check line 3 (Amended return) and attach a statement to the return explaining the reason for the amendment. They would need to show zero gross receipts. The entity would also need to file a Form 100 S and include a copy of Federal Form 2553 with the IRS acceptance letter.

If the entity is yet to file an original Form 568 and the assumption is the entity registered in January 2022 and is a calendar year filer, the entity would only have to file an original Form 100S and include a copy of Federal Form 2553 with the IRS acceptance letter. This will help us identify any LLC estimated fees paid that are eligible to be refunded. Once the Form 100S is processed, the refund will be issued, as appropriate.

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If the entity is liable for the $800 annual tax/minimum franchise tax or S corporation net income tax, the FTB will apply the $800 annual tax and any fee previously paid by the LLC to the S corporation's account. According to the FTB, the LLC tax and fee "will be transferred to the S corporation account in normal processing when it files its return(s) as of original received date of the payment."

Can a passthrough entity tax election still be made?

Entities formed after June 15 of the tax year are not required to make a June 15 prepayment.

For entities that change classifications, the FTB has stated:

Qualified entities whose taxable year does not include June 15 in its short period taxable year are not subject to the June 15 prepayment requirement for that taxable year.

The problem that arises for an S corporation election that is approved retroactively (e.g., back to January 1 of the tax year) is that there will be no short-year return filed. This means that the entity would be ineligible to make the election.

For the 2023 tax year, entities whose S corporation election is approved prior to October 16, 2023, will still be in luck in that those taxpayers eligible for the storm-related postponement will have until the October 16, 2023, postponement due date to pay the June 15, 2023, prepayment.

However, SMLLCs whose S corporation election was not approved by October 16, 2023, should make the prepayment by October 16 to preserve their right to make the 2023 election once their S corporation election is approved. As long as the entity is a "qualified entity" at the time it makes its election, the FTB has confirmed that they will apply the previously made prepayment to the S corporation account.

The same reasoning would apply going forward. If an SMLLC wants to make a retroactive S corporation election in 2024 and its S corporation election has not yet been approved by June 15, 2024, the SMLLC should make a $1,000 prepayment by June 15, 2024, to preserve its ability to make the 2024 passthrough entity tax election once the S corporation election is approved.

Reviving a suspended business entity

Know what steps to take if an entity has been suspended by the FTB, the SOS, or both.

By Kathryn Zdan, EA
Contributing Editor

The FTB paused the business entity pre-suspension and suspension processes starting February 1, 2022, through August 31, 2023. The FTB has resumed these processes as of September 1, 2023.

Suspended business entities must first be revived with the Office of the California Secretary of State (SOS) and/or the FTB before they can be dissolved. Until the entity is dissolved, the $800 annual and minimum franchise tax will continue to accrue.

An entity may be suspended for any of these reasons:

- Failure to file one or more tax returns with the FTB or pay any balance due with the FTB;
- Failure to file one or more Statements of Information with the SOS; or
- Failure to pay any balance due, which could include the SOS penalty for failing to file the annual Statement of Information.

To be revived, an entity must first pay all outstanding balances due and then file any delinquent returns and/or the annual Statement of Information. The SOS may impose a penalty when it suspends an entity; the FTB handles collections of these amounts for the SOS, so outstanding liabilities are paid to the FTB.

A suspended entity may not:

- File a claim for refund or amended return;
- File or maintain an appeal before the California Office of Tax Appeals;
- Legally close or dissolve the business;
- Sell, transfer, or exchange real property;
- Maintain the right to use the business name;
- Bring action or defend itself in court;
- Begin or continue to protest an assessment; and/or
- Retain tax-exempt status.

If the entity is suspended when a refund claim, appeal, or protest is filed, reviving the entity after the statute of limitations has lapsed will not reopen the statute of limitations even if the claim or appeal was timely filed. (***Appeal of RJ Standard Corp.*** (2004) Cal. St. Bd. of Equal., Case No. 24022; ***Appeal of Lomita Plaza, Inc.***, 61-SBE-009; ***Electronic Equipment Express, Inc. v. Donald H. Seiler & Co.*** (1981) 122 Cal. App.3d 834) However, reviving the entity before the statute of limitations has lapsed will retroactively validate the refund claim. (***Appeal of Cornerstone Compounding Pharmacy, Inc.***, 2021-OTA-196P)

LLCs, like corporations, can be suspended for failing to comply with Statement of Information filing requirements or failing to file returns and/or pay taxes due. (Corp. Code §17713.10; ***Creditors Adjustment Bureau, Inc. v. Big Valley Cold Storage, LLC*** (March 22, 2017) Cal.App.5th, Case No. F072481)

Suspended by SOS only

If an entity is suspended or forfeited by the SOS:

- The entity must file a current Statement of Information to initiate the revivor process and pay the $25 filing disclosure fees, $250 penalty, and interest (R&TC §19141; Corp. Code §2204); and
- Once a statement is filed, the SOS generates a proposed relief from suspension and, if the corporate name is available, the entity is revived and a Notice of Revivor is sent to the entity. If the corporate name is not available, the SOS will send a Notice of Denial indicating the conflicting name.

An entity suspended by the Secretary of State only is not subject to contract voidability (see below).

For information on why the entity was suspended by the SOS and what needs to be done to revive it, contact the SOS at:

(916) 657-5448

Suspended by FTB only

If an entity is suspended by the FTB only, follow these steps:

- File any delinquent returns and pay all outstanding balances due;
- Send a completed Form FTB 3557 BC, Application for Certificate of Revivor, to the FTB;
  - Corporations: Form FTB 3557 BC, Application for Certificate of Revivor;
  - LLCs: Form FTB 3557 LLC, Application for Certificate of Revivor; and
- Upon completion of the revivor requirements, the FTB will submit the entity to the SOS for revivor. After confirmation from the SOS, the FTB will issue a Certificate of Revivor.

For information on why the entity was suspended by the FTB and what needs to be done to revive it, contact the FTB at:

(888) 635-0494

Suspended by both the FTB and SOS

If both the FTB and the SOS suspend/forfeit an entity:

- File the required Statement of Information with the SOS. The SOS will send the entity a Proposed Relief from Secretary of State Suspension/Forfeiture letter and the appropriate form:
  - Corporations: FTB 3557 BC, Application for Certificate of Revivor;
  - LLCs: Form FTB 3557 LLC, Application for Certificate of Revivor;
- Send the Proposed Relief from Secretary of State Suspension/Forfeiture and the completed Application for Certificate of Revivor to the FTB to complete the revivor requirements; and
- The FTB will notify the SOS that the entity has met the requirements for revivor, the SOS will check the availability of the business name and, if available, notify the FTB that the entity has been revived. Upon confirmation from the SOS, the FTB will issue a Certificate of Revivor. If the name is not available, the SOS will notify the FTB of the denial of the revivor.

For information on reviving a business entity, contact the FTB at:

www.ftb.ca.gov/help/business/my-business-is-suspended.html

Taxpayers may also submit a Revivor Assistance Request Form to the FTB on the FTB's website at:

https://webapp.ftb.ca.gov/contactus/home/RevivorHelp

Contract voidability

If a business entity enters into any contracts while it is not in good standing, the other party can void the contract.

If an entity is suspended, the entity can ask the FTB to grant relief from contract voidability. The FTB may issue a Certificate of Relief from Contract Voidability, which, in conjunction with a Certificate of Revivor, is the equivalent of a full pardon from a suspension. As long as a contract has not already been rescinded by a final court order, the Certificate of Relief from Contract Voidability restores all contracts and may be recorded in any county recorder's office.

Relief from contract voidability does not apply to general partnerships, limited partnerships, and limited liability partnerships.

Relief from tax

For taxpayers who did not formally dissolve an entity and do not want to pay the $800 annual tax and penalties and interest, see "When is administrative dissolution available to an entity?" in the September 2023 issue of *Spidell's California Taxletter®*.

2023 California Tax Rates, Exemptions, and Credits

The rate of inflation in California, for the period from June 1, 2022, through June 30, 2023, was 3.1%. The 2023 personal income tax brackets are indexed by this amount.

Exemption credits

- Married/RDP filing joint, and surviving spouse......... $288
- Single, married/RDP filing separate, and HOH $144
- Dependent.. $446
- Blind $144
- Age 65 or older $144

Phaseout of exemption credits

Higher-income taxpayers' exemption credits are reduced as follows:

	Reduce each credit by:	For each:	Federal AGI exceeds:
Single	$6	$2,500	$237,035
Married/RDP filing separate	$6	$1,250	$237,035
Head of household	$6	$2,500	$355,558
Married filing joint	$12	$2,500	$474,075
Surviving spouse	$12	$2,500	$474,075

When applying the phaseout amount, apply the $6/$12 amount to each exemption credit, but do not reduce the credit below zero.

If a personal exemption credit is less than the phaseout amount, do not apply the excess against a dependent exemption credit.

Example of exemption credit phaseout

Joe is a single taxpayer with one dependent. His federal AGI is $250,000. He must phase out each of his exemptions by $36. That is, ($250,000 - $237,035) ÷ $2,500 = 6 (always round up); 6 × $6 = $36. His exemption credit for 2023 is $518, calculated as follows:

Joe's personal exemption credit is........	$ 144
Less phaseout amount	($ 36)
Personal exemption credit allowed is	$ 108
Joe's dependent credit exemption is.....	$ 446
Less phaseout amount	($ 36)
Total dependent credit allowed is	$ 410
Total exemption credits allowed is	$ 518

Reduction in itemized deductions

Itemized deductions must be reduced by the lesser of 6% of the excess of the taxpayer's federal AGI over the threshold amount or 80% of the amount of itemized deductions otherwise allowed for the taxable year.

- Single and married/RDP filing separate $237,035
- Head of household $355,558
- Married/RDP filing joint and surviving spouse...... $474,075

Standard deductions

- Single and married/RDP filing separate.............. $5,363
- Married/RDP filing joint, head of household, and surviving spouse $10,726
- Minimum standard deduction for dependents $1,250

Miscellaneous credits

- Qualified Senior Head of Household Credit is 2% of California taxable income, with a maximum California AGI of $92,719, and a maximum credit of......... $1,748
- Joint Custody Head of Household Credit and Dependent Parent Credit are each 30% of net tax, with a maximum credit of $573

Nonrefundable Renter's Credit

This nonrefundable, noncarryover credit for renters is available for:

- Single and married/RDP filing separate with a California AGI of $50,746 or less .... $60 credit
- Married/RDP filing joint, head of household, and surviving spouse with a California AGI of $101,492 or less... $120 credit

Individual tax rates

- The maximum rate for individuals is 12.3%
- The AMT rate for individuals is 7%

The Mental Health Services Tax Rate is 1% for taxable income in excess of $1,000,000.

AMT exemption

- Married/RDP filing joint, and surviving spouse.......$116,229
- Single and head of household........................ $87,171
- Married/RDP filing separate, estates, and trusts $58,111

AMT exemption phaseout

- Married/RDP filing joint, and surviving spouse.......$435,855
- Single and head of household....................... $326,891
- Married/RDP filing separate, estates, and trusts $217,924

FTB cost recovery fees

- Bank and corporation filing enforcement fee.......... $108
- Bank and corporation collection fee $332
- Personal income tax filing enforcement fee $86
- Personal income tax collection fee $314

The personal income tax fees apply to individuals and partnerships, as well as limited liability companies that are classified as partnerships. The bank and corporation fees apply to banks and corporations, as well as limited liability companies that are classified as corporations. Interest does not accrue on these cost recovery fees.

Corporate tax rates

- Corporations other than banks and financials 8.84%
- Banks and financials 10.84%
- AMT rate...6.65%
- S corporation rate 1.5%
- S corporation bank and financial rate 3.5%

2023 California Tax Rate Schedules

Single or Married/RDP Filing Separate

If the taxable income is...

Over	But not over	Tax is...			Of amount over...
$0	$10,412	$0	plus	1.00%	$0
$10,412	$24,684	$104.12	plus	2.00%	$10,412
$24,684	$38,959	$389.56	plus	4.00%	$24,684
$38,959	$54,081	$960.56	plus	6.00%	$38,959
$54,081	$68,350	$1,867.88	plus	8.00%	$54,081
$68,350	$349,137	$3,009.40	plus	9.30%	$68,350
$349,137	$418,961	$29,122.59	plus	10.30%	$349,137
$418,961	$698,271	$36,314.46	plus	11.30%	$418,961
$698,271	and over	$67,876.49	plus	12.30%	$698,271

Married Filing Joint or Qualifying Widow(er) with Dependent Child

If the taxable income is...

Over	But not over	Tax is...			Of amount over...
$0	$20,824	$0	plus	1.00%	$0
$20,824	$49,368	$208.24	plus	2.00%	$20,824
$49,368	$77,918	$779.12	plus	4.00%	$49,368
$77,918	$108,162	$1,921.12	plus	6.00%	$77,918
$108,162	$136,700	$3,735.76	plus	8.00%	$108,162
$136,700	$698,274	$6,018.80	plus	9.30%	$136,700
$698,274	$837,922	$58,245.18	plus	10.30%	$698,274
$837,922	$1,396,542	$72,628.92	plus	11.30%	$837,922
$1,396,542	and over	$135,752.98	plus	12.30%	$1,396,542

Head of Household

If the taxable income is...

Over	But not over	Tax is...			Of amount over...
$0	$20,839	$0	plus	1.00%	$0
$20,839	$49,371	$208.39	plus	2.00%	$20,839
$49,371	$63,644	$779.03	plus	4.00%	$49,371
$63,644	$78,765	$1,349.95	plus	6.00%	$63,644
$78,765	$93,037	$2,257.21	plus	8.00%	$78,765
$93,037	$474,824	$3,398.97	plus	9.30%	$93,037
$474,824	$569,790	$38,905.16	plus	10.30%	$474,824
$569,790	$949,649	$48,686.66	plus	11.30%	$569,790
$949,649	and over	$91,610.73	plus	12.30%	$949,649

Individual Filing Requirements

Filing Status	Age as of December 31, 2023*	California Gross Income			California Adjusted Gross Income		
		Dependents			Dependents		
		0	1	2 or more	0	1	2 or more
Single or head of household	Under 65 65 or older	$21,561 $28,761	$36,428 $39,911	$47,578 $48,831	$17,249 $24,449	$32,116 $35,599	$43,266 $44,519
Married filing joint, RDP, or separate	Under 65 (both spouses/RDPs) 65 or older (one spouse) 65 or older (both spouses/RDPs)	$43,127 $50,327 $57,527	$57,994 $61,477 $68,677	$69,144 $70,397 $77,597	$34,503 $41,703 $48,903	$49,370 $52,853 $60,053	$60,520 $61,773 $68,973
Surviving spouse	Under 65 65 or older		$36,428 $39,911	$47,578 $48,831		$32,116 $35,599	$43,266 $44,519
Dependent of another person — Any filing status	Under 65 65 or older	More than your standard deduction More than your standard deduction					

*If you turn 65 on January 1, 2024, you are considered to be age 65 at the end of 2023.

Tips for settling tax matters with the FTB and CDTFA

The stronger the case you present to the tax agency, the better your settlement will be.

By Eric J. Coffill
Guest Contributor

Below are six tips, in the form of questions, for settling tax matters with the FTB and the CDTFA. The parameters of the FTB Settlement Bureau's program are explained in FTB Notice 2020-03, and the parameters of the CDTFA settlement program are explained on its website at:

www.cdtfa.ca.gov/legal/settlement-program.htm

While not all tips are applicable to all settlement scenarios, hopefully they will provide a framework for deciding when and how to settle.

Why do you want to settle?

In general, you want to win the winners and settle the losers. That bifurcated approach means that before considering settlement as an option, one must have a firm grasp of the merits of the case and be able to quantify the risk of moving forward.

However, there are also many valid reasons for settling cases that appear to be winners. A company may be 100% reserved and be looking for a definitive resolution in the near future to pull back some of those reserves for financial statement impact. A taxpayer may have multiple cycles with the same tax issue and tactically may wish to settle the strongest cycle in hopes of creating a trend line for later settling the other weaker cycles on the same terms.

The FTB/CDTFA may have a stronger case than they think they do, and you do not want the FTB to inquire further. A high wealth individual taxpayer may wish to avoid publicity by settling a matter solely to minimize the disclosure of information in public forums such as the Office of Tax Appeals or superior court (assume no protective orders here). Finally, in cases involving relatively small dollars, there are cases you simply cannot afford to win, given the costs of proceeding forward and the low odds of later recovering costs and fees even when successful.

Can you pay?

Unless a claim for refund is involved, a settlement will result in a cash outflow because these are settlements to a flat dollar figure. If the taxpayer does not have the funds to pay a proposed assessment, an offer in compromise program is the best option.

Neither the FTB nor the CDTFA takes "ability to pay" into account in negotiating a settlement. An FTB settlement typically requires full payment by the taxpayer at the time a settlement is reached with the assigned settlement hearing officer (which is before final approval of the settlement perhaps three to four months later). The FTB Settlement Bureau does not offer settlement payment plans. A CDTFA settlement typically requires full payment by the taxpayer at the time the settlement is formally approved. However, the CDTFA offers the option of a three-year settlement payment program.

What are your options if you do not settle?

"Getting to Yes," which is a great book from 1981, stresses the importance of "BATNA," or your "Best Alternative to a Negotiated Agreement." When negotiating a settlement, what are your options and likely course of action if you walk away from the

agency's last/best/final offer? If you walk away, are you committed to a win/loss in a later proceeding? Is there an opportunity to attempt to settle on more favorable terms at a later time, e.g., by further developing the case and attempting to engage the FTB or the CDTFA in settlement discussions at a later time, or by later attempting to settle in court with the Attorney General's office as opposed to with the internal settlement agencies at the FTB and CDTFA?

What is your dollar settlement number?

You need to have a figure for an opening offer, which is not so low as to be insulting and that shows you are serious and reasonable in your negotiations, but still low enough to give room for negotiation. You also need a target settlement figure that is your goal. Finally, you need to know your "drop dead" number where you are willing to walk away (remember BATNA above). Both agencies will engage in a certain amount of back-and-forth trading of numbers – more at the FTB than the CDTFA, and there will be a settlement conference (typically via video).

Are there settlement issues to resolve beyond the amount you pay?

Do you also need to seek resolution as part of a dollar settlement of an apportionment percentage that will be used in later years, or are there NOL or other carryback/carryforward issues? A standard settlement with the FTB or the CDTFA has no binding or legal effect on other tax periods, including, hypothetically, another tax year with the identical facts and the identical law.

However, the agencies are usually open-minded about discussing the impact of a settlement on other tax years where there are direct consequences of the settlement. If the taxpayer is seeking a legally binding agreement with the FTB or the CDTFA which applies to other years, the vehicle is a closing agreement — not a settlement agreement.

What kind of a settlement deal can you achieve?

There are a number of components to this question. First, some cases are simply not good candidates for settlement. For example, if your case is not well developed such that the applicable facts and law are not clear, it is unlikely that either the FTB or the CDTFA will wish to settle as a consequence of those uncertainties. If your case presents an issue that is currently being litigated, or the agency intends to litigate or test the law on that issue, a settlement is unlikely.

Assuming your case is one suitable for settlement, it is all about "hazards of litigation." The enabling legislation for the FTB settlement program (R&TC §19442) and the CDTFA settlement program (R&TC §7093.5) both speak of the authority to settle "consistent with a reasonable evaluation of the costs and risks associated with litigation in these matters." In other words, what a settlement comes down to is evaluating and quantifying risk – the risk of proceeding by you and by the FTB. You not only need to fully understand your hazards of litigation, but it is also critical that you can make a compelling case to the tax agency about their hazards of litigation. One could argue that the agencies also take into account workload, etc., but nearly all settlements come down to a party pricing and avoiding risk. Although it is a vast oversimplification because of other factors, a case where you think you are only 60% right should result in a payment of 60% of the total amount at issue, and the agency accepting 60%.

Settlement is not an alternative to doing the work necessary to properly develop a case, and it is a gigantic mistake to approach settlement with an undeveloped case. That is because the stronger the case you present to the tax agency on both the law and the facts, the better your settlement will be because you can present higher "hazards" to the FTB if there is no settlement.

Ask yourself, what reasons can you give the FTB for them to want to settle your case at less than 100 cents on the dollar and at a cost that is acceptable to you?

About the author
Eric J. Coffill has over 40 years of experience counseling clients on state and local tax controversy and litigation matters at the administrative, trial, and appellate levels, particularly those involving the California Franchise Tax Board and the California Department of Tax & Fee Administration. His practice includes advising high-net-worth individuals on their most significant matters, including California residency and sourcing issues. He can be contacted at: ericcoffill@eversheds-sutherland.com.

Taxpayer unable to establish that it was a disregarded limited partnership

The FTB has outlined what taxpayers need to do to prove they qualify as a DLP.

By Kathryn Zdan, EA
Contributing Editor

A taxpayer claimed it was a disregarded limited partnership (DLP) for federal income tax purposes and therefore was not required to file a California partnership return or pay the $800 annual tax pursuant to FTB Legal Ruling 2019-02. (*Appeal of More Than We Deserve*, 2023-OTA-359)

FTB Legal Ruling 2019-02 provides that a taxpayer–partner that is recognized for federal income tax purposes is treated as a single owner of a limited partnership if the taxpayer–partner wholly owns all other partners that are disregarded for federal income tax purposes. This is the case unless the limited partnership elects to be classified as an association taxable as a corporation. Where the limited partnership does not make this election, it is a DLP. (See IRS Rev. Rul. 2004-77)

Legal Ruling 2019-02 holds that DLPs are not subject to the annual limited partnership tax of $800 and the partnership return filing requirements of R&TC §§17935 and 18633.

FTB Notices 2019-06 and 2019-08 set forth the process for establishing that a limited partnership is a DLP. The limited partnership should provide the following documentation to the FTB to establish its proper treatment as a DLP:

- A certificate of limited partnership, partnership agreement, organizational chart of ownership, and federal returns of the partners for the particular taxable year(s) in question; or
- A sworn declaration by the general partner stating that the entity was disregarded for federal income tax purposes during the respective years. If the limited partnership's general partner under local law is an LLC, then the manager, or if there is no manager, the authorized member of the general partner LLC, must sign the declaration.

The OTA held that the taxpayer had not established that its partners were disregarded entities because it offered conflicting evidence regarding the identity of its partners, and it did not show that its ownership structure qualified as a DLP. Further, the taxpayer failed to respond to the FTB's Information Document Requests, giving rise to a presumption that such evidence is unfavorable to its case.

For more information on DLPs, see "Disregarded limited partnerships not liable for annual tax" in the January 2020 issue of *Spidell's Strategic Tax Adviser*®.

CFO is responsible person for debts incurred before his time

Even though he wasn't CFO yet, he still had control and ability to pay taxes in those prior years.

By Kathryn Zdan, EA
Contributing Editor

In a pending precedential decision, a taxpayer who was the CFO for a corporation was found to be personally responsible for $204,673 of the corporation's unpaid sales and use tax liabilities and penalties, which included years before he was named as CFO. (***Appeal of Treyzon***, 2023-OTA-399P) The CDTFA was able to show that for those years prior to becoming CFO, even though the taxpayer did not have the official position of CFO or manager during that period, he was a "de facto" CFO as well as an unofficial manager.

The taxpayer was deemed to be an unofficial manager with ownership interest in the company because the taxpayer's wife owned a 25% interest, of which the taxpayer had a one-half ownership interest through community property. (18 Cal. Code. Regs. §1702.5(e))

Responsible person requirements

A person is personally liable for the tax, penalties, and interest owed by a business entity if all the following elements are met:

1. The corporation has been terminated, dissolved, or abandoned;
2. The corporation collected sales tax reimbursement on its sales of tangible personal property and failed to remit the tax reimbursement to the CDTFA or consumed tangible personal property and failed to pay the applicable tax to the seller or the CDTFA;
3. The person had control or supervision of, or was charged with the responsibility for, the filing of returns or the payment of tax, or was under a duty to act for the corporation in complying with the Sales and Use Tax Law; and
4. The person willfully failed to pay taxes due from the corporation or willfully failed to cause such taxes to be paid.

(R&TC §6829(a), (c); 18 Cal. Code Regs. §1702.5(a), (b))

The taxpayer conceded that elements 1 and 2 had been met.

Regarding the third element of control or supervision, the taxpayer argued he merely provided legal assistance to the corporation. However, the CDTFA provided numerous e-mail exchanges (including from prior to the time he became CFO) that showed the taxpayer was involved in the calculation of sales tax, gave direction to the CPA firm, acted as a point of contact for the CDTFA, and ultimately was responsible for sales and use tax compliance.

Regarding the fourth element of willfulness, the taxpayer argued that he only became aware of the unpaid liabilities as of the date he officially became CFO. He also argued that he did not have signature authority over the corporation's bank accounts. However, as noted above, the taxpayer had been involved in the calculation of and compliance with sales and use taxes. Although he had been brought on as CFO to handle the CDTFA tax lien and audit, the CDTFA had e-mail threads dating to prior to his being named CFO that showed he was aware the taxes were due and were not being paid. The taxpayer also had the requisite authority to pay the taxes or cause them to be paid. He had the authority to initiate funds transfers and received the corporation's bank statements, which showed substantial funds available. Therefore, the taxpayer had the ability to pay the liabilities but chose not to.

Disaster postponements for California nonresidents

We have been receiving questions from tax professionals asking whether California nonresidents who qualify for the IRS filing and payment postponements due to federally declared disasters outside California can file their California nonresident returns by the postponement date without penalties and interest. We believe nonresident taxpayers who qualify for IRS filing and payment postponements due to federally declared disasters have until the postponed deadlines to file their California nonresident returns. California generally conforms to federal law allowing the IRS to provide filing and payment postponements related to federally declared disasters. (IRC §§7508, 7508A; R&TC §§18570–18572)

This means that the February 15, 2024, postponement deadline for taxpayers impacted by the following disasters would apply to California returns as well:

- Hurricane Lee in parts of Maine and Massachusetts;
- Hurricane Idalia in parts of Florida, Georgia, and South Carolina;
- Seawater intrusion in certain Louisiana parishes; and
- Wildfires in Maui.

In addition, California extensions are also available to taxpayers impacted by:

- Flooding in parts of Alaska and certain Illinois counties (only until October 31, 2023); and
- Flooding in certain parts of Vermont (only until November 31, 2023).

We have reached out to the FTB for confirmation.

For a complete listing of the latest IRS relief available for disaster victims, see:

www.irs.gov/newsroom/tax-relief-in-disaster-situations

How to apportion trust income for part-year residents

California taxation of trust income gets complicated when fiduciaries and beneficiaries are part-year residents.

By Renée Rodda, J.D.
Editor

The taxation of a trust depends on the distribution of income and the residency of trustees and beneficiaries. If trust income is not distributed, the trust pays tax on all California-source income and on non-California income based on the residency of each trustee and each beneficiary. This is done through a two-step process.

Step 1: Allocation based on residency of trustees

If there is only one trustee and that trustee is a California resident, all of the income not distributed is taxable to California.

If there are two or more trustees, the non–California-source income is taxable to California in the same proportion as the number of California trustees are to the total number of trustees. So, if you have two trustees, one resident and one nonresident, then 50% of the non–California-source income will be subject to California income tax.

If there is one trustee who is not a California resident, then this portion of the computation will not add to the California taxability of the trust's net income.

Step 2: Allocation based on residency of beneficiaries

Note: Ignore the residency of contingent beneficiaries for this computation. A contingent beneficiary is one who will become entitled to distributions only if a condition precedent should occur, such as the death of the contingent beneficiary's parent. See 18 Cal. Code Regs. §17742 regarding the taxability of contingent beneficiaries.

After subtracting the amount of non–California-source income included because of the residency of the trustee(s) from the total non–California-source income, the remainder is subject to California taxation in the same proportion as the number of California beneficiaries to the total number of beneficiaries.

In other words, if all the beneficiaries are California residents, all the remaining non–California-source income taxable to the trust will be subject to California income tax.

If only one of three beneficiaries is a California resident, then only 33% of the non-taxed portion of the non–California-source income will be taxable to California.

Example of trust with rental property in California: Trusting Trust has a Nevada trustee and two Washington beneficiaries. No income is distributed or required to be distributed. The trust owns one rental property in California and a bank account in Nevada. The trust must pay tax to California on income from the California rental property.

Note: There is no provision for the possibility that the resident and nonresident beneficiaries may have significantly different proportionate interests in the trust's net income. The California resident beneficiary may have only a 10% interest in the net income while the nonresident beneficiary may have a 90% interest in the trust's income, or vice versa. Nevertheless, apportionment is based solely upon the number of beneficiaries.

Part-year residents

What happens when you have a fiduciary or a beneficiary who is a part-year resident of California? The law and regulations are not clear on how to handle this issue.

The FTB says that the position they have generally taken on this question is that trusts with part-year resident fiduciaries and beneficiaries will be subject to the rules applicable to individuals. They will be treated as part-year residents subject to R&TC §17041(i).

The taxable income of a part-year resident includes all items of gross income and all deductions regardless of source for any part of the year during which the taxpayer was a resident. Accordingly, the trust will be taxable on a portion of the trust income when the part-year fiduciary or noncontingent beneficiary is a California resident.

The taxation of the income will depend on the type of income earned. Certain types of income may be deemed earned when the proceeds are received (installment sales), while other types of income are deemed earned on the date of realization (capital assets).

Some income may be allocated on a proportional basis when the date of realization cannot be determined (K-1 income). FTB Publication 1100, Taxation of Nonresidents and Individuals who Change Residency, has specific information regarding the treatment of various types of income.

Example of calculating income taxable to California: The ABC Trust had net income of $100,000. All of the income was accumulated pursuant to the terms of the trust, and none was distributed for the year. The California-source income was $40,000, and the other $60,000 was non–California-source income derived from an installment note. The payments were received in $5,000 installments on the first day of each month.

There is one trustee of the trust, who is not a California resident. There are two noncontingent beneficiaries of the trust; one a nonresident and one became a California resident on June 15. Follow these steps to calculate the income taxable to California:

1. ABC Trust is not a grantor trust (so the income is not reported on the grantor's return); proceed to step 2.
2. ABC Trust did not distribute any income to the beneficiaries, all the net income is taxable to the trust; proceed to step 3.
3. ABC Trust has $40,000 of California-source income taxable to California.
4. Since the trustee is not a California resident, no income is sourced to California based on the residence of the trustee.
5. Next, apportion the trust's remaining income based upon the California resident beneficiary. The non-California installment income is taxable to a part-year resident when received. Accordingly, $15,000 of the installment income is taxable to California ($30,000 received while the beneficiary was a California resident × 50%).
6. Add the amounts of income from:

Step 3 – California-source	$40,000
Step 4 – apportion by residence of trustees	0
Step 5 – apportion by residence of beneficiaries	+15,000
Total taxable to California	$55,000

Breaking down the madness of the California method

The OTA shows step-by-step how a part-year resident's tax is prorated.

By Kathryn Zdan, EA
Contributing Editor

In a recent appeal, a taxpayer who was a part-year resident of California took issue, as many do, with the California method of calculating tax for nonresident or part-year resident taxpayers. (***Appeal of Spann***, 2023-OTA-438) Taxpayers unfamiliar with this tax calculation generally object to their non–California-source income being included in the calculation. But the non–California-source income is not actually being taxed; it is only being used to arrive at a rate of tax that is then applied to the California-source income.

For a nonresident or part-year resident taxpayer, calculating the tax owed to California requires the application of "the California method," which applies formulas to:

1. Prorate deductions to determine the amount deductible from the taxpayer's California income by dividing California AGI by total AGI from all sources, then applying the resulting ratio to the itemized deductions or standard deduction;
2. Calculate the tax rate applicable to the taxpayer's California taxable income by dividing the tax on the total taxable income (calculated as if the taxpayer were a

California resident for the entire year) by the taxpayer's total taxable income and applying the resulting rate of tax; and
3. Prorate credits to determine the amount to offset against the taxpayer's California tax by dividing the California taxable income by the total taxable income and applying the resulting ratio to the total exemption credit amount.
(R&TC §§17041(b)(2), 17055, 17304; ***Appeal of Williams***, 2023-OTA-041P)

Show your work

The taxpayer in this appeal had total AGI for 2017, the tax year at issue, that consisted of $12,000 in settlement income and $88,189 in wages, $56,565 of which was earned in California.

The Office of Tax Appeals upheld the FTB's assessment of $1,141 in additional tax as follows.

California income: The FTB divided the taxpayer's California AGI ($56,565) by total AGI from all sources ($100,689) for a prorated percentage of 56.18%. This resulted in a prorated standard deduction of $2,380 (2017 standard deduction for single taxpayers of $4,236 × 0.5618). The FTB then subtracted $2,380 from $56,565 of California AGI to arrive at California taxable income of $54,185.

Tax rate: The FTB determined that had the taxpayer been a full-time California resident in 2017, the tax on his total taxable income would be $6,331. The FTB then divided that amount of tax by the appellant's total taxable income of $96,453 ($100,689 total AGI - $4,236 standard deduction) for a California tax rate of 6.56%. The tax rate of 6.56% was then applied only to the taxpayer's California taxable income to compute California tax (before exemption credits) of $3,555 (California taxable income of $54,185 × 0.0656).

Exemption credits: The FTB calculated the percentage of exemption credits by using the prorated exemption credit percentage of 56.18%. This resulted in a prorated exemption credit of $64 (the 2017 exemption credit for single taxpayers of $114 × 0.5618). The California tax before exemption credits of $3,555 less prorated exemption credits of $64 resulted in total California tax of $3,491. This total California tax minus what the tax appellant originally reported on his return ($2,128) resulted in additional tax of $1,363.

However, the additional tax per the Notice of Proposed Assessment that had originally been sent to the taxpayer was $1,141, and the FTB maintained this smaller amount of tax due.

Proposition 19 questions answered

Almost three years later, there are still questions about the specifics of intergenerational transfers and base-year transfers for seniors and the disabled under Proposition 19.

By Kathryn Zdan, EA
Contributing Editor

In November 2020, California voters passed Proposition 19, which revised the intergenerational exclusion from property tax assessments and the base-year transfers available to taxpayers who are age 55 and older, disabled, and/or disaster victims.

However, taxpayers and tax professionals continue to have questions about the changes made by Proposition 19. This article covers some of the topics we frequently receive questions about.

Intergenerational transfers

Proposition 19 dramatically limited the property tax relief available to parents or grandparents transferring properties to their children or grandchildren (or vice versa).

Under Proposition 19, for transfers on or after February 16, 2021, to qualify for the principal residence exclusion, the receiving child must use the residence as their own principal residence within one year of the transfer, and only the first $1 million of additional assessed value is excluded. (R&TC §63.2)

Note: Starting in 2023, the $1 million exclusion amount is indexed for inflation. For Proposition 19 intergenerational transfers occurring on February 16, 2023, through February 15, 2025, the exclusion is equal to $1,022,600. (BOE News Release 23-03 (March 7, 2023))

Proposition 19 also completely eliminated the non–principal residence exclusion. However, the principal residence exclusion will apply to transfers of family farms, even if there is no principal residence located on the farm.

The Proposition 19 exclusion does not apply to principal residences held in an entity or irrevocable trust, including limited liability companies. The exclusion does apply to principal residences that are held in a living trust, which becomes irrevocable at death, if the property is transferred to a qualifying relative under the terms of the trust.

There are no limits on the number of qualified transfers a transferor makes. If a parent resides in one home and transfers that to one of their children and then moves into another home and lives in that home for a number of years, the parent can transfer that home to another child, and both children would be able to claim the exclusion as long as they live in the home that was transferred to them.

What happens when the child moves out?

In the event that a property is transferred to a child, the exclusion is available for as long as the child lives in the home. If the child moves out for more than a temporary absence and rents out the home, or uses it as a vacation home, the property no longer qualifies for the exclusion. The reassessment only applies in situations where the child leaves the home for more than a temporary absence. A temporary absence from the family home by either the parent or the child as a result of long-term hospitalization, military service, or temporary job transfer will not impact the availability of the exclusion. (BOE Letters to Assessor Nos. 2020/61, 2021/008)

The base-year value of the property will be set at the FMV of the property when the property was inherited, adjusted for inflation for each year the child owned the property as their family home.

> **Example of reassessment:** Li Chun inherited her parent's family home with a taxable value of $150,000 and a FMV of $800,000. She lived in the home for three years. During this period the home's taxable value remained at $150,000, adjusted by the inflation factor. When Li Chun moves out and rents out the home, the new taxable value is $800,000 adjusted for the inflation factor for each year she owned the property. If the inflation factor was 2% for each of the three years, the next taxable value is $848,966 ($800,000 × 1.02 × 1.02 × 1.02).

What if another sibling moves in?

If one child moves out and another qualifying child moves in, the exclusion will remain in effect.

Both children must have been named in the transfer for the exclusion to remain in effect. If a parent left the house to one child and stock to another child, then the exclusion will only apply if the child to whom the house was left resides in the home.

To preserve flexibility in terms of the exclusion, parents should consider leaving the house to all of their children.

Base-year transfers

For transfers on or after April 1, 2021, Proposition 19 also allows taxpayers who are over age 55, severely and permanently disabled (as defined in R&TC §74.3(b)), or a victim of a wildfire or other natural disaster to transfer their property tax adjusted base-year value to a replacement

property anywhere in the state. (R&TC §69.6; 18 Cal. Code Regs. §462.540) Previously, this benefit was limited to those counties that authorized the base-year property transfer.

Taxpayers who are over age 55 or disabled may transfer the base-year value of the relinquished property up to three times. (18 Cal. Code Regs. §462-540(a)(7), Example 6) Disaster victims can make these transfers for an unlimited number of disaster-related transfers.

According to guidance issued by the BOE, a spouse of a claimant who is a record owner of the replacement dwelling is not considered a claimant for purposes of the base-year value transfer. Thus, each spouse or registered domestic partner may transfer their base-year value three times. (BOE Letter to County Assessors No. 2022/009)

Replacement properties

Seniors, disabled taxpayers, and disaster victims are no longer limited to replacement properties of equal or lesser value. If they purchase a replacement property with a higher FMV than their original property, the assessed value of the replacement property would be equal to the assessed value of the original property, plus the difference in FMV between the original property and the replacement property.

If the full cash value of the replacement dwelling is of equal or lesser value than that of the original property, the assessed value of the replacement property will be the assessed value of the original property. (R&TC §69.6(e)(2))

"Equal or lesser value" means the fair market value of the replacement property does not exceed one of the following:

- 100% of the market value of the original property, if the replacement property is purchased or newly constructed before the original property is sold;
- 105% of the market value of the original property, if the replacement property is purchased or newly constructed within the first year after the original property is sold; or
- 110% of the market value of the original property, if the replacement property is purchased or newly constructed within the second year after the original property is sold. (R&TC §69.6(d))

Example of equal or lesser value: Michael is age 57 and his wife, Donna, is age 55. They have owned and lived in their four-bedroom house for the past 25 years. Now that their children are married, they want to move into a smaller home, but one that is newer.

They sell their home for $650,000 on May 1, Year 1, but their new home won't be finished for at least six more months. They will rent until they can move into their new home. If the new home closes escrow by April 30, Year 2, the equal or lesser value will be $682,500 ($650,000 × 105%) or less.

If the escrow on their new home closes between April 30, Year 2, and before May 1, Year 3, the equal or lesser value will be $715,000 ($650,000 × 110%).

If it doesn't close by May 1, Year 3, they cannot transfer the base-year value.

Example of replacement property with a higher value: Jane is age 65 and has decided she wants to move closer to her grandchildren. She sells her home in Orange County, with an assessed value of $400,000, for $650,000. Jane purchases a new home in San Diego for $750,000.

The assessed value of Jane's new home is $500,000 ($400,000 + ($750,000 - $650,000)).

Lights are off on California energy credits

Make sure you're tracking basis differences stemming from federal credits.

By Sandy Weiner, J.D.
California Editor

It seems every year, lightbulbs go off when taxpayers and their tax professionals realize that even though the federal government provides tax credits for purchases of solar energy systems, electric vehicles, and other energy saving initiatives, California does not.

It has been years since California has offered tax credits for these types of purchases. Although California does offer a variety of grants and rebates for qualified residents who purchase electric vehicles and energy efficient building improvements (see box below), California does not offer any income tax credits for these items.

While taxpayers cannot claim credits on their California income tax return for these expenditures, they can claim increased depreciation expenses on their California business returns for purchases of electric vehicles or expenditures to make their business properties more energy efficient. Because California does not provide credits for these expenditures, taxpayers are not required to decrease their depreciable basis for these items. In addition, taxpayers will have an increased basis in their personal vehicles and energy efficiency-related home improvements, which means they will have a lower gain on their California returns if, and when, they sell these items.

California energy-saving state programs

The state of California has created a website that provides information on a variety of energy-saving programs available to California residents:

https://climateaction.ca.gov/

The website provides information on:

- Zero-emission vehicle programs:
  - Clean Vehicle Rebate Project;
  - Clean Cars 4 All;
  - Federal tax credits; and
  - Local programs and incentives;
- Home energy programs:
  - GoGreen Home loans;
  - Energy Savings Assistance;
  - Disadvantaged Communities – Single-family Solar Homes program;
  - Disadvantaged Communities – Green Tariff program;
  - Federal tax credits; and
  - Local programs for homeowners and renters; and
- Water saving programs:
  - Turf replacement rebates; and
  - State income tax exemption.

THUMB TAX

Clarification regarding wildfire settlement exclusions — Over the last two years, three bills were enacted that allowed retroactive exclusions for various wildfire settlements received by certain wildfire victims from PG&E and Southern California Edison.

AB 1249 (Ch. 22-749) allows a retroactive exclusion for amounts paid to Butte and North Bay Fire victims for settlements paid out from the Fire Victim Trust established pursuant to the order of the United States Bankruptcy Court for the Northern District of California for fires that occurred in Butte in 2015 and in Butte, Lake, Mendocino, Napa, Solano, and Sonoma counties in 2017. (R&TC §§17138.6, 24309.1) We previously reported that settlements related to these fires were excluded but did not specify that the exclusion for settlements related to these fires is limited to those settlements paid from the Fire Victim Trust Fund. For closed tax years, taxpayers have until September 28, 2023, to file a refund claim.

SB 1246 (Ch. 22-841) allows a retroactive exclusion for all settlements received from Southern California Edison by qualified taxpayers in litigation with Southern California Edison related to the 2017 Thomas Fire and 2018 Woolsey Fire. (R&TC §§17139.2, 17139.3, 24309.6, 24309.7) For closed tax years, taxpayers have until September 28, 2023, to file a refund claim.

SB 131 (Ch. 23-55) allows a retroactive exclusion for all settlements received from PG&E to qualified taxpayers in Sonoma County related to the 2019 Kincade Fire and in Shasta or Tehama counties related to the 2020 Zogg Fire. (R&TC §§17139.2, 17139.3, 24309.6, 24309.7)

CDTFA removing Limited Access Codes for quarterly filers — On October 3, 2023, the CDTFA will phase out Limited Access Codes for quarterly account filers. (CDTFA Tax Updates (September 2023)) These filers will receive an e-mail from the CDTFA with information on how to create a username and password to maintain access to their account. Limited Access Codes for other users were completely phased out over the summer of 2023.

With a username and password, users will be able to use the CDTFA system's enhanced features, including filing returns and reports, requesting extensions, making payments, submitting claims for refund, and requesting relief from penalties and interest. Users can also see the status of relief requests, and view and print previously mailed letters, payments, and filed returns.

If you need help creating an account login, there are step-by-step video tutorials on how to create a username and password at:

www.cdtfa.ca.gov/services/#Tutorials

FTB interest rates — The FTB has released the interest rates for the first half of 2024. For the period January 1, 2024, through June 30, 2024, the rates remain the same as the second half of 2023:

- Personal underpayment/overpayment and corporate underpayment: 7%; and
- Corporate overpayment: 5%.

You can access historical rates at:

www.caltax.com/research/ftb-interest-rates/

<u>CDFTA moving San Jose office</u> — The CDTFA is moving its San Jose office in October. (CDTFA Updates (September 2023)) On October 4, the agency will permanently close the office at 250 South Second Street and will open the doors of the new location at 1741 Technology Drive, Suite 100, on October 9.

<u>Use dashboard to check FTB wait times</u> — The FTB's Customer Service Dashboard provides accurate processing time frames and wait times for the different contact centers:

- Customer service phone lines;
- Tax Practitioner Hotline;
- MyFTB Chat;
- General Chat; and
- Processing time frames for payments, refunds, tax returns, and correspondence.

Wait times are available at:

www.ftb.ca.gov/help/time-frames/#contact

<u>Watch out for Forms 593 and 593-V filing errors</u> — The FTB sees reoccurring errors with submissions of Forms 593 and 593-V that cause delays in both processing of the form and allowing the withholding credit when claimed on the seller's tax return. (FTB Tax News (September 2023))

To avoid errors that could result in the assessment of interest and penalties, a remitter is required to:

- Complete all applicable parts of Form 593, including Part I and Part VII, specifically Line 37, when withholding is required;
- Ensure the amount on Line 37 matches the amount withheld. The amount withheld should not be rounded up or down;
- Confirm that applicable part(s) of Form 593 are complete and submit sides 1-3 to FTB regardless of the real estate transaction type;
- Submit only one copy of Form 593 unless an amended form is filed. Check the amended box on the top left corner when amending a form;
- Ensure Forms 593 and 593-V are not altered in any way and submit the correct year form; and
- Complete Form 593-V with the same information from Part I of Form 593.

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CALIFORNIA CONTACTS

If there are problems with paying corporate estimated tax for an LLC taxable as a corporation, contact the Tax Practitioner Hotline for resolution:	(916) 845-7057
For information on why an entity was suspended by the SOS:	(916) 657-5448
For information on why an entity was suspended by the FTB:	(888) 635-0494
For information on reviving a business entity, contact the FTB at:	www.ftb.ca.gov/help/business/my-business-is-suspended.html
Taxpayers may also submit a Revivor Assistance Request Form to the FTB on the FTB's website at:	https://webapp.ftb.ca.gov/contactus/home/RevivorHelp
The parameters of the CDTFA settlement program are explained on its website at:	www.cdtfa.ca.gov/legal/settlement-program.htm
For a complete listing of the latest IRS relief available for disaster victims, see:	www.irs.gov/newsroom/tax-relief-in-disaster-situations
For information on a variety of energy-saving programs available to California residents, to go:	https://climateaction.ca.gov/
For help creating a CDTFA account login, there are step-by-step video tutorials on how to create a username and password at:	www.cdtfa.ca.gov/services/#Tutorials
You can access FTB historical interest rates at:	www.caltax.com/research/ftb-interest-rates/
To see the FTB's Customer Service Dashboard that provides processing time frames and wait times, go to:	www.ftb.ca.gov/help/time-frames/#contact

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- ✓ Plan for reduced bonus depreciation
- ✓ Get tips on tax planning for increased interest rates
- ✓ Discuss new ways to interact with the IRS online
- ✓ Maximize tax benefits for research expenditures
- ✓ Attend in November or December and use tax planning strategies based on new laws and proposed changes to help your clients
- ✓ Get prepared for California returns as well:
  - Learn the best ways to get client information from the FTB
  - Understand California's new first time penalty relief
  - Get answers to the most common passthrough entity tax questions
  - Discuss how to address potential issues from California disaster extensions
  - See why more businesses owe California tax

Speakers and additional topics to be announced.

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— Joe Bartlett, CPA; Roseville CA
Federal and California Tax Update attendee

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☐ **November 27 & 28** *(Mon–Tue)* *8:30 a.m.–Noon PT*	☐ **December 5 & 6** *(Tue–Wed)* *8:30 a.m.–Noon PT*	☐ **December 18 & 19** *(Mon–Tue)* *8:30 a.m.–Noon PT*	☐ **January 10 & 11** *(Wed–Thu)* *8:30 a.m.–Noon PT*	☐ **January 23 & 24** *(Tue–Wed)* *8:30 a.m.–Noon PT*	☐ **Add Bonus CPE 8-hour online self-study** ~~$89~~ **$69****
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Presented by: Renée Rodda, J.D.
Monday, October 30, 2023 — 8:30 a.m. to 12:00 p.m. PT

Understand the importance of trusts, even for small estates; Review the increased need for more complex trusts with the potential of reduced estate tax exclusions; Discover the use of trusts in light of new RMD rules for IRA beneficiaries.

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Presented by: Claudia Hill, EA, MBA
Tuesday, October 31, 2023 — 10:00 a.m. to 12:00 p.m. PT

Is it a California trust if the trustee is in Nevada? What is a Delaware Statutory Trust? What are GRATs, QPRTs, and IDTGs? • What's California's problem with Incomplete Gift Non-Grantor Trusts (INGs)?

2 hours of CPE — **Regular Price: $107**

INCOME DISTRIBUTION DEDUCTION

Presented by: Charles Burdoin, CPA
Wednesday, November 1, 2023 — 10:00 a.m. to 12:00 p.m. PT

Vanquish your fear of trust tax returns; Receive a practical trust primer update; Understand, in detail, the workings of distributable net income; Delve into the income distribution deduction only found in fiduciary returns.

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PREPARING FORM 706 FOR PORTABILITY

Presented by: Claudia Hill, EA, MBA
Thursday, November 2, 2023 — 10:00 a.m. to 12:00 p.m. PT

Help your clients understand the potential benefits of making this election; See how Form 706 for portability is different than regular Form 706 filings; Talk to your client about the portability election.

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ADVANCED PLANNING WITH TRUSTS

Presented by: Jacob Stein, Esq.
Friday, November 3, 2023 — 10:30 a.m. to 12:30 p.m. PT

Learn creative planning with irrevocable trusts, including amendments and terminations; Understand issues common to working with trusts; Know how to use the trust protector to retain control over trusts.

2 hours of CPE — **Regular Price: $107**

ASSET PROTECTION

Presented by: Jacob Stein, Esq.
Friday, November 3, 2023 — 9:00 a.m. to 10:00 a.m. PT

Learn to use "game theory" when negotiating with plaintiffs and creditors; See why it is never too late to implement asset protection; Protect assets from personal guarantees and business lawsuits.

1 hour of CPE — **Regular Price: $64**

FINAL 1040 AND WHAT COMES NEXT

Presented by: Claudia Hill, EA, MBA
Monday, November 6, 2023 — 10:00 a.m. to 12:00 p.m. PT

Review the unique issues to be considered when filing the final 1040: Who makes the decision about filing status? What income and deductions are allowed on the final 1040? Can anyone benefit from unused carryovers belonging to the deceased?

2 hours of CPE — **Regular Price: $107**

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Session	Date	Time	Price	CPE
Overview of Trusts	Monday, October 30, 2023	8:30 a.m. to 12:00 p.m. PT	**$139**	**4 hours**
20 More Estate and Trust Questions	Tuesday, October 31, 2023	10:00 a.m. to 12:00 p.m. PT	**$107**	**2 hours**
Income Distribution Deduction	Wednesday, November 1, 2023	10:00 a.m. to 12:00 p.m. PT	**$107**	**2 hours**
Preparing Form 706 for Portability	Thursday, November 2, 2023	10:00 a.m. to 12:00 p.m. PT	**$107**	**2 hours**
Advanced Planning with Trusts	Friday, November 3, 2023	10:30 a.m. to 12:30 p.m. PT	**$107**	**2 hours**
Asset Protection	Friday, November 3, 2023	9:00 a.m. to 10:00 a.m. PT	**$64**	**1 hour**
Final 1040 and What Comes Next	Monday, November 6, 2023	10:00 a.m. to 12:00 p.m. PT	**$107**	**2 hours**

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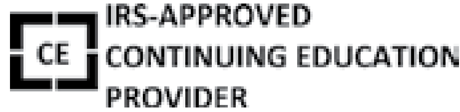

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