

# Instructions for Form 109

## Exempt Organization Business Income Tax Return

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 1998**, and to the California Revenue and Taxation Code (R&TC).

### What's New

#### Unrelated Business Activity (UBA) Code

Please enter (on Side 1, question H) the Unrelated Business Activity (UBA) Code that was entered on federal Form 990-T, box E. The UBA Code chart is located on page 20, of the federal Form 990-T instructions. For more information regarding unrelated business activities see General Information P, Unrelated Trade or Business.

#### Direct Deposit of Refund

Beginning this year, exempt organizations may receive a direct deposit of their tax refund into their bank account. For more information, see the instructions for line 28.

#### New Credits Available

- Solar Energy System Credit, see chart on page 8, or form FTB 3508.
- Joint Strike Fighter Credit, see chart on page 8, or form FTB 3534.

### General Information

In general, California law conforms to the Internal Revenue Code (IRC) as of January 1, 1998. However, there are continuing differences between California and federal law. California has not conformed to most of the changes made to the IRC by the federal Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206) and the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170). California has not conformed to any of the changes made by the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277), the Miscellaneous Trade and Technical Corrections Act of 1999 (Public Law 106-36), the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 (Public Law 106-519), the Consolidated Appropriations Act of 2001 (Public Law 106-554), and the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16).

Effective for years beginning on or after January 1, 2000, references to "income year" were replaced with "taxable year" in all provisions of the Corporation Tax Law (CTL), the Administration of the Franchise and Income Tax Law (AFITL), and the Personal Income Tax Law (PITL). When referring to an income measurement period beginning before January 1, 2000, the term "taxable year" should be interpreted to mean "income year" as that term applied for those periods prior to January 1, 2000.

#### Private Mailbox (PMB) Numbers

If you lease a private mailbox (PMB) from a private business, rather than a PO box from the United States Postal Service, include the box number in the field labeled "PMB no." in the address area.

### A Purpose

A tax-exempt organization that regularly carries on a trade or business that is not substantially related to its exempt purpose may be required to pay tax on the unrelated trade or business

income that results from such activity. Use Form 109 to figure the tax on the unrelated business income of the organization.

Filing Form 109 does not replace the requirement to file Form 199, California Exempt Organization Annual Information Return. State and federal laws are generally the same in this area. Get federal Form 990-T, Exempt Organization Business Income Tax Return and instructions for detailed information.

### B Who Must File

Every organization exempt under R&TC Section 17631, 23701a through 23701z, 23711, or 23712 must file Form 109 if the gross income from an unrelated trade or business is more than \$1,000. See General Information P, Unrelated Trade or Business.

#### Exceptions

A tax-exempt organization is not required to file Form 109 if:

- It is formed to carry out a function of the state;
- It is carrying out that function; and
- It is controlled by the state.

**Note:** Exempt homeowners' associations and exempt political organizations that have a taxable income over \$100 must file Form 100, California Corporation Franchise or Income Tax Return.

### C Accounting Period

File Form 109 for taxable years beginning in 2001. If filing Form 109 on a fiscal year, fill in the taxable year information including the month, day, and year in the spaces provided at the top of Side 1.

To change an accounting period, file federal Form 1128, Application to Adopt, Change, or Retain a Tax Year, with the IRS, then file a copy of the federal approval with Form 109 in the year the change is effective.

### D Accounting Method

Taxable income must be computed in accordance with the method of accounting regularly used by the organization in maintaining its books and records. The method must clearly reflect taxable income.

To change an accounting method, file federal Form 3115, Application for Change in Accounting Method, with the IRS, then file a copy of the federal approval with Form 109 in the year the change is effective.

**Note:** The amounts on Form 109 and accompanying schedules should be rounded off to the nearest whole dollar.

### E Mailing Addresses

Mail returns that include a payment to:

FRANCHISE TAX BOARD  
PO BOX 942857  
SACRAMENTO CA 94257-0701

Mail refund returns or returns without a payment to:

FRANCHISE TAX BOARD  
PO BOX 942857  
SACRAMENTO CA 94257-0700

**Note:** If the organization is filing more than one return, use separate envelopes and checks to make sure that the returns and payments are processed correctly.

### F When to File

Generally, Form 109 is due on or before the 15th day of the 5th month following the close of the taxable year. An employees' trust defined in IRC Section 401(a) and an IRA must file Form 109 by the 15th day of the 4th month after the end of the taxable year. However, education IRAs must file Form 109 on or before the 15th day of the 5th month after the end of the taxable year.

#### U.S. Post Office

Official U.S. Post Office postmarks are considered primary evidence of the date of filing of income tax documents and payments. Postage meter dates are not considered proof of filing on the date shown.

#### Private Delivery Services

California conforms to federal law regarding the use of designated private delivery services to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. See the federal instructions for Form 990-T, Exempt Organization Business Income Tax Return, for a list of designated delivery services. **Caution:** Private delivery services cannot deliver items to PO boxes. If using one of these services to mail any item to the FTB, **DO NOT** use an FTB PO box, address the return to:

FRANCHISE TAX BOARD  
SACRAMENTO CA 95827

### G Extension of Time to File Return

If Form 109 cannot be filed by the due date, the exempt organization has an additional seven months to file without filing a written request for extension, unless the organization is suspended as of the original due date. However, to avoid late payment penalties, 100% of the tax liability must be paid by the original due date of the return.

If an extension of time is needed, and an unpaid tax liability is owed, get form FTB 3539, Payment Voucher for Automatic Extension for Corporations and Exempt Organizations.

If the return is not filed by the extended due date, a delinquent filing penalty is charged from the original due date of the return.

### H Signature

#### Corporations and Associations

A corporate officer such as the president, vice president, treasurer, assistant treasurer, chief accounting officer, or trustee must sign the return. In the case of an association, a similarly authorized person must sign the return.

## Trusts

The individual fiduciary or authorized officer of the trust receiving or having custody or control and management of the income of the trust must sign the return. If two or more individuals act jointly as fiduciaries, the return may be signed by either individual.

**Note:** A receiver, trustee, or assignee must sign any return that is filed on behalf of the organization.

## I Name and Address

Use the preaddressed label if one was provided. If any information on the label is incorrect, draw a single line in ink through it and enter the correct information.

If you did not receive a preaddressed label, copy the information exactly as shown on your exemption letter.

**Note:** To facilitate processing of this return, you must enter a California corporation number or federal employer identification number (FEIN) in the boxes provided.

## J Tax Rates

### Corporations and Associations

The tax rate imposed on the unrelated business income of an incorporated exempt organization or association treated as a corporation is 8.84%. The alternative minimum tax (AMT) rate is 6.65%.

Any organization determined to be exempt from income tax by the FTB does not owe the minimum franchise tax.

### Trusts

R&TC Section 23731(b) provides for taxation of trusts at the personal income tax rates imposed by R&TC Section 17041(e). See the Tax Rate Schedule on page 5.

## K Payment of Tax

The tax due (total tax minus amounts previously paid) must be paid in full when Form 109 is filed, but not later than the due date of the return without regard to extensions. Any credit or payment should be claimed on the return and considered in computing the tax due with the return. Get instructions for Form 100-ES, Corporation Estimated Tax, for information regarding how and when to pay estimated tax. Trusts completing Form 100-ES must use the Tax Rate Schedule for Trusts from page 5 to figure the correct amount of tax.

### Electronic Funds Transfer (EFT)

Organizations that meet certain requirements must remit all of their payments through EFT rather than by paper checks to avoid penalties. Once an organization remits an estimated tax payment or extension payment in excess of \$20,000 or has a total tax liability in excess of \$80,000, the FTB will notify the organization that all future payments must be made by EFT. Those that wish to participate on a voluntary basis may do so. For more information, call the FTB EFT Help Desk at (916) 845-4025, get FTB Pub. 3817, Electronic Funds Transfer Program Information Guide, or go to our Website at: [www.ftb.ca.gov](http://www.ftb.ca.gov)

## L Penalties and Interest

### Late Filing of Return

Any organization that fails to file a return on or before the extended due date may be assessed a penalty. The penalty cannot exceed 25% of the unpaid tax.

### Late Payment of Tax

Any organization that fails to pay the total tax shown on the return by the original due date is assessed a penalty of 5% of the unpaid tax, plus 0.5% for each month, or part of a month (not to exceed 40 months), that the tax remains unpaid. This penalty cannot exceed 25% of the unpaid tax.

**Note:** If an organization is subject to both the penalty for failure to file a timely return and the penalty for failure to pay the total tax by the due date, a combination of the two penalties may be assessed, but the total will not exceed 25% of the unpaid tax.

### Underpayment of Estimated Tax

Any corporation, unincorporated association, or trust that fails to pay or underpays an installment of estimated tax is assessed a penalty. The penalty is computed as a percentage of the underpayment for the underpayment period. Get form FTB 5806, Underpayment of Estimated Tax by Corporations, to determine both the amount of underpayment and the amount of penalty.

**Note:** If the organization uses Exception B, tax on annualized income, or Exception C, tax on annualized seasonal income, to compute or eliminate the penalty for any of the four installments, a completed form FTB 5806 must be attached to the front of the return.

### EFT Penalty

If the exempt organization meets the requirements of the EFT program, all payments must be made through EFT. Payment by other means will result in a penalty of 10% of the amount paid. For more information, see General Information K, Payment of Tax, or get FTB Pub. 3817, Electronic Fund Transfer Program Information Guide, or call the FTB at (916) 845-4025.

### Interest

Interest is due and payable on any tax due that is not paid by the original due date of the return. An extension of time to file a return does not stop interest from accruing.

## M Net Operating Loss Deduction

California allows a net operating loss deduction, which may be claimed on Side 1, line 4 or line 12. For additional information, corporations and unincorporated associations, get form FTB 3805Q, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations — Corporations. Trusts get form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations — Individuals, Estates, and Trusts, for additional information.

Organizations operating within an enterprise zone, get form FTB 3805Z, Enterprise Zone Business Booklet.

Organizations operating within the former Los Angeles Revitalization Zone, get form FTB 3806, Los Angeles Revitalization Zone Booklet.

Organizations operating with a Local Agency Military Base Recovery Area, get form FTB 3807, Local Agency Military Base Recovery Area Booklet.

Organizations operating within the Targeted Tax Area, get form FTB 3809, Targeted Tax Area Booklet.

Farming losses due to Pierce's disease, get form FTB 3805D, Net Operating Loss (NOL) Computation — Pierce's disease.

## N Alternative Minimum Tax (AMT)

California law is generally the same as federal law regarding AMT. AMT is reported on Side 1, line 19. Trusts subject to AMT must file Schedule P (541), Alternative Minimum Tax and Credit Limitations — Fiduciaries. Corporations and unincorporated associations subject to AMT must file Schedule P (100), Alternative Minimum Tax and Credit Limitations — Corporations.

## O Income to Be Reported

### Corporations and Associations

Report all income from an unrelated trade or business whether derived from sources within or outside California.

Apportion business income attributable to sources both within and outside California. See the instructions for Side 1, line 2, and Schedule R, Apportionment Formula Worksheet on Side 5 of Form 109.

### Trusts

Report all income from an unrelated trade or business derived from sources within California. If income is derived from sources outside California and one or more trustees are residents, report the proportion of income that the resident trustees bears to the total of all trustees.

### At-Risk Provisions

For the rules limiting a loss to the amount at-risk for certain trade or business and production of income activities, get federal Form 6198, At-Risk Limitations.

### Passive Activity Loss and Credit Limitation

For California purposes, the passive loss rules of IRC Section 469 (except for IRC Section 469(c)(7)) apply to closely held corporations, S corporations, personal service corporations, and trusts. Organizations subject to passive loss rules must complete form FTB 3801, Passive Activity Loss Limitations, or form FTB 3802, Corporate Passive Activity Loss and Credit Limitations, to figure their allowable passive activity loss.

An organization subject to the passive activity loss limitations may also be required to adjust credits attributable to passive activities on form FTB 3801-CR, Passive Activity Credit Limitations or form FTB 3802, Corporate Passive Activity Loss and Credit Limitation. **Note:** If a passive activity is also subject to the at-risk rules of IRC Section 465, the at-risk rules apply before the passive loss rules apply. Get federal Publication 925, Passive Activity and At-Risk Rules.

## P Unrelated Trade or Business

Unrelated trade or business is any regularly carried on trade or business that is not

substantially related to the organization's exempt purpose or function, or to exercising or performing any purpose or function described in R&TC Section 23701. An unrelated trade or business does not include:

- An activity where substantially all the work in carrying on the trade or business is performed by volunteers (without compensation);
- An activity that is carried on by a R&TC Section 23701d organization primarily for the convenience of its members, students, patients, officers, or employees;
- An activity that is carried on by a local association of employees described in R&TC Section 23701f, organized before May 27, 1969, such as selling work-related clothes, equipment, and items normally sold through vending machines, snack bars, etc., for the convenience of its members at their usual workplace; or
- The sale of merchandise that was donated to the organization.

For additional information, see IRC Section 513.

### Unrelated Business Taxable Income

Unrelated business taxable income is the gross income derived from any regularly carried on unrelated trade or business less the deductions that are directly connected with the carrying on of the unrelated trade or business.

In the case of an organization that regularly conducts two or more unrelated business activities, unrelated business taxable income is the sum of gross income from all such unrelated business activities, less the sum of the deductions that are directly connected with carrying on of the unrelated trade or business.

Expenses, depreciation, and similar items that arise from conducting the exempt function are not deductible in computing unrelated business taxable income. However, expenses directly connected with unrelated business income are deductible (see Specific Line Instructions for Side 2, Part I and Part II, line 20, for the exception concerning contributions).

For additional information, see IRC Section 512.

## Q Exclusions

Items excluded from unrelated business taxable income are:

1. Dividends, interest, annuities, and deductions directly connected with such income. However, unrelated debt-financed income and income derived from controlled organizations is taxable, whether or not the activities that produced such income represent a regularly carried on trade or business.
  2. Royalties (including overriding royalties) and deductions directly connected with such income. Mineral royalties are excluded whether measured by production or by gross or taxable income from the mineral property. However, where the organization owns a working interest in a mineral property and is not relieved of its share of the development costs by the terms of any agreement with an operator, income received from the working interest cannot be excluded.
- Note:** Debt-financed royalty income is taxable whether or not the organization owns a working interest in the property.
3. Rents from real property (including elevators and escalators) and rents from personal property leased with such real property and deductions directly connected with such rents.  
  
Rents attributable to personal property must be an incidental amount of the total rents received or accrued under the lease determined at the time when the property is first subject to use by the lessee. Rents attributable to personal property generally are not an incidental amount of the total rents if the rents attributable to personal property exceed 10% of the total rents from all the property leased. See federal Income Tax Regulation Section 1.512(b)-1(c)(3)(iii) regarding multiple leases.  
  
The exclusion will not apply if such rents are derived from a controlled organization or the property leased is debt-financed property. If the rents are derived from the leasing of debt-financed property to a controlled organization, the taxation of rents is first considered under the controlling organization rules. Only the untaxed portion of rents is subject to the unrelated debt-financed income rules.
  4. Gains or losses from the sale, exchange, or other disposition of property, except:
    - a. Stock in trade or other property that would be includible in inventory if on hand at the close of the taxable year;
    - b. Property held primarily for sale to customers in the ordinary course of the trade or business, or real property and all gains or losses from the forfeiture of good-faith deposits (that are consistent with established business practice) for the purchase, sale, or lease of real property in connection with the organization's investment activities as described in IRC Section 512. The cutting of lumber is considered a sale or exchange of such timber and results in unrelated business taxable income. (See Specific Line Instructions for Side 2, Part I and Part II, lines 4a, 4b, and 4c, for treatment of capital gains or ordinary losses); and
    - c. Certain gains on debt-financed and depreciable property.
  5. The income and deductions resulting from:
    - a. Organizations performing research for the government;
    - b. A college, university, or hospital performing research for any person; and
    - c. Organizations operating primarily for fundamental research.
  6. Certain investment income for pension funds. These include:
    - a. The gains or losses on the lapse or termination of securities options (IRC Section 512(b)(5));
    - b. Loan commitment fees (IRC Section 512(b)(1)); and
    - c. The gains from the sale, exchange, or disposition of real property and mortgages acquired from financial institutions

in conservatorship or receivership (IRC Section 512(b)(16)).

7. Annual dues not exceeding \$100 paid to an agricultural or horticultural organization described in IRC Section 512(d).

### Exception

The exclusion rules described above do not apply to social and recreational clubs (R&TC Section 23701g), voluntary employees' beneficiary associations (R&TC Section 23701i), and supplemental unemployment compensation benefits trusts (R&TC Section 23701n).

California law is the same as federal law for organizations described in IRC Section 501(c)(7) or 501(c)(9).

**Controlled organization** means either a:

- Stock corporation – the ownership of stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of the total number of shares of all other classes of stock of the corporation; or
- Nonstock organization – an organization of which at least 80% of the directors or trustees of such organization are either representative of or are directly or indirectly controlled by an exempt organization.

## R Exempt Function Income

Exempt function income is:

- a. The amount derived from dues, fees, charges, or similar amounts of gross income from members;
- b. The amount (other than gross income derived from any unrelated trade or business that is regularly carried on) set aside for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals; and
- c. In the case of an organization described in R&TC Section 23701i, the amount set aside for the payment of life, sick, accident, or other benefits.

## S Information Returns

Organizations engaged in an unrelated trade or business may be required to file a federal information return with the IRS and the FTB to report certain payments. Refer to the instructions for federal Form 990-T, Other Forms You May Need To File, for further information.

There are severe penalties for failure to file information returns and failure to include correct payee identification numbers on the returns. Detailed filing instructions are available on California Form 592, Nonresident Withholding Annual Return.

Salaries, wages, or other compensation for personal services are reported on federal Form W-2 and California Form DE-7. For more information regarding information reporting requirements for wages and other compensation, contact the California Employment Development Department.

A reporting requirement exists for interest paid on municipal bonds issued by a state other than California, or a municipality other than a California municipality and that are held by California taxpayers. Entities paying interest to California taxpayers on these types of bonds are

required to report interest payments aggregating \$10 or more paid after January 1, 2001. Information returns reporting non-California bond interest are due June 1, 2002. For more information get form FTB 4800, Federally Tax-Exempt Non-California Bond Interest and Interest-Dividend Payment Information.

## T Federal Form 990-T

Refer to the Instructions for federal Form 990-T, Schedule E for further information regarding:

1. Debt-financed property;
2. Allocation rules for debt-financed property;
3. Acquisition indebtedness;
4. Average acquisition indebtedness;

5. Average adjusted basis; and
6. Adjusted basis of property.

For the special rules for holding companies (R&TC Sections 23701h and 23701x and IRC Sections 501(c)(2) and 501(c)(25)), see federal Form 990-T, General Instructions for Consolidated Returns.

# 2001 Tax Rate Schedule for Trusts

## IF THE TAXABLE INCOME IS ...

over —	but not over —
\$ 0	\$ 5,748
5,748	13,625
13,625	21,503
21,503	29,850
29,850	37,725
37,725	AND OVER

## COMPUTED TAX IS ...

		of the amount over —
\$ 0	+	1.0%
57.48	+	2.0%
215.02	+	4.0%
530.14	+	6.0%
1,030.96	+	8.0%
1,660.90	+	9.3%
		\$ 0
		5,748
		13,625
		21,503
		29,850
		37,725

## Specific Line Instructions

### Side 1

#### Line 2 – Apportionment Formula

Unrelated business income of corporations and associations attributable to sources within and outside California is apportioned. Use Schedule R, Apportionment Formula Worksheet, to determine the apportionment percentage.

#### Line 25 and Line 26 – Tax Due/Overpayment

Add to the amount of tax due or overpayment, as appropriate, the amount from Schedule K, line 5. See Schedule K Instructions for more information.

#### Line 28 – Refund

##### Direct Deposit of Refund (DDR)

Direct deposit is fast, safe, and convenient. To have the refund directly deposited into the exempt

organization's bank account, enter the account information on Form 109, Side 1, line 28 a, b, and c. Please be sure to fill in all the information.

**Do not** attach a voided check or deposit slip. The following illustration shows which bank numbers to transfer to the preprinted areas on Form 109, Side 1.



**Tip** Do not use a deposit slip to find the bank numbers. Contact your financial institution for assistance in getting the correct routing number.

To cancel the DDR, call FTB at (800) 852-2753.

FTB is not responsible when a financial institution rejects a direct deposit. If the bank or financial institution rejects the direct deposit due to an error in the routing number or account number, FTB will issue a paper check.

#### Line 29 and Line 30 – Penalties and Interest

Check the box on line 30 and attach a completed form FTB 5806 only if Exception B, tax on annual income, or Exception C, tax on annualized seasonal income, is used in computing the penalty.

**Line 31** – Corporations that are required to pay by EFT, must remit the amount due by EFT. See General Information K, Payment of Tax.

### Side 2

## Part I and Part II — Unrelated Business Taxable Income

#### Line 1 – Gross Receipts or Sales

Enter the gross income from any unrelated trade or business regularly carried on that involves the sale of goods or performance of services. However, if the activity is a type includible in Schedule C through Schedule H, report it on the appropriate schedule and corresponding line of Part I instead of on line 1. For example, an exempt social club would report its restaurant and bar receipts from nonmembers on line 1 but would report its investment income on Schedule E and on Part I, line 8.

**Line 4(a), Line 4(b), and Line 4(c) – Net gain or loss from the sale of capital assets and ordinary gains and losses**

#### Corporations and Associations

California law requires recognition of capital gains and losses for corporations and associations. R&TC Section 24990 places these gains and losses into long-term and short-term categories. California has conformed to the federal law that limits the deduction of capital losses to the amount of capital gains and allows excess losses to be carried forward for five years. However, California does not allow loss carrybacks.

The rules relating to debt-financed property do not apply to an R&TC Section 23701g or 23701i organization, and Schedule D should be completed without regard to those rules. However, see IRC Section 512(a)(3) for nonrecognition of gain in certain cases.

#### Trusts

The computation of the **net capital gain** income reported on Schedule D (541), should be entered on line 4(a). Attach a copy of that schedule to Form 109.

The computation of **ordinary gains and losses** reported on Schedule D-1, should be entered on line 4(b). Attach a copy of that schedule to Form 109.

If a trust has a **net capital loss**, it is subject to the limitations in Schedule D (541). Enter on line 4(c) the loss figured on Schedule D (541).

#### Line 5 – Income (or Loss) from partnerships, limited liability companies, or S corporations

If the organization is a partner in a partnership, a member in a limited liability company, or a shareholder in an S corporation carrying on an unrelated trade or business, enter the organization's share (whether or not distributed) of the gross income and deductions from the unrelated trade or business. See federal Form 990-T, Specific Instructions for Part I, line 5, for information regarding the treatment of income from publicly traded partnerships.

#### Line 14 through Line 25 – Deductions not Taken Elsewhere

Enter only the expenses for each item directly connected with unrelated trade or business activities and contribution deductions that may be deducted from related business income.

No expense reported on Schedule A or Schedule C through Schedule H is included in Part II, other than excess advertising costs entered on line 27. For example, officers' compensation allocable to advertising income is reported on Schedule H only and is not entered on Part II, line 14.

Where the facilities or personnel are used both to carry on the exempt function and to conduct unrelated trade or business activities, cost of goods sold, depreciation, and similar expenses attributable to such facilities or personnel (e.g.,

overhead) must be allocated between the two uses on a reasonable basis. Attach a schedule showing the allocation of the expenses between the two uses.

**Line 14 – Compensation of officers, directors, and trustees.**

Complete Schedule I from Side 4, and enter the amount on line 14 of Side 2.

**Line 20 – Contributions**

Attach a schedule showing the name of each organization and the amount paid. If a contribution is made in property other than money, state the kind of property contributed and the method used to determine its fair market value.

If a charitable contribution deduction is allowed by reason of a sale of property to a charitable organization, the adjusted basis for determining the gain from the sale is an amount that is in the same ratio to the adjusted basis as the amount realized is to the fair market value of the property. See IRC Section 1011(b).

**Corporations and Associations**

Enter charitable contributions or gifts actually paid within the taxable year to or for the use of charitable and governmental organizations described in R&TC Section 24359.

The amount claimed cannot exceed 10% of the unrelated business taxable income computed without regard to this deduction.

This deduction is allowed whether or not directly connected with the carrying on of a trade or business. A declaration, signed by an officer or other authorized person, must be attached to the return stating that the resolution authorizing the contribution was adopted by the board of directors or other governing body.

**Trusts**

Enter charitable contributions or gifts actually made within the taxable year to or for the use of charitable and governmental organizations described in IRC Section 170. See the instructions for federal Form 990-T for limitations on amounts of contributions you may claim.

**Line 21a and Line 21b – Depreciation**

**Corporations and Associations**

California law is generally the same as federal law with the exceptions noted below:

1. California has not adopted the federal Modified Accelerated Cost Recovery System (MACRS).
2. California prohibits the use of the 20% ADR ranges. Only the mid-range asset guideline period is allowed.
3. California allows the special additional first-year depreciation. (R&TC Section 24356) in lieu of IRC Section 179

California law and federal law are the same regarding the computation of depreciation under the income forecast method and the amortization of reforestation expenses over seven years.

Complete Schedule J on Side 4 and enter the amount on line 21a. Enter any depreciation claimed on Schedule A on line 21b.

**Trusts**

In 1987, California changed the rules for depreciation by conforming to the federal MACRS. The California MACRS applies to assets placed in service on or after January 1, 1987.

Complete form FTB 3885F, Depreciation and Amortization — Fiduciaries, to figure the difference between state and federal depreciation. Enter the total from form FTB 3885F, line 5, on Form 109, Part II, line 21a, and attach form FTB 3885F to Form 109.

**Line 22 – Depletion**

California law is the same as federal law.

If a deduction is claimed for timber, attach an explanatory statement.

**Line 23b – Employee Benefit Programs**

Enter the amount of your contributions to employee benefit programs that are not an incidental part of a deferred compensation plan included on line 23a. Contributions to employee benefit programs that are reported on this line include contributions to insurance, health, and welfare programs.

**Line 29 – Specific Deduction**

The law provides for a specific deduction of \$1,000 from unrelated business income. Only one specific deduction of \$1,000 is allowed regardless of the number of unrelated businesses. However, a diocese, province of a religious order or convention, or association of churches is allowed one specific deduction for each parish, individual church district, or other local unit that regularly conducts an unrelated trade or business. This applies only to such units that are not separate legal entities, but are components of a larger entity (diocese, province, convention, association, etc.). Each specific deduction is equal to the lesser of: (a) \$1,000; or (b) the gross income from any unrelated trade or business regularly carried on by the local unit.

**Schedule B — Tax Credits**

A variety of credits are available to exempt organizations to reduce tax on unrelated business income. However, the amount of some credits may be limited. Corporations and trusts must complete Schedule P (100 or 541), Alternative Minimum Tax and Credit Limitations, to compute this limitation. Generally, if the organization completed federal Form 4626 or Form 8656, Alternative Minimum Tax, it must also complete Schedule P (100 or 541).

Certain credits are not subject to the tentative minimum tax or the AMT Limitations. See Schedule P (100 or 541) for more information.

To figure credits, use the appropriate form or schedule as indicated on the credit chart on page 8. Then complete either Side 2, Schedule B, or Schedule P (100 or 541), whichever is appropriate. Transfer the credits from Side 2, Schedule B, line 7, or from Schedule P (100 or 541) to:

- For corporations, Side 1, line 8; or
- For trusts, Side 1, line 16.

Attach all credit forms, schedules, or statements and Schedule P (100 or 541), if applicable, to Form 109.

**Note:** If the organization claims a credit carryover for an expired credit, use form FTB 3540, Credit Carryover Summary, to figure the amount of the credit, unless the organization is required to complete Schedule P. In that case, enter the amount of the credit on Schedule P (100 or 541), Section B or Section C and do not attach form FTB 3540.

If the organization claims a credit with carryover provisions and the amount of the credit available this year exceeds the tax, the organization may carry over any excess credit to future years until the credit is used or until the carryover period expires, whichever occurs first.

**Side 3**

**Schedule C — Rental Income**

**Important Note:** For rental income from debt-financed property, see Schedule D instructions. All organizations except those qualified under R&TC Sections 23701g, 23701i, and 23701n must enter net rental income from Schedule C on Side 2, Part I, line 6.

Organizations qualified under R&TC Sections 23701g, 23701i, and 23701n must include gross rents on Side 2, Part I, line 6 (other than income that is determined to be nonexempt function income) and applicable expenses on Side 2, Part II, line 14 through line 24.

Except in the case of an R&TC Section 23701g, 23701i, or 23701n organization, only the following rents are taxable:

1. Rents from personal property leased with real property, if the rents attributable to the personal property are more than 10% but not more than 50% of the total received or accrued under the lease. In such a case, rents attributable to the real property are not taxable except as specified in General Information and in 2 below.
2. All rents from real property and personal property, if:
  - a. More than 50% of the total rents received or accrued under the lease are attributable to personal property; or
  - b. The determination of the amount of the rents depends in whole or in part on the income or profits derived by any person from the property leased, other than an amount based on a fixed percentage or fixed percentages of receipts or sales.

See IRC Section 512(b)(3) requiring a redetermination of the percentage of rent attributable to personal property if:

1. There is an increase of 100% or more by reason of the placing of additional or substitute personal property in service; or
2. There is a modification of the lease by which there is a change in the rent charged.

**Schedule D — Unrelated Debt-Financed Income**

For taxable years beginning on or after January 1, 1990, California has conformed to federal law relating to the treatment of certain partnership allocations for property acquired by the partnership and partnership interests acquired after October 13, 1987.

Debt-financed property is any property held to produce income if at any time during the tax year there was acquisition indebtedness.

To complete Schedule D, see the instructions for federal Form 990-T, Schedule E. Use California amounts where there are California and federal differences.

## Schedule E — Investment Income of an R&TC Section 23701g, 23701i, or 23701n Organization

Report all income from investments in securities and other similar investment income from nonmembers. Do not include interest received on obligations of the federal government and on obligations of the state of California and its political subdivisions.

Investment income includes all income from debt-financed property whether or not such income is subject to taxation under R&TC Section 23735. However, an R&TC Section 23701g, 23701i, or 23701n organization may set aside income to the extent that it would not be taxable on such income if it were an organization subject to the rules contained in IRC Section 512(a)(1). If income is set aside, attach a schedule showing the computations.

Income and deductions, other than in connection with investment income, are reported in Part I and Part II. For example, nonmember income of an R&TC Section 23701g organization from the use of the club's facilities by the public must be reported on Side 2, Part I, line 1, line 2, and line 3, and the deductions (directly connected) in Part II, line 14 through line 24. (Organizations described in R&TC Section 23701g, see federal Rev. Proc. 71-17 for certain rules relating to nonmember income.)

## Schedule F — Income (Annuities, Interest, Rents, and Royalties) From Controlled Organizations

Controlling organizations: See General Information Q, Exclusions.

Enter the total annuities, interest, rents, and royalties derived from each controlled organization during the year in Schedule F, column 2. Enter the total deductions directly connected with this income for each controlled organization in column 3.

### a. Exempt Controlled Organizations

If the controlled organization is exempt from taxation under R&TC Section 23701, the controlling organization must take into account a percentage of the interest, annuities, royalties, and rents. Compute this percentage by figuring the ratio of the unrelated business taxable income of the controlled organization to the greater of:

1. The taxable income of the controlled organization (computed as though it was not exempt from taxation under R&TC Section 23701); or
2. The unrelated business income of the controlled organization.

Determine both 1 and 2 without regard to any amount paid directly or indirectly to the controlling organization.

### b. Nonexempt Controlled Organizations

If the controlled organization is not exempt from taxation under R&TC Section 23701, the controlling organization must take into account a percentage of the interest,

annuities, royalties, and rents computed by figuring the ratio of the "excess taxable income" of the controlled organization to the greater of:

1. The taxable income of the controlled organization; or
2. The excess taxable income of the controlled organization.

Determine both 1 and 2 without regard to any amount paid directly or indirectly to the controlling organization.

"Excess taxable income" means the portion of the controlled organization's taxable income that exceeds the amount of taxable income that, if derived directly by the controlling organization, would not be unrelated business taxable income.

## Schedule G — Exploited Exempt Activity Income, Other than Advertising Income

Generally, California law is the same as federal law.

### Side 4

## Schedule H — Advertising Income and Excess Advertising Costs

Generally, California law is the same as federal law.

### Side 5

## Schedule K — Add-On Taxes or Recapture of Tax

If you are required to include installment payments of add-on taxes from:

- Interest computed under the look-back method for completed long-term contracts;
- Interest on tax attributable to installment sales of certain property or use of the installment method for non-dealer installment obligations;
- IRC Section 197(f)(9)(B)(ii) election to recognize gain on the disposition of an IRC Section 197 intangible; or
- Credit amounts to recapture;

then complete Schedule K.

Enter the amount of tax due or overpayment from Schedule K, line 5, on Form 109, Side 1, line 25 or line 26, as appropriate.

### Long-term contracts

If the organization must compute interest under the look-back method for completed long-term contracts, complete and attach form FTB 3834, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts. Include the amount of interest the organization owes or the amount of interest to be credited or refunded on Schedule K, line 1.

### Interest on tax attributable to payments received on installment sales of certain timeshares and residential lots under IRC Section 453.

If the organization elected to pay interest on the amount of tax attributable to payments received on installment obligations arising from the

disposition of certain timeshares and residential lots under IRC Section 453, it must include the interest on Schedule K, line 2a. For the applicable interest rates, get FTB Pub. 1138A, Bank and Corporation Billing Information — Interest Rates. Attach a schedule showing the computation. See R&TC Section 17560(d) and 24667(e).

### Interest on tax deferred under the installment method for certain non-dealer installment obligations

If an obligation arising from the disposition of property to which IRC Section 453A applies is outstanding at the close of the year, the organization must include the interest due under IRC Section 453A on Schedule K, line 2b. For the applicable interest rate, get FTB Pub. 1138A, Bank and Corporation Billing Information. Attach a Schedule showing the computation. See R&TC Section 17560(e) and 24667(f).

### Credit recapture

Complete Schedule K, line 4, if the organization completed the credit recapture portion of:

- FTB 3501, Employer Child Care Program/Contribution Credit;
- FTB 3535, Manufacturers' Investment Credit;
- FTB 3805Z, Hiring Credit — Enterprise Zone Deduction and Credit Summary;
- FTB 3806, Hiring Credit — Los Angeles Revitalization Zone Deduction and Credit Summary;
- FTB 3806, Sales or Use Tax — Los Angeles Revitalization Zone Deduction and Credit Summary;
- FTB 3807, Hiring Credit — Local Agency Military Base Recovery Area Deduction and Credit Summary;
- FTB 3807, Sales or Use Tax Credit — Local Agency Military Base Recovery Area Deduction and Credit Summary;
- FTB 3808, Manufacturing Enhancement Area Credit Summary; or
- FTB 3809, Targeted Tax Area Deduction and Credit Summary.

## Schedule R — Apportionment Formula Worksheet

**Line 1 – Property factor** — Owned property is valued at its original cost. Rented property is valued at eight times its net annual rental. Use the average yearly value of owned and rented real and tangible personal property used in the business.

**Line 6 – Average apportionment percentage** — Divide the total percentage on line 5 by the number of factors that have amounts in column (a). The sales factor must be counted as two factors. Organizations that have all factors would have a denominator of four (property, payroll, and twice the sales factor). However, do not include those factors with a zero in the totals of both column (a) and column (b). If there is no payroll, then you would divide the factor on line 5 by 3.

**CREDIT CHART**

Credit Name	Code	Description
Community Development Financial Institution Deposits — obtain certification from: California Organized Investment Network (COIN), Department of Insurance, 300 Capitol Mall, Suite 1460, Sacramento CA 95814	209	20% of each qualified deposit made to a community development financial institution
Disabled Access for Eligible Small Businesses — FTB 3548	205	Similar to the federal credit but limited to \$125 based on 50% of qualified expenditures that do not exceed \$250
Donated Agricultural Products Transportation — FTB 3547	204	50% of the costs paid or incurred for the transportation of agricultural products donated to nonprofit charitable organizations
Employer Child Care Contribution — FTB 3501	190	Employer: 30% of contributions to a qualified plan
Employer Child Care Program — FTB 3501	189	Employer: 30% of the cost of establishing a child care program or constructing a child care facility
Enhanced Oil Recovery — FTB 3546	203	One third of the similar federal credit and limited to qualified enhanced oil recovery projects located within California
Enterprise Zone Hiring & Sales or Use Tax — FTB 3805Z	176	Business incentives for enterprise zone businesses
Farmworker Housing Constructions — Farmworker Housing Loan Obtain certification from: Farmworker Housing Assistance Program, California Tax Credit Allocation Committee, 915 Capitol Mall, Room 485, Sacramento CA 95814	207 208	50% of new construction or rehabilitation costs for farmworker housing 50% of qualified costs paid or incurred to construct or rehabilitate qualified farmworker housing. Banks and financial corporations: 50% of foregone interest income on qualified farmworker housing loans.
Joint Strike Fighter-Wages — FTB 3534	215	50% of qualified wages paid or incurred in taxable years beginning during 2001, not to exceed \$10,000 for each qualified employee
Joint Strike Fighter-Property Costs — FTB 3534	216	10% of qualified cost of property placed in service in California
Local Agency Military Base Recovery Area (LAMBRA) Hiring & Sales or Use Tax — FTB 3807	198	Business incentives for LAMBRAS
Low-Income Housing — FTB 3521	172	Similar to the federal credit but limited to low-income housing in California
Manufacturers' Investment — FTB 3535	199	6% of the cost of qualified property
Manufacturing Enhancement Area (MEA) Hiring — FTB 3808	211	Percentage of qualified wages paid to qualified disadvantaged individuals
Natural Heritage Preservation — FTB 3503	213	55% of fair market value of qualified contribution
Other State Tax — Schedule S	187	Net income tax paid to another state or a U.S. possession on income also taxed by California (trusts only)
Prior Year Alternative Minimum Tax — FTB 3510	188	Must have paid alternative minimum tax in a prior year and have no alternative minimum tax liability in 2000
Prison Inmate Labor — FTB 3507	162	10% of wages paid to prison inmates
Research — FTB 3523	183	Similar to the federal credit but limited to costs for research activities in California
Rice Straw — obtain certification from: Rice Straw Tax Credit Program, Department of Food and Agriculture, 1220 N Street Room 409, Sacramento CA 95814	206	\$15 per ton of purchased rice straw grown in California
Solar Energy System — FTB 3508	217	The lesser of 15% of the cost and installation of a solar energy system, or \$4.50 per rated watt of generating capacity of that system.
Targeted Tax Area (TTA) Hiring & Sales or Use Tax — FTB 3809	210	Business incentives for TTA businesses

**Repealed Credit:** The expiration dates for these credits have passed. However, these credits had carryover features. You may claim these credits only if there is a carryover available from prior years. If you are not required to complete Schedule P (100 or 541), get form FTB 3540, Credit Carryover Summary, to figure your credit carryover to future years.

Agricultural Products	175	Energy Conservation	182	Ridesharing	171
Commercial Solar Electric System	196	Los Angeles Revitalization Zone (LARZ)		Salmon & Steelhead Trout Habitat	
Commercial Solar Energy	181	Hiring & Sales or Use Tax	159	Restoration	200
Employee Ridesharing	194	Low-Emission Vehicles	160	Solar Energy	180
Employer Ridesharing: Large employer	191	Orphan Drug	185	Solar Pump	179
Small employer	192	Political Contributions (trusts only)	184	Water Conservation	178
Transit passes	193	Recycling Equipment	174	Young Infant	161
		Residential Rental & Farm Sales (trusts only)	186		

# How to Get California Tax Information

(Keep this page for future use.)

## Automated Toll-Free Phone Service

Automated toll-free phone service can be used to:

- Get recorded answers to many of your questions about California taxes; and
- Order current year California tax forms.

This service is available 24 hours a day, seven days a week in English and Spanish to callers with touch-tone telephones. To order business entity forms, this service is available from 6 a.m. to 8 p.m., Monday through Friday, except state holidays and Saturdays from 6 a.m. to 4 p.m..

Have paper and pencil ready to take notes.

Call from within the

United States ..... (800) 338-0505

Call from outside the

United States ..... (916) 845-6600  
(not toll-free)

Follow the recorded instructions and enter the three-digit code when instructed.

### To Order Forms

Refer to "Where to Get Tax Forms and Publications" on this page.

### To Get Information

If you need an answer to any of the following questions, call (800) 338-0505, select business entity information, then general tax information, follow the recorded instructions and enter the three-digit code when instructed.

#### Code – Prefiling Assistance

- 715 – If my actual tax is less than the minimum franchise tax, what figure do I put on line 23 of Form 100 or Form 100W?
- 717 – What are the current tax rates for corporations?
- 718 – How do I get an extension of time to file?
- 722 – When does my corporation file a short-period return?
- 734 – Is my corporation subject to a franchise tax or income tax?

#### S corporations

- 704 – Is an S corporation subject to the minimum franchise tax?
- 705 – Are S corporations required to file estimated payments?
- 706 – What forms do S corporations file?
- 707 – The tax for my S corporation is less than the minimum franchise tax. What figure do I put on line 22 of Form 100S?
- 708 – Where do S corporations make the state tax adjustment on Schedule K-1 (100S)?

#### Exempt Organizations

- 709 – How do I get tax-exempt status?
- 710 – Does an organization have to file Form 199?
- 735 – How can an exempt organization incorporate without paying corporation fees and costs?
- 736 – I have exempt status. Do I need to file Form 100 or Form 109 in addition to Form 199?

#### Minimum Tax and Estimate Tax

- 712 – What is the minimum franchise tax?
- 714 – My corporation is not doing business; does it have to pay the minimum franchise tax?
- 716 – When are my corporation's estimate payments due?

#### Billings and Miscellaneous Notices

- 723 – I received a bill for \$250. What is this for?
- 728 – Why was my corporation suspended?
- 729 – Why is my subsidiary getting a request for a return when we filed a combined report?

#### Tax Clearance

- 724 – How do I dissolve my corporation?
- 725 – What do I have to do to get a tax clearance?
- 726 – How long will it take to get a tax clearance certificate?
- 727 – My corporation was suspended/forfeited. Can I still get a tax clearance?

#### Miscellaneous

- 700 – Whom do I need to contact to start a business?
- 701 – I need a state ID number for my business. Whom do I contact?
- 702 – Can you send me an employer's tax guide?
- 703 – How do I incorporate?
- 719 – How do I properly identify my corporation when dealing with the Franchise Tax Board?
- 720 – How do I change my corporation name?
- 721 – How does my corporation change its accounting period?
- 737 – Where do I send my payment?
- 738 – What is electronic funds transfer?
- 739 – How do I get a copy of my state corporation or partnership tax return?
- 740 – What requirements do I have to report municipal bond interest paid by a state other than California?

## Letters

If you write to us, be sure your letter includes the California corporation number, or FEIN, your daytime and evening telephone numbers, and a copy of the notice. Send your letter to:

FRANCHISE TAX BOARD  
PO BOX 942857  
SACRAMENTO CA 94257-0540

We will respond to your letter within six weeks. In some cases we may need to call you for additional information. Do not attach correspondence to your tax return unless it relates to an item on the return.

## Your Rights As A Taxpayer

Our goal at the FTB is to make certain that your rights are protected so that you will have the highest confidence in the integrity, efficiency, and fairness of our state tax system. FTB Pub. 4058, California Taxpayers' Bill of Rights, includes information on your rights as a California taxpayer, the Taxpayers' Rights Advocate Program, and how you can request written advice from the FTB on whether a particular transaction is taxable. Get this publication from our Website or order using our automated toll-free phone service.

## Where to Get Tax Forms and Publications

**By Internet** – You can download, view, and print California tax forms and publications. Go to our Website at: [www.ftb.ca.gov](http://www.ftb.ca.gov)

**By phone** – To order California tax forms or for prior year tax forms, call our toll-free number listed under General Toll-Free Phone Service.

#### California Corporate Tax Forms and Publications

- 817 – California Corporation Tax Forms and Instructions. This booklet contains:  
Form 100, California Corporation Franchise or Income Tax Return
- 814 – Form 109, California Exempt Organization Business Income Tax Return
- 815 – Form 199, Exempt Organization Return
- 800 – FTB Pub. 1028, Guidelines for Homeowners' Associations

- 820 – FTB Pub. 1068, Exempt Organizations Requirements for Filing Returns and Paying Filing Fees
- 801 – FTB Pub. 1075, Exempt Organizations — Guide for Political Organizations
- 802 – FTB 3500, Exemption Application
- 832 – FTB 3555A, Request for Tax Clearance Certificate – Exempt Organizations
- 804 – Form 3557, Application for Certificate of Revivor
- 805 – FTB Pub. 1038A, Instructions for Exempt Organizations Requesting a Tax Clearance Certificate
- 830 – FTB Pub. 927, Overview of Exempt Organizations

Please allow two weeks to receive your order. If you live outside of California, allow three weeks to receive your order.

**In person** – Many libraries, post offices, and banks provide free California tax booklets during the filing season. Most libraries and some quick print businesses have forms and schedules for you to photocopy (a nominal fee may apply). Employees at libraries, post offices, banks, and quick print businesses cannot provide tax information or assistance.

**By mail** – Write to:

TAX FORMS REQUEST UNIT  
FRANCHISE TAX BOARD  
PO BOX 307  
RANCHO CORDOVA CA 95741-0307

## General Toll-Free Phone Service

Our general toll-free phone service is available:

- Monday – Friday, 7 a.m. until 8 p.m.; and
- Saturdays, 8 a.m. until 5 p.m.

**Note:** We may modify these hours without notice to meet operational needs.

From within the United States .... (800) 852-5711

From outside the United States .... (916) 845-6500  
(not toll-free)

For federal tax questions,  
call the IRS at ..... (800) 829-1040

#### Assistance for persons with disabilities

We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments call:

From voice phone: ..... (800) 735-2922  
(California Relay Service)

From TTY/TDD: ..... (800) 822-6268  
(Direct line to FTB customer service)

For all other assistance or special accommodations, call (800) 852-5711.

#### Asistencia bilingüe en español

Para obtener servicios en español y asistencia para completar su declaración de impuestos/formularios, llame al número de teléfono (anotado arriba) que le corresponde.

