

California Tax Update - Individuals



STATE OF CALIFORNIA
Franchise Tax Board

Home Individuals Businesses Tax Profes

⚠ Impacted by California wildfires?

Special tax relief is available from the Franchise Tax Board for taxpayers directly affected by wildfires declared as state of emergencies. Relief may include waiver of penalties and interest for those who owe, additional deductions for disaster loss, and free replacement copies of returns lost due to disasters. For more information, visit [disaster loss](#).

https://www.ftb.ca.gov/individuals/disaster.shtml?WT.mc_id=Warning_wildfire_2018

California Wildfires Tax Relief

Federal

- CA-2018-13 (11/13/18) – generally due dates extended to 4/30/18 OTHER than W-2 and Info reports and payroll and excise tax deposits

FTB

FEMA

- See links in Tax A Supplement.



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California TCJA Conformity

- As of 11/19/18 – Discussion and study only
- FTB Conformity reports explain where CA law does or does not conform
 - See links in outline and TCJA Chart
 - Mostly, CA does not conform.
- Basically, CA still conforms to IRC as of 1/1/15 with some exceptions.

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Conformity areas

TCJA Provision	Act Section #	Temp or Permanent	Effective date per TCJA
7.5% medical deduction threshold for 2017 and 2018 – California rule is 7.5% so CA conforms for 2017 and 2018 (except for AMT) but not thereafter when federal threshold is 10%	11027	P	2017 and 2018
Automatic Conformity Areas:			
Repeal of special rule permitting recharacterization of Roth conversions	13611	P	tyba 12/31/17
Change length of service awards for public safety volunteers (IRC §457(e))	13612	P	tyba 12/31/17
Extended rollover period for certain plan loan offsets	13613	P	tyba 12/31/17

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Federal	California	Comments
Rates, std deduction, personal exemption	Has own rules	If CA conforms to loss of deductions but no rate reduction – seems unfair; but legislature and FTB likely have concerns about non-conformity confusion
\$10,000 SALT Cap	No limit	Could owe AMT for CA
Acquisition debt limit is \$750K	AI limit is still \$1 million	Recordkeeping
No home equity interest expense deduction; apply tracing rules	HEI limit of \$100K exists	If secured by qualified residence, is still HEI even if traced to business, investment or passive activity for fed. Rev Rul. 2010-25 still relevant if debt to acquire exceeds \$1 million, but less than \$1.1 million. AMT adjustment. Recordkeeping

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Federal	California	Comments
No charitable for athletic stadium seating rights	No change	Universities likely don't offer this anymore.
60% AGI threshold for cash	No change	Charitable differences. Recordkeeping
No misc itemized deductions subject to 2% AGI floor	No change	Planning for federal might adversely affect CA taxes.
§68 overall cap on itemized deductions temporarily repealed	No change	

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Federal	California	Comments
Personal casualty/theft only for federal disaster	No change	
Fringe benefit for bicycling repealed (so benefit is taxable)	Non-taxable in California	Check if W-2 or other info to employee breaks this out. Some employers may have stopped offering it.
Employer-provided moving reimbursement is taxable (except Armed Forces)	Non-taxable in CA	Check if W-2 or other info to employee breaks this out.
Moving expense no longer deductible	No change	

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Federal	California	Comments
Gambling expenses along with losses limited to winnings	No change	Relevant to professional gamblers.
Increased AMT exemption and phase-out level	No change	Likely to owe AMT in CA in 2018 if owed in 2017 even though likely don't owe for federal in 2018.
Changes to ABLE accounts	No change	Recordkeeping
Changes to 529 plans including allow rollover to ABLE account and to cover K-12	No change	CA might eventually conform to ABLE changes; but likely not to the 529 account changes for K-12. <small>9</small>

Federal	California	Comments
No income from student loans discharged due to death or disability	No change	Taxable in California w/o conformity. Check for other possible exclusion.
For divorces agreements executed after 2018, no alimony deduction and no income to recipient	No change	Should be considered in negotiating alimony amount. Will CA eventually conform?

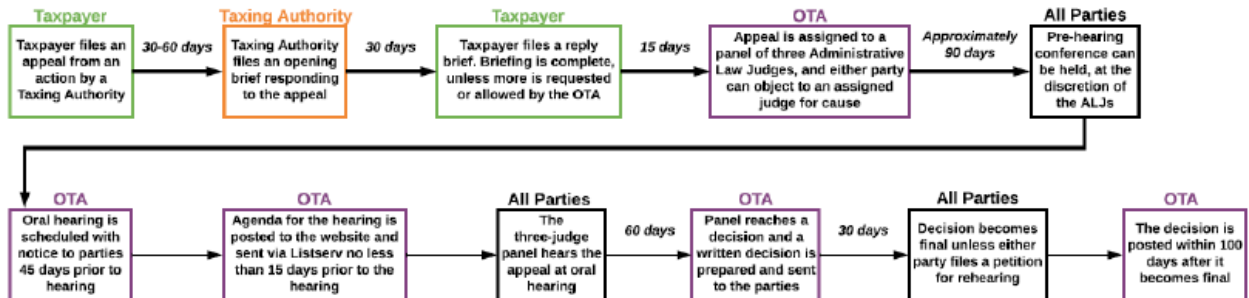
Conformity Reminders

- Form 540-CA will look different than in 2017
- Planning – consider the CA differences and how long they might last.
 - Legislature likely to enact something in 2019, but when and when effective?
- Recordkeeping to help track.
- Explain to client!

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Office of Tax Appeals (OTA) Operating

Office of Tax Appeals The Taxpayer's Experience



<https://ota.ca.gov/>

NOTABLE EXCEPTIONS

- | | | | | | | |
|---|--|---|--|---|---|--|
| No Hearing
If no hearing is requested, the appeal will be decided based on the written record | Petitions for Rehearing
If a party petitions for a rehearing, the other party has 30 days to file a reply brief. If the petition for rehearing is granted, the briefing process is restarted | Appeal is Withdrawn
The taxpayer can withdraw the appeal, or the taxing authority may withdraw the assessment/denial at issue at any time | Parties Settle
A settlement between the parties may happen at any time during the appeal | Deferrals
Appeals may be deferred for causes such as settlement negotiations or ongoing related litigation in court | Extensions
Extensions may be granted during the process that extend the preset day timers | Additional Briefing
OTA may request additional briefing or exhibits at any time prior to issuing its decision, including before or after the hearing |
|---|--|---|--|---|---|--|



Individuals

Businesses

Tax Professionals

Contact Us

[California Gig Economy Tax Center](#)<https://www.ftb.ca.gov/businesses/share-economy/>

What is the gig economy?

If you use any of the online platform applications available to rent a house, provide car rides, or to connect and provide a number of other goods or services, you're part of what is called the gig economy. This is also known as the shared, digital, or peer-to-peer economy. Gig economy activity is generally taxable.

[Is income received from gig work taxable?](#)[Related Content](#)

January 2, 2019 Deadline to Donate to College Access Trust for 2018

■ **NOTE!!**

- REG-112176-18 (8/27/18) calls for donations yielding state tax credits greater than 15% to reduce the federal donation amount.
- Effective for donations after 8/27/18

□ <https://www.govinfo.gov/content/pkg/FR-2018-08-27/pdf/2018-18377.pdf>

**If donation made by business entity in exchange for business benefit, not a donation; likely a 162 expense.
But what is treatment under state law?**

California State Treasurer
John Chiang

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<https://www.treasurer.ca.gov/cefa/catc/>

CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY

College Access Tax Credit Fund

Designed to provide a tax credit to taxpayers and businesses who contribute to the State's Cal Grants financial aid program.

Contact Information

For assistance with tax questions, please contact the California Franchise Tax Board (FTB) through FTB's [website](#) or call 800-852-5711.

For assistance with the application or payment of contributions, please contact California Educational Facilities Authority at (916) 654-5711.

Quick Links

- [Overview](#)
- [Statutes and Regulations](#)

For Tax Credit Seekers

Application period closes on January 2, 2019, applications submitted after 5 p.m. will be denied.

- [Tax Credit Application Form](#) (on-line version)

Tax Credits Allocated

2017 Taxable Year	\$3,206,604
2016 Taxable Year	\$5,369,369
2015 Taxable Year	\$8,231,253
2014 Taxable Year	\$3,751,393

Tax Credits Available

2018 Taxable Year	\$499,800,833 as of July 1, 2018
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Conformity reminder

- If individual's business donates to College Access Trust AND you think it is a business deduction rather than a charitable donation, then get deduction for federal for business without reduction to deduction.
- <https://www.irs.gov/newsroom/clarification-for-business-taxpayers-payments-under-state-or-local-tax-credit-programs-may-be-deductible-as-business-expenses>
- How to treat for California?
 - ❑ Arguably, must claim the credit.
 - ❑ Or perhaps interpretation is that it wasn't a donation so no credit.
 - ❑ Be sure not to double claim on California return.

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Cannabis IRC 280E Relief Vetoed

- AB 1863 - would provide that the §280E deduction and credit prohibition of Section 280E Income Tax Deduction Related to Commercial Cannabis Activities
- 9/19/18 – Governor Brown vetoed
- Note: Corporations in cannabis business not subject to §280E in California

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AB 1838 – No soda taxes

- Chapter 61 (6/28/18)
- Creates moratorium on taxes on groceries which also includes soda.
- To prevent possible ballot measures that could harm local governments.
- Per Governor Brown's signing message of 6/28/18, 4 of 482 cities are considering enacting a soda tax yet the beverage industry proposed a ballot initiative that would raise the approval threshold from 50% to 2/3 for all cities. Mayors did not want to see such a measure approved for the ballot and possibly then, by the voters.

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AB 1184 – SF voters can tax driverless cars

- Voters could “impose a tax on each ride originating in the City and County of San Francisco provided by an autonomous vehicle, whether facilitated by a transportation network company or any other person, or by a participating driver in an amount not to exceed 3.25% of net rider fares, as defined, for a ride and 1.5% of net rider fares for a shared ride, as specified.”
- Can be lower for zero-emission vehicles
- Funds can go to transportation operations and infrastructure.
- Any tax expire by 11/5/45.

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SALT Cap Workaround Example – CA SB 227, Protect California Taxpayers Act (Senate tax committee passed January 2018)

- To add R&T §§17053.88 and 23688
- For tax years beginning on or after 1/1/18, allows 85% (original bill was 100%) credit against “net tax” for monetary contributions to Local Schools and Colleges Voluntary Contribution Fund (original was to California Excellence Fund).
 - Transferred to General Fund; excess if any goes to K-14
- No deduction for the contribution on California return (but sponsor expects donor gets charitable deduction on 1040).
- 6 year carryover
- State Treasurer creates the fund and process
- <https://www.ftb.ca.gov/law/legis/17-18bills/SB227-060418.pdf>
- **Did not pass**

Example – CA AB 2217 – Golden State Credit Program (passed Assembly committee May 2018)

- Example from Assembly analysis (5/2/18)
 - T decides to donate \$10K to American Cancer Society
 - ACS pays \$9,000 to CA Treasurer and gets \$10K of Golden State Credits
 - T gives \$10K to ACS and gets the \$10K GSCs
 - T gets \$8,000 tax credit
 - Final result:
 - ACS is \$1,000 ahead
 - State is \$1,000 ahead
 - T gets \$10K charitable deduction for federal + \$8K CA tax credit
 - http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2217
 - <https://www.ftb.ca.gov/law/legis/17-18bills/AB2217-050218.pdf>
- Queries:
 - Substance over form doesn't look like a \$10K contribution.
 - UBTI to the charity?
 - Won't CWA from charity indicate donation of \$1,000 only?
- **Did not pass!**

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Example – CA SB 1485

- 100% credit for contribution to charity located in CA.
 - Maximum credit \$500 (\$1,000 MFJ).
 - Also helps CA non-itemizers.
 - Query: Cost to the state and how to pay for it?
 - https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1485
 - **Did not pass!**

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SB 539, College Access Tax Credit Increase

- Increase existing credit from 50% to 75%
- Increase funding
- Effective for donations starting 1/1/18
- Sent to Governor Brown on 9/12
 - After IRS issued proposed regs that such donations made after 8/27/18 would have to be reduced by the state tax credit obtained.
 - IF signed, bonus to anyone who donated before 8/28
 - Likely very few did.
 - <https://www.treasurer.ca.gov/cefa/catc/>

SB 539 SALT Workaround **Vetoed**

- Proposed to increase funding and credit % for existing College Access Tax Credit
- From 50% to 75% effective 1/1/18
- Per Governor Brown's veto message of 9/29/18

This bill would increase the amount of tax credit that taxpayers can claim when paying into the College Access Tax Credit Fund, as well as increase the total aggregate amount of credits that can be claimed.

This measure started as a bold idea but because of adverse changes in the federal tax law, it now confuses an already complicated scheme and could invite intervention by the Internal Revenue Service.

Sincerely,


Edmund G. Brown Jr.

SALT Workaround Examples Elsewhere

- **New Jersey**
 - SB 1893 (5/4/18) – allow local gov't donation funds with 90% tax credit against property tax; starting for 2018
 - http://www.nj.gov/governor/news/news/562018/approved/20180504a_propertyTax.shtml
- **New York (Budget Act (S7509))**
 - Donation funds for local property tax (95% credit) and state income tax (85% credit), starting 2019
 - Optional employer compensation expense tax with credit to employee; salary over \$40K
- **Connecticut (PA No. 18-49; 5/31/18)**
 - ****State tax on partnerships and S corps with credit to owners; starts 2018.**
 - <http://www.ct.gov/drs/lib/drs/publications/pubssn/2018/sn2018-4.pdf>
 - <https://www.ct.gov/drs/lib/drs/publications/ocg/ocg-6-passthroughtaxcalculation.pdf>
 - Allow local gov't to set up donation funds generating property tax credits for donors.