



George Runner
Member
Board of Equalization
1st District

In Partnership With

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California State Senate, 23rd District

Assemblyman Jay Obernolte
California State Assembly, 33rd District

Supervisor James Ramos
San Bernardino County, 3rd District

Assessor-Recorder Bob Dutton
San Bernardino County

City of Big Bear Lake

Big Bear Chamber of Commerce

Inland Empire Small Business Development Center

Welcome to the
Big Bear Lake Small Business Seminar
and Resource Expo



Todd Gilman
Taxpayers' Rights Advocate
916-324-2796
888-324-2798



We're here for you

California Taxpayer Advocates

Board of Equalization
Employment Development Department
Franchise Tax Board
Internal Revenue Service

California Tax Service Center
www.taxes.ca.gov

Publication 145
March 2010

| HOW TO CONTACT US | | | | |
|---|---|---|--|---|
| California Tax Service Center: www.taxes.ca.gov | | | | |
| AGENCY | TYPE OF TAX HELP | VISIT OUR WEBSITE | TELEPHONE OR FAX | SEND CORRESPONDENCE TO |
| Board of Equalization (BOE) | Sales and Use Taxes Property Taxes Special Taxes and Fees | BOE—Advocate www.boe.ca.gov/tral/tra.htm BOE—General www.boe.ca.gov | Advocate's Office 888-324-2798 Fax: 916-323-3319 BOE Customer Service 800-400-7115 | Taxpayers' Rights Advocate Office, MIC:70 PO Box 942879 Sacramento, CA 94279-0070 Board of Equalization PO Box 942879 Sacramento, CA 94279-0001 |
| Employment Development Department (EDD) | Employment Taxes Unemployment Insurance Employment Training Tax State Disability Insurance State Personal Income Tax Withholding | EDD—Advocate www.edd.ca.gov/payroll_Taxes/Taxpayer_Advocate.htm EDD—General www.edd.ca.gov | Advocate's Office 866-594-4177 Fax: 916-654-6969 EDD Customer Service 888-745-3886 | Taxpayer Advocate Office PO Box 826880, MIC:93 Sacramento, CA 94280-0001 Employment Development Department PO Box 2068 Rancho Cordova, CA 95741-2068 |
| Franchise Tax Board (FTB) | Personal Income Taxes Franchise Taxes Bank Taxes Corporation Taxes | FTB—Advocate www.ftb.ca.gov/aboutftb/taxpayer_advocate/index.html FTB—General www.ftb.ca.gov | Advocate Hotline 800-883-5910 Fax: 916-843-6022 FTB Customer Service 800-852-5711 | Executive Liaison Section PO Box 157 Rancho Cordova, CA 95741-0157 Franchise Tax Board PO Box 942840 Sacramento, CA 94240-0040 |
| Internal Revenue Service (IRS) | Income Taxes Employment Taxes Corporate Taxes Partnership Taxes Estate Taxes Nonprofit and Charitable Organization Taxes | IRS—Advocate www.irs.gov/advocate IRS—General www.irs.gov | National Taxpayer Advocate 877-777-4778 <i>Call / fax us locally</i> Laguna Niguel 949-389-4804 / 949-389-5038 Los Angeles 213-576-3140 / 213-576-3141 Oakland 510-637-2703 / 510-637-2715 Sacramento 916-974-5007 / 916-974-5902 San Jose 408-817-6850 / 408-817-6852 IRS Customer Service 800-829-1040 | Please call the local office nearest you or visit the IRS website for addresses |

Common Advocate Responsibilities

Resolve problems when normal channels don't work

Maintain independent status

Provide independent review

Protect taxpayers' rights

Adhere to agency tax laws

Identify trends and issues

Identify inequities

Propose changes

Ensure courteous treatment of the public

Determine whether to suspend collections while case is in review

Encourage public suggestions

Promote understandable and simple

- Tax laws
- Regulations
- Policies
- Procedures
- Publications

Additional copies of this publication may be ordered online at www.boe.ca.gov/ig-bin/form_search.cgi or by telephone at 800-400-7115.



State Board Of Equalization

Avoiding Common Sales and Use Tax Problems

Get it in Writing!

This Presentation is designed to illustrate general tax concepts, and does not address every situation. If you email us a request for written advice and provide us the details specific to your business operations, we can provide you with tax guidance you can rely on.

Contact us at boe.ca.gov/email or mail your inquiry directly to a BOE field office near you.

Presumptions of the Tax Code

- All sales are taxable unless otherwise specifically exempted
- Claimed exemptions must be supported by documentation
- Taxpayer is responsible for maintaining and providing documentation for potential examination



Common Types of Noncompliance

- Untaxed Purchases from Out-of-State Vendors
- Withdrawal from Resale Inventory for Own Use
- Unsupported Sales for Resale
- Difference Between Recorded and Reported Taxable Sales
- Reported Sales Lower than Expected Sales Based Upon a Markup on Purchases
- Errors in Compiling Return
- Difference Between Tax Accrued and Tax Paid
- Inadequate Records Resulted in Unreported Sales
- Unsupported Sales in Interstate Commerce Delivered to Instate Customer

Untaxed Purchases From Out-of-State Vendors

Items purchased without payment of California tax:

- Purchase for own use (not resale inventory) and
- From out-of-state businesses (including online purchases)



Withdrawal from Resale Inventory for Own Use

Inventory items purchased with a resale certificate without payment of tax

Items withdrawn from inventory for use other than resale (including use as gifts and free samples or for personal use)

Use Tax = Due on Cost

Resale Inventory



Gift



Use Tax = Due on Cost

Use Tax for Individuals

- Can be reported on California Income Tax Return
- Can be reported on Sales & Use Tax Return
- Can be reported on BOE individual Use Tax Return



Sales For Resale

Common ways to document sales for resale (examples to follow):

- A Resale Certificate
- A Purchase Order containing all the essential elements of a resale certificate



Basic Elements of a Resale Certificate

- Purchaser's name
- Purchaser's address
- Purchaser's valid seller's permit number
- Item(s) being purchased
- Statement that purchase is "for resale"
- Authorized purchaser's signature
- Date resale certificate is signed
- Purchaser's title
- Purchaser's type of business activity
- Seller's name



Permit/License Verification

To verify Seller's Permit number(s)
submitted on resale certificates, retailers
may call

888-225-5263

or access our website at

www.boe.ca.gov (Click Verify Permit)



Permit/License Verification

The screenshot shows the California State Board of Equalization website. At the top, there is a navigation bar with links for Home, File a Return, Make a Payment, Taxes & Fees, Forms & Publications, Permits & Licenses, Online Services, and News & Events. The main content area is titled "Verification" and contains a form titled "Verify a Permit, License, or Account". The form has a text input field with the instruction "Enter the numeric portion only. Omit letters and other symbols (e.g. dashes)." and two buttons: "Submit Request" and "Clear Request". Below the form, there is explanatory text about the verification process, including information about Cigarette and Tobacco product retailer license verification, E-waste account verification, and Underground Storage Tank Maintenance Fee Account verification. A "Scheduled Downtime" notice is also present at the bottom of the page.

Resale Certificates

- Available at some stationery stores, form BOE-230, in Regulation 1668, and in Publication 73
- Must be filled out completely
- Must be taken timely and in good faith

BOE 230 (7-02)
GENERAL RESALE CERTIFICATE

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

California Resale Certificate

I HEREBY CERTIFY:

1. I hold valid seller's permit number _____
2. I am engaged in the business of selling the following type of tangible personal property: _____
3. This certificate is for the purchase from _____ of the item(s) I have listed in paragraph 5 below.
(Vendor's name)
4. I will resell the item(s) listed in paragraph 5, which I am purchasing under this resale certificate in the form of tangible personal property in the regular course of my business operations, and I will do so prior to making any use of the item(s) other than demonstration and display while holding the item(s) for sale in the regular course of my business. I understand that if I use the item(s) purchased under this certificate in any manner other than as just described, I will owe use tax based on each item's purchase price or as otherwise provided by law.
5. Description of property to be purchased for resale: _____
6. I have read and understand the following:
For Your Information: A person may be guilty of a misdemeanor under Revenue and Taxation Code section 6704.5 if the purchaser knows at the time of purchase that he or she will not resell the purchased item prior to any use (other than retention, demonstration, or display while holding it for resale) and he or she furnishes a resale certificate to avoid payment to the seller of an amount as tax. Additionally, a person possessing a resale certificate for personal gain or to evade the payment of tax is liable, for each purchase, for the tax that would have been due, plus a penalty of 10 percent of the tax or \$500, whichever is more.

Name of Purchaser: _____
Address of Purchaser: _____
City: _____ State: _____ Zip: _____

Purchase Order Used as a Resale Certificate

Must specifically state "For Resale."

Statements of "Nontaxable," "Exempt," or "Taxable - No" do not fulfill this requirement

Purchase Order and a Resale Certificate

- Purchase Orders that state "For Resale" must contain the same information as required for a resale certificate
- The resale certificate will often say "see purchase order"

STATE OF CALIFORNIA
BOARD OF EQUALIZATION

GENERAL RESALE CERTIFICATE

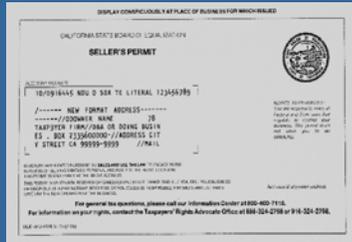
California Resale Certificate

I HEREBY CERTIFY:

1. I hold valid seller's permit number: KH 123-456789
2. I am engaged in the business of selling the following type of tangible personal property:
Jewelry
3. This certificate is for the purchase from: Acme Wire (seller's name) of the item(s) I have listed in paragraph 5 below.
4. I will resell the item(s) listed in paragraph 5, which I am purchasing under this resale certificate in the form of tangible personal property in the regular course of my business operations, and I will do so prior to making any use of the item(s) other than demonstration and display while holding the item(s) for sale in the regular course of my business. I understand that if I use the item(s) purchased under this certificate in any manner other than as just described, I will owe use tax based on each item's purchase price or as otherwise provided by law.
5. Description of property to be purchased for resale:
SEE PURCHASE ORDER.
6. I have read and understand the following:
For Your Information: A person may be guilty of a misdemeanor under Revenue and Taxation Code section 6204.5 if the purchaser knows at the time of purchase that he or she will not resell the purchased item prior to any use (other than retention, demonstration, or display while holding it for resale) and he or she furnishes a resale certificate to avoid payment to the seller of an amount as tax. Additionally, a person issuing a resale certificate for personal gain or to evade the payment of tax is liable, for each purchase, for the tax that would have been due, plus a penalty of 10 percent of the tax or \$500, whichever is more.

NAME OF PURCHASER: Ruby M. Malone
ADDRESS OF PURCHASER (PRINT OR TYPE IN AUTHORIZED REPRESENTATIVE): Ruby M. Malone
ADDRESS OF PURCHASER (PRINT OR TYPE): Ruby M. Malone
OWNER: Owner
ADDRESS OF PURCHASER: 123 Pine Street, Sebastopol, CA 95974
TELEPHONE NUMBER: (916) 555-1234
DATE: 12-10-2010

About a Seller's Permit



- Allows sales to be made in California
- Provides a seller's permit number used to issue a resale certificate for purchases of inventory items without paying tax
- Does not allow buying items for personal or business use without paying tax
- Permit must be issued in the owner's name for each business address

Penalties for Improper Use of Resale Certificates



- Misuse of resale certificate is a misdemeanor
- The penalty is \$500 or 10% of the amount of tax per transaction, whichever is greater

Recorded vs. Reported Taxable Sales



Comparison between taxable sales per your books and records and taxable sales reported to the BOE

Tax Accrued

Tax accrued, which is the amount of tax collected from customers or recorded as amounts due to the state, is compared to tax paid.



Required Records

Records must be maintained for at least four years, but we recommend you keep them for eight. Examples of records:

- Sales Invoices
- Cash Register Tapes
- Sales Journals
- Purchase Invoices
- Cancelled Checks
- Purchase Journals
- Resale Certificates
- Exemption Certificates
- Purchase Orders
- Shipping Documents
- Schedules
- Working Papers used in Preparing Tax Returns.



Sales in Interstate Commerce

Common ways to document sales in interstate commerce:

- Bills of Lading
- Freight Invoices
- Delivery Receipts
- Correspondence



Unsupported Sales in Interstate Commerce Delivered to Instate Customers

- Delivery to a purchaser in California for subsequent shipment to another state is taxable.
- When the goods are diverted by the purchaser in transit to a California location, the exemption is lost.
- Drop shipments.



Taxpayer Information Section

- 800-400-7115
711 (TTY)
- Mon. - Fri. 8am to 5pm
- 1-1 Assistance
- 24 hr. fax-back service
- Recorded Information



Taxpayers' Rights Advocate

888-324-2798

If you have been unable to resolve a disagreement with the BOE and you would like to know more about your rights under the law.

boe.ca.gov/tra



BOE Offers Free Personalized Assistance

- A staff consultant will review your business operation and record keeping system.
- Call your local BOE office today to make an appointment.



**We wish you success
in your business venture.**



We welcome your comments and suggestions.

**Employee or
Independent
Contractor**



Introductions

Richard Concepcion
Employment Tax Consultant

www.edd.ca.gov

Taxpayer Assistance Center:
1-888-745-3886

Reasons to Properly Classify Workers

- Avoid reclassification audits due to:
 - Worker Claims
 - Worker Informants
 - Competitor Informants
- Prevent additional taxes, penalties, and interest.
- Avert possible revocation of state or local licenses.

Misclassification Example

| One worker, earning \$20,000 for one year (tax year 2013) | Employer A (Correctly classifies worker as employee) | Employer B (Misclassifies worker as independent contractor) |
|---|---|--|
| UI (3.4%)* *New employer rate | \$238 | \$238 |
| ETT (0.1%) | \$7 | \$7 |
| SDI (1.0%) | | \$200 |
| PIT (6.0%) | | \$1,200 |
| Total due for one year | \$245 | \$1,645** ** Plus penalty and interest |

Types of Workers

- Employees
 - Common Law
 - Statutory
 - Exempt

- Independent Contractors

Common Law Guidelines

Common Law Employee:

An individual who performs services for you and is subject to your control regarding what will be done **and** how it will be done.

Independent Contractor:

An individual who performs services for you **but** you control only the result of the work.

Common Law Primary Factor

The right of the principal to control the manner and means of accomplishing a desired result.

The right to discharge a worker at will and without cause is strong evidence of right to control.

Examining the Factors



| | |
|--|--------------------------------|
| Distinct trade or occupation | Method of payment |
| Supervision | Regular part of the business |
| Skill level | Belief of the parties |
| Tools and place of work | Extent of actual control |
| Length of time | Services benefit the principal |
| Ability to earn a profit or incur a loss | |

Employment (DE 231)
Employment Determination Guide (DE 38)

Weighing the Factors

The importance or weight given each factor will vary, depending on the specific work situation, industry, and occupation.



Statutory Employees

Employee by law under a specific statute.

Examples include, but not limited to:

- Corporate officers
- Unlicensed contractors
- Certain Limited Liability Company members

Exempt Employees

Certain employees are not subject to specific taxes or withholding provisions.

Examples include:

- Domestic Workers
- Family Members
- Direct Sellers
- Real Estate Agents

Exempt Employment (DE 231EE)

Additional Resources

- *California Employer's Guide* (DE 44)
- *Determination of Employment Work Status* (DE 1870)
- California Unemployment Insurance Appeals Board website www.cuiab.ca.gov/index.asp
- Online Employee or Independent Contractor Course www.edd.ca.gov/Payroll_Taxes/Web_Based_Seminars.htm

Thank You.

Questions?

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

Recordkeeping for Small Business/Self Employed Individuals



September 13 & 15, 2016

Disclaimer

- Don is not an Internal Revenue Service employee
- Although Don is the a Board Member of the California Society of Enrolled Agents, he is not speaking today on behalf of CSEA.
- Don is an Enrolled Agent tax professional in private practice in Riverside, CA
- He performs taxpayer CPR: Consultation, Preparation, and Representation



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Necessity of Books and Records

- Monitor the business's progress
- Prepare financial statements
- Keep track of deductible expenses



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- He performs taxpayer CPR: Consultation, Preparation, and Representation with all tax agencies



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Necessity of Books and Records

- Prepare tax returns
- Prepare for examination
- Business
 - Verify expenses
 - Proof of payment not enough



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Books and Records

- Records
- Tax purpose of a record
- Accounting entry
- Accounting book
- Income statement
- Balance sheet



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UETA Definition of Electronic Books and Records

Uniform Electronic Transaction Act defines electronic records that, by electronic means, are:

- Created
- Generated
- Sent
- Communicated
- Received, or
- Stored



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Recordkeeping Requirements

- Internal Revenue Code §6001 and related Income Tax Regulations under §1.6001-1; generally provides that everyone must keep adequate records.



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Record Types Needed Gross Receipts

- Cash register tapes
- Receipt book
- Sales
- Invoices
- Credit charge slips
- Forms 1099



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Record Types Needed Purchases and Expenses

- Amount paid
- Amount was for business purchases



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Record Types Needed (Cont'd)

Charitable Contributions, Travel, Transportation, Entertainment, Gifts

- Amount
- Each date
- Description
- Explanation of business benefit gained



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Record Types Required Employment Taxes

- Names
- Addresses and
- Taxpayer identification numbers for individuals
 - who work for you or
 - performs services and receives payment



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Record Types Needed - Assets

- Property used in business must be substantiated
- Maintaining records that show
 - When and how property acquired
 - Purchase price, and
 - Use of property



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Maintenance of Books and Records

- Use the method that works best
- Records should say:
 - what was received
 - from whom
 - for what reason
- Keep records timely



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Responsibility of Books and Records

- Taxpayer/business owner responsible for maintaining adequate books and records
- If paid preparer used, preparer's records needed also



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How Long to Keep Records

- Generally, three years from filing date to examine tax return
- Tax records must be kept at least until statute of limitations expires
- Certain tax returns much longer
- Keep source records (checks, receipts, and proof of business purpose) at least three years



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How Long to Keep Records (Cont'd)

- Until deduction no longer claimed
- Employment tax records, four years
- Assets, until sold or removed
- IRA contributions, permanently
- Broker statements, expiration of limitation period
- Improvements to residence, until sold
- Net operating losses, until statute of limitations expired on last tax return claiming a loss
- Follow state recordkeeping laws also



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IRS Resources

- Publication 15, Circular E - Employers Tax Guide
- Publication 463, Travel, Entertainment, Gift, and Car Expenses
- Publication 535, Business Expenses
- Publication 536, Net Operating Losses
- Publication 547, Casualties, Disasters and Thefts
- Publication 556, Examination of Returns, Appeal Rights & Claims



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IRS Resources

- Publication 594, The IRS Collection Process
- Publication 3498, The Examination Process
- Publication 5, Appeal Rights and Preparation of Protests for Unagreed Cases
- Circular 230, Regulations Governing the Practice of Attorneys, Certified Public Accountants, enrolled Agents, Enrolled Actuaries, and Appraisers before the Internal Revenue Service
- Publication 583, Starting a Business and Keeping Records



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IRS Resources (Cont'd.)

- Publication 225, Farmers Tax Guide
- Publication 1066-C, A Virtual Small Business Workshop CD
- Publication 2194, Disaster Losses Kit for Individuals
- Publication 2194B, Disaster Losses Kit for Businesses
- Publication 4758, Reconstructing Your Records
- Publication 4796, IRS Records at Your Fingertips
- Visit IRS.gov



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Contact information

Don Stacy, EA CMA MBA

951-203-9021

FAX: 951-848-0971

Email: taxhelpguy@reagan.com

Web: TaxHelpGuy.com



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2016

Forms of Ownership



Presented by
Small Business Education and Outreach Section

2016



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Sole Proprietorships



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Sole Proprietorship Characteristics



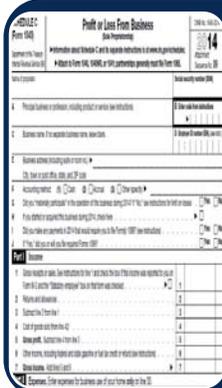
The simplest form of doing business.

| | |
|---|---|
| No formal transfer of assets to start business. | Business' taxable year is the same as the owner's taxable year. |
|---|---|



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Sole Proprietorship Characteristics



- Sole proprietors use Federal Schedule C to report the business' profit or loss on their Form 540 income tax returns whether distributed or not.
- Losses generally offset other income.
- Sole proprietor is not considered to be an employee of the business.




2016

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General Partnerships



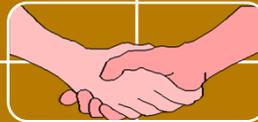


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Partnership Characteristics

Two or more persons carrying on a business for profit.

Flexible form of business and relatively easy to set up.



Partners decide the organization's structure and distribution of profits and losses.

A formal written agreement is advisable.



Partnership Characteristics

- Not a separate taxable entity.
- Partnership files informational return using Form 565.
- Partners report profit or loss on their individual Form 540 income tax returns whether distributed or not.
- Losses may be limited.



Most Commonly Used Legal Entities

Corporations

Limited Liability Companies

There are other less common legal entities types available. For more information see our publication FTB 1123, *Forms of Ownership*.



California Legal Entities

Formed by filing the appropriate documents or forms with the California Secretary of State.

Corporation

- Articles of Incorporation
- Various Forms
- Minimum Tax

Limited Liability Company

- Articles of Organization
- Form LLC-1
- Annual Tax and Fee

Taxed annually until formally dissolved or cancelled.



2016



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C Corporations



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C Corporation Characteristics

| | |
|--|---|
| A separate legal entity owned by shareholders. | Must register with SOS before conducting business. |
| Can be costly to set up and maintain. | Option of choosing an income year other than the calendar year. |



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C Corporation Characteristics



- Files using Form 100.
- Taxed annually on its earnings at a rate of 8.84% on net income.
- Subject to \$800 minimum tax.
- Shareholders taxed on distributed dividends.



2016

S Corporations



S Corporation Characteristics



A separate legal entity owned by shareholders.



Must register with SOS before conducting business.



Election is made for S corporation status.



STATE OF CALIFORNIA
Franchise Tax Board

S Corporation Characteristics



No more than 100 shareholders.



Only one class of stock.



Shareholder can only be individuals, estates, or certain trusts.



STATE OF CALIFORNIA
Franchise Tax Board

S Corporation Characteristics



- A hybrid business entity.
- Files using Form 100S.
- State tax rate of 1.5% of net income. Not subject to federal tax.
- Subject to \$800 minimum tax.
- Shareholders report profit or loss on their individual Form 540 income tax returns whether distributed or not.




2016

Limited Liability Companies (LLC)



LLC Characteristics



A separate legal entity owned by members.



Must register with SOS before conducting business.



A hybrid business entity.



Restrictions may apply to professional services that require a license, certification, or registration.



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LLC Characteristics



IRS partnership classification: follow partnership rules.



For California only. A single member classification: follow sole proprietor rules.



IRS corporation classification: follow corporation rules.



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LLC Characteristics Single Member and Partnership

- Single or partnership classified LLCs file using Form 568.
- Subject to \$800 annual tax.
- Maybe subject to an LLC fee based on total income (gross income plus cost of goods).
- Members report their share of profit or loss on Form 540 income tax returns whether distributed or not.



LLC Characteristics C Corporation Classification

- C Corporation classified LLCs file using Form 100.
- Taxed annually on its earnings at a rate of 8.84% on net income.
- Subject to \$800 minimum tax.
- Members receive profits and losses like C corporation shareholder.



LLC Characteristics S Corporation Election

A thumbnail image of the California S Corporation Franchise or Income Tax Return Form 100S. The form includes fields for the calendar year (2014), taxpayer name, address, and various checkboxes for election and reporting options. The title 'California S Corporation Franchise or Income Tax Return 100S' is prominently displayed at the top.

- S Corporation classified LLCs file using Form 100S.
- State tax rate of 1.5% on net income. Not subject to federal tax.
- Subject to \$800 minimum tax.
- Members report their share of profit or loss on Form 540 income tax returns whether distributed or not.



Forms of Ownership Information

The cover of FTB Publication 1123, 'Franchise Tax Board's Guide to Forms of Ownership'. The cover is white with a red compass rose graphic and the title in red and black text. The text reads: 'Franchise Tax Board's Guide to: Forms of Ownership'. To the right of the cover, the text 'FTB Publication 1123, Franchise Tax Board's Guide to Forms of Ownership' is displayed in white on a dark blue background.



Lucius Davis
FTB Small Business Liaison

Telephone

• 916.845.4669

Email

• Lucius.Davis@ftb.ca.gov



STATE OF CALIFORNIA
Franchise Tax Board

Lila Fedler
Technical Advisor to the
Taxpayers Advocate

Telephone

• 916.845.7474

Email

• Lila.Fedler@ftb.ca.gov



STATE OF CALIFORNIA
Franchise Tax Board

Marc Narlesky
Technical Advisor to the
Taxpayers Advocate

Telephone

• 916.845.4122

Email

• Brenda.Voet@ftb.ca.gov



STATE OF CALIFORNIA
Franchise Tax Board

Chris Smith
Tax Practitioner Liaison

Telephone

• 916.845.4304

Email

• Chris.Smith@ftb.ca.gov



STATE OF CALIFORNIA
Franchise Tax Board

Susan Maples Taxpayers' Rights Advocate

Telephone

• 916.845.6724

Email

• Susan.Maples@ftb.ca.gov



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