

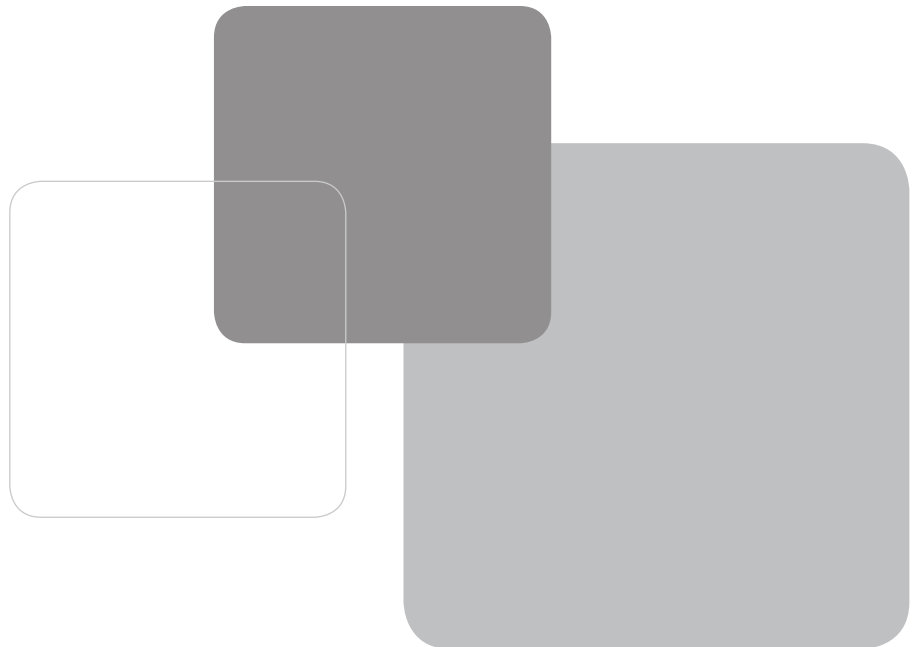


State of California  
Franchise Tax Board

# **FTB Publication 1068**

## **Exempt Organizations –**

### Filing Requirements and Filing Fees



References in these instructions are to the Internal Revenue Code (IRC) as of January 1, 2009, and to the California Revenue and Taxation Code (R&TC).

Organizations that are tax-exempt in California may be required to file one or more of the following:

<b>Form</b>	<b>Title</b>	<b>Applicable R&amp;TC Sections</b>
199	<i>Exempt Organization Annual Information Return</i>	R&TC Section 23772 and Section 23774
199N	<i>Annual Electronic Filing Requirement for Small Exempt Organizations (California e-Postcard)</i>	R&TC Section 23772
109	<i>Exempt Organization Business 109 Income Tax Return</i>	R&TC Section 23771 and Section 18506
100	<i>Corporation Franchise or Income Tax Return</i>	R&TC Section 23701r and Section 23701t

**Refer to the tables below for filing requirements. Then refer to the next sections for specific filing instructions.**

Use the chart below to determine the organizations filing requirements for Form 199 or FTB 199N.

Exempt under all R&TC Section 23701 except R&TC Section 23701r		Form 199	FTB 199N
Tax year 2012 and forward	Gross receipts normally equal to or less than \$50,000	No	Yes
	Gross receipts greater than \$50,000	Yes	No
Tax year 2011 and prior	Gross receipts greater than \$25,000	Yes	No
Tax year 2010 and 2011	Gross receipts normally equal to or less than \$25,000	No	Yes
Tax year 2009 and prior	Gross receipts normally equal to or less than \$25,000	No requirement to file	
Private foundations (regardless of gross receipts amount)		Yes	No
Nonexempt charitable trusts described in IRC Section 4947(a)(1) (regardless of gross receipts amount)		Yes	No
You are one of the following organizations:		No requirement to file	
<ul style="list-style-type: none"> <li>• Churches, interchurch organizations of local association units of a church, conventions or associations of churches, or integrated auxiliaries of churches.</li> <li>• Religious orders (such as Franciscan Friars or Sisters of Charity).</li> <li>• Organizations formed to carry out a function of a state, or public body that is carrying out that function and is controlled by the state or public body.</li> <li>• Political organizations.</li> <li>• Pension trusts.</li> <li>• Coverdell Education Savings Accounts, formerly called education IRAs.</li> <li>• Qualified state tuition programs.</li> <li>• Subordinate organization included in the parent's group return.</li> </ul>			

Organizations eligible to file FTB 199N may choose to file a complete Form 199. See Form 199 section for definition of gross receipt average.

<b>Exempt under all R&amp;TC Section 23701 except R&amp;TC Section 23701t and Section 23701r</b>	<b>Form 109 Filing Requirement</b>
Unrelated business taxable income greater than \$1,000	Yes
Unrelated business taxable income equal to or less than \$1,000	No
Organizations formed to carry out a function of the state and the state controls them	No
<b>Exempt under all R&amp;TC Section 23701t or Section 23701r</b>	<b>Form 100 Filing Requirement</b>
Taxable income greater than \$100	Yes
Taxable income equal to or less than \$100	No

# Form 199, Exempt Organization Annual Information Return

We define gross receipts as the total amounts the organization received **from all sources** during its annual account period – **without subtracting** any costs or expenses (includes costs of goods sold, costs of operations, or expenses to earn, raise, or collect such amounts).

Most organizations must file Form 199 if their gross receipts normally exceed the filing threshold. Other organizations are required to file FTB 199N, *California e-Postcard*, or do not have a requirement to file.

To determine if you gross receipts average, use the charts below.

## Tax year 2012 and forward:

If your organization has existed:	File Form 199 if the gross receipts threshold exceed:
1 year or less	\$75,000
More than 1 year, but less than 3 years	\$60,000 (average for current year and immediately preceding year)
3 years or more	\$50,000 (average for current year and immediately preceding 2 years)

## Tax year 2011 and prior:

If your organization has existed:	File Form 199 if the gross receipts threshold exceed:
1 year or less	\$37,500
More than 1 year, but less than 3 years	\$30,000 (average for current year and immediately preceding year)
3 years or more	\$25,000 (average for current year and immediately preceding 2 years)

**Private foundations** must file a complete Form 199 and pay the applicable filing fee regardless of the gross receipts amount received. However, private foundations may complete SIDE 1 of Form 199 and provide one of the following as substitute information for Part II:

1. A complete copy of federal Form 990-PF, with appropriate schedules.
2. A complete copy of the current report filed with the Registry of Charitable Trusts (including federal Form 990).

**Nonexempt charitable trusts** as defined in IRC Section 4947(a)(1) must file Form 199 regardless of the amount of gross receipts. A nonexempt charitable trust is a trust which:

- Is not exempt from taxation under R&TC Section 23701d.
- Has all the unexpired interests devoted to charitable purposes described in IRC Section 170(c).
- Had a charitable contribution deduction allowed for all the unexpired interests under the R&TC.

**A split-interest trust** is a trust which:

- Is not exempt from taxation under R&TC Section 23701d.
- Has some of the unexpired interests devoted to one or more charitable purposes as described in IRC Section 170(c).
- Has amounts in trust for which a charitable contributions deduction was allowed under the R&TC. Pooled income funds, IRC Section 642(c)(5); charitable remainder annuity trusts, IRC Section 664(d)(1); and remainder unitrusts, IRC Section 664(d)(2); are considered split-interest trusts for which the trustee must file Form 541-B, *Charitable Remainder and*

*Pooled Income Trusts*, for the taxable year. For more information regarding the filing requirements for these types of trusts, get Form FTB 541-B at [ftb.ca.gov](http://ftb.ca.gov).

**Simple trusts** which received a letter from FTB granting tax-exempt status under R&TC Section 23701d are considered to be corporations for tax purposes. The trust may be required to file Form 199.

**Religious or apostolic organizations** described in R&TC Section 23701k must attach a completed Form 565, *Partnership Return of Income*, to Form 199.

## Political or Legislative Activities by Section 23701d Organizations

The purpose of Form 3509, *Political or Legislative Activities By Section 23701d Organizations*, is to declare political or legislative activities carried out by a R&TC Section 23701d tax-exempt organization.

### Who Must File

If during the taxable year, the organization:

- Participated or intervened in any political campaign on behalf of any elective public office.
- Contributed funds to support or oppose any individual public office candidate or any organizations formed to support or oppose a public office candidate.
- Attempted to influence any national, state, or local legislation or ballot measure.
- Filed a federal election Form 5768, *Election/Revocation of Election by an Eligible Section 501(c)(3) Organization to Make Expenditure to Influence Legislation*.

Complete and attach Form 3509 to the Form 199, and mail it to us.

## Due Date

You must file Form 199 on or before the 15th day of the 5th month after the close of your organization's tax year. For example, if your tax year ends on December 31, the due date is May 15. If the due date falls on a weekend or state holiday, file by the next regular business day.

## Extension of Time to File

An extension allows you more time to file the return, not an extension of time to pay any fee that may be due.

We will grant an automatic 7-month extension to file a return if both of the following conditions exist:

- Your organization is not suspended on the original due date.
- You file your organization's return on or before the extended due date.

## Filing Fee

Generally, if you file Form 199, you pay a fee with the return. The amount depends upon when you file, and when you make the payment. (R&TC Section 23772)

File your return:	Filing fee paid:	Fee Amount:
<ul style="list-style-type: none"><li>• By original due date</li></ul>	<ul style="list-style-type: none"><li>• By original due date</li></ul>	\$10
<ul style="list-style-type: none"><li>• After original due date, but on or before the extended due date</li></ul>	<ul style="list-style-type: none"><li>• After the original due date, but on or before the extended due date</li></ul>	
<ul style="list-style-type: none"><li>• By original due date</li></ul>	<ul style="list-style-type: none"><li>• After original due date</li></ul>	\$25
<ul style="list-style-type: none"><li>• After original due date, but on or before the extended due date</li></ul>	<ul style="list-style-type: none"><li>• After the extended due date</li></ul>	

## Exceptions

The filing fee does not apply to the following organizations exempt under R&TC Section 23701d:

If Your Organization is:	And:
Religious organization.	Organization has exclusively religious activities of any religious order.
Educational organization.	Organization normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on.
Charitable organization or an organization for the prevention of cruelty to children or animals.	Organization is supported, in whole or in part, by funds contributed by the United States or any state or political subdivision thereof, or is primarily supported (50% or more) by contributions of the general public.
Exempt under R&TC Section 23701d.	Organization is operated, supervised, or controlled by or in connection with a religious organization.

## Delinquent Form 199 Penalty

We impose a penalty if you do not file your organization's Form 199 by the extended due date regardless of whether you pay the fee. The penalty is \$5 per month or part of a month the Form 199 is late. The maximum penalty is \$40. We impose the penalty from the original due date of the return. (R&TC Section 23772)

Organizations exempt from the filing fee are **not** exempt from this penalty.

If your organization is a private foundation and you have not filed a timely Form 199, we may request you file the return within a specific time frame. If you do not file the return, we may impose on you (as the individual responsible for filing) a penalty of \$5 for each month (or part of a month) that you do not file. The maximum penalty is \$25 and is in addition to the penalty for filing Form 199 late. (R&TC Section 23772)

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## 199N, Annual Electronic Filing Requirement for Small Exempt Organizations (California e-Postcard)

Starting January 1, 2011, California requires small tax-exempt organizations to electronically file an annual informational notice with us beginning with their 2010 tax year. We do not offer a paper form; we accept only the electronic filing. (R&TC Section Section 23772)

You cannot file the *California e-Postcard* for a tax year prior to 2010. If you need to file for a tax year prior to 2010, you must file Form 199.

There is no cost to file the *California e-Postcard*. If your average gross receipts threshold is greater than the allowable threshold, we may send you a bill.

### Who Must File

Organizations with gross receipts that are normally equal to or less than the threshold are not required to file Form 199 but are required to electronically file the *California e-Postcard*. Organizations that meet the requirement to file the *California e-Postcard* may choose to file a complete Form 199.

### Organizations Not Permitted to File the California e-Postcard

The following organizations cannot file the *California e-Postcard* but must file Form 199 instead:

- Tax-exempt organizations with annual gross receipts normally greater than the threshold.
- Private foundations.
- Nonexempt charitable trusts described in IRC Section 4947(a)(1).

### Due Date

You must file the *California e-Postcard* on or before the 15th day of the 5th month after the close of your organization's tax year. For example, if your tax year ends on December 31, the due date is May 15. If the due date falls on a weekend or state holiday, file by the next regular business day.

### Extension of Time to File

There is no extension of time to file.

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## Form 109, Exempt Organization Business Income Tax Return

Generally, exempt organizations **must** file Form 109 when they have income in excess of \$1,000 from a trade or business that is unrelated to its exempt purposes – even if the profits are used for exempt purposes. California and federal laws are generally the same with regard to unrelated business income.

### Tax Rates

The rate at which tax is computed depends upon how the organization was created.

- An incorporated organization or unincorporated association computes its tax using the general corporation tax rate.
- A trust computes its tax using the trust rate. The trust rate is the same as the rate used by single individuals on their personal income tax returns. If the trust's taxable year is a fiscal year, use the rate for the calendar year in which the fiscal year began. (Example: If the fiscal year began July 1, 2009, use the rate for 2009.)

### Due Date

The due date for Form 109 depends upon how the organization was created.

- An incorporated organization, unincorporated association, or trust (other than a pension trust) must file on or before the 15th day of the 5th month after the close of its taxable year. For example, if the taxable year ends on December 31, the tax return is due on May 15.
- A pension trust must file on or before the 15th day of the 4th month after the close of its taxable year. For example, if the taxable year ends on December 31, the tax return is due on April 15.

If the due date falls on a weekend or state holiday, file by the next regular business day.

### Extension of Time to File

An extension allows you more time to file the return, not an extension of time to pay any fee that may be due.

We will grant an automatic 7-month extension to file a return if **both** of the following conditions exist:

- Your organization is not suspended on the original due date.
- You file your organization's return on or before the extended due date.

### Penalties

- **Post-Amnesty Penalty:** We impose a penalty when your organization owes new or additional tax on a tax year that qualified for tax amnesty. The penalty is equal to 50 percent of the interest that accrued on the tax assessment from the original due date of tax to March 31, 2005. You cannot protest this penalty. You can file a claim for refund of this penalty only on the grounds that the amount of the penalty was not properly computed by the Franchise Tax Board (FTB). (R&TC Section (19777.5(a)(2) )
- **Delinquent Penalty:** If you do not file your organization's tax return by the extended due date, we impose a penalty of 5 percent of the tax due, after applying any payments and credits made on or before the original return due date, for each month or part of a month the return is late. The maximum penalty is 25 percent. We impose the penalty from the original due date of the return. (R&TC Section 19131)

- **Demand to File Penalty:** If we send you a demand to file your organization's tax return and you do not file it, we impose a penalty of 25 percent of the tax liability **before** applying any payments or credits. **Therefore, your organization may owe penalties and interest even if its tax return shows that a refund is due.** This penalty is in addition to the 25 percent delinquent penalty. (R&TC Section 19133)
- **Underpayment and Monthly Penalty:** We impose a penalty if you do not pay the total amount due shown on your organization's return by the original due date. The penalty is 5 percent on the unpaid tax, plus 0.5 percent on the unpaid tax for each month or part of a month it remains unpaid. The maximum penalty is 25 percent of the unpaid tax. (R&TC Section 19132)
- **Underpayment of Estimated Tax Penalty:** We impose a penalty if your organization does not pay, pays late, or underpays an estimated tax installment. We calculate the penalty on the unpaid amount from the due date of the estimated tax installment to the date we receive your payment or to the due date of the return, whichever is earlier. (R&TC Section 19142-19161)

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## Form 100, Corporation Franchise or Income Tax Return

If your organization is a political organization exempt under R&TC Section 23701r, or a homeowners' association exempt under R&TC Section 23701, **and** it has taxable income in excess of \$100, your organization must file Form 100.

### Tax Rate

Use the general corporate tax rate to compute the tax. Exempt organizations **are not** subject to the minimum tax.

### Due Date

You must file Form 100 on or before the 15th day of the 3rd month after the close of your organization's taxable year. For example if its taxable year ends on December 31, the due date is March 15. If the due date falls on a weekend or state holiday, file by the next regular business day.

### Extension of Time to File

An extension allows you more time to file the return, not an extension of time to pay any fee that may be due.

We will grant an automatic 7-month extension to file a return if both of the following conditions exist:

- Your organization is not suspended on the original due date.
- You file your organization's return on or before the extended due date.

### Penalties

The same penalties apply to Form 100 and Form 109 in this publication. However, political organizations **are not** subject to the penalty for underpayment of estimated tax.

## Political Organizations

Taxable income includes all amounts received during the taxable year **other** than:

- Contributions of money or other property.
- Membership fees, dues, or assessments.
- Proceeds from political fundraising or entertainment events.
- Proceeds from the sale of certain political campaign materials.

Political organizations are not required to make estimated tax payments. Therefore, they are not subject to the penalty for underpayment of estimated tax. They are subject to all other penalties.

For more information about political organizations, see FTB Pub. 1075, *Exempt Organizations – Guide for Political Organizations*. Go to [ftb.ca.gov](http://ftb.ca.gov) and search for **1075**.

## Homeowners' Associations

Taxable income:

- Does not include membership fees, dues, or assessments.
- May include (but not limited to) all income received during the taxable year from:
  - Interest
  - Rents
  - Sale of assets
  - Dividends
  - Laundry income
  - Nonmembers

For more information about homeowners' associations, see FTB Pub. 1028, *Guidelines For Homeowners' Associations*. Go to [ftb.ca.gov](http://ftb.ca.gov) and search for **1028**.

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## Group Exemption and Group Filing

### Group Exemption

A parent, state, district, or like organization with approved California group exemption status may seek state tax-exempt status for its California subordinates.

Subordinate organizations under a California group exemption ruling are required to file their own returns. With the exception of group filing as stated below. (Form 109, Form 199, or e-Postcard)

### Group Filing

A central parent, or like organization must file their own return (Form 199 or e-Postcard) and the parent organization may file a group return for two or more subordinate organizations on Form 199 that:

- Are tax-exempt under a group exemption letter that is still in effect or obtained tax-exempt status on their own.
- Are affiliated with the central organization at the time its annual accounting period ends.
- Are subject to the central organization's general supervision or control.
- Each organization must have the same taxable year-end.

**Exception:** Private foundations cannot be included in a group return.

For detailed instruction about group filing, get Form 199, *California Exempt Organization Annual Information Return*. Go to [ftb.ca.gov](http://ftb.ca.gov) and search for **Form 199**.

Every year, each local organization must authorize the central organization in writing to include it in the group return and must declare, under penalty of perjury, that the authorization and the information it submits to be included in the group return are true and complete.

## Subordinate Organizations

If a subordinate organization earns gross unrelated business income of more than \$1,000 for the year, the subordinate must file its own Form 109. The subordinate will also be required to file its own Form 199 or *California e-Postcard*. The parent cannot include the subordinate in the group return.

## Consequences of Not Filing or Paying an Amount Due

If your organization:	And:	Then:
Has 199N filing requirement.	199N not filed for 3 consecutive years.	Tax-exempt status is revoked. The revocation is effective as of the filing due date of the third year.
Is an unincorporated association or unincorporated trust.	Organization failed to file a return or pay an amount due.	Tax-exempt status is revoked.
Is incorporated/qualified corporation.	Organization failed to file a return or pay an amount due.	Organizations status is suspended/forfeited.

### Suspended/Forfeited

Once the corporation is suspended, it no longer has the protection of its corporate shield. That means, among other things:

- Its name is available to any other organization that wants to incorporate and use it.
- It cannot defend itself or file suit in court.
- The other party to the contract may void its contracts.
- We may revoke its tax-exempt status if it fails to revive to good standing. Then the organization is subject to the franchise tax provisions – including the requirement to pay at least the minimum tax each year.

If the organization incorporated somewhere other than California, and qualified to do business in California through the California Secretary of State (SOS), rather than being suspended, the organization’s status is “forfeited.” The consequences of forfeiture are basically the same as they are for a suspended corporation.

### Remedies

The **primary** requirements for the organization to be reinstated to good standing are:

If:	Then:
Suspended	<ul style="list-style-type: none"> <li>• File all missing returns</li> <li>• Pay all amounts due</li> <li>• File Form 3557E, <i>Application for Certificate of Revivor</i></li> </ul>
Revoked	<ul style="list-style-type: none"> <li>• File all missing returns</li> <li>• Pay all amounts due</li> <li>• File Form 3500, <i>Exemption Application</i> <ul style="list-style-type: none"> <li>▶ Pay the application fee</li> <li>▶ Submit all documentation required in support of the application</li> </ul> </li> </ul>

## Other Penalties and Interest

- **Dishonored Payment Penalty:** We impose a penalty if your organization’s financial institution does not honor a payment you make to us by check, money order, or electronic funds transfer. For a payment of \$750 or more, the penalty is 2 percent of the payment amount. For a payment less than \$750, the penalty is \$15 or the payment amount; whichever is less. (R&TC Section 19134)
- **Electronic Funds Transfer Requirement:** Once a corporation remits an estimated tax or extension payment in excess of \$20,000 or has a total tax liability in excess of \$80,000 in any taxable year beginning on or after January 1, 1995, it must make all future

payments, regardless of the taxable year or amount, through an electronic funds transfer. Payments made by other means will result in a penalty of 10 percent of the amount paid. For more information regarding this requirement, see *Electronic Funds Transfer Information Guide* (FTB Pub 3817), access our website at [ftb.ca.gov](http://ftb.ca.gov) or call us at 800.852.2753. (R&TC Section 19011)

- **Interest** accrues on unpaid taxes from the original due date of the return until the date we receive payment. We also charge interest on penalties. (R&TC Section 19101)

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## Your Rights as a Taxpayer

Our goal is to make certain we protect your rights. We want you to have the highest confidence in the integrity, efficiency, and fairness of our state tax system. The **California Taxpayers' Bill of Rights** (FTB 4058) includes information on state taxpayers' rights and how to request written tax advice from us.

In keeping with the California Taxpayers' Bill of Rights, taxpayers who have been unable to resolve their problems with us through regular channels may contact our Taxpayers' Rights Advocate.

## Contact Us

### Internet and Telephone Assistance

Website: **ftb.ca.gov** and search for **charities**

Telephone: Call 916.845.4171 from 7 a.m. to 4:30 p.m. weekdays, except state holidays

TTY/TDD: 800.822.6268 for persons with hearing or speech impairments

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## Forms and Publications

### Website

<b>Form/Publication:</b>	<b>Purpose:</b>	<b>Go to <a href="http://ftb.ca.gov">ftb.ca.gov</a> and search for:</b>
Form 100, <i>California Corporation Franchise or Income Tax Return</i>	Tax Return	Form 100
Form 100-ES, <i>Corporation Estimated Tax</i>	Estimate voucher for Form 100 and Form 109	Form 100ES
Form 109, <i>Exempt Organization Business Income Tax Return</i>	Tax Return	Form 109
Form 199, <i>California Exempt Organization Annual Information Return</i>	Information Return	Form 199
FTB 199N, <i>California e-Postcard</i>	Electronic Information Return	FTB 199N
FTB Pub. 1038, <i>Guide to Dissolve, Surrender, or Cancel a California Business Entity</i>	Information to dissolve or withdraw an organization from California.	FTB 1038
FTB Pub. 1068, <i>Exempt Organizations Filing Requirements and Filing Fees</i>	Detailed information about state filing requirements, fees, and penalties	FTB 1068
Form 3509, <i>Political or Legislative Activities By Section 23701d Organizations</i>	Declare political or legislative activities carried out by a R&TC Section 23701d	Form 3509
Form 3539, <i>Payment for Automatic Extension for Corps and Exempt Orgs</i>	Extension voucher for Form 100, 109, and 199.	Form 3539
FTB 4058, <i>California Taxpayers' Bill of Rights</i>	Information on state taxpayers' rights and how to request written tax advice from us.	FTB 4058



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## Telephone

Call us at: 800.338.0505 to request forms current forms.  
TTY/TDD: 800.822.6268 for persons with hearing or  
speech impairments

When prompted, select **business entity information**,  
then select **forms and publications** and enter the  
code for the form you need. (For prior year forms, call  
800.852.5711.) Allow two weeks to receive your order.

Code:	Form:
817	Form 100, <i>California Corporation Franchise or Income Tax Return</i>
818	Form 100-ES, <i>Corporation Estimated Tax</i>
814	Form 109, <i>Exempt Organization Business Income Tax Return</i>
815	Form 199, <i>Exempt Organization Annual Information Return</i>
802	Form 3500, <i>Exemption Application</i>
800	Pub. 1028, <i>Guidelines for Homeowners' Associations</i>
820	Pub. 1068, <i>Exempt Organizations Filing Requirements and Filing Fees</i>
831	Form 3500A, <i>Submission of Exemption Request</i>

**Request forms by mail to:**  
TAX FORMS REQUEST UNIT  
FRANCHISE TAX BOARD  
PO BOX 307  
SACRAMENTO CA 95741-0307

Mail your inquiry to:  
EXEMPT ORGANIZATIONS UNIT MS F120  
FRANCHISE TAX BOARD  
PO BOX 1286  
RANCHO CORDOVA CA 95741-1286

## Correspondence

You may write to us if you want a written reply regarding a  
notice we sent you. If you write, include the following:

- Your Entity ID, California corporation number, or FEIN.
- Your daytime telephone number.
- A copy of the notice.

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 return.

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## Assistance: Other Government Agencies

If you have questions about issues that **are not** income tax related, use this table to decide whom to contact.

For Questions About:	Contact:
Federal employer identification number (commonly referred to as "EIN" or "FEIN")	IRS or use federal Form SS-4, Application for Employer Identification Number
Federal tax-exemption	IRS at 877.829.5500 <b>irs.gov</b>
Sales or use tax	Board of Equalization <b>boe.ca.gov</b>
Employment tax	Employment Development Department <b>edd.ca.gov</b>
Property tax	Your local assessor's office
Bingo Issues	Your local law-enforcement agency
Raffle Issues or Public Benefit Organizations filing requirements	Registry of Charitable Trusts 916.445.2021 <b>ag.ca.gov/charities</b>
Incorporated/Qualified filing requirements	Secretary of State <b>sos.ca.gov</b>

