

Instructions for Form 589

Nonresident Reduced Withholding Request

Important Information

Beginning on or after January 1, 2010, with certain limited exceptions, payers that are required to withhold and remit backup withholding to the Internal Revenue Service (IRS) are also required to withhold and remit to the Franchise Tax Board (FTB). The California backup withholding rate is 7% of the payment. For California purposes, dividends, interests, and any financial institution's release of loan funds made in the normal course of business are exempt from backup withholding. If a payee has backup withholding, the payee must contact the FTB to provide a valid Taxpayer Identification Number (TIN) before filing a tax return. The following are acceptable TINs: social security number (SSN); individual taxpayer identification number (ITIN); federal employer identification number (FEIN); California corporation number (CA Corp No.); or Secretary of State (SOS) file number. Failure to provide a valid TIN will result in the denial of the backup withholding credit. For information, go to ftb.ca.gov and search for **backup withholding**.

Beginning January 1, 2011, we began applying Federal Treasury Regulation 1.1446-6 procedures to reduce or eliminate withholding of California tax on effectively connected taxable income (ECTI) from California sources allocable to a foreign partner. The foreign partner must first sign and send IRS Form 8804-C to the partnership. The foreign partner must sign and send Form 589, Nonresident Reduced Withholding Request to the FTB along with a signed copy of IRS Form 8804-C. The FTB will review the request within 21 business days. If the request is approved, the partnership should remit the reduced withholding amount to the FTB along with Form 592-A, Payment Voucher for Foreign Partner or Member Withholding.

General Information

Nonresidents may request a reduction in the standard seven percent withholding amount that is applicable to California source payments made to nonresidents using Form 589, Nonresident Reduced Withholding Request.

Tax withheld on California source payments to nonresidents are remitted to the FTB in four payment periods (similar to estimate tax payments). For more information, get Form 592, Resident and Nonresident Withholding Statement.

Withholding is optional, at the discretion of the withholding agent, on the first \$1,500 in payments made during the calendar year. Withholding must begin as soon as the total payments of California source income for the calendar year exceed \$1,500.

A Purpose

A nonresident taxpayer that can show that the required seven percent rate of withholding will result in excessive withholding, should use Form 589, to apply for a reduction in the amount to be withheld (see Revenue and Taxation Code (R&TC) Section 18662).

Do not use Form 589 to request a reduced withholding amount if you are a seller of California real estate. Sellers should use Form 593-C, Real Estate Withholding Certificate.

A foreign (non U.S.) partner or member may file a Form 589, to reduce or eliminate a partner's withholding of California tax on ECTI from California sources, however a foreign (non-U.S.) partner or member may not request a withholding waiver.

Form 589 does not apply to payments subject to backup withholding or for wages to employees. Wage withholding is administered by the California Employment Development Department (EDD). For more information, call at **888.745.3886** or go to **edd.ca.gov**.

For California withholding purposes, nonresident includes all of the following:

- Individuals who are not residents of California.
- Corporations not qualified through the Secretary of State to do business in California or having no permanent place of business in California.
- Partnerships or limited liability companies (LLCs) with no permanent place of business in California.
- Any trust without a resident grantor, beneficiary, or trustee, or estates where the decedent was not a California resident.

Foreign refers to non-U.S.

B When and Where to File

The payee must submit Form 589 to the FTB before receiving payment for services. Form 589 is a request for a reduced withholding amount and does not guarantee the nonresident payee a reduction in withholding unless approved by the FTB prior to the payment for services being performed.

Online Filing:

Beginning August 29, 2011, you may file Form 589, online. After this date we will not be able to process faxed Forms 589. If you file Form 589 online and you need to submit additional documentation, (i.e. federal Form 8804-C, federal Schedule E (Form 1040), expense breakdown, etc.), you must fax the documentation to us at 916.845.9512. On the fax containing your documentation, you must include your name, TIN, and the confirmation number of your online Form 589 submission.

Allow 10 business days for processing online filing.

By Mail:

Allow 21 business days for processing. Submit requests by mail to:

WITHHOLDING SERVICES AND
COMPLIANCE
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

In an effort to accommodate requests submitted by mail as timely as possible, requests for reduced withholding amounts should be received by the FTB at least 21 business days prior to payment for the services performed. Failure to submit timely requests may result in a seven percent withholding requirement.

Upon receipt of the completed and signed Form 589, the FTB will review the request for a reduced withholding amount. A signature is required on Form 589 from the requestor or payee, in order for the FTB to process. The FTB may request to review all relevant documentation including, but not limited to, receipts and contracts, in order to verify the payment and expense amounts. Upon reviewing the request and supporting documentation, the FTB will make a determination of how much withholding is appropriate for the services performed. Upon making a determination, the FTB will provide a determination letter to the payee and the withholding agent with the approved amount to be withheld on the payment outlined on Form 589. The withholding agent will be instructed to withhold the approved amount, and report that amount on their next Form 592. Mail the completed Form 592 and Form 592-V, Payment Voucher for Resident and Nonresident Withholding, with the approved amount. In addition, the withholding agent will be instructed to withhold and remit seven percent of any payment made to the payee in excess of the gross California source payment amount reported on Form 589. The withholding agent retains this form and the determination letter for a minimum of four years and must provide them to the FTB upon request.

Specific Instructions

Taxable Year – Make sure the year in the upper left corner of Form 589 represents the taxable year for which the services are being performed.

Foreign Address – Enter the information in the following order: City, Country, Province/Region, and Postal Code. Follow the country's practice for entering the postal code. **Do not** abbreviate the country's name.

Private Mail Box (PMB) – Include the PMB in the address field. Write "PMB" first, then the box number. Example: 111 Main Street PMB 123.

Note: If completing this form by hand, use black or blue ink.

Part I – Withholding Agent

Enter the business or individual withholding agent's name, identification number, and address. The withholding agent is the party that will be providing payment to the payee for services performed.

Part II – Payee

Enter the business or individual name, identification number, and address for the payee who will be performing the services. Include the Doing Business As (DBA), in this field, if you are an entertainer and performing under a different name if applicable.

Part III – Type of Income Subject to Withholding

Check the box that reflects the type of payment that will be received for services performed on the date(s) specified. Check one type only.

Date(s) of Service – Enter the date(s) the services are being performed. The dates of service should reflect the same taxable year as shown in the upper left corner of Form 589.

Part IV – Withholding Amount

Line 1 – Enter the total gross California source payment the payee expects to receive for performing services. If the payee and withholding agent have entered into a contract for services, this amount should match the gross payment. A foreign partner enters the gross payments of ECTI from California sources.

Expenses – The payee should enter any direct expenses on lines 2 through 11 that will be incurred or paid by the payee for performing the services in California. The FTB may verify the expenses by requesting supporting documentation. Payments the payee makes to nonresident third parties may meet the requirements for withholding and remitting seven percent of the payment to the FTB.

Line 2 – Advertising

Enter any advertising expenses that are directly related to the date(s) of the services performed.

Line 3 – Commissions and Fees

Enter any commissions and fees paid that are directly related to the date(s) of the services performed.

Line 4 – Cost of Labor (Contract Labor)

Enter the total cost of labor for the date(s) of services performed. **Do not** include salaries and wages paid to your employees.

Line 5 – Insurance

Enter the premiums paid for business insurance related to the date(s) of services performed. **Do not** enter amounts credited to a reserve for self-insurance or premiums paid for a policy that pays for the lost earnings due to sickness or disability.

Line 6 – Legal, Professional, and/or Management Fees

Enter the fees paid for legal, professional, and/or management advice related to the date(s) of the services performed.

Line 7 – Rent or Lease

Enter the amount paid to rent or lease vehicles, machinery, equipment, or other property, such as office space, that is related to the date(s) of the services performed.

Line 8 – Supplies

Enter the cost of supplies consumed and used during the date(s) of the services performed.

Line 9 – Travel, Meals, and Entertainment

Enter the expenses for lodging and transportation connected with overnight travel away from your home that is directly related to the date(s) of the services performed. Enter only the deductible portion of the business meal and entertainment expenses that are directly related to the date(s) of the services performed.

Line 10 and Line 11 – Other Expenses (specify)

Enter other direct expenses, costs, or special circumstances that justify reduced withholding, including all ordinary and necessary business expenses not deducted elsewhere on Form 589. List the type and amount of each expense separately in the space provided.

A foreign partner must attach a completed and signed federal Form 8804-C to the Form 589. Enter the total of California amounts from federal Form 8804-C, lines 8a through 8f, on Form 589, line 10.

Do not include the expenses paid or incurred by a third party, such as a booking agent or performance venue.

Do not include the cost of business equipment or furniture, replacements or permanent improvements to property, or personal, living, and family expenses.

Do not include charitable contributions. In addition, you cannot deduct fines or penalties paid to a city, county, or state government agency for violating any law. If additional space is needed, attach a separate schedule that lists the type and amount of each expense.

Line 12 – Total Amount of Expenses

Add lines 2 through 11. This is the total amount of direct expenses the payee incurred or paid for the date(s) of the services performed.

Line 13 – Net California Source Payment

Subtract line 12 from line 1. This is the net California source payment after the payee subtracts all direct expenses. This is the amount subject to seven percent withholding.

Line 14 – Withholding Amount

Multiply the amount on line 13 by seven percent (.07). This is the proposed reduced withholding amount. This amount must be verified and approved by the FTB prior to the payee receiving payment for services.

Part V – Payee's Signature

Complete the payee's and preparer's information. The FTB will not process this form without a signature.

Additional Information

For more information regarding nonresident withholding go to ftb.ca.gov and search for **nonresident withholding** or call 888.792.4900 or 916.845.4900.

OR write to:

WITHHOLDING SERVICES AND
COMPLIANCE
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

Where to Get Publication, Forms, and Information

For all other questions unrelated to withholding or to access the TTY/TDD numbers, see the information below.

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

Internet and Telephone Assistance

Website: ftb.ca.gov
Telephone: 800.852.5711 from within the United States
916.845.6500 from outside the United States
TTY/TDD: 800.822.6268 for persons with hearing or speech impairments

Asistencia Por Internet y Teléfono

Sitio web: ftb.ca.gov
Teléfono: 800.852.5711 dentro de los Estados Unidos
916.845.6500 fuera de los Estados Unidos
TTY/TDD: 800.822.6268 personas con discapacidades auditivas y del habla