

2018 Instructions for Form FTB 3725

Assets Transferred from Corporation to Insurance Company

What's New

Capital Assets – For taxable years beginning on or after January 1, 2018, the Tax Cuts and Jobs Act (TCJA) amended Internal Revenue Code (IRC) Section 1221 excluding a patent, invention, model or design (whether or not patented), and a secret formula or process held by the taxpayer who created the property (and certain other taxpayers) from the definition of a capital asset. California **does not** conform to this amendment under the TCJA. For California purposes, IRC Section 1221 as it existed on January 1, 2015, applies.

General Information

A Purpose

Use form FTB 3725, Assets Transferred from Corporation to Insurance Company, to track the assets transferred from a corporation to an insurance company. In addition, use this form to figure capital gains (losses) if the corporation transferred assets to an insurance company.

Revenue and Taxation Code (R&TC) Section 24465 provides that when a corporation transfers appreciated property to an insurance company, the gain is deferred if the property transferred to the insurer is used in the active conduct of a trade or business of the insurer. The gain must be recognized as income if **any** of the following apply:

- The transferred property is no longer owned by an insurer in the taxpayer's commonly controlled group (or a member of the taxpayer's combined reporting group).
- The property is no longer used in the active conduct of the insurer's trade or business (or the trade or business of another member in the taxpayer's combined reporting group).
- The holder of the property is no longer held by an insurer in the commonly controlled group of the transferor (or a member of the taxpayer's combined reporting group).

For more information, refer to R&TC Section 24465.

For each taxable year that the transferred property's gain is deferred, California law requires **form FTB 3725** to be filed with the transferor's original return. Cal. Code Regs., tit. 18 Section 24465-3 requires that both the corporation/transferor and the insurer sign form FTB 3725.

B Definitions

Appreciated property – Appreciated property means property whose fair market value (FMV), as of the date of the transfer, exceeds its adjusted basis as of that date.

Commonly controlled group – Commonly controlled group exists when stock possessing more than 50% of the voting power is owned, or constructively owned, by a common parent corporation (or chains of corporations connected through the common parent) or by members of the same family, see R&TC Section 25105.

Also, a commonly controlled group includes corporations that are stapled entities, see R&TC Section 25105(b)(3). Special rules are provided in R&TC Section 25105 for partnerships, trusts, and transfers of voting power by proxy, voting trust, written shareholder agreement, etc.

Specific Line Instructions

Part I Assets Transferred from Corporation to Insurance Company

Section A – Information on Property Transferred

Line 1 – Enter the insurance company's name, California corporation number, or federal employer identification number (FEIN). If the insurance company does not have one of these numbers, enter "not applicable" and continue with line 2.

Section B – Deferred Capital Gains

Line 3, column (a) – Taxable year. Enter the corporation's taxable year in which the transfer of property occurred.

Line 3, column (b) – Description of property transferred. Describe the assets the corporation transferred to an insurance company.

Line 3, column (e) – Fair market value (FMV) at date of transfer. FMV is the price that the property would sell for in the open market.

Line 3, column (f) – Adjusted basis of the transferred property on date of transfer. In general, the cost or other basis is the cost of the property plus purchase commissions and improvements minus depreciation, amortization, and depletion. Enter the cost or adjusted basis of the asset for California purpose.

Part II Information on Stocks

Line 7, Line 8, and Line 9 – The transferred entity is the entity whose stock was transferred from the corporation to the insurer.

Part III Assets Transferred from Insurance Company

Line 13 – Check "No," if the insurer disposed of the transferred property to an entity other than a member of the corporation/transferor's combined reporting group, or another insurer in the transferor's commonly controlled group.

Part IV Capital Gains and Losses

Complete Part IV to report the gain if **any** of the following apply:

- The property is no longer owned by an insurer in the taxpayer's commonly controlled group (or a member of the taxpayer's combined reporting group).
- The property is no longer used in the active conduct of the insurer's trade or business (or the trade or business of another member in the taxpayer's combined reporting group).

- The holder of the property is no longer held by an insurer in the commonly controlled group of the transferor (or a member of the taxpayer's combined reporting group).

Report short-term or long-term capital gains (losses) based on the length of time the corporation held the assets.

Line 15 and Line 17, column (b) – Description of property. Describe the assets sold, or are no longer used in an active trade or business, or are no longer held by an insurer in the commonly controlled group of the transferor (or a member of the taxpayer's combined reporting group).

Line 15 and Line 17, column (d) – Percentage of property. If the property was partially disposed of, enter the percentage sold, or no longer used in an active trade or business, or no longer held by an insurer in the commonly controlled group of the transferor (or a member of the taxpayer's combined reporting group). Otherwise, enter 100%.

Line 15 and Line 17, column (e) – Date. Enter the date the property was sold, no longer used in an active trade or business, or no longer held by an insurer in the commonly controlled group of the transferor (or a member of the taxpayer's combined reporting group).

Line 15 and Line 17, column (f) – Amount realized or FMV. If the property was sold, enter the amount realized. Otherwise, enter the FMV of the property as of the date it was no longer used in an active trade or business, or no longer held by an insurer in the commonly controlled group of the transferor (or a member of the taxpayer's combined reporting group).

Line 16 – Short-term capital gains (losses). Total amounts in column (h). Enter total short-term capital gains (losses) here and on Form 100 or Form 100W, Side 6, Schedule D, Part I, line 1, column (f) or Schedule D (100S), Section A or Section B, Part I, line 1, column (f). Write on Schedule D, under column (a) Description of property: "FTB 3725" and attach a copy of form FTB 3725 to the tax return.

Line 18 – Long-term capital gains (losses). Total amounts in column (h). Enter total long-term capital gains (losses) here and on Form 100 or Form 100W, Side 6, Schedule D, Part II, line 5, column (f) or Schedule D (100S), Section A or Section B, Part II, line 4, column (f). Write on Schedule D, under column (a) Description of property: "FTB 3725" and attach a copy of form FTB 3725 to the tax return.