STATE OF CALIFORNIA
**Franchise Tax Board**

# California
## Forms & Instructions

# 541
# 2020
## Fiduciary Income Tax Booklet

### This booklet contains:

**Form 541,** California Fiduciary Income Tax Return
**Schedule D (541),** Capital Gain or Loss
**FTB 3885F,** Depreciation and Amortization
**Schedule J (541),** Trust Allocation of an Accumulation Distribution
**Schedule K-1 (541),** Beneficiary's Share of Income, Deductions, Credits, etc.
**Form 541-ES,** Estimated Tax for Fiduciaries
**Form 541-T,** California Allocation of Estimated Tax Payments to Beneficiaries
**FTB 3563,** Payment for Automatic Extension for Fiduciaries



For more information regarding e-file, go to **ftb.ca.gov** and search for **fiduciary efile**.

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# 2020 Instructions for Form 541

## California Fiduciary Income Tax Return

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2015**, and to the California Revenue and Taxation Code (R&TC).

In general, for taxable years beginning on or after January 1, 2015, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2015. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to **ftb.ca.gov** and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540), California Adjustments - Residents, or Schedule CA (540NR), California Adjustments - Nonresidents or Part-Year Residents, and the Business Entity tax booklets.

For updates regarding federal acts go to **ftb.ca.gov** and search for **conformity**.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the instructions. Taxpayers should not consider the instructions as authoritative law.

## What's New

**Other Loan Forgiveness** – For taxable years beginning on or after January 1, 2019, California law allows an exclusion from gross income for borrowers of forgiveness of indebtedness described in Section 1109(d)(2)(D) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act as stated by section 278, Division N of the federal Consolidated Appropriations Act (CAA), 2021. The CAA, 2021, allows deductions for eligible expenses paid for with covered loan amounts. California law conforms to this federal provision, with modifications. For California purposes, these deductions generally do not apply to an ineligible entity. "Ineligible entity" means a taxpayer that is either a publicly-traded company or does not meet the 25% reduction from gross receipts requirements under Section 311 of the CAA, 2021. For more information, go to **ftb.ca.gov** and search for **AB 80**.

**California Microbusiness COVID-19 Relief Grant** – For taxable years beginning on or after January 1, 2020, and before January 1, 2023, California law allows an exclusion from gross income for grant allocations received by a taxpayer pursuant to the California Microbusiness COVID-19 Relief Program that is administered by the Office of Small Business Advocate (CalOSBA). For more information, see R&TC Section 17158.1.

**California Venues Grant** – For taxable years beginning on or after September 1, 2020, and before January 1, 2030, California law allows an exclusion from gross income for grant allocations received by a taxpayer pursuant to the California Venues Grant Program that is administered by CalOSBA. For more information, see R&TC Sections 17158 and 24312.

**Shuttered Venue Operator Grant** – For taxable years beginning on or after January 1, 2019, California law allows an exclusion from gross income for amounts awarded as a shuttered venue operator grant under the CAA, 2021. The CAA, 2021 allows deductions for eligible expenses paid for with grant amounts. California law conforms to this federal provision, with modifications. For California purposes, these deductions do not apply to an ineligible entity. "Ineligible entity" means a taxpayer that is either a publicly-traded company or does not meet the 25% reduction from gross receipts requirements under Section 311 of Division N of the CAA, 2021. For more information, see R&TC Sections 17158.3 and 24308.3.

**Small Business COVID-19 Relief Grant Program** – For taxable years beginning on or after January 1, 2020, and before January 1, 2030, California allows an exclusion from gross income for grant allocations received by a taxpayer pursuant to the COVID-19 Relief Grant under Executive Order No. E 20/21-182 and the California Small Business COVID-19 Relief Grant Program established by Section 12100.83 of the Government Code. If any amount was included for federal purposes, exclude that amount for California purposes.

**Special Reporting for R&TC Section 41** – Beginning in taxable year 2020, partners, members, shareholders, or beneficiaries of pass-through entities conducting a commercial cannabis activity licensed under the California Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) should file form FTB 4197, Information on Tax Expenditure Items. The Franchise Tax Board (FTB) uses information from form FTB 4197 for reports required by the California Legislature.

If the estate or trust conducted a commercial cannabis activity licensed under the California MAUCRSA, or received flow-through income from another pass-through entity in that business, attach a schedule to the Schedule K-1 (541), Beneficiary's Share of Income, Deductions, Credits, etc., showing the breakdown of the following information:

- The beneficiary's share of total deductions related to the cannabis business, including deductions from ordinary income.
- The beneficiary's share of total credits related to the cannabis business.

Get form FTB 4197 for more information.

**Net Operating Loss Suspension** – For taxable years beginning on or after January 1, 2020, and before January 1, 2023, California has suspended the net operating loss (NOL) carryover deduction. Taxpayers may continue to compute and carryover an NOL during the suspension period. **However**, taxpayers with net business income or modified adjusted gross income of less than $1,000,000 or with disaster loss carryovers are **not** affected by the NOL suspension rules.

The carryover period for suspended losses is extended by:

- Three years for losses incurred in taxable years beginning before January 1, 2020.
- Two years for losses incurred in taxable years beginning on or after January 1, 2020, and before January 1, 2021.
- One year for losses incurred in taxable years beginning on or after January 1, 2021, and before January 1, 2022.

For more information, see R&TC Section 17276.23.

**Excess Business Loss Limitation** – The federal CARES Act made amendments to IRC Section 461(l) by eliminating the excess business loss limitation of noncorporate taxpayers for taxable year 2020 and retroactively removing the limitation for taxable years 2018 and 2019. California does **not** conform to those amendments. For taxable year 2020, complete form FTB 3461, California Limitation on Business Losses, if you are a noncorporate taxpayer and your net losses from all of your trades or businesses are more than $259,000.

**Program 3.0 California Motion Picture and Television Production Credit** – For taxable years beginning on or after January 1, 2020, California R&TC Sections 17053.98 and 23698 allow a third film credit, **program 3.0**, against tax. The credit is allocated and certified by the California Film Commission (CFC). The qualified taxpayer can:

- Offset the credit against income tax liability.
- Sell the credit to an unrelated party (independent films only).
- Assign the credit to an affiliated corporation.
- Apply the credit against qualified sales and use taxes.

For more information, get form FTB 3541, California Motion Picture and Television Production Credit, form FTB 3551, Sale of Credit Attributable to an Independent Film, go to **ftb.ca.gov** and search for **motion picture**, or go to the CFC website at **film.ca.gov** and search for **incentives**.

**Business Credit Limitation** – For taxable years beginning on or after January 1, 2020, and before January 1, 2023, there is a $5,000,000 limitation on the application of business credits for taxpayers. The total of all business credits including the carryover of any business credit for the taxable year may not reduce the "net tax" by more than $5,000,000. Business credits should be applied against "net tax" before other credits. Business credits disallowed due to the limitation may be carried over. The carryover period for disallowed credits is extended by the number of taxable years the credit was not allowed.

**Natural Heritage Preservation Credit** – The Natural Heritage Preservation Credit expired on June 30, 2020. All qualified contributions must be made on or before that date. For more information, get form FTB 3503, Natural Heritage Preservation Credit.

**New Donated Fresh Fruits or Vegetables Credit** – For taxable years beginning on or after January 1, 2020, and before January 1, 2022, the list of qualified donation items has been expanded to include raw agricultural products and processed foods. For more information, get form FTB 3814, New Donated Fresh Fruits or Vegetables Credit.

**Paycheck Protection Program (PPP) Loans Forgiveness** – For taxable years beginning on or after January 1, 2019, California law allows an exclusion from gross income for covered loan amounts forgiven under the federal CARES Act, Paycheck Protection Program and Health Care Enhancement Act, Paycheck Protection Program Flexibility Act of 2020, or the CAA, 2021.

The CAA, 2021, allows deductions for eligible expenses paid for with covered loan amounts. California law conforms to this federal provision, with modifications. For California purposes, these deductions do not apply to an ineligible entity. "Ineligible entity" means a taxpayer that is either a publicly-traded company or does not meet the 25% reduction from gross receipts requirements under Section 311 of the CAA, 2021. For more information, see R&TC Section 17131.8.

Revenue Procedure 2021-20 allows taxpayers to make an election to report the eligible expense deductions related to a PPP loan on a timely filed original 2021 tax return including extensions. If a taxpayer makes an election for federal purposes, California will follow the federal treatment for California tax purposes.

**Advance Grant Amount** – For taxable years beginning on or after January 1, 2019, California law conforms to the federal law regarding the treatment for an emergency Economic Injury Disaster Loan (EIDL) grant under the federal CARES Act or a targeted EIDL advance under the CAA, 2021.

**Main Street Small Business Tax Credit** – For the taxable year beginning on or after January 1, 2020, and before January 1, 2021, a Main Street Small Business Tax Credit is available to a qualified small business employer that received a tentative credit reservation from the California Department of Tax and Fee Administration (CDTFA). For more information, get form FTB 3866, Main Street Small Business Tax Credit.

**Real Estate Withholding Statement –** Effective January 1, 2020, the real estate withholding forms and instructions have been consolidated into one new **Form 593, Real Estate Withholding Statement.** For more information, get Form 593.

# General Information

## A Important Information

**e-filing –** The FTB offers e-filing for fiduciaries filing Form 541, California Fiduciary Income Tax Return. Check with the software provider to see if they support fiduciary (estate or trust) e-filing.

**Electronic Funds Withdrawal (EFW) –** Fiduciaries can make an extension or estimated tax payment using tax preparation software. Check with your software provider to determine if they support EFW for extension and estimated tax payments.

**Loophole Closure and Small Business and Working Families Tax Relief Act of 2019 –** In general, for taxable years beginning on or after January 1, 2019, California conforms to the following Tax Cuts and Jobs Act (TCJA) provision:

- Excess business loss.

**Like-Kind Exchanges –** The TCJA amended IRC Section 1031 limiting the nonrecognition of gain or loss on like-kind exchanges to real property held for productive use or investment. California conforms to this change under the TCJA for exchanges initiated after January 10, 2019. However, for California purposes, with regard to individuals, this limitation only applies to:

- A taxpayer who is a head of household, a surviving spouse, or spouse fling a joint return with adjusted gross income (AGI) of $500,000 or more for the taxable year in which the exchange begins.
- Any other taxpayer filing an individual return with AGI of $250,000 or more for the taxable year in which the exchange begins.

California requires taxpayers who exchange property located in California for like-kind property located outside of California, and meet all of the requirements of the IRC Section 1031, to file an annual information return with the FTB. For more information, get form FTB 3840, California Like-Kind Exchanges, or go to **ftb.ca.gov** and search for **like kind**.

**IRC Section 965 –** For federal purposes, certain taxpayers are required to include in income a Section 965(a) inclusion based on the accumulated post-1986 deferred foreign income of certain foreign corporations due to ownership of deferred foreign income corporations through U.S. shareholder pass-through entities. California **does not** conform. If IRC Section 965 were reported for federal purposes, write "IRC 965" on the top of their California tax return.

**Global Intangible Low-Taxed Income (GILTI) under IRC Section 951A –** Under federal law, if you are a U.S. shareholder of a controlled foreign corporation, you must include your GILTI in your income. California **does not** conform.

**IRC Section 199A –** California **does not** conform to the new federal deduction for qualified business income of pass-through entities under IRC Section 199A.

**College Access Tax Credit –** For taxable years beginning on and after January 1, 2017, and before January 1, 2023, the College Access Tax Credit (CATC) is available to entities awarded the credit from the California Educational Facilities Authority (CEFA). The credit is 50% of the amount contributed by the taxpayer for the taxable year to the College Access Tax Credit Fund. The amount of the credit is allocated and certified by the CEFA. For more information go to the CEFA website at **treasurer.ca.gov** and search for **catc**.

**Payments and Credits Applied to Use Tax –** For taxable years beginning on or after January 1, 2015, if a fiduciary includes use tax on its income tax return, payments and credits will be applied to use tax first, then towards franchise or income tax, interest, and penalties. For more information, see General Information Q, California Use Tax and Specific Instructions.

**Disaster Losses –** For taxable years beginning on or after January 1, 2014, and before January 1, 2024, taxpayers may deduct a disaster loss for any loss sustained in any city, county, or city and county in California that is proclaimed by the Governor to be in a state of emergency. For these Governor-only declared disasters, subsequent state legislation is not required to activate the disaster loss provisions. Additional information can be found in the instructions for California form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations — Individuals, Estates, and Trusts.

**New Employment Credit –** For taxable years beginning on or after January 1, 2014, and before January 1, 2026, the New Employment Credit (NEC) is available to a qualified taxpayer that hires a qualified full-time employee on or after January 1, 2014, and pays or incurs qualified wages attributable to work performed by the qualified full-time employee in a designated census tract or economic development area, and receives a **tentative credit reservation** for that qualified full-time employee. In addition, an **annual certification of employment** is required with respect to each qualified full-time employee hired in a previous taxable year. In order to be allowed a credit, the qualified taxpayer must have a net increase in the total number of full-time employees in California. Any credits not used in the taxable year may be carried forward up to five years. If a qualified employee is terminated within the first 36 months after beginning employment, the employer may be required to recapture previously taken credits. For more information, get form FTB 3554, New Employment Credit, or go to **ftb.ca.gov** and search for **nec**.

**California Competes Tax Credit –** For taxable years beginning on and after January 1, 2014, and before January 1, 2030, the California Competes Tax Credit is available to businesses that want to come to California or stay and grow in California. Tax credit agreements will be negotiated by the Governor's Office of Business and Economic Development (GO-Biz) and approved by the California Competes Tax Credit Committee. The California Competes Tax Credit only applies to state income or franchise tax. Taxpayers who are awarded a contract by the committee will claim the credit on their income or franchise tax returns using credit code 233. The credit can reduce tax below the tentative minimum tax. Any credits not used in the taxable year may be carried forward up to six years. For more information, get form FTB 3531, California Competes Tax Credit or go to the GO-Biz website at **business.ca.gov** or **ftb.ca.gov** and search for **ca competes**.

**Unrelated Business Taxable Income –** California law conforms, as modified, to the federal provisions for charitable remainder annuity trusts and charitable remainder unitrusts by providing that the trust's income shall be tax-exempt, except for any unrelated business taxable income (UBTI). The trust is taxable on the UBTI. For more information get Form 541-B, Charitable Remainder and Pooled Income Trusts.

**Elimination of Tax Clearance Requirement –** Effective on or after January 1, 2014, California no longer requires any estate to obtain a Tax Clearance Certificate.

**Single-Sales Factor Formula –** For taxable years beginning on or after January 1, 2013, R&TC Section 25128.7 requires all business income of an apportioning trade or business, other than an apportioning trade or business under R&TC Section 25128(b), to apportion its business income to California using the single sales factor formula. For more information, get Schedule R, Apportionment and Allocation of Income, or go to **ftb.ca.gov** and search for **single sales factor**.

**Market Assignment –** For taxable years beginning on or after January 1, 2013, R&TC Section 25136 requires all taxpayers to assign sales, other than sales of tangible personal property, using market assignment. For more information, get Schedule R or go to **ftb.ca.gov** and search for **market assignment**.

**Backup Withholding –** 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 FTB on income sourced to California. If the estate or trust (payee) has backup withholding, the estate or trust (payee) must contact the FTB to provide a valid taxpayer identification number, before filing the tax return. Failure to provide a valid taxpayer identification number may result in a denial of the backup withholding credit. For more information, go to **ftb.ca.gov** and search for **backup withholding**.

**Nonresident Group Tax Returns** – A corporation may file a group nonresident tax return on behalf of certain electing nonresident individuals who receive wages, salaries, fees, or other compensation from that corporation for director services performed in California, including attendance of board of directors' meetings in California. For more information, get FTB Pub. 1067, Guidelines for Filing a Group Form 540NR.

**Providing California and Federal Returns** – The FTB may request a copy of California or federal tax returns that are subject to or related to a federal examination. Generally, the California statute of limitations is four years from the due date of the tax return or from the date filed, whichever, is later. However, the statute is extended in situations in which an individual or a business entity is under examination by the IRS.

The FTB recommends keeping copies of returns and records that verify income, deductions, adjustments, or credits reported, for at least the minimum time required under the statute of limitations. However, some records should be kept much longer.

Fiduciaries may be required to produce documentation substantiating the claimed basis of any assets sold, exchanged, transferred, or distributed regardless of the original acquisition date.

**California Disclosure Obligations** – If the fiduciary was involved in a reportable transaction, including a listed transaction, the fiduciary may have a disclosure requirement. Attach the federal Form 8886, Reportable Transaction Disclosure Statement, to the back of the California return along with any other supporting schedules. If this is the first time the reportable transaction is disclosed on the tax return, send a duplicate copy of the federal Form 8886 to the address below. The FTB may impose penalties if the trust fails to file federal Form 8886, or any other required information.

TAX SHELTER FILING
ABS 389 MS F340
FRANCHISE TAX BOARD
PO BOX 1673
SACRAMENTO CA 95812-9900

For more information, go to **ftb.ca.gov** and search for **disclosure obligation.**

**Claim of Right** – If the fiduciary had to repay an amount that was included in income in an earlier year, under a claim of right, the fiduciary may be able to deduct the amount repaid from its income for the year in which it was repaid. Or, if the amount the fiduciary repaid is more than $3,000, the fiduciary may be able to take a credit against its tax for the year in which it was repaid. For more information, see the Repayments section of federal Publication 525, Taxable and Nontaxable Income.

**Internet Access** – You can download, view, and print California tax forms and publications at **ftb.ca.gov/forms**.

**California Tax Service Center** – For additional business tax information, go to **taxes.ca.gov**. This website is sponsored by the Board of Equalization (BOE), CDTFA, the Employment Development Department (EDD), the FTB, and the IRS.

**State Agencies Websites** – Access other California state agency websites at **ca.gov**.

## B Purpose

Use Form 541 if any of the following apply to report:

- Income received by an estate or trust
- Income that is accumulated or currently distributed to the beneficiaries
- An applicable tax liability of the estate or trust
- File an amended tax return for the estate or trust

A fiduciary includes a trustee of a trust including a qualified settlement fund, or an executor, administrator, or person in possession of property of a decedent's estate.

For taxation purposes, a trust will generally be regarded as a separate entity. However, if there is an unlawful shifting of income from the individual who has earned that income to a trust, the trust will not be treated as a separate entity. The income will be taxed to the individual who earned the income. If the individual establishing the trust has a substantial ability to control the assets, all of the income will be taxed to that individual. Deductions of personal living expenses by an individual or trust is not allowed unless specifically allowed by the R&TC and the IRC.

## C Who Must File

**Do not** file Form 541 if there are no California fiduciaries, California noncontingent beneficiaries, or California sourced income.

**Nonresidents or Part-year Residents.** See the instructions for Schedule G, California Source Income and Deduction Apportionment, on page 15. Also, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency.

**Foreign Estates or Trusts.** If the estate or trust filed a federal Form 1040-NR, U.S. Nonresident Alien Income Tax Return, **do not** file Form 540NR, California Nonresident or Part-Year Resident Income Tax Return. File Form 541 and allocate the income and deductions where there is a California resident fiduciary or resident non-contingent beneficiary. See the Schedule G instructions on page 15 for more information.

**Decedent's Estate.** The fiduciary (or one of the fiduciaries) must file Form 541 for a decedent's estate if any of the following apply:

- Gross income for the taxable year of more than $10,000 (regardless of the amount of net income)
- Net income for the taxable year of more than $1,000
- An alternative minimum tax liability

**Trust.** The fiduciary (or one of the fiduciaries) must file Form 541 for a trust if any of the following apply:

- Gross income for the taxable year of more than $10,000 (regardless of the amount of net income)
- Net income for the taxable year of more than $100
- An alternative minimum tax liability

Simple trusts that have received a letter from the FTB granting exemption from tax under R&TC Section 23701d are considered to be corporations for tax purposes and may be required to file Form 199, California Exempt Organization Annual Information Return. See the back cover, "Where to Get Tax Forms and Publications."

Nonexempt charitable trusts described in IRC Section 4947(a)(1) must file Form 199.

Trusts described in IRC Section 401(a) may be required to file an exempt organization return. Get Form 109, California Exempt Organization Business Income Tax Return, for more information.

**Optional Filing Methods for Certain Grantor Trusts.** The FTB will accept the optional reporting requirements stated in federal Treasury Regulation Section 1.671-4(b)(2).

**Real Estate Mortgage Investment Conduit (REMIC) Trust.** A REMIC is a special vehicle for entities that issue multiple classes of investor interests backed by a fixed pool of mortgages. Get the instructions for federal Form 1066, U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return, for more information. The fiduciary (or one of the joint fiduciaries) must file Form 541 and pay an annual tax of $800 for a REMIC that is governed by California law, qualified to do business in California, or has done business in California at any time during the year.

A REMIC trust is not subject to any other taxes assessed on this form. Attach a copy of federal Form 1066 to the back of the completed Form 541.

**Bankruptcy Estate.** The fiduciary must file Form 541 for the estate of an individual involved in bankruptcy proceedings under Chapter 7, 11, or 12 of Title 11 of the United States (U.S.) Code if the estate has one of the following:

- Gross income for the taxable year of more than $10,000 (regardless of the amount of net income)
- Net income for the taxable year of more than $1,000
- An alternative minimum tax liability

**Taxation of Bankruptcy Estate of an Individual.** The bankruptcy estate that is created when an individual debtor files a petition under either chapter 7 or 11 of Title 11 of the U.S. Code is treated as a separate taxable entity. A trustee or a debtor-in-possession administers the bankruptcy estate. If the bankruptcy court later dismisses the bankruptcy, the individual debtor is treated as if the bankruptcy petition had never been filed.

A separate taxable entity is not created if a partnership or corporation files a petition under any chapter of Title 11 of the U.S. Code.

Every trustee (or debtor-in-possession) for an individual's bankruptcy estate under chapter 7 or 11 of Title 11 of the U.S. Code must file a return if the estate has one of the following:

- Gross income for the taxable year of more than $10,000 (regardless of the amount of net income)
- Net income for the taxable year of more than $1,000

If a tax return is required, the trustee or debtor in possession completes Form 540, California Resident Income Tax Return. In the top margin of Form 540, write "Attachment to Form 541. DO NOT DETACH."

Complete only the entity area at the top of Form 541. Enter the name of the individual debtor in the following format: "Robert J. Smith Bankruptcy Estate." Beneath, enter the name of the trustee in the following format: "Pat Jackson, Trustee."

Complete Form 540 using the tax rate schedule for a married person filing separately to figure the tax. The exemption credit allowed for a bankruptcy estate is $10. **Do not** include the standard deduction when completing Form 540. Enter the total tax from Form 540, line 65, on Form 541, line 28, and complete the rest of Form 541.

The trustee or debtor in possession must obtain a federal employer identification number (FEIN) for the bankruptcy estate and use this FEIN in filing the bankruptcy estate tax return. The social security number (SSN) of the individual cannot be used as the FEIN for the bankruptcy estate.

A bankruptcy estate can have a fiscal year but this period cannot be longer than 12 months.

For more information, get IRS Publication 908, Bankruptcy Tax Guide.

The filing of a tax return for the bankruptcy estate **does not** relieve the individual debtor of their individual tax obligations.

**Electing Small Business Trust (ESBT).** An election by the trustee pursuant to IRC Section 1361 to be an electing small business trust for federal purposes is treated as an election by the trustee for California purposes. No separate election for California purposes is allowed. Any election made applies to the taxable year of the trust in which the election is made and all subsequent years of the trust unless revoked with the consent of the FTB.

**Qualified Subchapter S Trusts (QSST).** The portion of a trust holding S corporation stock related to an IRC Section 1361(d) election cannot use the simplified reporting method for grantor trusts. As a result, the trust must apply all of the following:

- File a complete Form 541
- Indicate that it is a QSST treated as a grantor trust
- Provide a separate Schedule K-1 (541) to the beneficiary showing that all of the income from the S corporation stock related to the election is taxable to the beneficiary

**Qualified Settlement Fund (including designated settlement fund).** The fiduciary must file Form 541 for a qualified settlement fund (print "QSF" in black or blue ink at the top of Form 541, Side 1), as defined under IRC Section 468B if any of the following apply:

- The court or government agency supervising the administration of the fund is in California.
- The fund receives or expects to receive income from California sources, (i.e., income from real or tangible personal property located in California and income from intangible personal property with a business or taxable situs in California.)

A qualified settlement fund is taxed under the Corporate Tax Code and is subject to different tax rates than trusts and estates. Qualified settlement funds are not subject to the Mental Health Services Tax.

**Qualified Funeral Trusts.** Special rules apply to the taxation of qualified funeral trusts for trustees that elect to use these rules. For details, get Form 541-QFT, California Income Tax Return for Qualified Funeral Trusts.

**Regulated Investment Companies (RIC) and Real Estate Investment Trusts (REIT).** If the fiduciary filed a federal Form 1120-RIC, U.S. Income Tax Return for Regulated Investment Companies, or a federal Form 1120-REIT, U.S. Income Tax Return For Real Estate Investment Trusts, file Form 100, California Corporation Franchise or Income Tax Return, instead of Form 541. See the back cover, "Where to Get Tax Forms and Publications."

**Federal and State Fiduciary Forms**

| If the fiduciary filed federal Form: | Then the fiduciary should file California Form: |
|---|---|
| 706 | N/A |
| 990T | 109 |
| 990PF | 199 |
| 1040NR | 541 |
| 1041 | 541 |
| 1041-A | 541-A |
| 5227 | 541-B |
| 8971 | N/A |

- **Form 706,** United States Estate (and Generation-Skipping Transfer) Tax Return, to figure estate tax imposed by Chapter 11 of the IRC on the decedent's estate. It also computes the generation-skipping transfer tax imposed by Chapter 13
- **Form 990T,** Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e))
- **Form 990PF,** Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation
- **Form 1040-NR,** U.S. Nonresident Alien Income Tax Return. Used for filing nonresident alien fiduciary (estate and trust) federal returns
- **Form 1041,** U.S. Income Tax Return for Estates and Trusts
- **Form 1041-A,** U.S. Information Return Trust Accumulation of Charitable Amounts. Used to report information on charitable contributions as required by IRC Section 6034 and related regulations
- **Form 5227,** Split-Interest Trust Information Return. Used to report financial activities of charitable remainder trusts, pooled income funds, and charitable lead trusts
- **Form 8971,** Information Regarding Beneficiaries Acquiring Property from a Decedent, requires executors of an estate and other persons who are required to file Form 706 to report the final estate tax value of property distributed or to be distributed from the estate, if the estate tax return is filed after July 2015.
- **Form 109,** California Exempt Organization Business Income Tax Return
- **Form 199,** California Exempt Organization Annual Information Return
- **Form 541,** California Fiduciary Income Tax Return
- **Form 541-A,** Trust Accumulation of Charitable Amounts. Used to report a charitable or other deduction under IRC Section 642(c), or for charitable or split-interest trust
- **Form 541-B,** Charitable Remainder and Pooled Income Trusts

## D Definitions

Get federal Form 1041, U.S. Income Tax Return for Estates and Trusts, for information about any of the following:

- Beneficiaries
- Fiduciaries
- Decedent's estates
- Simple trusts
- Income required to be distributed currently
- Income, deductions, and credits in respect of a decedent
- Distributable net income (DNI)
- Complex trusts
- Bankruptcy estates
- Grantor-type trusts
- Pooled income funds

## E Additional Forms the Fiduciary May Have to File

In addition to Form 541, the fiduciary must file a separate Schedule K-1 (541) or an FTB-approved substitute for each beneficiary.

Schedule K-1 (541) line items are similar to the federal Schedule K-1 (Form 1041), Beneficiary's Share of Income, Deductions, Credits, etc. See Schedule K-1 Federal/State Line References chart on page 37, and Specific Line Instructions when completing Schedule K-1 (541).

Trusts that only hold assets related to an IRC Section 1361(d) election should include all of the trust's items of income and deductions on the Schedule K-1 (541) of the beneficiary who made the election and should write "QSST" across the top of the Schedule K-1 (541) (the trust is treated as a grantor trust with respect to such beneficiary).

Trusts that hold assets related to an IRC Section 1361(d) election and other assets not related to an IRC Section 1361(d) election should provide its beneficiary or beneficiaries with separate Schedules K-1 (541). One for the income and deductions from the assets related to the IRC Section 1361(d) election and one for the income and deductions from the other assets. The Schedule K-1 (541) for the income and deductions for the IRC Section 1361(d) assets should include all of the trust's items of income and deductions from such assets. Write "QSST" across the top of the Schedule K-1 (541).

**Substitute Schedule K-1 (541).** If the estate or trust does not use an official FTB Schedule K-1 (541) or a software program with an FTB-approved Schedule K-1 (541), it must get approval from the FTB to use a substitute form.

You may also be required to file one or more of the following:

- **Form 540**, California Resident Income Tax Return
- **Form 540NR**, California Nonresident or Part-Year Resident Income Tax Return
- **Form 541-A**, Trust Accumulation of Charitable Amounts
- **Form 541-B**, Charitable Remainder and Pooled Income Trusts
- **Form 541-ES**, Estimated Tax for Fiduciaries
- **Form 541-T**, California Allocation of Estimated Tax Payments to Beneficiaries
- **Form 592**, Resident and Nonresident Withholding Statement
- **Form 592-B**, Resident and Nonresident Withholding Tax Statement
- **Form 592-F**, Foreign Partner or Member Annual Return
- **Form 593**, Real Estate Withholding Statement
- **Schedule J (541)**, Trust Allocation of an Accumulation Distribution
- **Schedule P (541)**, Alternative Minimum Tax and Credit Limitations – Fiduciaries
- **Form FTB 4800MEO**, Federally Tax-Exempt Non-California Bond Interest and Interest-Dividend Payments Information Media Transmittal*
- **Federal Forms 1099 (series)**

  *Entities paying interest to California taxpayers on non-California municipal bonds that are held by California taxpayers, are required to report interest payments aggregating $10 or more. Information returns and form FTB 4800MEO are due on or before June 1, 2021.

Any information returns required for federal purposes under IRC Sections 6038, 6038A, 6038B, and 6038D are also required for California purposes. Attach the information returns to Form 541 when filed. If the information returns are not provided, penalties may be imposed.

## F Period Covered by the Tax Return

File Form 541 for calendar year 2020 or a fiscal year beginning in 2020. Only trusts exempt from taxation under IRC Section 501(a) or a charitable trust described under IRC Section 4947(a)(1) and estates may have a fiscal year. If the fiduciary does not file a calendar year tax return, it must enter the taxable year in the space at the top of Form 541.

For estates, the date of death determines the end of the decedent's taxable year and the beginning of the estate's taxable year. The first taxable year for the estate may be any period of 12 months or less that ends on the last day of a month.

## G When to File

File Form 541 by the 15th day of the 4th month following the close of the taxable year of the estate or trust. For calendar year estates and trusts, file Form 541 and Schedules K-1 (541) by April 15, 2021.

When the due date falls on a weekend or holiday, the deadline to file and pay without penalty is extended to the next business day.

If Form 541 cannot be filed by the filing due date, the estate or trust has an additional six months to file without filing a written request for extension. However, to avoid late-payment penalties, the tax liability must be paid by the original due date of the tax return. This also applies to REMICs that are subject to an annual $800 tax.

If an extension of time to file is needed but an unpaid tax liability is owed, use form FTB 3563, Payment for Automatic Extension for Fiduciaries, that is included in this tax booklet.

**Electronic Funds Withdrawal (EFW) –** Fiduciaries can make an extension payment using tax preparation software. Check with your software provider to determine if they support EFW for extension payments.

If the tax return is not filed by the extended due date, delinquent filing penalties and interest will be imposed on any tax due from the original due date of the tax return.

The 2020 Form 541 may be used for a taxable year beginning in 2021 if both of the following apply:

- The estate or trust has a taxable year of less than 12 months that begins and ends in 2021.
- The 2021 Form 541 is not available by the time the estate or trust is required to file its tax return. However, the estate or trust must show its 2021 taxable year on the 2020 Form 541 and incorporate any tax law changes that are effective for taxable years beginning after December 31, 2020.

A qualified settlement fund is treated as a corporation for filing and reporting purposes and should file its California income tax return by the 15th day of the 3rd month following the close of the taxable year, normally March 15th. The corporation must attach a copy of the federal Form 1120-SF, U.S. Income Tax Return for Settlement Funds (under Section 468B), and any statements or elections required by Treasury Regulations to Form 541.

## H Paid Preparer

If the fiduciary wants to allow the paid preparer to discuss the 2020 tax return with the FTB, check the "Yes" box in the signature area of the tax return. Also print the paid preparer's name and telephone number.

If the "Yes" box is checked, the fiduciary is authorizing the FTB to call the designated paid preparer to answer any questions that may arise during the processing of its tax return. The fiduciary is also authorizing the paid preparer to:

- Give the FTB any information that is missing from the tax return.
- Call the FTB for information about the processing of the tax return or the status of any related refund or payments.
- Respond to certain FTB notices about math errors, offsets, and tax return preparation.

The fiduciary is not authorizing the paid preparer to receive any refund check, bind the estate or trust to anything (including any additional tax liability), or otherwise represent the estate or trust before the FTB.

The authorization will automatically end no later than the due date (without regard to extensions) for filing the estate's or trust's 2021 tax return. If the fiduciary wants to revoke the authorization before it ends, notify the FTB in writing or call 800.852.5711.

If the fiduciary wants to expand or change the paid preparer's authorization, go to **ftb.ca.gov/poa**.

**Paid Preparer's Information**

Anyone who is paid to prepare a tax return must sign the return and complete the "Paid Preparer's Use Only" area of the return.

The paid preparer must do all of the following:

- Complete the required preparer information. Tax preparers must provide their preparer tax identification number (PTIN).
- Sign in the space provided for the preparer's signature.
- Give you a copy of the return in addition to the copy to be filed with the FTB.

If you, as fiduciary, complete Form 541, leave the "Paid Preparer's Use Only" area of the return blank.

If someone prepares this return and doesn't charge you, that person should not sign the return.

## I Where to File

**Payments**

If an **amount is due**:

- Mail Form 541 with **payment** to:
  Franchise Tax Board
  PO BOX 942867
  Sacramento CA 94267-0001

- e-filed tax returns: Mail form FTB 3843, Payment Voucher for Fiduciary e-filed Returns, with **payment** to:
  Franchise Tax Board
  PO BOX 942867
  SACRAMENTO CA 94267-0008

Using black or blue ink, write the estate's or trust's FEIN and "2020 Form 541" on all payments. **Do not** mail cash.

Make all checks or money orders payable in U.S. dollars and drawn against a U.S. financial institution.

If there is a **refund or no amount is due**, mail the tax return to:

FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0001

**Private Delivery Service.** California conforms to federal law regarding the use of certain designated private delivery services to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. See federal Form 1041 for a list of designated delivery services. If a private delivery service is used, address the return to:

FRANCHISE TAX BOARD
SACRAMENTO CA 95827

**Caution:** Private delivery services cannot deliver items to PO boxes. If using one of these services to mail any item to the FTB, **DO NOT** use an FTB PO box.

## J Estimated Tax Payments

Generally, estates and trusts are required to make quarterly estimated tax payments if the estate or trust expects to owe at least $500 in tax including alternative minimum tax (AMT), after subtracting withholding and credits. Estates and trusts, which received the residue of the decedent's estate, are required to make estimated income tax payments for any year ending two or more years after the date of the decedent's death.

The required annual tax payment is generally the lesser of 100% of the prior year's tax or 90% of the current year's tax. Estates and trusts must pay 30% of their required annual payment for the first installment, 40% for the second, no estimated payment for the third, and 30% for the fourth installment.

**Limit on Prior Year Tax.** Fiduciaries with an AGI of $150,000 or less calculate their required estimated tax on the lesser of 100% of the 2019 year tax, or 90% of the 2020 year tax, including AMT. Fiduciaries with an AGI greater than $150,000 are required to estimate their tax based on the lesser of 110% of their 2019 year tax or 90% of their 2020 year tax, including AMT. Fiduciaries with an AGI equal or greater than $1,000,000 must calculate their estimated tax on 90% of their 2020 year tax, including AMT.

For more information, get Form 541-ES.

**Electronic Funds Withdrawal (EFW) –** Fiduciaries can make an estimated tax payment using tax preparation software. Check with your software provider to determine if they support EFW for estimated tax payments.

## K Decedent's Will and Trust Instrument

**Do not** file a copy of the decedent's will or the trust instrument unless the FTB requests one.

## L Limitations

**At-Risk Loss Limitations.** Generally, the amount the estate or trust has "at-risk" limits the loss that may be deducted for any taxable year. Get federal Form 6198, At-Risk Limitations, to figure the deductible loss for the year. Use California amounts.

**Passive Activity Loss and Credit Limitations.** IRC Section 469 (which California incorporates by reference) generally limits deductions from passive activities to the amount of income derived from all passive activities. Similarly, credits from passive activities are limited to tax attributable to such activities. These limitations are first applied at the estate or trust level. Get the instructions for federal Form 8582, Passive Activity Loss Limitations, and federal Form 8582-CR, Passive Activity Credit Limitations, for more information on passive activities loss and credit limitation rules. Get form FTB 3801-CR, Passive Activity Credit Limitations, to figure the amount of credit allowed for the current year.

## M Special Rule for Blind Trust

If the fiduciary is reporting income from a qualified blind trust (under the Ethics in Government Act of 1978), it should not identify the payer of any income to the trust, but complete the rest of the tax return as provided in the instructions. Also, write "BLIND TRUST" at the top of Form 541, Side 1.

## N Multiple Trust Rules

Two or more trusts are treated as one trust if the trusts have substantially the same grantor(s) and substantially the same primary beneficiary(ies), and if the principal purpose of the use of multiple trusts is avoidance of tax. This provision applies only to that portion of the trust that is attributable to contributions to corpus made after March 1, 1984.

## O Interest and Penalties

**Interest.** Interest will be charged on taxes not paid by the due date, even if the tax return is filed by the extended due date. For more information, see General Information G, When to File.

**Late filing of tax return.** A penalty is assessed if the tax return is filed after the due date (including extensions), unless there was reasonable cause for filing late. The penalty is 25% of the tax liability if the tax return is filed after the extended due date. If the tax return is filed more than 60 days after the extended due date, the minimum penalty is $135 or 100% of tax due on the tax return, whichever is less.

**Late payment of tax.** A penalty is assessed for not paying tax by the due date unless there was reasonable cause for not paying on time. The penalty is 5% of the unpaid tax plus one-half of 1% for each month, or part of a month, that the tax is late, up to a maximum of 25%. We may waive the late payment penalty based on reasonable cause. Reasonable cause is presumed when 90% of the tax is paid by the original due date of the return.

If an estate or trust is subject to both the penalty for failure to file a timely tax return and the penalty for failure to pay the total tax by the due date, a combination of the two penalties may be assessed, but the total will not exceed 25% of the unpaid tax.

**Penalty for failure to provide Schedule K-1 (541).** The fiduciary is required to provide a Schedule K-1 (541) to each beneficiary who receives a distribution of property or an allocation of an item of the estate. A penalty of $100 per beneficiary (not to exceed $1,500,000 for any calendar year) will be imposed on the fiduciary if this requirement is not satisfied.

If the estate or trust includes interest on any of these penalties with the payment, identify and enter these amounts in the top margin of Form 541, Side 2. **Do not** include the interest or penalty in the tax due on line 37 or reduce the overpaid tax on line 38.

**Other penalties.** Other penalties may be assessed for a payment returned by the fiduciary's bank for insufficient funds, accuracy-related matters, and fraud.

**Underpayment of Estimated Tax Penalty.** The underpayment of estimated tax penalty shall not apply to the extent the underpayment of an installment was created or increased by any provision of law that is chaptered during and operative for the taxable year of the underpayment. To request a waiver of the underpayment of estimated tax penalty, get form FTB 5805, Underpayment of Estimated Tax by Individuals and Fiduciaries.

## P Attachments

If the estate or trust needs more space on the forms or schedules, attach separate sheets showing the same information in the same order as on the printed forms.

Enter the estate's or trust's FEIN on each sheet. Also, use sheets that are the same size as the forms and schedules and indicate clearly the line number of the printed form to which the information relates. Show the totals on the printed forms.

## Q California Use Tax

**General Information**

The use tax has been in effect in California since July 1, 1935. It applies to purchases of merchandise for use in California from out-of-state sellers and is similar to the sales tax paid on purchases fiduciaries make in California. If fiduciaries have not already paid all use tax due to the California Department of Tax and Fee Administration, fiduciaries may be able to report and pay the use tax due on their state income tax return. See the information below and the instructions for Line 34 of fiduciary income tax return.

In general, fiduciaries must pay California use tax on purchases of merchandise for use in California made from out-of-state sellers, for example, by telephone, online, by mail, or in person.

Fiduciaries must pay California use tax on taxable items if:

- The seller does not collect California sales or use tax, and
- The fiduciary uses, gifts, stores, or consumes the item in this state.

**Example:** The fiduciary lives in California and purchases a dining table from a company in North Carolina. The company ships the tables from North Carolina to the fiduciary's address for their use and does not charge California sales or use tax. The fiduciary owes use tax on the purchase.

However, not all purchases require fiduciaries to pay use tax. For example, the fiduciary would include purchases of clothing, but not exempt purchases of food products or prescription medicine. For more information on nontaxable and exempt purchases, the fiduciary may refer to Publication 61, Sales and Use Taxes: Exemptions and Exclusions, on the California Department of Tax and Fee Administration's website at **cdtfa.ca.gov.**

For information about California use tax, please refer to the California Department of Tax and Fee Administration's website at **cdtfa.ca.gov** and type **"Find Information About Use Tax"** in the search bar.

**Complete the Use Tax Worksheet or use the Use Tax Lookup Table** on page 12 to calculate the amount due.

**Extensions to File**. If the fiduciary requests an extension to file its income tax return, wait until the fiduciary files its tax return to report the purchases subject to use tax and make your use tax payment.

**Interest, Penalties and Fees**. Failure to timely report and pay the use tax due may result in the assessment of interest, penalties, and fees.

**Application of Payments. For purchases made during taxable years starting on or after January 1, 2015, payments and credits reported on an income tax return** will be applied first to the use tax liability, instead of income tax liabilities, penalties, and interest.

**Changes in Use Tax Reported**. Do not file an Amended Income Tax Return to revise the use tax previously reported. If the fiduciary has changes to the amount of use tax previously reported on the original return, contact the California Department of Tax and Fee Administration.

For assistance with your use tax questions, go to the California Department of Tax and Fee Administration's website at **cdtfa.ca.gov** or call their Customer Service Center at 800.400.7115 or (CRS: 711) (for hearing and speech disabilities). For California income tax information, contact the Franchise Tax Board at **ftb.ca.gov**.

## R Miscellaneous Items

California law follows federal law in the areas of:

- Accounting methods
- Separate shares in a single trust
- Separate shares in a single estate
- Blind trusts
- Multiple trusts
- Simple and complex trusts
- Common trust funds
- Excess distributions

**Liability for tax.** The fiduciary is liable for payment of the tax. Failure to pay the tax may result in the fiduciary being held personally liable. See R&TC Sections 19071 and 19516.

**Estate income to be reported.** If a decedent, at the date of death, was a resident of California, the entire income of the estate must be reported. If a decedent, at the date of death, was a nonresident, only the income derived from sources within California should be reported.

**Deductions upon termination.** A deduction shall be allowed to the beneficiaries succeeding to the property of the estate or trust if, upon termination, the estate or trust has one of the following:

- A capital loss carryover
- For its final taxable year, deductions (other than the charitable deductions) in excess of gross income
- A net operating loss

**Tax-exempt income.** California **does not** tax:

- **Interest on governmental obligations.** Interest derived from bonds issued by California or its political subdivisions, the federal government, the District of Columbia (issued before December 24, 1973), or territories of the United States.
- **Proceeds of insurance policies.** In general, a lump sum payable at the death of the insured under a life insurance policy is excludable from gross income of the recipient.
- **Miscellaneous items wholly exempt from tax.** (1) Gifts (not received as a consideration for services rendered), money or property acquired by bequest, devise, or inheritance (but the income derived therefrom is taxable); and, (2) Income, other than rent, derived by a lessor of real property upon the termination of a lease, representing the value of such property attributable to buildings erected or other improvements made by the lessee.

**Withholding on nonresident beneficiaries.** Fiduciaries must withhold tax on payments of income from California sources that are not subject to payroll withholding and made to nonresident beneficiaries. See R&TC Sections 18662 through 18677. Get Form 592, Resident and Nonresident Withholding Statement and Form 592-B, Resident and Nonresident Withholding Tax Statement, or Form 592-F, Foreign Partner or Member Annual Return, to report the withholding.

See Cal. Code Regs., tit. 18, sections 17951-1(c), 17951-2, and 17953 regarding taxability of distributions to nonresident beneficiaries.

# Specific Line Instructions

## Identification Area

Follow the instructions for federal Form 1041 when completing the identification area on Form 541, Side 1. Attach a schedule listing the names and addresses of additional fiduciaries (who served the trust during any portion of the taxable year) who are not identified on the front of Form 541. Identify each fiduciary as a resident or nonresident of California. California law is generally the same as federal law in the following areas:

- Simplified filing requirements
- Methods of reporting
- Pooled income funds
- Amended tax returns
- Final tax returns
- Nonexempt charitable and split-interest trusts

**Qualified Subchapter S Trust.** Trusts that only hold assets related to an IRC Section 1361(d) election should fill out the "Income" and "Deduction" sections of Form 541 like all other trusts, except the trust should take an income distribution deduction on line 18 equal to its adjusted total income from line 17.

Trusts that hold assets related to an IRC Section 1361(d) election and other not related assets should fill out the "Income" and "Deduction" sections of Form 541 only for their income and deductions attributable to assets not related to an IRC Section 1361(d) election.

Use Form 541, Schedule B , Income Distribution Deduction, to determine their distribution deduction.

**Principal Business Activity (PBA) Code.** If the estate or trust was engaged in a trade or business during the taxable year, enter the principal business activity code used on the federal Schedule C (Form 1040), Profit or Loss From Business.

**Additional Information.** Use the Additional information field for "In-Care-Of" name and other supplemental address information only.

**Foreign Address.** If the estate or trust has a foreign address, follow the country's practice for entering the city, county, province, state, country, and postal code, as applicable, in the appropriate boxes. **Do not** abbreviate the country name.

**Amended Tax Return.** If the fiduciary is filing an amended Form 541, check the box labeled "Amended tax return." Complete the entire tax return, correct the lines needing new information, and recompute the tax liability. On an attached sheet, explain the reason for the amendments and identify the lines and amounts being changed on the amended tax return. Include the fiduciary name and FEIN on each attachment.

If the amended tax return results in a change to income, or a change in distribution of any income or other information provided to a beneficiary, an amended Schedule K-1 (541) must also be filed with the amended Form 541 and given to each beneficiary. Check the "Amended" box on Schedule K-1 (541).

**Protective Claim.** Check the box if this Form 541 is being filed as a protective claim for refund. A protective claim is a claim for refund filed before the expiration of the statute of limitations for which a determination of the claim depends on the resolution of some other disputed issues, such as pending state or federal litigation or audit. For more information on how to file a protective claim, go to **ftb.ca.gov** and search for **protective claim**.

## Income

Complete Schedule G on Form 541, Side 3, if the trust has any resident and nonresident trustees and/or resident and nonresident non-contingent beneficiaries. Follow the line instructions for Schedule G on page 15.

The amounts transferred from Schedule G should only include income and deductions reportable to California.

**Line 1 – Interest income**
Enter the total of all taxable interest including any original issue discount bonds and income received as a holder of a regular interest in a REMIC.

If the fiduciary filed federal Form 1120-RIC or Form 1120-REIT, file Form 100 instead of Form 541.

**Line 2 – Dividends**
Enter the total of all taxable dividends.

**Line 3 – Business income or (loss)**
If the estate or trust was engaged in a trade or business during the taxable year, complete form FTB 3885F, Depreciation and Amortization, and attach it to Form 541. Also complete and attach a copy of federal Schedule C (Form 1040) using California amounts. Follow federal instructions for "Depreciation, Depletion, and Amortization,'' regarding dividing the deductions between the fiduciary and the beneficiary(ies).

Energy conservation rebates, vouchers, or other financial incentives are excluded from income.

**Line 4 – Capital gain or (loss)**
Enter from Schedule D (541), Capital Gain or Loss, the gain or (loss) from the sale or exchange of capital assets. See the instructions for Schedule D (541).

**Line 5 – Rents, royalties, partnerships, other estates and trusts, etc.**

Enter the total of net rent and royalty income or (loss) and the total income or (loss) from partnerships and other estates, or trusts. **Do not** include amounts for any of the following:

- Interest, enter on line 1
- Dividends, enter on line 2
- Capital gain or (loss), enter on Schedule D (541)
- Ordinary gain or (loss), enter on Schedule D-1, Sales of Business Property

Complete and attach federal Schedule E (Form 1040), Supplemental Income and Loss, using California amounts. Attach form FTB 3885F to report any depreciation and amortization deduction.

Follow federal instructions for "Depreciation, Depletion, and Amortization," regarding dividing the deductions between the fiduciary and the beneficiary(ies).

Elections to expense certain depreciable business assets under IRC Section 179 do not apply to estates and trusts.

Any losses or credits from passive activities may be limited. See General Information L, for information about passive activity loss limitations.

**Line 6 – Farm income or (loss)**
Enter the net income or (loss) from farming during the taxable year. Attach federal Schedule F (Form 1040), Profit or Loss From Farming, using California amounts. Attach form FTB 3885F to report any depreciation and amortization deduction. Follow federal instructions for "Depreciation, Depletion, and Amortization" regarding dividing the deductions between the fiduciary and the beneficiary(ies).

**Line 7 – Ordinary gain or (loss)**
Enter from Schedule D-1, the gain or (loss) from the sale or exchange of property other than a capital asset and also from involuntary conversions (other than casualty or theft). Get the instructions for Schedule D-1 for more information.

**Line 8 – Other income**
Enter the total taxable income not reported elsewhere on Side 1. State the nature of the income. Attach a separate sheet if necessary.

Examples of income to be reported on line 8 include the following:

- Unpaid compensation received by the decedent's estate that is income in respect of a decedent.
- The estate's or trust's share of aggregate income or loss that is ordinary income, if the estate or trust is a shareholder of an S corporation. Enter the name and FEIN of the S corporation. Report capital gain income, dividend income, etc., on other appropriate lines.
- The estate's or trust's share of taxable income or (loss) if the estate or trust is a holder of a residual interest in a REMIC. Beneficiaries should receive Schedule K-1 (541 or 565) and instructions from the REMIC. Get federal Schedule E (Form 1040), Part IV, instructions for reporting requirements; also, attach federal Schedule E (Form 1040).
- Any part of a total distribution shown on federal Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., that is treated as ordinary income. Get California Schedule G-1, Tax on Lump-Sum Distributions, for more information.

## Deductions

All deductions entered on line 10 through line 15c must include only the fiduciary's share of deductions related to taxable income. If the estate or trust has tax-exempt income, the amounts included on line 10 through line 15c must be reduced by the allocable portion attributed to tax-exempt income. See federal Form 1041 instructions, "Allocation of Deductions for Tax-Exempt Income," for information on how to determine the allocable amount to enter on line 10 through line 15c.

California law follows federal law for:

- Fiduciary, attorney, accountant, and tax return preparer fees.
- Limited deductions for losses arising from certain activities.
- Limited deductions for farming syndicates that had a change in membership or were established in 1977 (see IRC Section 464).
- Bankruptcy estates: See Chapter 7, Title 11 of the United States Code (USC) 346(e) for California deductions allowed for expenses incurred during administration.
- California law conforms to federal law relating to the denial of deductions for lobbying activities, club dues, and employee remuneration in excess of one million dollars.

**Line 10 – Interest**
Enter any deductible interest paid or incurred that is not deductible elsewhere on Form 541. Attach a separate schedule showing all interest paid or incurred. Do not include interest on a debt that was incurred or continued in order to buy or carry obligations on which the interest is tax-exempt. If unpaid interest is due to a related person, get federal Publication 936, Home Mortgage Interest Deduction, for more information.

The amount of investment interest deduction is limited. Get form FTB 3526, Investment Interest Expense Deduction, to compute the allowable investment interest expense deduction. Any disallowed investment interest expense is allowed as a carryforward to the next taxable year. See IRC Section 163(d) and get federal Publication 550, Investment Income and Expenses, for more information.

If the allowable part of the excess investment interest expense is deductible and a completed form FTB 3526 is required, write "FTB 3526 attached" on the dotted line to the left of line 10. Then add the deductible investment interest to the other types of deductible interest and enter the total on line 10.

**Line 11 – Taxes**
Enter any deductible property taxes paid or incurred during the taxable year that are not deductible elsewhere on Form 541. Attach a separate schedule showing all taxes paid or incurred during the taxable year.

**Do not** deduct:

- Taxes assessed against local benefits that increase the value of the property assessed.
- Income or profit taxes imposed by the federal government, any state, or foreign country.
- Taxes computed as an addition to, or percentage of, any taxes not deductible under the law.
- Legacy, succession, gift, or inheritance taxes.
- Sales and local general sales and use taxes.

**Line 12 – Fiduciary fees**
Enter the deductible fees paid to the fiduciary for administering the estate or trust and other allowable administration costs incurred during the taxable year.

Allowable administration costs are those costs that were incurred in connection with the administration of the estate or trust that would not have been incurred if the property were not held in such estate or trust. These administration costs are not subject to the 2% floor. Trust expenses relating to outside investment advice and investment management fees are miscellaneous itemized deductions subject to the 2% floor. See instructions for line 15b.

**Line 13 – Charitable deduction**
Enter the amount from Form 541, Side 2, Schedule A, Charitable Deduction, line 5.

**Line 14 – Attorney, accountant, and tax return preparer fees**
Enter deductible attorney, accountant, and tax return preparer fees paid for the estate or the trust.

**Line 15a – Other deductions not subject to the 2% floor**
Explain on a separate schedule all other authorized deductions that are not deductible elsewhere on Form 541. Enter the total on line 15a.

# 2020 Tax Rate Schedule

| If the amount on Form 541, line 20a is: over — | but not over — | Enter on line 21a: | | of the amount over — |
|---|---|---|---|---|
| $ 0 | $ 8,932 | $ 0.00 | + 1.00% | $ 0 |
| 8,932 | 21,175 | 89.32 | + 2.00% | 8,932 |
| 21,175 | 33,421 | 334.18 | + 4.00% | 21,175 |
| 33,421 | 46,394 | 824.02 | + 6.00% | 33,421 |
| 46,394 | 58,634 | 1,602.40 | + 8.00% | 46,394 |
| 58,634 | 299,508 | 2,581.60 | + 9.30% | 58,634 |
| 299,508 | 359,407 | 24,982.88 | + 10.30% | 299,508 |
| 359,407 | 599,012 | 31,152.48 | + 11.30% | 359,407 |
| 599,012 | AND OVER | 58,227.85 | + 12.30% | 599,012 |

**Claim of Right.** To claim the deduction, enter a deduction of $3,000 or less on line 15b or a deduction of more than $3,000 on line 15a. If the fiduciary elects to take the credit instead of the deduction, it should use the California tax rate, add the credit amount to the total on line 33, Total Payments. To the left of this total, write "IRC 1341" and the amount of the credit.

**Casualty losses.** California law generally follows federal law. See federal Form 4684, Casualties and Thefts.

**NOL deductions.** For taxable years beginning on or after January 1, 2019, NOL carrybacks are **not** allowed. The NOL carryover deduction is the amount of the NOL carryover from prior years that may be deducted from income in the current taxable year. For more information, get form FTB 3805V.

Taxpayers can no longer generate/incur any Enterprise Zone (EZ) or Local Agency Military Base Recovery Area (LAMBRA) NOL for taxable years beginning on or after January 1, 2014. Taxpayers can claim EZ or LAMBRA NOL carryover deduction from prior years. Get form FTB 3805Z, Enterprise Zone Deduction and Credit Summary, or FTB 3807, Local Agency Military Base Recovery Area Deduction and Credit Summary, for more information.

Taxpayers can no longer generate/incur any Targeted Tax Area (TTA) NOL for taxable years beginning on or after January 1, 2013. Taxpayers can claim TTA NOL carryover deduction from prior years. Get form FTB 3809, Targeted Tax Area Deduction and Credit Summary, for more information.

**Line 15b – Allowable miscellaneous itemized deductions subject to the 2% floor**

Miscellaneous itemized deductions are deductible only to the extent that the aggregate amount of such deductions exceeds 2% of AGI.

The term "miscellaneous itemized deductions" does not include deductions relating to:

- Interest under IRC Section 163
- Taxes under IRC Section 164
- Amortization of bond premium under IRC Section 171

For more exceptions, see IRC Section 67(b).

Trusts' expenses relating to outside investment advice and investment management fees are miscellaneous itemized deductions subject to the 2% floor.

For estates and trusts, AGI is computed by subtracting the following from total income (line 9):

- Fiduciary fees of the estate or trust (line 12).
- Income distribution deduction (line 18).
- Other deductions claimed on line 10 through line 15a that were incurred in the conduct of a trade or business or the production of income.

**Computing line 15b.** To compute line 15b, use the equation below:

AMID – Allowable miscellaneous itemized deductions.

AGI – Miscellaneous itemized deductions.

DNI – Distributable net income.

AMID = Total AGI – (.02(AGI))

The following example illustrates how algebraic equations can be used to solve for these unknown amounts.

***Example.*** The Malcolm Smith Trust, a complex trust, earned $20,000 of dividend income, $20,000 of capital gains, and a fully deductible $5,000 loss from XYZ partnership (chargeable to corpus) in 2020. The trust instrument provides that capital gains are added to corpus. 50% of the fiduciary fees are allocated to income and 50% to corpus. The trust claimed a $2,000 deduction on line 12 of Form 541. The trust incurred $1,500 of miscellaneous itemized deductions (chargeable to income), which are subject to the 2% floor. There are no other deductions. The trustee made a discretionary distribution of the accounting income of $17,500 to the trust's sole beneficiary.

Because the actual distribution can reasonably be expected to exceed the DNI, the trust must figure the DNI, taking into account the AMID, to determine the amount to enter on line 15b.

Using the facts in this example:

AMID = 1,500 – (.02(AGI))

In all situations, use the following equation to compute the AGI:

AGI = (line 9) – (the total of lines 12, 14, and 15a to the extent they are costs incurred in the administration of the estate or trust that wouldn't have been incurred if the property weren't held by the estate or trust) – (line 18).

**Note.** There are no other deductions claimed by the trust on line 15a that are deductible in arriving at AGI.

Figuring AGI in this example, we get:

AGI = 35,000 – 2,000 – DNI

Since the value of line 18 isn't known because it is limited to the DNI, you are left with the following:

AGI = 33,000 – DNI

Substitute the value of AGI in the equation:

AMID = 1,500 – (.02(33,000 – DNI))

The equation can't be solved until the value of DNI is known. The DNI can be expressed in terms of the AMID. To do this, compute the DNI using the known values. In this example, the DNI is equal to the total income of the trust (less any capital gains allocated to corpus or plus any capital loss from line 4); less total deductions from line 16 (excluding any miscellaneous itemized deductions); less the AMID.

Thus, DNI = (line 9) – (line 9, column (c) of Schedule D (Form 541)) – (line 16) – (AMID)

Substitute the known values:

DNI = 35,000 – 20,000 – 2,000 – AMID

DNI = 13,000 – AMID

Substitute the value of DNI in the equation to solve for AMID:

AMID = 1,500 – (.02(33,000 – (13,000 – AMID)))

AMID = 1,500 – (.02(33,000 – 13,000 + AMID))

AMID = 1,500 – (660 – 260 + .02AMID)

AMID = 1,100 – .02AMID

1.02AMID = 1,100

AMID = 1,078

DNI = 11,922 (i.e., 13,000 – 1,078)

AGI = 21,078 (i.e., 33,000 – 11,922)

**Note.** The income distribution deduction is equal to the smaller of the distribution ($17,500) or the DNI ($11,922).

Enter the value of AMID on line 15b (the DNI should equal line 7 of Schedule B) and complete the rest of Form 541 according to the instructions.

The amount of AMID can't exceed the taxpayer's actual miscellaneous itemized deductions.

If the 2% floor is more than the deductions subject to the 2% floor, no deductions are allowed.

Generally, the estate or trust will have to complete Schedule P (541) if an income distribution deduction is reported under IRC Section 651 or 661.

**Unallowable deductions.** Deductions are not allowed on Form 541 for:

- Expenses that are allocable to one or more classes of income (other than interest income) exempt from tax.
- Any amount relating to expenses for production of income that is allocable to interest income exempt from tax. For the treatment of interest expense attributable to tax-exempt income, see the instructions for line 10. For the determination of the amount of expense attributable to tax-exempt income, see the instructions for federal Form 1041, Schedule B, Income Distribution Deduction.
- Decedent's medical and dental expenses paid by the estate.
- Funeral expenses.

**Line 20a – Taxable income**

Subtract line 18, income distribution deduction, from the adjusted total income reported on line 17, and enter the result.

**Line 20b – ESBT taxable income**

The portion of an Electing Small Business Trust (ESBT) that consists of stock in one or more S corporations must be treated as a separate trust and the tax must be figured separately on the S-portion of the ESBT. On a separate schedule, figure the taxable income on the S corporation items making the following modifications:

- Only report the items described in IRC Section 641(c)(2)(C).
- Take no other deductions (including the distribution deduction) or credits.
- Do not apportion to the beneficiaries any of the S corporation items of income, loss, deduction or credit.

Enter taxable income from the S-portion of the ESBT on line 20b, and attach the schedule to the income tax return. Include the taxable income from the S-portion of the ESBT when calculating the Mental Health Services Tax on line 27.

The taxable income on the remainder (non-S-portion) of the ESBT is computed in a manner consistent with a complex trust on Form 541. Enter the taxable income for the non-S-portion of the ESBT on line 20a.

## Tax and Payments

**Line 21a – Regular tax**

Determine the tax on the taxable income (line 20a) using the Tax Rate Schedule on page 9. Enter the tax on line 21a. **Do not** include the amount reported on line 20b.

**Line 21b – Other taxes**

- Tax may be applied to lump-sum distributions from a qualified retirement plan. The fiduciary must complete Schedule G-1 to figure the amount of tax to enter on line 21b and attach the Schedule G-1 to Form 541.
- Partial throwback tax on accumulation distribution from trust.

  If an estate or a trust is the beneficiary of a trust and in the current year received a distribution from the trust of income accumulated in prior taxable years (an accumulation distribution), the estate or trust may be liable for a partial throwback tax on the accumulation distribution. Under the throwback rules, the beneficiary of an accumulation distribution is taxed as if the distribution was made in the prior years when the income was accumulated. Figure the throwback tax on form FTB 5870A, Tax on Accumulation Distribution of Trusts. Include the tax on line 21b and attach form FTB 5870A to Form 541.

- Interest on tax deferred under the installment method for certain nondealer property installment obligations.

  If an obligation arising from the disposition of property to which IRC Section 453A applies is outstanding at the close of the year, the estate or trust must include the interest due under IRC Section 453A in the amount to be entered on line 21b. Attach a schedule showing the computation. Write "IRC Section 453A" on the dotted line next to line 21. Include the tax in the total on line 21b.
- Tax on the S-portion of an ESBT.

  Multiply line 20b by the highest rate applicable to individuals. Include the tax in the total on line 21b.
- REMIC Annual Tax

  Enter the $800 REMIC annual tax on line 21b and line 28, total tax. REMIC annual tax is not eligible for exemption credits.

**Line 21c – QSF tax**
QSF is a Qualified Settlement Fund (including designated settlement funds). Determine the tax using corporate tax rates under R&TC Section 24693. For more information, see General Information C, Who Must File.

**Line 22 – Exemption credit**
An estate is allowed an exemption credit of $10. A trust is allowed an exemption credit of $1. A qualified disability trust is allowed an exemption credit of $124.

If a final distribution of assets was made during the year, all taxable income of the estate or trust must be entered on line 18 as distributed to beneficiaries, and no exemption credit is allowed.

**Line 23 – Credits**
Various California tax credits are available to reduce the tax. For most credits, a separate schedule or statement must be completed and attached to Form 541. See the credit chart on page 16 for a list of the credits, their codes, and a brief description of each.

How to claim California tax credits:

1. Figure the amount of each credit using the appropriate form.
2. Use the Credit Limitation Worksheet to determine if the credits are limited. Complete the worksheet unless federal Schedules C, E, or F (Form 1040), and/or federal Schedule D (Form 1041), Capital Gains and Losses, were not completed and the amount entered on Form 541, line 17, is less than $49,851.
   a) If federal Schedules C, D, E, or F (Form 1040) or federal Schedule D (Form 1041) were not completed and the amount entered on Form 541, line 17, is less than $49,851, **do not** complete the credit limitation worksheet. The credits are not limited.
   b) If the estate or trust completed federal Schedules C, E, or F (Form 1040) or federal Schedule D (Form 1041) and claimed or received any of the following:
      - Accelerated depreciation in excess of straight-line
      - Intangible drilling costs
      - Depletion
      - Circulation expenditures
      - Research and experimental expenditures
      - Mining exploration/development costs
      - Amortization of pollution control facilities
      - Income/loss from tax shelter farm activities
      - Income/loss from passive activities
      - Income from long-term contracts using the percentage-of-completion method
      - California qualified stock options (CQSOs)

      **Yes** Complete Schedule P (541).
      **No** Go to item (c).
   c) If the estate or trust claimed or received any of the following:
      - AMT adjustment from another estate or trust
      - Investment interest expense
      - Income from incentive stock options in excess of the amount reported on Form 540 or Form 540NR
      - Charitable contribution deduction for appreciated property
      - Income from installment sales of certain property
      - Net operating loss deduction or disaster loss carryover reported on form(s) FTB 3805V, FTB 3805Z, FTB 3807, or FTB 3809

      **Yes** Complete Schedule P (541).
      **No** Complete the Credit Limitation Worksheet that follows.

**Credit Limitation Worksheet**

| | | | |
|---|---|---|---|
| A. | Enter the total amount from Form 541, line 21 | A | ______ |
| B. | Enter personal and real property taxes paid. This includes any state and local personal property and state, local, or foreign real property taxes on Form 541, line 11 | B | ______ |
| C. | Enter miscellaneous itemized deductions from Form 541, line 15b | C | ______ |
| D. | Add line B and line C | D | ______ |
| E. | Enter any refund of personal or real property tax. **Do not** enter the amount of state income tax refund | E | ______ |
| F. | Subtract line E from line D | F | ______ |
| G. | Enter the amount from Form 541, line 20a | G | ______ |
| H. | Add line F and line G | H | ______ |
| I. | Enter $49,851 | I | ______ |
| J. | Subtract line I from line H. If zero or less, enter -0- | J | ______ |
| K. | Multiply line J by .07 | K | ______ |
| L. | Subtract line K from line A. If less than zero, enter -0- | L | ______ |
| M. | Enter the total credits | M | ______ |

If line L is less than line M, get and complete Schedule P (541).

If line L is more than line M, the estate's or trust's credits are not limited. Go to "Claiming Credits on Form 541."

**Claiming Credits on Form 541**

Each credit is identified by a code. If the estate or trust claims one credit, enter the credit code and amount of the credit on line 23.

If the estate or trust claims more than one credit, use Schedule P (541), Part IV, Credits that Reduce Tax, to figure the total credit amount. Total the column b amounts from lines 4 through 9 and lines 11 through 15, of Schedule P (541), Part IV, and enter on Form 541, line 23. Attach Schedule P (541) and any required supporting schedules or statements to Form 541.

If the estate or trust claims a credit with carryover provisions and the amount of the credit available this year exceeds the estate's or trust's tax, carry over any excess credit to subsequent years until the credit is used.

If the estate or trust claims a credit carryover for an expired credit, use form FTB 3540, Credit Carryover and Recapture Summary, to figure this credit, unless the estate or trust is required to complete Schedule P (541). In that case, enter the amount of the credit on Schedule P (541), Sections A2 and B1 and **do not** attach form FTB 3540.

For taxable years beginning on or after January 1, 2020, and before January 1, 2023, there is a $5,000,000 limitation on the application of credits. The total of all credits including the carryover of any credit for the taxable year may not reduce the "net tax" by more than $5,000,000.

Credits disallowed due to the $5,000,000 limitation may be carried over. The carryover period for disallowed credits is extended by the number of taxable years the credit was not allowed.

**Line 26 – Alternative minimum tax (AMT)**
If certain types of deductions, exclusions, and credits are claimed, the estate or trust may be subject to California's AMT. Get Schedule P (541) to figure the amount of tax to enter on line 26 for trusts with either resident or non-resident trustees and beneficiaries.

Schedule P (541) must be completed regardless of whether the estate or trust is subject to AMT if an income distribution deduction is reported on line 18.

**Line 27 – Mental Health Services Tax**
If the estate's or trust's taxable income is more than $1,000,000, compute the Mental Health Services Tax. All taxable income from an ESBT is subject to the Mental Health Services Tax. **Do not** calculate Mental Health Services Tax on a Qualified Settlement Fund.

**Mental Health Services Tax Worksheet**
**Use whole dollars only.**

| | |
|---|---|
| A. Taxable income from Form 541, line 20a | ______ |
| B. ESBT Taxable Income, line 20b | ______ |
| C. Add line A and line B | ______ |
| D. Less | ($1,000,000) |
| E. Subtotal | ______ |
| F. Multiply line E by 1% | x .01 |
| G. **Mental Health Services Tax –** Enter this amount on Form 541, line 27 | ______ |

**Line 29 – California income tax withheld**
Attach federal Form(s) W-2, Wage and Tax Statement, W-2G, Certain Gambling Winnings, and 1099-R if the fiduciary claims credit for

California income tax withheld on a decedent's wages and salaries, certain gambling winnings, distributions from pensions, annuities, retirement or profit-sharing plans, IRAs, insurance contracts, etc., received by the fiduciary. **Do not** include withholding from Forms 592-B or 593 or nonconsenting nonresident (NCNR) member's tax from Schedule K-1 (568), Member's Share of Income, Deductions, Credits, etc., line 15e on this line.

**Line 30 – California income tax previously paid** (minus tax allocated to beneficiaries and any refund of tax)

Use this line only if the estate or trust is filing an amended tax return. Enter payments made with the original tax return plus additional tax paid after the original tax return was filed less any refund received. If the estate or trust made only one payment, enter the serial number that the FTB stamped on the face of the cancelled check if available, on the dotted line to the left of the amount on line 30. If the estate or trust made multiple payments, did not receive a cancelled check, or made any payment with a credit card, attach a statement showing the check number, the amount of the check or charge, the date posted to the account, and the name of the payee FTB.

Be sure to reduce the amount of tax previously paid by the amount of estimated tax that the beneficiary treated as a payment and any refund of tax.

**Line 31 – Withholding (Form 592-B and/or 593)**
Enter the total California withholding from the estate's or trust's Form 592-B and/or Form 593. Attach a copy of the form(s) to the lower front of Form 541, Side 1.

An estate or trust that has resident/nonresident or real estate withholding is allowed to claim a credit if the estate or trust keeps the related income in the trust. If the estate or trust distributed the related income on Side 1, line 18, to its beneficiaries, then the estate or trust is required to complete Form 592 and Form 592-B to distribute the credit to the beneficiaries who will report the taxable income and claim their share of the credit on their California income tax returns. If the estate or trust partially distributes the income, complete Form 592 and Form 592-B with only the partial allocated income distribution and related withholding credit. Do not include withholding from other forms on this line or NCNR member's tax from Schedule K-1 (568), line 15e on this line.

**Line 32 – 2020 CA estimated tax, amount applied from 2019 tax return, and payments with form FTB 3563**
Enter the amount of any estimated tax payment the estate or trust made on Form 541-ES for 2020. Also, enter the amount of any overpayment from the 2019 tax return that was applied to the 2020 estimated tax. Include payments made with form FTB 3563.

If the estate or trust is an NCNR member of a limited liability company (LLC) and tax was paid on the estate's or trust's behalf by the LLC, include the NCNR members' tax from Schedule K-1 (568), line 15e. If you are including NCNR tax, write "LLC" on the dotted line to the left of the amount on line 32, and attach Schedule K-1 (568) to the California income tax return to claim the tax paid by the LLC on the estate's or trust's behalf.

The trustee (or executor under certain circumstances) may elect to allocate to the beneficiary a portion of estimated payments. Use Form 541-T. Reduce the amount of estimated tax payments you are claiming by the amount allocated to the beneficiary on Form 541-T.

Estimated tax paid by an individual before death must be claimed on the income tax return filed for the decedent and not on the Form 541 filed for the decedent's estate.

**Line 34 – Use tax. This is not a total line.**
You may owe use tax if you make purchases from out-of-state retailers (for example, purchases made by telephone, online, by mail, or in person) where sales or use tax was not paid and you use those items in California. If you have questions about whether a purchase is taxable, go to the California Department of Tax and Fee Administration's website at **cdtfa.ca.gov**, or call its Customer Service Center at 1.800.400.7115 or (CRS:711) (for hearing and speech disabilities).

Some taxpayers are required to report business purchases subject to use tax directly to the California Department of Tax and Fee Administration. However, they may report certain personal purchases subject to use tax on the FTB income tax return.

You may not report business purchases subject to use tax on your income tax return if you:

- Have or are required to hold a California seller's permit.
- Receive $100,000 or more per year in gross receipts from business operations.
- Are otherwise registered or required to be registered with the California Department of Tax and Fee Administration to report use tax.

**Note:** You may not report use tax on your income tax return for certain types of transactions. These types of transactions are described in detail below in the instructions.

The Use Tax Worksheet and Estimated Use Tax Lookup Table will help you determine how much use tax to report. If you owe use tax but you do not report it on your income tax return, you must report and pay the tax to the California Department of Tax and Fee Administration. For information on how to report use tax directly to the California Department of Tax and Fee Administration, go to their website at **cdtfa.ca.gov** and type **"Find Information About Use Tax"** in the search bar.

Failure to report and pay timely may result in the assessment of interest, penalties, and fees.

See page 7 for a general explanation of California use tax.

**Use Tax Worksheet**
You must use the Use Tax Worksheet to calculate your use tax liability, if any of these apply:

- You prefer to calculate the amount of use tax due based upon your actual purchases subject to use tax, rather than based on an estimate.
- You owe use tax on any item purchased for use in a trade or business and you are not registered or required to be registered with the California Department of Tax and Fee Administration to report sales or use tax.
- You owe use tax on purchases of individual items with a purchase price of $1,000 or more each.

**Example 1:** You purchased a television for $2,000 from an out-of-state retailer that did not collect tax. You must use the Use Tax Worksheet to calculate the tax due on the price of the television, since the price of the television is $1,000 or more.

**Example 2:** You purchased a computer monitor for $300, a rare coin for $500, and designer clothing for $250 from out-of-state retailers that did not collect tax. Although the total price of all the items is $1,050, the price of each item is less than $1,000. Since none of these individual items are $1,000 or more, you are not required to use the Use Tax Worksheet and may choose to use the Estimated Use Tax Lookup Table.

If you have a combination of individual non-business items purchased for $1,000 or more each, and/or items purchased for use in a trade or business in addition to individual, non-business items purchased for less than $1,000, you may either:

- Use the Use Tax Worksheet to compute use tax due on all purchases, or
- Use the Use Tax Worksheet to compute use tax due on all individual items purchased for $1,000 or more plus all items purchased for use in a trade or business.
- Use the Estimated Use Tax Lookup Table to estimate the use tax due on individual, non-business items purchased for less than $1,000, then add the amounts and report the total use tax on Line 34.

**Example 3:** The total price of the items you purchased from out-of-state retailers that did not collect use tax is $2,300, which includes a $1,000 television, a $900 painting, and a $400 table for your living room.

- You may choose to calculate the use tax due on the total price of $2,300 using the Use Tax Worksheet, or
- You may choose to calculate the use tax due on the $1,000 price of the television using the Use Tax Worksheet and estimate your use tax liability for the painting and table by using the Estimated Use Tax Lookup Table, then add the amounts and report the total use tax on line 34.

**Use Tax Worksheet (See Instructions Below)**
**Use whole dollars only.**

1. Enter purchases from out-of-state sellers made without payment of California sales/use tax. If you choose to estimate the use tax due on individual, non-business items purchased for less than $1,000 each, only enter purchases of items with a purchase price of $1,000 or more plus items purchased for use in a trade or business not registered with the California Department of Tax and Fee Administration. . . . . . . . . . . $ ________ .00
2. Enter the applicable sales and use tax rate.. . . . . . . . . . . . . . ________
3. Multiply Line 1 by the tax rate on Line 2. Enter result here.. . . . . . . . . $ ________ .00
4. If you choose to estimate the use tax due on individual, non-business items purchased for less than $1,000 each, enter the use tax amount due from the Estimated Use Tax Lookup Table. If all of your purchases are included in Line 1, enter -0-. . . . . . . . . . . . . $ ________ .00
5. Add Lines 3 and 4. This is your total use tax. . . . . . . . . $ ________ .00
6. Enter any sales or use tax you paid to another state for purchases included on Line 1. See worksheet instructions below. . . . . . . . $ ________ .00
7. Subtract Line 6 from Line 5. This is the total use tax due. Enter the amount due on Line 34. If the amount is less than zero, enter -0-. . . . . . . . . . . . . . . . $ ________ .00

**Code 401, Alzheimer's Disease and Related Dementia Voluntary Tax Contribution Fund –** Contributions will be used to provide grants to California scientists to study Alzheimer's disease and related disorders. This research includes basic science, diagnosis, treatment, prevention, behavioral problems, and care giving. With almost 600,000 Californians living with the disease and another 2 million providing care to a loved one with Alzheimer's, our state is in the early stages of a major public health crisis. Your contribution will ensure that Alzheimer's disease receives the attention, research, and resources it deserves. For more information, go to **cdph.ca.gov** and search for **alzheimer**.

**Code 403, Rare and Endangered Species Preservation Voluntary Tax Contribution Program –** Contributions will be used to help protect and conserve California's many threatened and endangered species and the wild lands that they need to survive, for the enjoyment and benefit of you and future generations of Californians.

**Code 405, California Breast Cancer Research Voluntary Tax Contribution Fund –** Contributions will fund research toward preventing and curing breast cancer. Breast cancer is the most common cancer to strike women in California. It kills 4,000 California women each year. Contributions also fund research on prevention and better treatment, and keep doctors up-to-date on research progress. For more about the research your contributions support, go to **cbcrp.org**. Your contribution can help make breast cancer a disease of the past.

**Code 406, California Firefighters' Memorial Voluntary Tax Contribution Fund –** Contributions will be used for repair and maintenance of the California Firefighters' Memorial on the grounds of the State Capitol, ceremonies to honor the memory of fallen firefighters and to assist surviving loved ones, and for an informational guide detailing survivor benefits to assist the spouses/RDPs and children of fallen firefighters.

**Code 407, Emergency Food for Families Voluntary Tax Contribution Fund –** Contributions will be used to help local food banks feed California's hungry. Your contribution will fund the purchase of much-needed food for delivery to food banks, pantries, and soup kitchens throughout the state. The State Department of Social Services will monitor its distribution to ensure the food is given to those most in need.

**Code 408, California Peace Officer Memorial Foundation Voluntary Tax Contribution Fund –** Contributions will be used to preserve the memory of California's fallen peace officers and assist the families they left behind. Since statehood, over 1,300 courageous California peace officers have made the ultimate sacrifice while protecting law-abiding citizens. The non-profit charitable organization, California Peace Officers' Memorial Foundation, has accepted the privilege and responsibility of maintaining a memorial for fallen officers on the State Capitol grounds. Each May, the Memorial Foundation conducts a dignified ceremony honoring fallen officers and their surviving families by offering moral support, crisis counseling, and financial support that includes academic scholarships for the children of those officers who have made the supreme sacrifice. On behalf of all of us and the law-abiding citizens of California, thank you for your participation.

**Code 410, California Sea Otter Voluntary Tax Contribution Fund –** The California Coastal Conservancy and the Department of Fish and Game will each be allocated 50% of the contributions. Contributions allocated to the California Coastal Conservancy will be used for research, science, protection, projects, or programs related to the Federal Sea Otter Recovery Plan or improving the nearshore ocean ecosystem, including program activities to reduce sea otter mortality. Contributions allocated to the Department of Fish and Game will be used to establish a sea otter fund within the department's index coding system for increased investigation, prevention, and enforcement action.

**Code 413, California Cancer Research Voluntary Tax Contribution Fund –** Contributions will be used to conduct research relating to the causes, detection, and prevention of cancer and to expand community-based education on cancer, and to provide prevention and awareness activities for communities that are disproportionately at risk or afflicted by cancer.

**Code 422, School Supplies for Homeless Children Fund –** Contributions will be used to provide school supplies and health-related products to homeless children.

**Code 424, Protect Our Coast and Oceans Voluntary Tax Contribution Fund –** Contributions will be used to provide grants to community organizations working to protect, restore, and enhance the California coast and ocean. Contributions will support shoreline cleanups, habitat restoration, coastal access improvements, and ocean education programs.

**Code 425, Keep Arts in Schools Voluntary Tax Contribution Fund –** Contributions will be used by the Arts Council for the allocation of grants to individuals or organizations administering arts programs for children in preschool through 12th grade.

**Code 431, Prevention of Animal Homelessness and Cruelty Voluntary Tax Contribution Fund –** Contributions will be used to provide funding to programs designed to prevent and eliminate animal homelessness and cruelty, research that explores novel approaches to preventing and eliminating pet homelessness and the prevention, investigations, and prosecution of animal cruelty and neglect.

**Code 438, California Senior Citizen Advocacy Voluntary Tax Contribution Fund –** Contributions will be used to conduct the sessions of the California Senior Legislature and to support its ongoing activities on behalf of older persons.

**Code 439, Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund –** Contributions will be used to support the recovery and rehabilitation of injured, sick, or orphaned wildlife, and conservation education.

**Code 440, Rape Kit Backlog Voluntary Tax Contribution Fund –** Contributions will be used for DNA testing in the processing of rape kits.

**Code 443, Schools Not Prisons Voluntary Tax Contribution Fund –** Contributions will be used to fund academic and career readiness programs that seek to break the school-to-prison pipeline.

**Code 444, Suicide Prevention Voluntary Tax Contribution Fund –** Contributions will be used to fund crisis center programs designed to provide suicide prevention services.

**Line 61 – Total voluntary contributions**
Add the amounts entered on Code 401 through Code 444. Enter the total on Form 541, Side 2, line 41.

# Schedule A Charitable Deduction

California law generally follows federal law, however, California does not conform to IRC Section 1202.

A trust claiming a charitable or other deduction under IRC Section 642(c) for the taxable year must file the information return required by R&TC Section 18635 on Form 541-A.

California law follows federal law for charitable contributions.

Attach a statement listing the name and address of each charitable organization to which your contributions totaled $3,000 or more.

**Line 1a –** If the fiduciary is claiming the College Access Tax Credit, do not include the amount used to calculate the credit on line 1a.

See the instructions for completing federal Form 1041, Schedule A, Charitable Deduction.

# Schedule B Income Distribution Deduction

California law generally follows federal law.

Schedule P (541) must be completed if the estate or trust had an income distribution deduction.

**Line 1 –** If the amount on Side 1, line 17, is less than zero and the negative number is attributable in whole or in part to the capital loss limitation rules under IRC Section 1211(b), then enter as a negative number on Schedule B, line 1, the lesser of the loss from Side 1, line 17, or the loss from Side 1, line 4. If the negative number is not attributable to the capital loss on line 4, enter -0-.

**Line 2 –** Figure the adjusted tax-exempt interest as follows:

From the amount of tax-exempt interest received, subtract the total of 1 and 2 below.

1. The amount of tax-exempt interest, including exempt interest dividends from qualified mutual funds, on Form 541, Schedule A, line 2.
2. Any disbursements, expenses, losses, etc., directly or indirectly allocable to the interest (even though described as not deductible under R&TC Section 17280).

Figure the amount of the indirect disbursements, etc., allocable to tax-exempt interest as follows:

1. Divide the total tax-exempt interest received by the total of all the items of gross income (including tax-exempt interest) included in distributable net income.
2. Multiply the result by the total disbursements, etc., of the trust that are not directly attributable to any items of income.

Include any nontaxable gain from installment sales of small business stock sold prior to October 1, 1987, and includable in distributable net income.

**Line 3 –** Include all capital gains, whether or not distributed, that are attributable to income under the governing instrument or local law. If the amount on Schedule D (541), line 9, column (a) is a net loss, enter -0-.

California does not conform to qualified small business stock gain exclusion under IRC Section 1202.

**Line 9 and Line 10 –** These lines provide for the computation of the deduction allowable to the fiduciary for amounts paid, credited, or required to be distributed to the beneficiaries of the estate or trust. The deduction is equal to the amounts paid, credited, or required to be distributed or the distributable net income, whichever is smaller, adjusted in either case to exclude items of tax-exempt income entering into distributable net income. See the instructions for completing federal Form 1041, Schedule B, and attach Schedule J (541), Trust Allocation of an Accumulation Distribution, if required.

Complete and attach to Form 541 a properly completed Schedule K-1 (541) for each beneficiary. An FTB-approved substitute form or the information notice sent to beneficiaries may be used if it contains the information required by Schedule K-1 (541).

For more information, see General Information E, Additional Forms the Fiduciary May Have to File.

## Schedule G California Source Income and Deduction Apportionment

**Trust Income to be Reported from Sources.** Income retained by a trust is taxable to the trust. Income from California sources is taxable regardless of the residence of the fiduciaries and beneficiaries. R&TC Sections 17742 through 17745 provide that the taxability of non-California source income retained by a trust and allocated to principal depends on the residence of the fiduciaries and **noncontingent** beneficiaries, not the person who established the trust. Contingent beneficiaries are not relevant in determining the taxability of a trust.

A noncontingent or vested beneficiary has an unconditional interest in the trust income or corpus. If the interest is subject to a condition precedent, something must occur before the interest becomes present, it is not counted for purposes of computing taxable income. Surviving an existing beneficiary to receive a right to trust income is an example of a condition precedent.

There are five different situations that can occur when determining the taxability of a trust. The situations and treatment are:

1. If the trustee (or all the trustees, if more than one) is a California resident, the trust is taxed on all income from all sources (R&TC Section 17742).
2. If the noncontingent beneficiary (or all the noncontingent beneficiaries, if more than one) is a California resident, the trust is taxed on all income from all sources (R&TC Section 17742).
3. If at least one trustee is a California resident and at least one trustee is a nonresident and all beneficiaries are nonresidents, the trust is taxed on all California source income plus the proportion of all other income that the number of California resident trustees bears to the total number of trustees (R&TC Section 17743). Complete Schedule G.
4. If all of the trustees are nonresidents and at least one noncontingent beneficiary is a California resident and at least one noncontingent beneficiary is a nonresident, the trust is taxed on all California source income plus the proportion of all other income that the number of California resident noncontingent beneficiaries bear to the total number of noncontingent beneficiaries (R&TC Section 17744). Complete Schedule G.
5. If the trust has resident and nonresident trustees and resident and nonresident noncontingent beneficiaries, both situations 3 and 4 apply. Complete Schedule G.

The R&TC and accompanying regulations do not discuss the situation where some fiduciaries and some beneficiaries are nonresidents (situation 5). The FTB Legal Ruling No. 238, October 27, 1959, provides the method for allocating non-California source income where there is a mixture of California resident and nonresident fiduciaries, and California resident and nonresident noncontingent beneficiaries.

**Example:** Assume that the total taxable income of the trust is $90,000 and is not sourced in California. There are three trustees, one of whom is a resident of California. There are two noncontingent income beneficiaries, one of whom is a resident of California. The amount of income taxable by California is calculated in the following steps:

1. Taxable income is first allocated to California by the ratio of the number of California trustees to the total number of trustees. The trustee calculation is 1/3 of $90,000 = $30,000.
2. The amount allocated to California in that ratio (from Step 1) is subtracted from total taxable income. The amount for the next allocation is $60,000 ($90,000 – $30,000).
3. The remainder of total income is then allocated to California by the ratio of the number of California noncontingent beneficiaries to the total number of noncontingent beneficiaries. The beneficiary calculation is 1/2 of $60,000 = $30,000.
4. The sum of the trustee calculation and the noncontingent beneficiary calculation is the amount of non-California source income taxable by California. The trustee income calculation of $30,000 plus the beneficiary income calculation of $30,000 equals the income taxable by California of $60,000.

The apportionment described above does not apply when the interest of a beneficiary is contingent. See R&TC Section 17745 regarding taxability in such cases.

If any of the following apply, all trust income is taxable to California. **Do not** complete Schedule G.

- All trustees are California residents
- All non-contingent beneficiaries are California residents
- All trust income is from California sources

The amounts transferred from Schedule G, column F and column H, should only include income and deductions reportable to California.

## Part I

Complete lines 1a through 1f **before** completing the Income and Deduction Allocation.

The trustee is required to disclose the number of the trust's California resident trustees, nonresident trustees total trustees, California resident noncontingent beneficiaries, and total noncontingent beneficiaries.

**Line 1(a) and Line 1(b) –** Provide the total number of California resident trustees and the total number of California nonresident trustees who served the trust during any portion of the trust's taxable year. If a trustee ceased to serve the trust during any portion of the taxable year, changed residence during the taxable year, or began serving the trust during the taxable year, attach an additional statement identifying the particular trustee, the relevant date or dates, and a description of the event.

**Line 1(d) and Line 1(e) –** Include only noncontingent beneficiaries as provided in R&TC Section 17742. If the trust has no California resident noncontingent beneficiaries or no nonresident noncontingent beneficiaries, enter -0- on line 1(d) or line 1(e), respectively.

## Part II

Complete column A through column H to determine the amounts to enter on Form 541, Side 1, line 1 through line 15b.

### Income Allocation

Column A: Enter the California sourced income amount for line 1 through line 8.

Column B: Enter the non-California sourced income amount for line 1 through line 8.

Column C: Multiply column B by

$$\frac{\text{Number of CA trustees}}{\text{Total number of trustees}}$$

Column D: Subtract column C from column B.

Column E: Multiply column D by

$$\frac{\text{Number of CA noncontingent beneficiaries}}{\text{Total number of noncontingent beneficiaries}}$$

Column F: Add columns A, C, and E.

**Line 9:** Total lines 1 through 8 for column A through column F.

### Deduction Allocation

Column G: Enter the total amount of deductions for line 10 through line 15b.

Column H: Multiply the amounts in column G, line 10 through line 15b by

$$\frac{\text{Line 9, column F}}{\text{Line 9, column A plus B}}$$

# CREDIT CHART

| Credit Name | Code | Description |
|---|---|---|
| California Competes Tax – FTB 3531 | 233 | The credit, which is allocated and certified by the California Competes Tax Credit Committee, is available for businesses that want to come to California or to stay and grow in California Website: **business.ca.gov** |
| College Access Tax – FTB 3592 | 235 | The credit, which is allocated and certified by the California Educational Facilities Authority, is available for taxpayers who contribute to the College Access Tax Credit Fund Website: **treasurer.ca.gov/cefa** |
| Disabled Access for Eligible Small Businesses – FTB 3548 | 205 | Similar to the federal credit but limited to $125 based on 50% of qualified expenditures that do not exceed $250 |
| Donated Agricultural Products Transportation – FTB 3547 | 204 | 50% of the costs paid or incurred for the transportation of agricultural products donated to nonprofit charitable organizations |
| Enhanced Oil Recovery – FTB 3546 | 203 | One third of the similar federal credit and limited to qualified enhanced oil recovery projects located within California |
| Low-Income Housing – FTB 3521 | 172 | Similar to the federal credit but limited to low-income housing in California |
| Natural Heritage Preservation – FTB 3503 | 213 | 55% of the fair market value of any qualified contribution of property donated to the state, any local government, or any nonprofit organization designated by a local government. This credit expired on June 30, 2020. All qualified contributions must be made on or before that date. |
| New California Motion Picture and Television Production – FTB 3541 | 237 | For taxable years beginning on or after January 1, 2016, the **new** credit is allocated and certified by the California Film Commission, and is available for qualified production expenditures attributable to a qualified motion picture, an independent film, or a TV series that relocates to California. Website: **film.ca.gov** |
| New Donated Fresh Fruits or Vegetables – FTB 3814 | 238 | 15% of the qualified value of the donated fresh fruits, vegetables, or other qualified donated items made to California food banks, based on weighted average wholesale price |
| New Employment – FTB 3554 | 234 | The credit is available for a taxpayer that hires a full-time employee and pays or incurs wages in a designated census tract or economic development area, and receives a **tentative credit reservation** for that full-time employee |
| Other State Tax – Schedule S | 187 | Net income tax paid to another state or a U.S. possession on income also taxed by California |
| Prior Year Alternative Minimum Tax – FTB 3510 | 188 | Must have paid alternative minimum tax in a prior year and have no alternative minimum tax liability in 2017 |
| Prison Inmate Labor – FTB 3507 | 162 | 10% of wages paid to prison inmates |
| Program 3.0 California Motion Picture and Television Production | 239 | For taxable years beginning on or after January 1, 2020, the **newest** credit is allocated and certified by the California Film Commission, and is available for qualified production expenditures attributable to a qualified motion picture, an independent film or a TV series that relocates to California. Website: **film.ca.gov** |
| Research – FTB 3523 | 183 | Similar to the federal credit but limited to costs for research activities in California |
| Main Street Small Business Tax – FTB 3866 | 240 | The credit is available to qualified small business employers that received a tentative credit reservation from California Department of Tax and Fee Administration (CDTFA). |

**Repealed Credits:** The expiration dates for the credits listed below have passed. However, these credits had carryover provisions. The estate or trust may claim these credits only if there is a carryover available from prior years. If the estate or trust is not required to complete Schedule P (541), get form FTB 3540 to figure the estate's or trust's credit carryover to future years. For EZ, LAMBRA , MEA, or TTA credit carryovers, get form FTB 3805Z, FTB 3807, 3808, or form FTB 3809. For California Motion Picture and Television Product credit, get form FTB 3541. See "Where to Get Tax Forms and Publications" on the back cover.

| Credit | Code |
|---|---|
| Agricultural Products | 175 |
| California Motion Picture and Television Production | 223 |
| Commercial Solar Electric System | 196 |
| Commercial Solar Energy | 181 |
| Community Development Financial Institutions Investment | 209 |
| Donated Fresh Fruits or Vegetables | 224 |
| Employee Ridesharing | 194 |
| Employer Childcare Contribution | 190 |
| Employer Childcare Program | 189 |
| Employer Ridesharing: Large employer | 191 |
| Employer Ridesharing: Small employer | 192 |
| Employer Ridesharing: Transit passes | 193 |
| Energy Conservation | 182 |
| Enterprise Zone Hiring | 176 |
| Enterprise Zone Sales or Use Tax | 176 |
| Environmental Tax | 218 |
| Farmworker Housing | 207 |
| Local Agency Military Base Recovery Area Hiring | 198 |
| Local Agency Military Base Recovery Area Sales or Use Tax | 198 |
| Low-Emission Vehicles | 160 |
| Manufacturing Enhancement Area Hiring | 211 |
| New Jobs | 220 |
| Orphan Drug | 185 |
| Political Contributions | 184 |
| Recycling Equipment | 174 |
| Residential Rental & Farm Sales | 186 |
| Ridesharing | 171 |
| Salmon & Steelhead Trout Habitat Restoration | 200 |
| Solar Energy | 180 |
| Solar Pump | 179 |
| Targeted Tax Area Hiring | 210 |
| Targeted Tax Area Sales or Use Tax | 210 |
| Water Conservation | 178 |

# 2020 Instructions for Schedule D (541)

## Capital Gain or Loss

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2015**, and to the California Revenue and Taxation Code (R&TC).

## General Information

In general, for taxable years beginning on or after January 1, 2015, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2015. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to **ftb.ca.gov** and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540), California Adjustments - Residents, or Schedule CA (540NR), California Adjustments – Nonresidents or Part – Year Residents, and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the instructions. Taxpayers should not consider the instructions as authoritative law.

## A Purpose

Use Schedule D (541), Capital Gain or Loss, to report gains and losses from the sale or exchange of capital assets by an exempt organization, estate, or trust. Generally, California law follows federal law.

To report sales or exchanges of property other than capital assets, including the sale or exchange of property used in a trade or business and involuntary conversions (other than casualties and thefts), get California Schedule D-1, Sales of Business Property.

California does not have a special capital gain tax rate.

## B Miscellaneous Information

See the instructions for federal Schedule D (Form 1041), Capital Gains and Losses, for the definition of capital assets.

The Tax Cuts and Jobs Act (TCJA) amended 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.

In computing gross income, no distinction is made between gains and losses allocable to income account and those allocable to corpus account.

**Qualified Small Business Stock**
California does not conform to the qualified small business stock deferral and gain exclusion under IRC Section 1045 and IRC Section 1202.

**Qualified Opportunity Zone Funds**
The TCJA established Opportunity Zones. IRC Sections 1400Z-1 and 1400Z-2 provide a temporary deferral of inclusion of gross income for capital gains reinvested in a qualified opportunity fund, and exclude capital gains from the sale or exchange of an investment in such funds. California **does not** conform to the deferral and exclusion of capital gains reinvested or invested in federal opportunity zone funds under IRC Sections 1400Z-1 and 1400Z-2, and has no similar provisions. If, for California purposes, gains from investment in qualified opportunity zone property had been included in income during previous taxable year, do not include the gain in the current year income.

## C Basis

California law generally follows federal law with respect to basis. In determining the basis of property apply one of the following:

**Gift**
Generally, use the donor's basis if the transaction results in a gain. Use the lower of the donor's basis or the fair market value (FMV) on the date of the gift if the transaction results in a loss.

**Inherited property**
Use the FMV at the date of death, unless an alternate valuation date election is made under IRC Section 2032.

For special cases involving property acquired from a decedent before 1987, see former R&TC Sections 18031 through 18033.

The basis of the decedent's one-half of community property is the FMV at date of death. If the decedent's death occurred after December 31, 1986, the basis of the surviving spouse's one-half of community property becomes the FMV on the date of the decedent's death.

**Depreciation Methods and Property Expensing**
California law has not always conformed to federal law regarding depreciation methods, special credits, or accelerated write offs. Consequently, the recovery period and the basis on which depreciation is calculated may be different from the amounts used for federal purposes.

Before 1987, California law disallowed the use of accelerated cost recovery system (ACRS). California depreciation is calculated in the same manner as in prior years for those assets. The election to expense certain tangible property **does not** apply to estates and trusts.

Figure the original basis using the California law in effect when the asset was acquired, and adjust it according to provisions of California law in effect. For more information get form FTB 3885F, Depreciation and Amortization, and FTB Pub. 1001, or refer to the R&TC.

## D Internet Access

You can download, view, and print California tax forms and publications at **ftb.ca.gov/forms**.

Access other California state agency websites at **ca.gov**.

## Specific Line Instructions

If you file Form 109, California Exempt Organization Business Income Tax Return, attach a copy of your completed Schedule D (541) to Form 109.

## Part I – Capital Gain and Loss

**Line 2 –** If the estate or trust sold property at a gain this taxable year and is to receive any payment in a later taxable year, use the installment method and file form FTB 3805E, Installment Sale Income. If the estate or trust elects out of the installment method, report the gain or loss on line 1. Also, use form FTB 3805E if a payment was received in the taxable year from a sale made in an earlier year on the installment basis.

If the estate or trust elects not to use the installment method and is reporting a note or other obligation at less than face amount on line 1, state that fact in the margin and give the percentage of valuation. Get federal Publication 537, Installment Sales, and federal Publication 559, Survivors, Executors, and Administrators, for additional information.

**Line 4 –** Report the amount from federal Form 1099-DIV, Dividends and Distributions, box 2a, on line 4.

**Line 7 –** Enter the amount of unused capital loss carryover from prior years.

There is no capital loss carryover from a decedent to an estate.

## Part II – Summary of Part I

**Line 9 –** Use line 9 to summarize the gain or loss computed in Part I.

**Column (a) — Beneficiaries**
Enter the amounts of capital gain or loss allocable to the beneficiaries. **Do not** allocate capital losses to beneficiaries unless the capital losses are required to offset capital gains. See IRC Section 643(a). Any capital loss carryover for the final year is allowed to the beneficiaries, to the extent of their distributive shares.

Nonresident and part-year resident beneficiaries may have to report their loss carryovers, deferred deductions, and deferred income differently from the manner shown on their Schedule K-1 (541), Beneficiary's Share of Income, Deductions, Credits, etc. For more information, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency.

**Column (b) — Fiduciary**
Enter the amounts of the gain or loss allocable to the fiduciary.

Enter any capital gain paid or permanently set aside for charitable purposes, IRC Section 642(c), in column (b).

**Column (c) — Total**
The amount entered on line 9, column (c), should be the total of the amounts shown on line 9, column (a) and column (b).

Form 109 filers, see instructions for that form.

## Part III – Computation of Capital Loss Limitation

**Line 10 –** If line 9, column (c), shows a loss, the loss is limited at line 10 to the smaller of the amount of the loss or $3,000.

Form 109 filers, see instructions for that form.

## Computation of Capital Loss Carryover from 2020 to 2021

Complete the California Capital Loss Carryover Worksheet to determine the capital loss carryover to 2021.

**California Capital Loss Carryover Worksheet**

1. Loss from Schedule D (541), line 10, stated as a positive number. . . . . . . . . . . . . . . 1 ____________
2. Amount from Form 541, line 17. . . . . . . . . . . . . . . . 2 ____________
3. Amount from Form 541, line 18. . . . . . . . . . . . . . . . 3 ____________
4. Subtract line 3 from line 2. If less than zero, enter as a negative amount. . . . . . . . 4 ____________
5. Combine line 1 and line 4. If less than zero, enter -0-. . . . . . . . . . . . . . . 5 ____________
6. Loss from Schedule D (541), line 9. . 6 ____________
7. Enter the smaller of line 1 or line 5. . . . . . . . . . 7 ____________
8. Subtract line 7 from line 6. This is your capital loss carryover to 2021. . . . . . . 8 ____________

   Note: If this is the final return of the estate or trust, also enter on Schedule K-1 (541), line 11b.

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# 2020 Instructions for Schedule J (541)

## Trust Allocation of an Accumulation Distribution

References in these instructions are to the Internal Revenue Code (IRC), as of **January 1, 2015**, and to the California Revenue and Taxation Code (R&TC).

## General Information

In general, for taxable years beginning on or after January 1, 2015, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2015. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to **ftb.ca.gov** and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540), California Adjustments – Residents, or Schedule CA (540NR), California Adjustments – Nonresidents or Part – Year Residents, and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the instructions. Taxpayers should not consider the instructions as authoritative law.

California has conformed to federal provisions of the Taxpayer Relief Act of 1997 repealing the throwback rules for certain domestic trusts. However, if the trust did not pay tax on the beneficiary's interest because the beneficiary was contingent, the income that would have been taxed is included by the beneficiary in the year it is distributable or distributed; see R&TC Section 17745(b).

### Purpose

File Schedule J (541), Trust Allocation of an Accumulation Distribution, with Form 541, California Fiduciary Income Tax Return, to report an accumulation distribution by domestic complex trusts and certain foreign trusts.

### Internet Access

You can download, view, and print California tax forms and publications at **ftb.ca.gov/forms.**

## Specific Line Instructions

### Part I – Accumulation Distribution

R&TC Section 17779 specifically excludes from conformity IRC Section 665. Therefore, California law does not conform to federal law to exempt from taxation those accumulations occurring prior to a beneficiary turning age 21. For multiple trusts exceptions, see IRC Sections 665 and 667(c). The trustee reports the total amount of the accumulation distribution.

### Part II – Ordinary Income Accumulation Distribution

You must complete Part III before completing this part.

**Line 6 – Distributable net income**
Enter the applicable amounts as follows:

| Throwback Year(s): | Amount From: |
|---|---|
| 1969-1978 | Form 541, Schedule H, line 5 |
| 1979 | Form 541, Part D, line 5 |
| 1980 | Form 541, line 55 |
| 1981-1984 | Form 541, line 57 |
| 1985-1986 | Form 541, Schedule 3, line 11 |
| 1987 | Form 541, Schedule 3, line 9 |
| 1988-1998 | Form 541, Schedule B, line 8 |
| 1999-2019 | Form 541, Schedule B, line 7 |

**Line 7 – Distributions**
Enter the applicable amounts for distributions made during earlier years as follows:

| Throwback Year(s): | Amount From: |
|---|---|
| 1969-1978 | Form 541, Schedule I, line 3 |
| 1979 | Form 541, Part D, line 8 |
| 1980 | Form 541, line 58 |
| 1981-1984 | Form 541, line 60 |
| 1985-1986 | Form 541, Schedule 3, line 14 |
| 1987 | Form 541, Schedule 3, line 13 |
| 1988-1998 | Form 541, Schedule B, line 12 |
| 1999-2019 | Form 541, Schedule B, line 11 |

**Line 16 – Tax-exempt interest included on line 13**
For each throwback year, divide line 15 by line 6 and multiply the result by one of the following:

| Throwback Year(s): | Amount From: |
|---|---|
| 1969-1978 | Form 541, Schedule H, line 2(a) |
| 1979 | Form 541, Part D, line 2(a) |
| 1980 | Form 541, line 52(a) |
| 1981-1984 | Form 541, line 54(a) |
| 1985-1986 | Form 541, Schedule 3, line 3 |
| 1987 | Form 541, Schedule 3, line 2 |
| 1988-2019 | Form 541, Schedule B, line 2 |

### Part III – Taxes Imposed on Undistributed Net Income

For the regular tax computation, if there is a capital gain, complete line 18 through line 25 for each throwback year. If there is no capital gain for any year (or there is a capital loss for every year), enter on line 9 the amount of the tax for each year entered for line 18; do not complete Part III.

If the trust received an accumulation distribution from another trust, see the federal Treasury Regulations under IRC Sections 665-668.

**Line 18 – Tax**
Enter the applicable tax amounts as follows:

| Throwback Year(s): | Amount From: |
|---|---|
| 1969 | Form 541, line 20 |
| 1970-1971 | Form 541, line 21 |
| 1972-1979 | Form 541, line 19 |
| 1980-1981 | Form 541, line 23 |
| 1982-1984 | Form 541, line 23(c) |
| 1985-1986 | Form 541, line 24(c) |
| 1987-1989 | Form 541, line 22(c) |
| 1990-1996 | Form 541, line 20(a) |
| 1997-2019 | Form 541, line 21(a) |

**Line 19 – Total net capital gain**
Enter the applicable amounts as follows:

| Throwback Year(s): | Amount From: |
|---|---|
| 1969-1979 | Form 541, line 6 |
| 1980-1986 | Form 541, line 7 |
| 1987-1990 | Form 541, line 6 |
| 1991-2019 | Form 541, line 4 |

**Line 20 – Net capital gain distributed to beneficiaries**
Enter the applicable net capital gain distributed as follows:

| Throwback Year(s): | Amount From: |
|---|---|
| 1969 | Form 541, Side 1, line 17 plus amounts from Schedule F-1 (541), lines 1 and 2 |
| 1970-1971 | Form 541, Side 1, line 18 plus amounts from Schedule F-1 (541), lines 1 and 2 |
| 1972-1979 | Schedule F-1 (541), lines 1(a)-1(c) |
| 1980 | Schedule K-1 (541), lines 2-4 |
| 1981 | Schedule K-1 (541), lines 1-3 |
| 1982 | Schedule D (541), line 25 |
| 1983 | Schedule D (541), line 30 |
| 1984 | Schedule D (541), line 33 |
| 1985-1986 | Schedule D (541), line 28 |
| 1987 | Schedule D (541), line 24 |
| 1988-2019 | Schedule D (541), line 9(a) |

**Line 22 – Total taxable income**
Enter the applicable amounts as follows:

| Throwback Year(s): | Amount From: |
|---|---|
| 1969 | Form 541, line 19 |
| 1970-1971 | Form 541, line 20 |
| 1972-1979 | Form 541, line 18 |
| 1980-1984 | Form 541, line 22 |
| 1985-1986 | Form 541, line 23 |
| 1987-1989 | Form 541, line 21 |
| 1990-1996 | Form 541, line 19 |
| 1997-2010 | Form 541, line 20 |
| 2011-2019 | Form 541, line 20a |

### Part IV – Allocation to Beneficiary

Complete Part IV for each beneficiary. If the accumulation distribution is allocated to more than one beneficiary, attach an additional copy of Schedule J (541) with Part IV completed for each additional beneficiary. If more than four throwback years are involved, attach additional schedules.

**Nonresident Beneficiaries**
In the case of a nonresident beneficiary, enter on line 26 through line 29, column (a), only that ratio of income from California sources as the amount on Part II, line 13 bears to the amount on Part II, line 10. Enter on line 26 through line 29, column (b), only that ratio of the amount on Part II, line 14 as the amount in column (a) bears to the amount on Part II, line 13.

Attach separate schedules supporting allocation of income to sources within and outside California.

Under R&TC Section 17953, income from trusts deemed distributed to nonresident beneficiaries is income from sources within California only if the income is derived from sources within California. Generally, for purposes of R&TC Section 17953, the nonresident beneficiary shall be deemed to be the owner of any intangible personal property from which the income of the trust is derived.

If the beneficiary is a nonresident individual or a foreign corporation, see IRC Section 667(e) about retaining the character of the amounts distributed to determine the amount of withholding tax.

The beneficiary may use form FTB 5870A, Tax on Accumulation Distribution of Trusts, to compute the tax on the distribution.

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# 2020 Beneficiary's Instructions for Schedule K-1 (541)

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2015**, and to the California Revenue and Taxation Code (R&TC).

## What's New

**Special Reporting for R&TC Section 41** - Beginning in taxable year 2020, partners, members, shareholders, or beneficiaries of pass-through entities conducting a commercial cannabis activity licensed under the California Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) should file form FTB 4197, Information on Tax Expenditure Items. The Franchise Tax Board (FTB) uses information from form FTB 4197 for reports required by the California Legislature. If the estate or trust conducted a commercial cannabis activity licensed under the California MAUCRSA, or received flow-through income from another pass-through entity in that business, the estate or trust will report your share of total deductions and credits related to the cannabis income on a separate schedule attached to Schedule K-1 (541), Beneficiary's Share of Income, Deductions, Credits, etc. Use the information from this schedule to complete form FTB 4197. Get form FTB 4197 for more information.

## General Information

In general, for taxable years beginning on or after January 1, 2015, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2015. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to **ftb.ca.gov** and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540), California Adjustments - Residents, or Schedule CA (540NR), California Adjustments – Nonresidents or Part-Year Residents, and the Business Entity tax booklets.

The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the instructions. Taxpayers should not consider the instructions as authoritative law.

## Purpose

The estate or trust uses Schedule K-1 (541) to report your share of the estate's or trust's income, deductions, credits, etc. Your name, address, and tax identification number, as well as the estate's or trust's name, address, and tax identification number, should be entered on the Schedule K-1 (541). Keep Schedule K-1 (541) for your records. **Do not** file it with your tax return. The estate or trust has filed a copy with the FTB.

You are subject to tax on your share of the estate's or trust's income, and you must include your share on your individual tax return.

Schedule K-1 (541), column (b) shows amounts from your federal Schedule K-1 (Form 1041), Beneficiary's Share of Income, Deductions, Credits, etc. Column (c) shows the difference between federal and California amounts. Column (d) shows your total amounts using California law by combining column (b) and column (c). Column (e) shows your income and loss from California sources.

Generally, the amount of loss and deduction you may claim on your tax return is limited to your share of the estate or trust and the amount for which you are considered at-risk. If you have losses, deductions, or credits from a passive activity, you must also apply the passive activity rules. It is the beneficiary's responsibility to consider and apply any applicable limitations.

California law is generally the same as federal law with regard to income, the character of income, allocation of deductions, gifts, and bequests, and past years. Follow the instructions for federal Schedule K-1 (Form 1041) for these items.

Generally, you must report items shown on your Schedule K-1 (541) (and any attached schedules) the same way that the estate or trust treated the items on its tax return. If the treatment on your original or amended tax return is inconsistent with the estate's or trust's treatment, or if the estate or trust was required to but has not filed a tax return, you must attach a statement identifying the inconsistency. Beneficiaries may be liable for negligence penalties and penalties relating to mathematical errors if they cannot demonstrate that their treatment is consistent with the estate or trust.

Beneficiaries of estates and trusts include in their gross income their distributive share of the fiduciary's income distribution deduction for the taxable year. Amounts that are distributed by an estate or trust and that are not deductible in computing the entity's taxable income (i.e., distributions of corpus or tax-exempt income) usually are not taxable to the beneficiary.

Resident beneficiaries are taxed on income distributed or distributable from all sources. Nonresident beneficiaries are taxed only on income distributed or distributable that is derived from sources within California (R&TC Section 17953).

For purposes of this section, the nonresident beneficiary is deemed the owner of any intangible personal property from which the income of the estate or trust is derived. Therefore, such income is taxed at the beneficiary's domicile.

The estate or trust will attach a schedule of intangible income, such as income from stocks, bonds, bank accounts, and notes, whose source is dependent upon the residence or commercial domicile of the taxpayer. The income on this schedule is not income from California sources for nonresidents but is income sourced at the beneficiary's state of residence or commercial domicile.

## Specific Line Instructions

If you are a nonresident beneficiary, the California source amounts in column (e) will help you identify the California source adjusted gross income that must be reported on your Schedule CA (540NR), column E.

Part-year residents may be required to calculate their IRC Section 652 or 662 income in a manner that produces a different result than the amounts shown in column (e) of this form. For more information, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency.

**Line 3 through Line 12**

You must report the amounts in column (c), adjustments, that are from **nonpassive** activities on the appropriate California form or schedule as explained in these instructions.

Report the amounts in column (d), total amounts using California law, that are from **passive** activities on the appropriate California form or schedule. Get form FTB 3801, Passive Activity Loss Limitations, to transfer those amounts and to figure the amount of your passive activity loss limitation. Carry the passive activity amounts to the California form or schedule to figure your California adjustment amount. Enter this adjustment amount on the corresponding line on Schedule CA (540 or 540NR) only if there is a federal/California difference.

If there is no California form or schedule on which to compute your passive activity loss adjustment amount (i.e., rental loss from passive activities), you may figure the adjustment amount on the California Adjustment Worksheets in the instructions for form FTB 3801. Enter the total of your adjustments from these worksheets from all passive activities on Schedule CA (540), Part I, Section B, line 5, or Schedule CA (540NR), Part II, Section B, line 5, column B or column C, whichever is appropriate.

**Line 1 – Interest**

If you have an amount on Schedule K-1 (541), line 1, column (c), report this amount on Schedule CA (540), Part I, Section A, line 2 or Schedule CA (540NR), Part II, Section A, line 2, column B or column C, whichever is applicable.

**Line 2 – Dividends**

If you have an amount on Schedule K-1 (541), line 2, column (c), report this amount on Schedule CA (540), Part I, Section A, line 3, or Schedule CA (540NR), Part II, Section A, line 3, column B or column C, whichever is applicable.

**Line 3 – Net capital gain or (loss)**

If you have an amount on Schedule K-1 (541), line 3, column (d), report this amount on Schedule D (540 or 540NR), California Capital Gain or Loss Adjustment, line 2, column (d) or column (e), whichever is applicable.

If there is an attachment to Schedule K-1 (541) that reports the disposition of a passive activity, get form FTB 3801 for more information.

**Line 5 – Other portfolio and nonbusiness income**
If you have an amount on Schedule K-1 (541), line 5, column (c), report this amount on Schedule CA (540), Part I, Section B, line 5, or Schedule CA (540NR), Part II, Section B, line 5, column B or column C, whichever is applicable.

**Line 6 through Line 8 – Ordinary business, net rental real estate, and other rental income**
Read the instructions below before including any amounts shown on Schedule K-1 (541), line 6, on Schedule CA (540), Part I, Section B, line 5, or Schedule CA (540NR), Part II, Section B, line 5.

**Passive activities:** The deductions on line 6 may be subject to the passive loss limitation rules. In general, losses from passive activities are allowed only to the extent of income from passive activities.

If your passive activity deductions exceed your passive activity income, or you have passive activity losses from any other source, you must use form FTB 3801 to figure your losses allowed from all passive activities.

**Line 9a through Line 9c – Depreciation, depletion, and amortization**
Any directly apportionable deduction, such as depreciation, is treated by the beneficiary as having been incurred in the same activity as incurred by the estate or trust. The estate or trust should provide you with a schedule showing your share of directly apportionable deductions derived from each activity reported on line 5 through line 8.

**Line 11a – Excess deductions on termination**
If you have an amount on Schedule K-1 (541), line 11a, column (c), report this amount as a positive or negative amount on Schedule CA (540), Part II, line 21 or Schedule CA (540NR) Part III, line 21, whichever is applicable.

**Line 11b – Capital loss carryover**
If you have an amount on Schedule K-1 (541), line 11b, column (c) report the amount on Schedule D (540 or 540NR), line 6.

**Line 11c and Line 11d – Net operating loss (NOL) carryover**
Upon termination of a trust or decedent's estate, a beneficiary succeeding to its property is allowed to deduct any unused NOL (and any Alternative Minimum Tax (AMT) NOL) carryover for regular and AMT purposes if the carryover would be allowable to the estate or trust in a later tax year but for the termination.

For taxable years beginning on or after January 1, 2002, the NOL carryover computation for the California taxable income of a nonresident or part-year resident is no longer limited by the amount of net operating loss from all sources.

For more information, get form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Individuals, Estates, and Trusts.

**Line 12a – Adjustment for alternative minimum tax purposes**
If you have an amount on Schedule K-1 (541), line 12, column (d), report this amount on Schedule P (540), Alternative Minimum Tax and Credit Limitations — Residents, or Schedule P (540NR), Alternative Minimum Tax and Credit Limitations — Nonresidents or Part-Year Residents, Part I, line 12, whichever is applicable.

For more information, get form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Individuals, Estates, and Trusts.

**Line 12b through Line 12d**

- **Schedule P (540) filers:** Include any column (d) amount on Schedule P (540), Part I, line 13, as applicable.
- **Schedule P (540NR) filers:** Include column (d) amounts on Schedule P (540NR), Part I, line 13, as applicable, and report column (e) amounts in Part II, line 29 (f).

**Line 12e – Exclusion items**
Include any column (d) or column (e) amount on form FTB 3510, Credit for Prior Year Alternative Minimum Tax — Individuals or Fiduciaries, line 2.

**Line 13a – Trust payments of estimated tax credited to you**
Include on Form 540, California Resident Income Tax Return, line 72 or Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, line 82, any estimated tax payments paid by the trust on your behalf.

**Line 13b – Total withholding**
Total withholding is the sum of your distributive share of taxes withheld from payments to the estate or trust by another entity (allocated to all beneficiaries according to their respective estate or trust interests) plus taxes withheld-at-source on you as a domestic or foreign nonresident beneficiary. If there is a withholding credit allocated to you from another entity or taxes were withheld on you by the estate or trust, the estate or trust must provide you with a completed 2020 Form 592-B, Resident and Nonresident Withholding Tax Statement. Attach Form 592-B to the front of your California income tax return to claim the amount withheld. The amount shown on Form 592-B must be claimed on one of the following:

- Form 540, California Resident Income Tax Return, line 73.
- Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, line 83.
- Form 541, California Fiduciary Income Tax Return, line 31.
- Form 109, California Exempt Organization Business Income Tax Return, line 17.
- Form 100, California Corporation Franchise or Income Tax Return, line 33.
- Form 100S, California S Corporation Franchise or Income Tax Return, line 32.

Schedule K-1 (541) is not used to claim the withholding credit. If the estate or trust is not on a calendar year, the amount on line 13b may not match the amount on Form 592-B because of the difference in accounting periods.

**Line 13c – Taxes paid to other states**
You may claim a credit against your individual income tax on your share of the net income tax paid to other states by the estate or trust. Get Schedule S, Other State Tax Credit.

**Line 13d – Other credits**
If applicable, the estate or trust will use this line, through an attached statement, to give you the information you need to compute credits related to a trade or business activity.

Credits that may be reported include the following:

- California Competes Tax Credit. Get form FTB 3531.
- College Access Tax Credit. Get form FTB 3592.
- Disabled Access Credit for Eligible Small Businesses. Get form FTB 3548.
- Donated Agricultural Products Transportation Credit. Get form FTB 3547.
- Enhanced Oil Recovery Credit. Get form FTB 3546.
- Low-Income Housing Credit. Get form FTB 3521.
- Natural Heritage Preservation Credit. Get form FTB 3503.
- New California Motion Picture and Television Production Credit. Get form FTB 3541.
- New Donated Fruits or Vegetables Credit. Get form FTB 3814.
- New Employment Credit. Get form FTB 3554.
- Prison Inmate Labor Credit. Get form FTB 3507.
- Program 3.0 California Motion Picture and Television Credit. Get form FTB 3541.
- Research Credit. Get form FTB 3523.
- Main Street Small Business Tax Credit. Get form FTB 3866.

The passive activity limitations of IRC Section 469 may limit the amount of credits you may claim. Get form FTB 3801-CR, Passive Activity Credit Limitations.

**Line 14a – Tax-exempt interest**
Include any column (c) amount on Schedule CA (540), Part I, Section A, line 2, or Schedule CA (540NR), Part II, Section A, line 2, column B or column C, whichever is appropriate.

**Line 14d – Other information**
Report any column (c) amount on Schedule CA (540), Part I, Section B, line 5, or Schedule CA (540NR), Part II, Section B, line 5, column B or column C, whichever is appropriate.

If the estate or trust is claiming tax benefits from a former Enterprise Zone (EZ), Local Agency Military Base Recovery Area (LAMBRA), Manufacturing Enhancement Area (MEA), or Targeted Tax Area (TTA), it will give the beneficiaries their distributive share of the business income, and business capital gains and losses included in business income, apportioned to the EZ, LAMBRA, MEA, or TTA on this line. Get form FTB 3805Z, Enterprise Zone Deduction and Credit Summary; form FTB 3807, Local Agency Military Base Recovery Area Deduction and Credit Summary; form FTB 3808, Manufacturing Enhancement Area Credit Summary; or form FTB 3809, Targeted Tax Area Deduction and Credit Summary to claim any applicable credit.

# 2020 Instructions for Schedule K-1 (541)

## Beneficiary's Share of Income, Deductions, Credits, etc.

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2015**, and to the California Revenue and Taxation Code (R&TC).

## Whats New

**Special Reporting for R&TC Section 41**
If the estate or trust conducted a commercial cannabis activity licensed under the California MAUCRSA, or received flow-through income from another pass-through entity in that business, attach a schedule to the Schedule K-1 (541) showing the breakdown of the following information:

- The beneficiary's share of total deductions related to the cannabis business, including deductions from ordinary income.
- The beneficiary's share of total credits related to the cannabis business.

Get form FTB 4197, Information on Tax Expenditure Items, for more information.

## General Information

**Schedule K-1 Federal/State Line References**
The California Schedule K-1 (541), Beneficiary's Share of Income, Deductions, Credits, etc., line items are formatted similar to the federal Schedule K-1 (Form 1041), Beneficiary's Share of Income, Deductions, Credits, etc. For more information, see the Schedule K-1 Federal/State Line References chart on page 37.

## A Purpose

The estate or trust uses Schedule K-1 (541) to report its beneficiary's share of the income, deductions, credits, etc.

## B Who Must File

A fiduciary of the estate or trust (or one of the joint fiduciaries) must file a Schedule K-1 (541) for each beneficiary. A copy of each beneficiary's Schedule K-1 (541) must be attached to the Form 541, California Fiduciary Income Tax Return, filed with the Franchise Tax Board (FTB). The fiduciary also must give each beneficiary a copy of his or her respective Schedule K-1 (541) and a copy of the Beneficiary's Instructions for Schedule K-1 (541) or other prepared specific instructions. One copy of each Schedule K-1 (541) must be retained for the fiduciary's records.

## C Penalty

The estate or trust will be charged a $100 penalty for failure to provide a copy of each beneficiary's Schedule K-1 (541), unless reasonable cause is established for not providing it (California Revenue and Taxation Code (R&TC) Section 19183).

## D Substitute Forms

If the estate or trust does not use an official FTB Schedule K-1 (541) or a software program with an FTB-approved Schedule K-1 (541), it must get approval from the FTB to use a substitute Schedule K-1 (541). Get FTB Pub. 1098, Annual Requirements and Specifications for the Development and Use of Substitute, Scannable, and Reproduced Tax Forms, for more information.

## E Taxable Year

**Beneficiary's taxable year.** The beneficiary's income from the estate or trust must be included in the beneficiary's return for the taxable year in which the estate's or trust's taxable year ends.

**Prior Year. Do not** include in the beneficiary's income any amounts deducted on Form 541 for an earlier year that were credited or required to be distributed in that earlier year.

## F Beneficiary's Income

If no special computations are required, use the following instructions to compute the beneficiary's income from the estate or trust.

California reporting requirements are the same as federal for:

- Income
- Character of income
- Allocation of deductions
- Allocation of credits
- Gifts and bequests

However, income of nonresidents from bank accounts, stocks, bonds, notes, and other intangible personal property is not income from sources in California unless one of the following applies 1) the property has acquired a business situs in California 2) orders with brokers have been placed so regularly as to constitute "doing business" (R&TC Section 17952).

Include on Schedule K-1 (541) column (e) only income from intangible property that is income from sources within California.

Attach a separate schedule to each beneficiary's Schedule K-1 (541) showing intangible income, such as interest, dividends, capital gains from the sale of stocks, bonds, etc., whose source is dependent upon the residence or commercial domicile of the beneficiary.

For nonresidents, income from a trade or business conducted within and outside California is apportioned or allocated to California in accordance with Cal. Code Regs., tit. 18, section 17951-4(c).

## G Passive Activities

The limitations on passive activity losses and credits under Internal Revenue Code Section 469 apply to estates and trusts. Estates and trusts that distribute income to beneficiaries are allowed to allocate depreciation, depletion, and amortization deductions to beneficiaries. These deductions are called "directly allocable deductions."

If items of income (loss), deduction, or credit from more than one activity are reported on Schedule K-1 (541), the fiduciary must attach a statement to Schedule K-1 (541) for each passive activity.

## H Nonresident Beneficiaries

If the beneficiary of an estate or trust was a nonresident of California for the estate's or trust's entire taxable year, California will only tax the beneficiary on income that is derived from California sources. If the beneficiary of an estate or trust is a resident of California for only part of the estate's or trust's taxable year, California will tax the beneficiary's share of the estate's or trust's income or loss in accordance with FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency, and FTB Legal Ruling 2003-1. Where an estate or trust derives income from both within and outside California, it is necessary for the fiduciary to determine what portion of the beneficiary's share of income of the estate or trust is from within and outside California. The amounts derived from or attributable to income from sources within and outside California are to be properly allocated and reported on the Schedule K-1 (541).

Payments to nonresidents having a business or taxable situs in California are subject to withholding of taxes. For more information, get the 2020 instructions for Form 592, Resident and Nonresident Withholding Statement; Form 592-B, Resident and Nonresident Withholding Tax Statement; and Form 592-V, Payment Voucher for Resident and Nonresidents Withholding.

**General Summary of Treatment for Sourcing Specific Nonbusiness Income Items**

For California tax purposes:

- Compensation for personal services has a source where the services are performed.
- Interest and dividends generally have a source at the taxpayer's state of residence.
- Gains and losses from the sale or exchange of real and tangible personal property have a source where the property is located.
- Income from intangible personal property generally has a source at the taxpayer's state of residence.
- Rents and royalties have a source where the property is located.
- Pensions have a source where the services were performed. However, California does not impose a tax on qualified retirement income or pensions received by nonresidents on or after January 1, 1996.

Generally, income from a business, trade, or profession is sourced as follows:

- If the operations are conducted wholly within California, the income has a California source.
- If the operations within California are so separate and distinct from the operations outside of California that taxable income can be separately accounted for, only the income from within California must be included in California source income.
- If the trade or business carried on within California is an integral part of a unitary business carried on outside of California, the entire net income must be reported and apportioned or allocated in accordance with the provisions of the Uniform Division of Income for Tax Purposes Act as contained in R&TC Sections 25120 through 25139.

S corporation, partnership, and limited liability company (LLC) income (loss), is apportioned or allocated in the same manner as any other business. If the estate or trust is a S corporation shareholder, partner, or member in a business entity, income sourced to California is generally included in column (e) of Schedules K-1 (100S, 565, or 568), Shareholder's, Partner's, or Member's Share of Income, Deductions, Credits, etc. For more information, see Cal. Code Regs., tit. 18, section 17951-4 and related tax codes.

See Cal. Code Regs., tit. 18, sections 17951-1(c), 17951-2, and 17953 regarding taxability of distributions to nonresident beneficiaries.

For more information on California source income being distributed to a nonresident beneficiary, get Form 541 instructions, General Information R, Miscellaneous Items.

If the beneficiary of an estate or trust was a resident of California for the estate's or trust's entire taxable year, the beneficiary's share of the estate's or trust's income or loss for the taxable year is taxable to California.

## I Internet Access

You can download, view, and print California tax forms and publications at **ftb.ca.gov/forms**.

## Specific Line Instructions

When completing the California Schedule K-1 (541) refer to the Federal/State Line References chart on page 37 that shows the specific line instructions between the federal Schedule K-1 (Form 1041) and the California Schedule K-1 (541).

The estate or trust is required to request and provide a proper identification number for each beneficiary. Enter the beneficiary's number on the respective Schedule K-1 (541) when the estate or trust files Form 541.

Individuals and business beneficiaries are responsible for giving the estate or trust their social security number (SSN) or individual taxpayer identification number (ITIN), California corporation number, California Secretary of State (SOS) file number, or federal employer identification number (FEIN) upon request.

The estate or trust may use federal Form W-9, Request for Taxpayer Identification Number and Certification, to request the beneficiary's identifying number.

**Fiduciary's name, address**
If there is more than one fiduciary or trustee, list all of the fiduciaries or trustees' names, addresses, and indicate if the fiduciary is a nonresident. If more space is needed, add an attachment. Include the estate's or trust's FEIN at the top of each separate attachment.

**Columns (b), (c), (d), and (e)**

In **column (b)**, enter the amounts from your federal Schedule K-1 (Form 1041).

In **column (c)**, enter adjustments resulting from differences between California and federal law for each specific line item.

In **column (d)**, enter the result of combining column (b) and column (c).

In **column (e)**, enter California source income and credits.

**Line 1 –** Enter in column (b) the amount from federal Schedule K-1 (Form 1041), line 1.

**Line 2 –** Enter in column (b) the amount from federal Schedule K-1 (Form 1041), line 2a.

**Line 3 –** Enter the combined amount from federal Schedule K-1 (Form 1041), line 3 and line 4a on line 3, column (b). Attach a statement to Schedule K-1 (541) listing gains or losses from the complete or partial disposition of a rental real estate or trade or business activity that is a passive activity.

**Qualified Opportunity Zone Funds –** The TCJA established Opportunity Zones. IRC Sections 1400Z-1 and 1400Z-2 provide a temporary deferral of inclusion of gross income for capital gains reinvested in a qualified opportunity fund, and exclude capital gains from the sale or exchange of an investment in such funds. California **does not** conform to the deferral and exclusion of capital gains reinvested or invested in federal opportunity zone funds under IRC Sections 1400Z-1 and 1400Z-2, and has no similar provisions. If, for California purposes, gains from investment in qualified opportunity zone property had been included in income during previous taxable year, do not include the gain in the current year income.

**Line 5 –** Enter on line 5 the beneficiary's share of annuities, royalties, or any other income (before directly allocable deductions) that is not subject to any passive activity loss limitation rules at the beneficiary level. Use lines 6 through 8 to report income items subject to the passive activity rules at the beneficiary's level.

**Line 6 through Line 8 –** Enter the beneficiary's share of trade or business, rental real estate, and other rental income, minus allocable deductions (other than directly apportionable deductions). To assist the beneficiary in figuring any applicable passive activity loss limitations, also attach a separate schedule showing the beneficiary's share of income derived from each trade or business, rental real estate, and other rental activity.

**Line 9a through line 9c –** Enter the beneficiary's share of the depreciation and depletion deductions directly apportioned to each activity reported on line 5 through line 8. Itemize the beneficiary's share of the amortization deductions directly apportioned to each activity on line 5 through line 8. For more information, get the instructions for federal Schedule K-1 (Form 1041).

**Line 11a through Line 11d –** If this is the final return, enter on line 11 the beneficiary's share of any of the following:

- Excess deductions on termination (follow the instructions for federal Form 1041, U.S. Income Tax Return for Estates and Trusts)
- Capital loss carryover
- Unused net operating loss (NOL) carryover for both regular and alternative minimum tax, if the NOL carryover would be allowed to the estate or trust in a later year but for termination

**Note:** No deduction is allowed for estate taxes.

**Net Operating Loss (NOL)**
For more information, get form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Individuals, Estates, and Trusts.

**Line 12a –** Enter the beneficiary's share of the adjustment for minimum tax purposes. To figure the adjustment, subtract the beneficiary's share of the income distribution deduction figured on Form 541, Schedule B, line 15, from the beneficiary's share of the income distribution deduction on an alternative minimum tax basis figured on Schedule P (541), Alternative Minimum Tax and Credit Limitations – Fiduciaries, Part II, line 15. The difference is the beneficiary's share of the adjustment for minimum tax purposes.

An estate or trust cannot pass through the alternative minimum taxable income (AMTI) exclusion to the beneficiary. The fiduciary for the estate or trust must recalculate Schedule P (541), by leaving Part I, line 7b blank. This will eliminate the effect of the AMTI exclusion but allow other items of adjustment or tax preference to be passed through to the beneficiary. The recalculated amount on Schedule P (541), Part I, line 10, must be entered on Schedule K-1 (541), line 12a, column (d).

**Line 12b through Line 12e –** Enter the amounts from Schedule P (541), line 4. Get the instructions for federal Schedule K-1 (Form 1041) for more information.

**Line 13 and Line 14 –** Enter the beneficiary's trust payments, withholding, taxes paid to other states, and/or other credits. Attach a separate sheet for each item reported on line 13a-d and line 14a showing the computation. Items that must be reported on these lines include the allocable share, if any, of items listed on line 13a through line 14a.

**Line 13a –** Enter the beneficiary's share of estimated payment credited.

Form 541-T, California Allocation of Estimated Tax Payments to Beneficiaries, **must be** submitted in order for the beneficiary to receive credit for the payments.

**Line 13b –** If the fiduciary withheld taxes at source for a domestic or foreign nonresident beneficiary, if there is a withholding credit allocated to you from another entity, or backup withholding, the fiduciary must provide each affected beneficiary (including California residents), a completed Form 592-B. The fiduciary and beneficiaries must attach Form 592-B to the front of their California tax return to claim the withholding amounts. Schedule K-1 (541) may not be used to claim the withholding credit.

**Line 13c –** Enter taxes paid to other states reported on Schedule S, Other State Tax Credit.

Attach a copy of the return filed with the other state, evidence of payment, and a copy of Schedule S to verify the amount of tax paid.

**Line 13d –** Enter on an attached schedule each beneficiary's allocable share of any credit or credit information that is related to a trade or business activity.

**Line 14a –** Enter tax-exempt interest received by the estate or trust. Include exempt-interest dividends received as a shareholder in a mutual fund or other regulated investment company.

**Line 14d –** Enter any other item that is not included. The estate or trust may need to report supplemental information that is not specifically requested on the Schedule K-1 (541) separately to each beneficiary.

If the estate or trust claims tax benefits from a former Enterprise Zone (EZ), Local Agency Military Base Recovery Area (LAMBRA), Manufacturing Enhancement Area (MEA), or Targeted Tax Area (TTA), it should give the beneficiaries their distributive share of the business income and business capital gain or loss apportioned to the EZ, LAMBRA, MEA, or TTA on this line.

## SCHEDULE K-1 FEDERAL/STATE LINE REFERENCES

The following chart cross-references the line items on the federal Schedule K-1 (Form 1041), Beneficiary's Share of Income, Deductions, Credits, etc. to the appropriate line items on the California Schedule K-1 (541), Beneficiary's Share of Income, Deductions, Credits, etc. For more information, see the Specific Line Instructions for Schedule K-1 (541) and the Beneficiary's Instructions for Schedule K-1 (541).

| **Federal Schedule K-1 (Form 1041)** | | | **CA Schedule K-1 (541)** | |
|---|---|---|---|---|
| **Box** | **Code** | **Items** | **Line** | **Items** |
| **1** | | Interest income | **1** | Interest |
| **2a** | | Ordinary dividends | **2** | Dividends (ordinary and qualified) |
| **2b** | | Qualified dividends | | *Not applicable* |
| **3** | | Net short-term capital gain | **3** | Net capital gain or (loss) |
| **4a** | | Net long-term capital gain | **4** | *Not applicable* |
| **4b** | | 28% rate gain | | *Not applicable* |
| **4c** | | Unrecaptured section 1250 gain | | *Not applicable* |
| **5** | | Other portfolio and nonbusiness income | **5** | Other portfolio and nonbusiness income |
| **6** | | Ordinary business income | **6** | Ordinary business income |
| **7** | | Net rental real estate income | **7** | Net rental real estate income |
| **8** | | Other rental income | **8** | Other rental income |
| **9** | **A** | Depreciation | **9a** | Depreciation |
| | **B** | Depletion | **9b** | Depletion |
| | **C** | Amortization | **9c** | Amortization |
| **10** | | Estate tax deduction | **10** | *Not applicable* |
| **11** | **A** | Excess deductions – Section 67(e) expenses | **11a** | Excess deduction on termination (Attach computation) |
| | **B** | Excess deductions – Non-miscellaneous itemized deductions | **11a** | Excess deduction on termination (Attach computation) |
| | **C** | Short-term capital loss carryover | **11b** | Capital loss carryover |
| | **D** | Long-term capital loss carryover | | *Not applicable* |
| | **E** | NOL carryover – regular tax | **11c** | NOL carryover for regular tax purposes |
| | **F** | NOL carryover – minimum tax | **11d** | NOL carryover for alternative minimum tax purposes |
| **12** | **A** | Adjustment for minimum tax purposes | **12a** | Adjustment for alternative minimum tax purposes |
| **12** | **B-F** | AMT adjustments | | *Not applicable* |
| **12** | **G** | Accelerated depreciation | **12b** | Accelerated depreciation |
| **12** | **H** | Depletion | **12c** | Depletion |
| **12** | **I** | Amortization | **12d** | Amortization |
| **12** | **J** | Exclusion items | **12e** | Exclusion items |
| **13** | **A** | Credit for estimated taxes | **13a** | Trust payments of estimated tax credited to beneficiary |
| | **B-Z** | Federal credits | | *Not applicable* |
| | | *Not applicable* | **13b** | Total withholding (equals amount on Form 592-B, if calendar year) |
| | | *Not applicable* | **13c** | Taxes paid to other states. Attach Schedule S |
| | | *Not applicable* | **13d** | Other California credits. Attach schedule |
| **14** | **A** | Tax-exempt interest | **14a** | Tax-exempt interest |
| **14** | **B** | Foreign taxes | | *Not applicable* |
| **14** | **C** | Reserved | | *Not applicable* |
| **14** | **D** | Reserved | | *Not applicable* |
| **14** | **E** | Net investment income | **14b** | Net investment income |
| **14** | **F** | Gross farm and fishing income | **14c** | Gross farm and fishing income |
| **14** | **G** | Foreign trading gross receipts (IRC 942(a)) | | *Not applicable* |
| **14** | **H** | Adjustment for section 1411 net investment income or deductions | | *Not applicable* |
| **14** | **I** | Qualified business income, section 199A | | *Not applicable* |
| **14** | **Z** | Other information | **14d** | Other information |

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Visit our website:

ftb.ca.gov

# 2021 Instructions for Form 541-ES

## Estimated Tax For Fiduciaries

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2015**, and to the California Revenue and Taxation Code (R&TC).

## General Information

**Installment Payments.** Estimated tax payments shall be paid in the following percentages of the required annual payment:

| | | |
|---|---|---|
| 1st Payment | – | 30% |
| 2nd Payment | – | 40% |
| 3rd Payment | – | 0% |
| 4th Payment | – | 30% |

Estates and trusts with a tax liability less than $500 do not need to make estimated tax payments.

## A Purpose

Use Form 541-ES, Estimated Tax For Fiduciaries, to figure and pay estimated tax for an estate or trust. Estimated tax is the amount of tax the fiduciary of an estate or trust expects to owe for the year.

## B Who Must Make Estimated Tax Payments

Generally, a fiduciary of an estate or trust must make 2021 estimated tax payments if the estate or trust expects to owe at least $500 in tax for 2021 (after subtracting withholding and credits).

A fiduciary of an estate or trust is **not** required to make 2021 estimated tax payments if one of the following applies:

- 100% of the tax shown on the 2020 tax return including alternative minimum tax (AMT) was paid by withholding.
- 90% of the tax shown on the 2021 tax return will be paid by withholding.
- It is a decedent's estate for any taxable year ending before the date that is two years after the decedent's death.
- It is a trust that was treated as owned by the decedent and if the trust will receive the residue of the decedent's estate under the will (or if no will is admitted to probate, the trust is primarily responsible for paying debts, taxes, and expenses of administration) for any taxable year ending before the date that is two years after the decedent's death.

**Required Annual Estimated Tax Payment Adjusted Gross Income (AGI) $150,000 or less.** Estates and trusts required to make estimated tax payments and whose 2020 AGI is $150,000 or less, must figure their estimated tax based on the lesser of 100% of the tax for 2020 or 90% of the tax for 2021, including AMT. This rule does not apply to farmers or fishermen.

**AGI greater than $150,000.** Estates and trusts required to make estimated tax payments and whose 2020 AGI is more than $150,000 must figure their estimated tax based on the lesser of 110% of the tax for 2020 or 90% of the tax for 2021, including AMT. This rule does not apply to farmers or fishermen.

**AGI $1,000,000 or more**. Estates and trusts with a 2021 AGI equal to or greater than $1,000,000 must figure their estimated tax based on 90% of the tax for 2021. This rule does not apply to farmers or fishermen.

If the estate or trust must make estimated tax payments, use the Estimated Tax Worksheet on the next page to figure the amount owed.

Real Estate Mortgage Investment Conduit (REMIC) trusts are not required to make estimated payments.

Tax-exempt trusts and nonexempt charitable trusts described in IRC Section 4947(a)(1) should use Form 100-ES, Corporation Estimated Tax.

## C When to Make Estimated Tax Payments

For estimated tax purposes, the year is divided into four payment periods. Each period has a specific payment due date. If an estate or trust does not pay enough tax by the due date of each payment, it may be charged a penalty even if it is due a refund when it files its income tax return. The estimated tax payment dates are shown below:

| | |
|---|---|
| 1st Payment | April 15, 2021 |
| 2nd Payment | June 15, 2021 |
| 3rd Payment | September 15, 2021 |
| 4th Payment | January 18, 2022 |

If the due date falls on a weekend or holiday, the deadline to file and pay without penalty is extended to the next business day.

**Filing an Early Tax Return in Place of the 4th Installment.** If an estate or trust files its 2021 tax return by January 31, 2022, and pays the entire balance due, it does not have to make its last estimated tax payment.

**Annualization Option.** If the estate or trust does not receive its taxable income evenly during the year, it may be to its advantage to annualize the income. This method allows matching estimated tax payments to the actual period when income was earned. Use the annualization schedule included with 2020 form FTB 5805, Underpayment of Estimated Tax by Individuals and Fiduciaries.

**Farmers and Fishermen.** If at least 2/3 of gross income for 2020 or 2021 is from farming or fishing, the estate or trust may apply one of the following:

- Pay the total estimated tax by January 18, 2022.
- File Form 541, California Fiduciary Income Tax Return, for 2021 on or before March 1, 2022, and pay the total tax due. In this case, estimated tax payments are not due for 2021. Enclose form FTB 5805F, Underpayment of Estimated Tax by Farmers and Fishermen, with Form 541.

**Fiscal Year Filers.** If the estate or trust files on a fiscal year basis, the due dates will be the 15th day of the 4th, 6th, and 9th months of the fiscal year and the 1st month of the following fiscal year.

**Mental Health Services Tax.** If the estate's or trust's taxable income is more than $1,000,000, compute the Mental Health Services Tax. Income from an Electing Small Business Trust (ESBT) is also subject to the Mental Health Services Tax.

**Mental Health Services Tax Worksheet**
Use whole dollars only.

| | |
|---|---|
| A. Taxable income from Form 541 line 20a | |
| B. ESBT taxable income from Form 541 line 20b | |
| C. Add line A and line B | |
| D. Less | $(1,000,000) |
| E. Subtotal | |
| F. Tax rate – 1% | x .01 |
| G. **Mental Health Services Tax –** Multiply line E by line F. Enter the amount here and on line 10 of the 2021 Estimated Tax Worksheet on the next page | |

## D How to Use Form 541-ES

Use the Estimated Tax Worksheet on the next page and the 2020 Form 541 tax return as a guide for figuring the 2021 estimated tax payment.

There is a separate payment form for each due date. Use the form with the correct file and pay dates.

Fill in Form 541-ES:

1. Using black or blue ink, print the estate's or trust's name, the fiduciary's name and title, address, and the estate's or trust's federal employer identification number (FEIN) in the space provided on Form 541-ES. If the estate's or trust's name or address is too long to fit in the provided spaces, **do not** shorten the name or address. Fit the information in the space provided.

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

2. Enter on the payment line of the form only the amount of the current payment. When making payments of estimated tax, be sure to take into account any previous year's overpayment to be credited against the current year's tax, but **do not** include the overpayment amount in the payment amount.
3. If part of the estimated tax is to be allocated to the beneficiaries per IRC Section 643(g), enclose a copy of Form 541-T, California Allocation of Estimated Tax Payments to Beneficiaries, to Form 541-ES.
4. Using black or blue ink, make a check or money order payable to the "**Franchise Tax Board**." Write the FEIN and "2021 Form 541-ES" on the check or money order. Enclose, but **do not** staple, the payment with Form 541-ES and mail to:

   FRANCHISE TAX BOARD
   PO BOX 942867
   SACRAMENTO CA 94267-0008

   Make all checks or money orders payable in U.S. dollars and drawn against a U.S. financial institution.

   **Electronic Funds Withdrawal (EFW)**
   Fiduciaries can make an extension or estimated tax payment using tax preparation software. Check with your software provider to determine if they support EFW for extension or estimated tax payments.
5. Keep a record of the payment.
6. **Fiscal year filers:** Fill in the month and year-end information at the top of the form.

## E Failure to Make Estimated Tax Payments

If the estate or trust is required to make estimated tax payments and does not, or if it underpays any installment, a penalty will be assessed for that portion of estimated tax that was underpaid from the due date of the installment to the date of payment or the due date of the tax return, whichever is earlier. For more information, get 2020 form FTB 5805.

## F Other Information

**Filing 541-ES on Magnetic Media.** Fiduciaries that make estimated tax payments for more than 200 taxable trusts may submit the estimated tax information on magnetic media or composite listing. For additional information, our general service is available from within the United States 800.852.5711 or from outside the United States 916.845.6500.

Telephone assistance is available year-round from 7 a.m. until 5 p.m. Monday through Friday. We may modify these hours without notice to meet operational needs.

**Internet Access.** You can download, view, and print California tax forms and publications at **ftb.ca.gov/forms.**

Access other California state agency websites at **ca.gov.**

**2021 Estimated Tax Worksheet.** Do not file. Keep this worksheet for your records.

| | | | |
|---|---|---|---|
| 1 | Enter the estimated amount of adjusted total income you expect in 2021 | 1 | 00 |
| 2 | Enter income distribution deduction | 2 | 00 |
| 3 | Taxable income of fiduciary. Subtract line 2 from line 1 | 3 | 00 |
| 4 | Tax. Figure the tax on the amount on line 3 by using the 2020 tax rate schedule | 4 | 00 |
| 5 | Additional taxes from: form FTB 5870A, Tax on Accumulation Distribution of Trusts; IRC Section 453A tax, relating to certain dispositions under the installment method; and, IRC Section 641(c) tax on income attributable to S corporation stock held by an Electing Small Business Trust (ESBT) | 5 | 00 |
| 6 | Total. Add line 4 and line 5 | 6 | 00 |
| 7 | Credits. See the instructions for Form 541 for more information about credits you may claim | 7 | 00 |
| 8 | Total. Subtract line 7 from line 6 | 8 | 00 |
| 9 | Alternative Minimum Tax. See Schedule P (541), Alternative Minimum Tax and Credit Limitations - Fiduciaries | 9 | 00 |
| 10 | Mental Health Services Tax Worksheet, line G | 10 | 00 |
| 11 | Enter the total of line 8, line 9, and line 10 | 11 | 00 |
| 12 | **a** Multiply line 11 by 90% (.90). Farmers and fishermen multiply line 11 by 66 2/3% (.6667) | 12a | 00 |
| | **b** Enter 100% of the tax shown on your 2020 Form 541, line 28, or 110% (1.10) of that amount if the estate's or trust's AGI on the 2020 Form 541 is more than $150,000, and if less than 2/3 of gross income for 2020 or 2021 is from farming or fishing | 12b | 00 |
| | **c** Enter the lesser of line 12a or line 12b. If the 2021 AGI is $1,000,000 or greater, enter the amount from line 12a. | 12c | 00 |
| 13 | California income tax withheld and estimated to be withheld during 2021 | 13 | 00 |
| 14 | Estimated tax. Subtract line 13 from line 12c. If less than $500, no payment is required | 14 | 00 |
| 15 | Multiply line 14 by 30% (.30). Enter the amount on the 1st and 4th installment of your Form 541-ES. Multiply the amount on line 14 by 40% (.40). Enter the result on the 2nd installment of your Form 541-ES. See the instructions if income will be earned at an uneven rate during the year. **If the amount is zero, do not mail this form**. | | |

# 2020 Instructions for Form 541-T

## California Allocation of Estimated Tax Payments to Beneficiaries

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2015**, and to the California Revenue and Taxation Code (R&TC).

## General Instructions

**Registered Domestic Partners (RDP)**
For purposes of California income tax, references to a spouse, husband, or wife also refer to a California RDP, unless otherwise specified. When we use the initials RDP they refer to both a California registered domestic "partner" and a California registered domestic "partnership," as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

**Additional Information**
Use the Additional Information field for "In-Care-Of" name and other supplemental address information only.

**Foreign Address**
If the estate or trust has a foreign address, follow the country's practice for entering the city, county, province, state, country, and postal code, as applicable, in the appropriate boxes. **Do not** abbreviate the country name.

### A Purpose

A trust, or for its final year a decedent's estate, may elect under California Revenue and Taxation Code Section 17731 and Internal Revenue Code Section 643(g) to have any part of its estimated tax payments treated as made by a beneficiary or beneficiaries. The trustee or fiduciary files Form 541-T, California Allocation of Estimated Tax Payments to Beneficiaries, to make the election. Once made, the election is irrevocable.

**Do not** distribute resident and nonresident real estate withholding, or backup withholding to beneficiaries on Form 541-T. Use Form 592, Resident and Nonresident Withholding Statement, and Form 592-B, Resident and Nonresident Withholding Tax Statement, to allocate withholding.

### B How to File

File Form 541-T separately from Form 541, California Fiduciary Income Tax Return. **Do not attach Form 541-T to Form 541**.

### C Where to File

Mail Form 541-T to:

FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0001

### D When to File

For the election to be valid, a trust or decedent's estate must file Form 541-T by the 65th day after the close of the taxable year as shown at the top of the form. For a 2020 calendar year trust, the due date is on or before **March 8, 2021.**

If the due date falls on a weekend or holiday, the deadline to file is extended to the next business day.

### E Period Covered

File Form 541-T for calendar year 2020 and fiscal years beginning in 2020. If the form is for a fiscal year or a short year, enter the taxable year in the space at the top of the form.

### F Internet Access

You can download, view, and print California tax forms and publications at **ftb.ca.gov/forms**.

Access other California state agency websites at **ca.gov**.

## Specific Line Instructions

### Line 1

Enter the amount of the estimated tax payments made by the trust or decedent's estate that the fiduciary elects to treat as a payment made by the beneficiaries. This amount is treated as if paid or credited to the beneficiaries on the last day of the taxable year of the trust or decedent's estate. Be sure to include the amount on Form 541, Schedule B, Income Distribution Deduction, line 10.

### Line 2

**Column (b) – Beneficiary's name and address**
Group the beneficiaries to whom you are allocating estimated tax payments into two categories. In the first category, list all the individual beneficiaries who have a social security number (SSN) or individual taxpayer identification number (ITIN). In the second category, list all the other beneficiaries.

**Column (c) – Beneficiary's identifying number**
For each beneficiary who is an individual, enter the SSN or ITIN. For all other entities, enter the federal employer identification number (FEIN). Failure to enter a valid SSN/ITIN or FEIN may cause a delay in processing and could result in the imposition of penalties on the beneficiary. For those beneficiaries who file a joint income tax return, you can assist the Franchise Tax Board in crediting the proper account by providing the SSN or ITIN, if known, of the beneficiary's spouse/RDP. However, this is an optional entry.

**Column (d) – Amount of estimated tax payment allocated to beneficiary**
For each beneficiary, enter this amount on Schedule K-1 (541), Beneficiary's Share of Income, Deductions, Credits, etc., line 13a.

**Column (e) – Proration percentage**
For each listed beneficiary, divide the amount shown in column (d) by the amount shown on line 1 and enter the result as a percentage.

### Line 3

If you are allocating a payment of estimated tax to more than 10 beneficiaries, list the additional beneficiaries on an attached sheet that follows the format of line 2. Enter on line 3 the total from the attached sheets. Include the fiduciary name and SSN/ITIN or FEIN on the attached sheets.

# How to Get California Tax Information (Keep this page for future use)

## Automated Phone Service

Use our automated phone service to get recorded answers to many of your questions about California taxes and to order current year California business entity tax forms and publications. This service is available in English and Spanish to callers with touch-tone telephones. Have paper and pencil ready to take notes.

Telephone: 800.338.0505 from within the United States
916.845.6500 from outside the United States

## Where to Get Tax Forms and Publications

**By Internet –** You can download, view, and print California tax forms and publications at **ftb.ca.gov/forms**.

**By Phone –** Use our automated service to order California tax forms, publication, and booklets. Call 800.338.0505, and follow the recorded instructions. This service is available 24 hours a day, 7 days a week. Allow two weeks to receive your order. If you live outside of California allow three weeks to receive your order.

**In Person –** Most post offices and libraries provide free California tax booklets during the filing season.

Employees at libraries and post offices cannot provide tax information or assistance.

**By Mail –** Write to:

TAX FORMS REQUEST UNIT MS D120
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

| **Code** | **California Forms and Publications:** |
|---|---|
| 904 | Form 541, Booklet Fiduciary Income Tax Booklet |
| 905 | Schedule K-1 (541), Beneficiary's Share of Income, Deductions, Credits, etc. |
| 906 | Form 541 ES, Estimated Tax for Fiduciaries |
| 943 | FTB 4058, California Taxpayer's Bill of Rights |

## Letters

If you write to us, be sure your letter includes your federal employer identification number (FEIN), and your daytime and evening telephone numbers. Send your letter to:

FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0040

We will respond to your letter within 10 weeks. In some cases we may need to call you for additional information.

Do not attach correspondence to your tax return unless it relates to an item on your tax return.

## General Phone Service

Telephone assistance is available year-round from 7 a.m. until 5 p.m. Monday through Friday, except holidays. Hours are subject to change.

Telephone: 800.852.5711 from within the United States
916.845.6500 from outside the United States
800.829.1040 for federal tax questions, call the IRS

TTY/TDD: 800.822.6268 for persons with hearing or speech disability
711 or 800.735.2929 California relay service

**Asistencia en español**

Asistencia telefónica está disponible durante todo el año desde las 7 a.m. hasta las 5 p.m. de lunes a viernes, excepto días feriados. Las horas están sujetas a cambios.

Teléfono: 800.852.5711 dentro de los Estados Unidos
916.845.6500 fuera de los Estados Unidos
800.829.1040 para preguntas sobre impuestos federales, llame al IRS

TTY/TDD: 800.822.6268 para personas con discapacidades auditivas o del habla
711 ó 800.735.2929 servicio de relevo de California

## Your Rights As A Taxpayer

The FTB's goals include making certain that your rights are protected so that you have the highest confidence in the integrity, efficiency, and fairness of our state tax system. FTB 4058, California Taxpayers' Bill of Rights, includes information on your rights as a California taxpayer, the Taxpayers' Rights Advocate Program, and how you request written advice from the FTB on whether a particular transaction is taxable. See "Where to Get Tax Forms and Publications," on this page.

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