

2021 Instructions for Form 589

Nonresident Reduced Withholding Request

What's New

The total amount of expenses cannot exceed 50% of the gross California source payment. This rule does not apply to Foreign (non-U.S.) partners. In conformity with Treas. Reg. Section 1.1446-6, a foreign (non-U.S.) partner or member may file a Form 589, ~~Nonresident Reduced Withholding Request~~, to reduce or eliminate a partner's withholding of California tax on Effectively Connected Taxable Income (ECTI) from California sources.

General Information

A nonresident payee files Form 589 to request a reduced withholding amount. Filing Form 589 does not guarantee the nonresident payee a reduction in withholding unless the request is approved by the Franchise Tax Board (FTB) prior to the payment of California source income for services being performed.

The payee has the option to file Form 589 to apply for a reduction in the amount to be withheld (see California Revenue and Taxation Code (R&TC) Section 18662).

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

Withholding agents remit to the FTB tax withheld on California source payments to nonresidents in four payment periods (similar to estimated tax payments). For more information, including specific period due dates, get Form 592, Resident and Nonresident Withholding Statement, or Form 592-PTE, Pass-Through Entity Annual Withholding Return.

For California nonwage withholding purposes:

- Nonresident includes all of the following:
 - Individuals who are not residents of California.
 - Corporations not qualified through the California Secretary of State (CA SOS) to do business in California or having no permanent place of business in California.
 - Partnerships or limited liability companies (LLCs) with no permanent place of business in California.
 - Any trust without a resident grantor, beneficiary, or trustee, or estates where the decedent was not a California resident.
- Foreign refers to non-U.S.

A Purpose

Use Form 589 to request a reduction in the standard 7% withholding amount that is applicable to California source payments made to nonresidents.

Do not use Form 589 to request a reduced withholding amount if you are a seller of California real estate. Sellers use Form 593, Real Estate Withholding Statement. For more information, get Form 593.

A foreign partner may request to reduce or eliminate withholding of California tax on ECTI from California sources allocable to a foreign partner (Treas. Reg. Section 1.1446-6). The foreign partner must first file with the partnership federal Form 8804-C, Certificate of Partner-Level Items to Reduce Section 1446 Withholding. Then the foreign partner must sign and send Form 589 to the FTB along with a signed copy of federal Form 8804-C. The FTB will review the request within 21 business days. If the request is approved, the partnership remits the reduced withholding amount to the FTB along with Form 592-A, Payment Voucher for Foreign Partner or Member Withholding.

R&TC Section 18666 and Internal Revenue Code section 1446 incorporated by reference apply to withholding on foreign (non-U.S.) partners and members who have allocable amounts of effectively connected income to a California trade or business. In conformity with Treas. Reg. Section 1.1446-6, a foreign (non-U.S.) partner or member may file a Form 589 to reduce or eliminate a partner's withholding of California tax on ECTI from California sources; however, a foreign (non-U.S.) partner or member cannot file a Form 588, Nonresident Withholding Waiver Request, to request a withholding waiver.

Form 589 does not apply to payments of backup withholding. For more information, go to ftb.ca.gov and search for **backup withholding**.

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

B When and Where to File

The payee must complete and file Form 589 to the FTB before receiving payment for services. Failure to file a timely request may result in a 7% withholding requirement.

Incomplete or invalid entries may result in automatic request denial.

You must provide a valid Taxpayer Identification Number (TIN) as requested on this form. The following are acceptable TINs: social security number (SSN); individual taxpayer identification number (ITIN); federal employer identification number (FEIN); California corporation number (CA Corp no.); or California Secretary of State (CA SOS) file number.

Online filing – Form 589 can be filed online. If you file Form 589 online and you need to submit additional documentation, (i.e. federal Form 8804-C, federal Schedule E (Form 1040), Supplemental Income and Loss, expense breakdown, etc.), you must fax the documentation to us at 916.855.5743. On the fax containing your documentation, you must include your name, TIN, and the confirmation number of your online Form 589 submission. For more information, go to ftb.ca.gov and search for **589 online**.

Allow at least **10** business days for processing Form 589 filed online.

Paper filing – Form 589 can be filed by mail.

WITHHOLDING SERVICES AND
COMPLIANCE MS F182
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO, CA 94267-0651
Or
Fax to: 916.855.5743

Allow **21** business days for processing Form 589 filed by mail or fax.

The FTB may request to review all relevant documentation including, but not limited to, receipts and contracts, to verify the payment and expense amounts. Upon review of the request and supporting documentation, the FTB will make a determination of how much withholding is appropriate for the services performed. The FTB will provide a Withholding Determination Notice to the payee and the withholding agent. This notice will indicate FTB's approved amount to withhold on the payee's California sourced income.

The withholding agent retains the Withholding Determination Notice for a minimum of five years and must provide it to the FTB upon request.

Requirement to File a California Tax Return

A Withholding Determination Notice from the FTB that authorizes reduced withholding does not eliminate the requirement to timely file a California tax return and timely pay the tax due.

You may be assessed a penalty if:

- You do not file a California tax return.
- You file your tax return late.
- The amount of withholding does not satisfy your tax liability.

C How to Claim Nonwage Withholding Credit

Claim your nonwage withholding credit on one of the following:

- Form 540, California Resident Income Tax Return
- Form 540NR, California Nonresident or Part-Year Resident Income Tax Return
- Form 541, California Fiduciary Income Tax Return

- Form 100, California Corporation Franchise or Income Tax Return
- Form 100S, California S Corporation Franchise or Income Tax Return
- Form 100W, California Corporation Franchise or Income Tax Return – Water's Edge Filers
- Form 109, California Exempt Organization Business Income Tax Return
- Form 565, Partnership Return of Income
- Form 568, Limited Liability Company Return of Income

D Amending Form 589

Amended forms can only be filed by the payee. To amend Form 589:

- Complete a new Form 589 for the appropriate year with the correct information.
- Write "Amended" at the top of the amended form.
- Attach a statement to the amended Form 589 explaining what changes were made and why.
- **Do not** attach the original Form 589.
- Mail the amended form and letter to the address listed under General Information B, When and Where to File.

Specific Instructions

Use black or blue ink to complete this form.

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

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

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.

Part I — Withholding Agent Information

The withholding agent is the party that will be providing payment to the payee for services performed. Enter only business or individual information, not both, and check the appropriate TIN box.

Part II — Payee Information

Enter only business or individual information, not both, and check the appropriate TIN box for the payee who will be performing the services.

Doing Business As (DBA) – If you are a sole proprietor doing business under a different name or an entertainer performing under a different name, include the DBA in this field.

Do not enter a business name.

Part III — Type of Income Subject to Withholding

Check the box that reflects the type of payment that will be received for services performed on the date(s) specified. For foreign ECTI, check box H, Allocations to Foreign (non-U.S.) Nonresident Partners/Members. Check one type only.

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

Part IV — Withholding Computation

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

Expenses – The payee should enter any direct expenses on line 2 through line 11 that will be incurred or paid by the payee for performing the services in California. The FTB may verify the expenses by requesting supporting documentation. Payments the payee makes to nonresident third parties may meet the requirements for withholding and remitting 7% of the payment to the FTB.

Line 2 – Advertising

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

Line 3 – Commissions and Fees

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

Line 4 – Cost of Labor (Contract Labor)

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

Line 5 – Insurance

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

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

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

Line 7 – Rent or Lease

Enter the amount paid to rent or lease vehicles, machinery, equipment, or other property, such as office space, that is related to the date(s) of the services performed. **Do not** include rent for rental property.

Line 8 – Supplies

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

Line 9 – Travel, Meals, and Entertainment

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

Line 10 and Line 11 – Other Expenses (specify)

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

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

Do not include depreciation, principle on the mortgage payment, or second mortgage.

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

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

Do not include charitable contributions. In addition, you cannot deduct fines or penalties paid to a city, county, or state government agency for violating any law.

Line 12 – Total Amount of Expenses

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

The total amount of expenses cannot exceed 50% of the gross California source payment as calculated in Part IV, line 1.

Exception: Foreign (non U.S.) partners or members are not limited to the 50% of the gross California source payment, and may reduce or eliminate a partner's withholding of California tax on ECTI from California sources. If you qualify for this exception, check box H in Part III.

Withholding Computation

- | | |
|--|----------|
| a. Gross California Source Payment from Part IV, line 1. | a. _____ |
| b. Amount of Expense Limitation. Multiply line a by 50%. | b. _____ |
| c. Total Amount of Expenses. Add Part IV, line 2 through line 11. Enter this here. | c. _____ |
| d. Enter the smaller amount of line b or line c here and on Part IV, line 12. | d. _____ |

Line 13 – Net California Source Payment

Subtract line 12 from line 1. This is the net California source payment after the payee subtracts all direct expenses. This is the amount subject to 7% withholding.

Line 14 – Withholding Amount

Multiply the amount on line 13 by 7%. This is the proposed reduced withholding amount. This amount must be verified and approved by the FTB prior to the payee receiving payment for services.

Payee's Signature

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

Electronic signatures shall be considered as valid as the original.

Additional Information

Website: For more information, go to ftb.ca.gov and search for **nonwage**.

MyFTB offers secure online tax account information and services. For more information, go to ftb.ca.gov and login or register for MyFTB.

Telephone: **888.792.4900** or **916.845.4900**, Withholding Services and Compliance phone service

Fax: 916.845.9512

Mail: WITHHOLDING SERVICES AND COMPLIANCE MS F182
FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0651

For questions unrelated to withholding, or to download, view, and print California tax forms and publications, or to access the [TTY/TDD numbers](#), see the information below.

Internet and Telephone Assistance

Website: ftb.ca.gov

Telephone: 800.852.5711 from within the United States
916.845.6500 from outside the United States

[TTY/TDD: 800.822.6268 for persons with hearing or speech disability](#)
[711 or 800.735.2929 California relay service](#)

Asistencia Por Internet y Teléfono

Sitio web: ftb.ca.gov

Teléfono: 800.852.5711 dentro de los Estados Unidos
916.845.6500 fuera de los Estados Unidos

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