

# 2023 Instructions for Form FTB 3820

## High-Road Cannabis Tax Credit

### What's New

**High-Road Cannabis Tax Credit** – For taxable years beginning on or after January 1, 2023, and before January 1, 2028, the High-Road Cannabis Tax Credit (HRCTC) will be available to licensed commercial cannabis businesses that meet the qualifications described below. The credit is allowed to a qualified taxpayer in an amount equal to 25% of qualified expenditures in the taxable year. The credit amount cannot exceed \$250,000. Unused credits may be carried forward up to eight years. All types of entities, except for exempt organizations, are eligible to claim this credit.

A qualified taxpayer must request a tentative credit reservation (TCR) from the Franchise Tax Board (FTB) during the month of July for each taxable year or within 30 days of the start of their taxable year if the qualified taxpayer's taxable year begins from August 1st through December 31st.

For more information, see California Revenue and Taxation Code (R&TC) Section 17053.64 or 23664, or go to [ftb.ca.gov](https://ftb.ca.gov) and search for **hrctc**.

### General Information

#### A Purpose

Qualified taxpayers that obtain a TCR use form FTB 3820, High-Road Cannabis Tax Credit, to calculate and report HRCTC.

Also, shareholders, beneficiaries, partners, or members use form FTB 3820 to claim HRCTC received as pass-through credit from an S corporation, estate, trust, partnership, or limited liability company (LLC) classified as a partnership.

Pass-through entities (PTE) including S corporations, estates, trusts, partnerships, and LLCs classified as partnerships should complete form FTB 3820 to report the amount of credit that will be passed through to shareholders, beneficiaries, partners, or members. Attach this form to Form 100S, California S Corporation Franchise or Income Tax Return; Form 541, California Fiduciary Income Tax Return; Form 565, Partnership Return of Income; or Form 568, Limited Liability Company Return of Income. Report the pass-through credit amount for each shareholder, beneficiary, partner, or member on Schedule K-1 (100S, 541, 565, or 568), Share of Income, Deductions, Credits, etc. Also, report the following on a statement attached to the Schedule K-1 for each shareholder, beneficiary, partner, or member:

- The Cannabis Business License number of the PTE that obtained the tentative credit reservation from the FTB.
- The TCR confirmation number obtained by the pass-through entity from the FTB.
- The allocable share of the HRCTC.
- For more information, go to [ftb.ca.gov](https://ftb.ca.gov) and search for **hrctc**.

#### B Qualified Taxpayer

A qualified taxpayer is a commercial cannabis business that possesses a Type-10 (retailer) or a Type-12 (micro-business) license issued by the California Department of Cannabis Control (DCC) and meets the requirements stated below.

To be a qualified taxpayer, the commercial cannabis business must provide full-time employees with all the following:

- Employment compensation meeting specific requirements (see General Information C, Qualified Expenditures, below).
- Group health insurance
- Retirement benefits or pension benefits, including stock in the duly licensed commercial cannabis employer to employees under employee stock ownership plans where the employer pays for the full value of the stock.

#### C Qualified Expenditures

Only expenses that are attributable to Type-10 and Type-12 licensed business activities are qualified expenditures. If you have multiple Type-10 and Type-12 licenses, combine the qualified expenditures for those license types. Taxpayers can only have qualified expenditures during the time period when they meet all the requirements to be qualified taxpayers.

Qualified expenditures are the amounts paid or incurred by a qualified taxpayer for any of the following:

##### Wages and benefits for the full-time employees of the business

Wages and benefits (total employment compensation) paid to full-time employees of a qualified taxpayer that meet the requirements listed below are qualified expenditures. Wages and benefits of employees of a qualified taxpayer that do not meet the requirements listed below are not qualified expenditures.

- Employees must be paid wages subject to California withholding for services not less than an average of 35 hours per week, or be a salaried employee paid compensation for full-time employment.
- Employees must be paid wages of at least 150% of the state minimum wage, but no more than 350% of the state minimum wage.
- The calculation of wages may include the monetary value to the employee of employer-provided group health insurance benefits, childcare benefits, employer contributions to employer-provided retirement benefits, or employer contributions to pension benefits.
- If an employee's hourly wage alone is more than 350% of state minimum wage, none of the wages and benefits paid to the employee are qualified expenditures.
- If an employee's hourly wage combined with their employer-paid benefits are more than 350% of state minimum wage, but their hourly wage alone is not, only their wages and benefits up to 350% of state minimum wage are qualified expenses.

Use Worksheet I, Qualified Employment Compensation Expenditures (at the end of these instructions), to compute the qualified expenditures for wages and benefits.

##### Safety-related equipment, training, and services

- The equipment primarily used by employees of the cannabis licensee to ensure their personal and occupational safety or the safety of customers of the business.
- Training for nonmanagement employees on workplace hazards.
- Services including, but not limited to, safety audits, security guards, security cameras, and fire risk mitigation.

##### Workforce development and safety training for employees of the business

This includes, but is not limited to:

- Joint labor management training programs.
- Membership in a joint apprenticeship training committee registered by the Division of Apprentice Standards.
- A state-recognized high road training partnership as defined in Section 14005 of the Unemployment Insurance Code.

#### D Tentative Credit Reservation

A qualified taxpayer is required to obtain a TCR from the FTB's online reservation system. ~~Qualified taxpayers must request a TCR for each taxable year during the month of July of the taxable year, or within 30 days of the start of their taxable year if the qualified taxpayer's taxable year begins from August 1<sup>st</sup> through December 31<sup>st</sup>.~~ The taxpayer will receive an immediate confirmation from the FTB. For more information, go to [ftb.ca.gov](https://ftb.ca.gov) and search for **hrctc**.

#### E Limitations

The amount of credit is equal to 25% of total qualified expenditures. The maximum amount of credit per taxable year is \$250,000. You can

claim the nonrefundable credit for taxable years beginning on or after January 1, 2023, and before January 1, 2028.

Any deduction or credit otherwise allowed for any qualified expenditure must be reduced by the amount of HRCTC credit allowed.

This credit **cannot** reduce regular tax below tentative minimum tax.

For qualified taxpayers that are required to be included in a combined report under R&TC Section 25101 or authorized to be included in a combined report under R&TC Section 25101.15, the aggregate credit claimed by all included taxpayers is limited to \$250,000 per year.

## F Assignment of Credits

**Assigned credits to affiliated corporations** – Credit earned by members of a combined reporting group may be assigned to an affiliated corporation that is an eligible member of the same combined reporting group. A credit assigned may only be claimed by the affiliated corporation against its tax liability. For more information, get form FTB 3544, Assignment of Credit, or go to [ftb.ca.gov](http://ftb.ca.gov) and search for **credit assignment**.

## G Carryover

If the available credit exceeds the current year tax liability or is limited by tentative minimum tax, the unused credit may be carried over for eight taxable years or until the credit is exhausted, whichever occurs first.

## H HRCTC Calculation & Examples

Examples 1-4 below use time periods within 2023 and the 2023 California minimum wage of \$15.50 per hour.

- 150% of minimum wage is \$23.25 (150% x \$15.50).
- 350% of minimum wage is \$54.25 (350% x \$15.50).
- The parameters for the credit are based on hourly wages, therefore monthly expenses, such as employer payments for health insurance or pensions, must be converted to an hourly amount.
- For some of these examples, 40 hours per week are used for the calculation. Actual full-time hours may vary but must be at least an average of 35 hours per week.
- For a full-time employee working 40 hours per week, the average number of hours per month is 173.33 [(52 weeks x 40 hours per week)/12 months per year].

**Example 1:** The employee works an average of 40 hours per week at \$21 per hour (135% of minimum wage). The employer pays \$500 per month of the employee's health insurance.

The calculation is as follows:

Description	Calculation	Result
Hours worked per month	[52 x 40]/12	173.33
Employer-paid benefits (health insurance) hourly rate	\$500/173.33	\$2.88
Total employment compensation per hour	\$21 + \$2.88	\$23.88

\$23.88 is greater than \$23.25 (150% of minimum wage), and less than \$54.25 (350% of minimum wage). Therefore, the employee's wages and employer-paid health insurance combined meet the requirements to be qualified expenditures.

**Example 2:** The employee works an average of 40 hours per week at \$50 per hour (322% of minimum wage). The employer pays \$1,000 per month toward this employee's pension.

The calculation is as follows:

Description	Calculation	Result
Hours worked per month	[52 x 40]/12	173.33
Employer-paid benefits (pension) hourly rate	\$1,000/173.33	\$5.77
Total employment compensation per hour	\$50 + \$5.77	\$55.77

The hourly wage of \$50 is less than \$54.25 (350% of minimum wage). Therefore, all the wages are qualified expenditures.

The total employment compensation per hour is \$55.77, which is more than \$54.25 (350% of minimum wage). The employer can include only up to \$54.25 per hour as a qualified expenditure. Therefore, any amounts over \$54.25 per hour are not qualified expenditures for this credit.

**Example 3:** The employee works an average of 35 hours per week at \$60 per hour (387% of minimum wage). The employer pays \$500 per month towards this employee's health insurance.

The employee's wages and health insurance are not qualified expenditures because the wages alone of \$60 per hour exceed \$54.25 (350% of minimum wage).

**Example 4:** The employee is paid a salary of \$60,000 per year for full-time work and is expected to work an average of 35 hours per week for that salary. The employer pays \$500 per month for this employee's health insurance and \$250 per month toward this employee's pension, totaling \$750 per month.

When an employee is paid an annual salary, you must first calculate the total hours worked per year. Then divide the annual salary by the total hours worked in the year to figure the employee's hourly rate of pay.

Description	Calculation	Result	
Wages	Hours worked per year	52 x 35	1,820
	Hourly wage	\$60,000/1,820	\$32.97
Employer-paid benefits (health insurance and pension)	Employer-paid benefits per year	\$750 x 12	\$9,000
	Employer-paid benefits hourly rate	\$9,000/1,820	\$4.95
Total employment compensation per hour	\$32.97 + \$4.95	\$37.92	

Total employment compensation per hour is \$37.92. Therefore, all wages and employer-paid health insurance and pension are qualified expenditures because they totaled to \$37.92 per hour, which is under \$54.25 (350% of minimum wage).

See Worksheet I – Qualified Employment Compensation Expenditures and related instructions for more information.

## Specific Line Instructions

**Separate form FTB 3820** – File a separate form FTB 3820 for each taxpayer for which you are claiming the HRCTC. **Do not** report credit generated as a qualified taxpayer and credits received from pass-through entities on the same form FTB 3820. If you are required to complete more than one form FTB 3820 in a taxable year, enter the sum of credit claimed from all forms FTB 3820 on your tax return.

**Name(s) as shown on your California tax return** – Enter the name of the individual or business and the social security number (SSN), individual tax identification number (ITIN), California corporation number, federal employer identification number (FEIN), or the California Secretary of State (SOS) file number as shown on your tax return.

## Part I Licensee Information

All qualified taxpayers conducting a licensed commercial cannabis business should complete Item A through Item E.

Shareholders, beneficiaries, partners or members that received HRCTC from a PTE, complete Items C and E; **do not** complete Items A, B, and D.

**A.** Enter the business name as it appears on the license issued by the DCC.

**B.** Check the applicable box for the license type that you used to obtain a TCR from FTB. Only Type-10 (retailer) and Type-12 (micro-business) cannabis businesses are eligible for this credit.

**C.** Enter the license number issued by the DCC that is associated with the license type box checked on Item B. The license number can include up to 15 characters. (Example: C10-#####-LIC or C12-#####-LIC.) If you have multiple Type-10 or Type-12 licenses, only enter the license number you used to obtain a TCR from the FTB.

If you are a shareholder, beneficiary, partner, or member that received HRCTC from a PTE, enter the PTE's California Cannabis Business License number that is reported on the statement attached to the Schedule K-1.

**E.** Enter the TCR confirmation number obtained from the FTB. The TCR confirmation number should contain eight digits.

If you are a shareholder, beneficiary, partner, or member that received HRCTC from a PTE, enter the TCR confirmation number obtained by the PTE from the FTB that is reported on the statement attached to the Schedule K-1.

## Part II Credit Computation

If you are the qualified taxpayer conducting a licensed commercial cannabis business, complete line 1 through line 6 and line 8 through **line 11**. Skip line 7.

If you are a shareholder, beneficiary, partner, or member that received credit from a PTE, skip line 1 through line 6, complete line 7 through line 11.

**Line 1 Total qualified employment compensation expenditures** – Complete Worksheet I (at the end of these instructions) to compute the total qualified employment compensation expenditures. Enter the total amounts from Worksheet I, line 1, column (k) on line 1.

**Line 2 Safety-related equipment, training, and services expenditures** – Enter the amount paid by the employer for safety-related equipment, training, and services including:

- The equipment primarily used by employees of the cannabis licensee to ensure their personal and occupational safety or the safety of customers of the business.
- Training for nonmanagement employees on workplace hazards.
- Services including, but not limited to, safety audits, security guards, security cameras, and fire risk mitigation.

**Line 3 Workforce development and employee safety training expenditures** – Enter the amount paid by the employer for workforce development and safety training for employees. This includes, but is not limited to:

- Joint labor management training programs.
- Membership in a joint apprenticeship training committee registered by the Division of Apprentices Standards.
- A state-recognized high road training partnership as defined in Section 14005 of the Unemployment Insurance Code.

**Line 7 Pass-through credit from Schedule K-1 (100S, 541, 565, or 568)** – Complete this line if you received a Schedule K-1 reporting HRCTC from a pass-through entity. Enter the total amount of credits received from an S corporation, estate, trust, partnership, or LLC classified as a partnership. A statement attached to your Schedule K-1 should include the allocable share of the credit.

**Line 8 Credit carryover from prior year(s)** – Not applicable for the 2023 taxable year.

**Line 10a Credit claimed** – Do not include assigned credits claimed on form FTB 3544, Part B, List of Assigned Credit Received and/or Claimed by Assignee.

This amount may be less than the amount on line 9 if your credit is limited by your tax liability. For more information, see General Information E, Limitations, and refer to the credit instructions in your tax booklet. Enter the total HRCTC amount claimed on line 10a and on your current year tax return. If you are required to complete more than one form FTB 3820 in a taxable year, enter the sum of credit claimed on line 10a from all forms FTB 3820 on your current year tax return. **Use**

**credit code 246.** Refer to the credit instructions in the tax booklet for your tax return for more information.

## Instructions for Worksheet I

See the instructions below and examples on the next page before completing this worksheet. See General Information H, HRCTC Calculation and Examples, for more information.

Use a new line every time an employee's compensation reported in columns (d), (e), (f), or (g) changes. Use additional worksheets as needed.

**Column (a) Employee name** – Enter the name of each full-time employee.

**Column (b) Time period** – Enter the time period associated with the wages or compensation rate.

**Column (d) Total wages paid during the time period in column (b)** – Enter the total wages, salaries, tips, and other employee compensation, subject to California withholding for the time period listed in column (b).

If wages alone (not including employer-paid benefits) exceed 350% of the applicable minimum wage, none of the employee's total employment compensation is a qualified expenditure.

For time periods within **2023**: If the hourly wage (column (d) divide by column (c)) is greater than \$54.25, the employee's total compensation is not a qualified expenditure.

For time periods within **2024**: If the hourly wage (column (d) divide by column (c)) is greater than \$56.00, the employee's total compensation is not a qualified expenditure.

**Column (e) through column (g) Employer-paid benefits during the time period in column (b)** – Report the amount the employer paid for each employee's group health insurance benefits, childcare benefits, and contributions to retirement or pension benefits during the time period listed in column (b).

**Column (j) Allowed hourly amount** – Total employment compensation per hour (wages and employer-paid benefits) must be at least 150% of the California minimum wage to be qualified expenditures. The amount of total employment compensation up to 350% of the California minimum wage is a qualified expenditure. The calculation of wages may include the monetary value to the employee of employer-provided group health insurance benefits, childcare benefits, and employer contributions to retirement or pension benefits.

If an employee's hourly wage alone is more than 350% of state minimum wage, none of the wages and benefits paid to the employee are qualified expenditures.

The California minimum wage for **2023** is \$15.50 per hour.

- 150% of minimum wage is \$23.25.
- 350% of minimum wage is \$54.25.

For time periods within **2023**: If the amount on column (i) is less than \$23.25, enter 0 in column (j). If the amount in column (i) is more than \$23.25, enter in column (j) the smaller of the amount in column (i) or \$54.25.

The California minimum wage for **2024** is \$16.00 per hour.

- 150% of minimum wage is \$24.00.
- 350% of minimum wage is \$56.00.

For time periods within **2024**: If the amount on column (i) is less than \$24.00, enter 0 in column (j). If the amount in column (i) is more than \$24.00, enter in column (j) the smaller of the amount in column (i) or \$56.00.

**Line 1 Total qualified employment compensation expenditures** – Add the amounts reported on column (k). Enter the result on line 1, column (k) and on form FTB 3820, line 1.

(continued on the next page)

# Franchise Tax Board Privacy Notice on Collection

Our privacy notice can be found in annual tax booklets or online. Go to [ftb.ca.gov/privacy](http://ftb.ca.gov/privacy) to learn about our privacy policy statement, or go to [ftb.ca.gov/forms](http://ftb.ca.gov/forms) and search for **1131** to locate FTB 1131 EN-SP, Franchise Tax Board Privacy Notice on Collection – Aviso de Privacidad del Franchise Tax Board sobre la Recaudación. To request this notice by mail, call 800.338.0505 and enter form code **948** when instructed.

**Example 2:** The taxpayer is a fiscal year filer with tax year beginning on August 1, 2023. During 2023, Employee B worked 850 hours from August through December and received wages of \$20,000 for the five month period. Employee B worked 1,190 hours from January through July of 2024 and received wages of \$28,000 for that seven month period. The employer paid \$500 per month for group health insurance for employee B for the taxable year. See below for how to fill out Worksheet I.

**Example 1:** During 2023, Employee A worked 300 hours during January and February and received wages of \$7,500 for the two month period. Employee A worked 1,500 hours during March through December and received wages of \$45,000 for that 10 month period. The employer paid a total of \$500 of group health insurance for Employee A for January and February, and a total of \$2,500 for March through December. See below for how to fill out Worksheet I.

## Worksheet I - Qualified Employment Compensation Expenditures (See instructions)

### Example 1 and Example 2

Use additional worksheets as needed. Keep this worksheet for your record. Do not file with the return.

(a) Employee name	(b) Time period (mm/dd/yy - mm/dd/yy)	(c) Total hours worked during the time period in col. (b)	(d) Total wages paid during the time period in col. (b). See below*.	(e) & (f) & (g) Employer-paid benefits during the time period in col. (b)			(h) Total compensation for the time period in col. (b). Add cols. (d), (e), (f) and (g)	(i) Total employment compensation per hour. Divide col. (h) by col. (c)	(j) Allowed hourly amount. See below**.	(k) Qualified employment compensation expenditures. Col. (c) x col. (j)
				Group health insurance	Childcare benefits	Retirement and pension				
Employee A	01/01/23 - 02/28/23	300	\$ 7,500.00	\$ 500.00	\$ -	\$ -	\$ 8,000.00	\$ 26.67	\$ 26.67	\$ 8,000.00
Employee A	03/01/23 - 12/31/23	1,500	45,000.00	2,500.00	-	-	47,500.00	31.67	31.67	47,500.00
Employee B	08/01/23 - 12/31/23	850	20,000.00	2,500.00	-	-	22,500.00	26.47	26.47	22,500.00
Employee B	01/01/24 - 07/31/24	1,190	28,000.00	3,500.00	-	-	31,500.00	26.47	26.47	31,500.00
<b>1 Total qualified employment compensation expenditures.</b> Add the amounts on col. (k). Enter the result here and on form FTB 3820, line 1										109,500.00

\*For time periods within **2023**: If the hourly wage (column (d) divide by column (c)) is greater than \$54.25, none of the employee's total employment compensation is a qualified expenditure.

For time periods within **2024**: If the hourly wage (column (d) divide by column (c)) is greater than \$56.00, none of the employee's total employment compensation is a qualified expenditure.

\*\*For time periods within **2023**: If the amount on column (i) is less than \$23.25, enter 0 in column (j). If the amount in column (i) is more than \$23.25, enter in column (j) the smaller of the amount in column (i) or \$54.25.

For time periods within **2024**: If the amount on column (i) is less than \$24.00, enter 0 in column (j). If the amount in column (i) is more than \$24.00, enter in column (j) the smaller of the amount in column (i) or \$56.00.

## Worksheet I - Qualified Employment Compensation Expenditures (See instructions)

Use additional worksheets as needed. Keep this worksheet for your record. Do not file with the return.

(a) Employee name	(b) Time period (mm/dd/yy - mm/dd/yy)	(c) Total hours worked during the time period in col. (b)	(d) Total wages paid during the time period in col. (b). See below*.	(e) (f) (g) Employer-paid benefits during the time period in col. (b)			(h) Total compensation for the time period in col. (b). Add cols. (d), (e), (f) and (g)	(i) Total employment compensation per hour. Divide col. (h) by col. (c)	(j) Allowed hourly amount. See below**.	(k) Qualified employment compensation expenditures. Col. (c) x col. (j)
				Group health insurance	Childcare benefits	Retirement and pension				
<b>1 Total qualified employment compensation expenditures.</b> Add the amounts on col. (k). Enter the result here and on form FTB 3820, line 1 .....										

\*For time periods within **2023**: If the hourly wage (column (d) divide by column (c)) is greater than \$54.25, none of the employee's total employment compensation is a qualified expenditure.  
 For time periods within **2024**: If the hourly wage (column (d) divide by column (c)) is greater than \$56.00, none of the employee's total employment compensation is a qualified expenditure.

\*\*For time periods within **2023**: If the amount on column (i) is less than \$23.25, enter 0 in column (j). If the amount in column (i) is more than \$23.25, enter in column (j) the smaller of the amount in column (i) or \$54.25.  
 For time periods within **2024**: If the amount on column (i) is less than \$24.00, enter 0 in column (j). If the amount in column (i) is more than \$24.00, enter in column (j) the smaller of the amount in column (i) or \$56.00.