

2023 Investment Interest Expense Deduction

3526

Attach to Form 540, Form 540NR, or Form 541.

Name(s) as shown on tax return

SSN, ITIN, or FEIN

Table with 10 rows for investment interest expense calculation, including lines 1 through 10 with descriptions and numerical values.

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.

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.

A Purpose

Use form FTB 3526, Investment Interest Expense Deduction, to figure the amount of investment interest expense deductible for the current year and the amount, if any, to carry forward to future years.

allocable to property held for investment may not be fully deductible in the current year.

Net capital gain from the disposition of property held for investment is excluded from investment income when figuring the investment interest limitation.

This form allows you to make a separate California election to include net capital gain investment income in the calculation of the investment interest limitation.

B Who Must File

If you are an individual, estate, or trust and you claim a deduction for investment interest expense, you must complete and attach form FTB 3526 to your tax return.

Exception: You do not have to file form FTB 3526 if all of the following apply:

- Your only investment income was from interest or dividends.
• You have no other deductible expenses connected with the production of interest or dividends.
• Your investment interest expense is not more than your investment income.
• You have no disallowed investment interest expense from 2023.

Specific Line Instructions

Generally, California law for the investment interest expense deduction follows federal law. Get the instructions for federal Form 4952, Investment Interest Expense Deduction.

Line 1

Enter the investment interest paid or accrued during the taxable year, regardless of when you incurred the indebtedness.

Include investment interest expense reported to you on Schedules K-1 (100S, 541, 565, or 568), Share of Income, Deductions, Credits, etc.

Investment interest expense does not include:

- Qualified residence interest.
• Interest expense that is properly allocable to a passive activity. See "Passive Activities."

- Interest expense that is capitalized, such as construction interest subject to IRC Section 263A.
- Interest expense related to tax-exempt interest income under R&TC Section 17280.

Property Held for Investment. Property held for investment includes property that produces investment income (unless derived in the ordinary course of a trade or business). It also includes property that produces gain or loss, **not** derived in the ordinary course of a trade or business, from the disposition of property that produces these types of income or is held for investment.

However, it does not include an interest in a passive activity. See “Passive Activities.”

Property held for investment also includes an interest in an activity of conducting a trade or business in which you did not materially participate and that is not a passive activity. For example, a working interest in an oil or gas property that is not a passive activity is property held for investment if you did not materially participate in the activity.

Passive Activities. Generally, a passive activity is any business activity in which you do not materially participate and any rental activity regardless of your level of participation. Investment interest expense does not include any interest expense that is included when determining your income or loss from a passive activity. However, interest expense that is properly allocable to portfolio income is investment interest expense and is not included when determining your income or loss from a passive activity. Portfolio income includes income (not derived in the ordinary course of a trade or business) from interest, dividends, annuities, royalties, and net gain from the disposition of property held for investment.

For federal purposes only, rental real estate activities conducted by persons in a real property business are not automatically treated as passive activities. California does not conform to this provision. For more information about passive activities, get the instructions for federal Schedule E (Form 1040), Supplemental Income and Loss.

Line 4a

Enter your gross income from property held for investment. This includes income (not derived in the ordinary course of a trade or business) from interest, dividends, annuities, and royalties. Net income from the following passive activities is also treated as investment income:

- Rental of substantially nondepreciable property.
- Equity-financed lending activities.
- Acquisition of certain interests in a pass-through entity licensing intangible property.

Also, include on line 4a (or line 4b, if applicable) net passive income from a passive activity of a publicly traded partnership, as defined in IRC Section 469(k)(2), investment income reported to you on Schedules K-1 (100S, 541, 565, or 568), and net investment income from an estate or trust.

Line 4b

Enter your net gain from the disposition of property held for investment. This is the excess of total gains over total losses from the disposition of property held for investment. When figuring this amount, include capital gain distributions from mutual funds.

Line 4c

Enter your net capital gain from the disposition of property held for investment. This is the excess of your net long-term capital gain over net short-term capital loss from the disposition of property held for investment. Capital gain distributions from mutual funds are treated as long-term capital gains.

Line 4e

Net capital gain from the disposition of property held for investment, line 4c, is excluded from investment income. However, you may elect to include in investment income all or part of the net capital gain from the disposition of property held for investment. Make the election no later than the due date (including extensions) of your California income tax return. Once made, the election may not be revoked without the consent of the Franchise Tax Board.

To make the election, enter all or part of the amount on line 4c, but not more than the amount on line 4b, that you elect to include in investment income.

Line 5

Investment expenses are your allowed deductions, other than interest expense, directly connected with the production of investment income. For example, depreciation or depletion allowed on assets that produce investment income is an investment expense. Include investment expenses reported to you on Schedules K-1 (100S, 541, 565, or 568).

Investment expenses do not include any deductions taken into account in determining your income or loss from a passive activity.

If you have investment expenses that are included as a miscellaneous itemized deduction on Schedule CA (540), Part II, line 21 or Schedule CA (540NR), Part III, line 21, the 2% adjusted gross income limitation on Schedule CA (540), Part II, line 24 or Schedule CA (540NR), Part III, line 24, may reduce the amount you include on form FTB 3526, line 5. If you are a military servicemember domiciled outside of California, recalculate the amount on Schedule CA (540), Part II, line 24 or Schedule CA (540NR), Part III, line 24, excluding your active duty military pay.

Include on form FTB 3526, line 5, the smaller of either the investment expenses included on Schedule CA (540), Part II, line 21; Schedule CA (540NR), Part III, line 21; or the total on Schedule CA (540), Part II, line 25; Schedule CA (540NR), Part III, line 25.

If you made adjustments to your miscellaneous expenses on Schedule CA (540 or 540NR), be sure to include the adjustments in the calculation.

If you reported investment expenses on a form or schedule other than federal Schedule A (Form 1040), Itemized Deductions, include those expenses when figuring investment expenses for line 5.

Line 8

Form 541, California Fiduciary Income Tax Return, filers should enter the amount from line 8 on Form 541, line 10. All other filers must complete line 9.

At-Risk Activities. If any portion of the deductible investment interest expense on line 8 is attributable to an activity for which you are not at risk, complete federal Form 6198, At-Risk Limitations, (**using California amounts**) to figure your deductible investment interest expense.

After you figure the allowable investment interest expense on form FTB 3526, enter the portion attributable to the at-risk activity on federal Form 6198, line 4. Reduce form FTB 3526, line 8 by the same amount.

Refer to federal Form 6198 and its instructions for more details, especially the instructions for line 4 of that form.

Line 10

The amount on line 10 is the difference between the deduction allowed by California and federal law.

If line 8 is more than line 9, subtract line 9 from line 8. Enter the result on line 10 and on Schedule CA (540), Part II, line 9, column C, or Schedule CA (540NR), Part III, line 9, column C. Be sure to write “FTB 3526” on Schedule CA (540), Part II or Schedule CA (540NR), Part III, line 9.

If line 9 is more than line 8, subtract line 8 from line 9. Enter the result on line 10 and on Schedule CA (540), Part II, line 9, column B, or Schedule CA (540NR), Part III, line 9, column B. Write “FTB 3526” on Schedule CA (540), Part II or Schedule CA (540NR), Part III, line 9.

If any portion of your investment interest expense on line 8 is attributable to royalties, enter the difference between the California and federal amounts on Schedule CA (540), Part I, or Schedule CA (540NR), Part II, Section B, line 5, column B or column C, as appropriate.

Alternative Minimum Tax (AMT). Deductible investment interest expense may be an AMT adjustment. Get Schedule P (540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations, for more information.

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 to learn about our privacy policy statement, or go to 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.