

# 2024 Cannabis Equity Tax Credit

# 3821

Attach to your California tax return.

Name(s) as shown on your California tax return

SSN or ITIN  CA Corporation no.  FEIN

California Secretary of State (SOS) file number

### Part I Licensee Information. See instructions.

A. Business name as it appears on the license issued by the California Department of Cannabis Control (DCC):

\_\_\_\_\_

B. License number:  \_\_\_\_\_

### Part II Credit Computation. Complete line 1 or line 2 but not both. See instructions.

1	Credit amount. This credit amount is limited to \$10,000.	<input checked="" type="radio"/> 1	00
2	Pass-through credit from Schedule K-1 (100S, 541, 565, or 568)	<input checked="" type="radio"/> 2	00
3	Credit carryover from prior year(s)	<input checked="" type="radio"/> 3	00
4	Total available credit. Add line 1 through line 3.	<input checked="" type="radio"/> 4	00
5 a	<b>Credit claimed.</b> Enter the amount of the credit claimed on the current year tax return. (Do not include any assigned credit claimed on form FTB 3544, Part B.)	<input checked="" type="radio"/> 5a	00
b	Total credit assigned. Enter the total amount from form FTB 3544, Part A, column (g). If you are not a corporation, enter 0.	<input checked="" type="radio"/> 5b	00
c	Credits elected to be refundable in future years. If you are not making an election using form FTB 3870, enter 0. See instructions.	<input checked="" type="radio"/> 5c	00
6	Credit carryover available for future years. Add lines 5a, 5b, and 5c, subtract the result from line 4.	<input checked="" type="radio"/> 6	00

### What's New

**Credit Limitation** – For taxable years beginning on or after January 1, 2024, and before January 1, 2027, there is a \$5,000,000 limitation on the application of business credits. The total of all business credits including the carryover of any business credit for the taxable year may not reduce the “net tax”, for personal income filers, or “tax”, for corporate filers, by more than \$5,000,000. Business credits should be applied against “net tax” before other credits. For taxpayers included in a combined report, the limitation is applied at the group level.

For each taxable year of the limitation, taxpayers may make an irrevocable election to receive an annual refundable credit amount for the credits disallowed due to the limitation. Taxpayers may claim 20% of this refundable credit in each year of a five-year refundable period. The refundable period begins the third taxable year after the taxable year in which the election is made. To make this irrevocable election, complete form FTB 3870, Election for Refundable Credit, and submit it with an original, timely filed return.

If a taxpayer does **not** choose to make the election outlined above, business credits disallowed due to the limitation may be carried over. The carryover period for disallowed credit is extended by the number of taxable years the credit was not allowed. For more information, refer to California Revenue and Taxation Code (R&TC) Sections 17039.4, 17039.5, 23036.4 and 23036.5 and get form FTB 3870.

### General Information

**Cannabis Equity Tax Credit** – For taxable years beginning on or after January 1, 2023, and before January 1, 2028, a Cannabis Equity Tax Credit (CETC) is available to equity licensees that have received approval, including approval contingent upon the availability of funds, for the fee

waiver and deferral program administered by the California Department of Cannabis Control (DCC). The allowable credit is \$10,000 per taxable year for each qualified taxpayer. Unused credit may be carried forward up to eight years. All types of entities, except for exempt organizations, are eligible to claim this credit. For more information, see R&TC Section 17053.82 or 23682, or go to [ftb.ca.gov](http://ftb.ca.gov) and search for **cetc**.

### A Purpose

Use form FTB 3821, Cannabis Equity Tax Credit, to calculate and report allowable credit for a qualified taxpayer.

Also, shareholders, beneficiaries, partners, or members should use form FTB 3821 to claim pass-through Cannabis Equity Tax Credit received 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 3821 to report the amount of credit that will be passed through to shareholders, beneficiaries, partners, or members. Attach this form to the applicable 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, PTEs must report the California Cannabis Business License number of the PTE on a statement attached to the Schedule K-1 for each shareholder, beneficiary, partner, or member.

## B Qualified Taxpayer

A qualified taxpayer for purposes of the CETC means an equity licensee that has received approval, including approval contingent upon the availability of funds, for the fee waiver and deferral program administered by the DCC. The fee relief approval must be for the license period that begins during the taxable year.

## C Limitations

The nonrefundable CETC is limited to \$10,000 per taxable year for each qualified taxpayer. The CETC is available for taxable years beginning on or after January 1, 2023, and before January 1, 2028.

For taxable years beginning on or after January 1, 2024, and before January 1, 2027, there is a \$5,000,000 limitation on the application of business credits, including carryover. For taxpayers included in a combined report, the limitation is applied at the group level.

~~Taxpayers may elect to make credits that are disallowed due to the \$5,000,000 credit limitation refundable in future years by completing form FTB 3870 and attaching it to their original, timely filed tax return.~~

S corporations may claim only 1/3 of the credit against the 1.5% entity-level tax (3.5% for financial S corporations). The remaining 2/3 must be disregarded and may not be used as a carryover. S corporations can pass through 100% of the credit to their shareholders.

~~S corporations may not elect to make credits taken at the entity level refundable.~~

If a C corporation had unused credit carryovers when it elected S corporation status, the carryovers were reduced to 1/3 and transferred to the S corporation. The remaining 2/3 were disregarded. The allowable carryovers may be used to offset the 1.5% tax on net income in accordance with the respective carryover rules. These C corporation carryovers may not be passed through to shareholders. For more information, get Schedule C (100S), S Corporation Tax Credits.

If a taxpayer owns an interest in a disregarded business entity [a single member limited liability company (SMLLC) not recognized by California, and for tax purposes is treated as a sole proprietorship owned by an individual or a branch owned by a corporation], the usable credit amount received from the disregarded entity is limited to the difference between the taxpayer's regular tax figured with the income of the disregarded entity, and the taxpayer's regular tax figured without the income of the disregarded entity.

If the disregarded entity reports a loss, the taxpayer may not claim the credit this year but can carry over the credit amount received from the disregarded entity.

For more information on SMLLC, get Form 568.

This credit cannot reduce the regular tax below the minimum franchise tax (corporations and S corporations), the annual tax (limited partnerships, limited liability partnerships, and LLCs classified as a partnership), the alternative minimum tax (corporations, exempt organizations, individuals, and fiduciaries), the built-in gains tax (S corporations), or the excess net passive income tax (S corporations).

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

Get Schedule P (100, 100W, 540, 540NR, or 541), Alternative Minimum Tax and Credit Limitations, for more information.

**This credit is not refundable.**

## D 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 a 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**.

## E 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. In no event can the credit be carried back and applied against a prior year's tax.

## Specific Line Instructions

**Separate form FTB 3821** – Complete a separate form FTB 3821 for the credit generated and for each Schedule K-1 with credit received from a PTE and attach them to the tax return. **Do not** report the credit generated from the licensed cannabis business and credits received from pass-through entities on the same form FTB 3821. If you are required to complete more than one form FTB 3821 in a taxable year, enter the sum of credit claimed from all forms FTB 3821 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

**A.** Enter the name of the equity licensee as it appears on the license issued by the DCC.

If you are a shareholder, beneficiary, partner, or member that received CETC from a PTE, enter the name of the PTE equity licensee from the Schedule K-1 you received.

**B.** Enter the license number of the equity licensee.

If you have multiple cannabis licenses for which you received fee waivers, enter only one.

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

### Part II Credit Computation

Complete line 1 or line 2 but not both.

#### Line 1 – Credit amount

Complete this line if you are the licensed cannabis business generating the CETC.

The allowable credit generated is \$10,000 per taxable year for each qualified taxpayer. The amount entered on line 1 should not be more than \$10,000. Skip line 2 and continue with line 3.

#### Line 2 – Pass-through credit from Schedule K-1 (100S, 541, 565, or 568)

Complete this line if you received a Schedule K-1 reporting CETC from a pass-through entity.

Enter the amount of credit 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.

Complete a separate form FTB 3821 for each Schedule K-1 you receive. Then continue with line 3.

#### Line 3 – Credit carryover from prior year(s)

Enter the credit amount from the 2023 form FTB 3821, line 6.

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**Line 5a – 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 4 if your credit is limited by your tax liability. For more information, see General Information C, Limitations, and refer to the credit instructions in your tax booklet. Enter the total CETC amount claimed on line 5a and on your current year tax return. If you are required to complete more than one form FTB 3821 in a taxable year, enter the sum of credit claimed on line 5a from all forms FTB 3821 on your current year tax return. Use credit code **247**. Refer to the credit instructions in the tax booklet for your tax return for more information.

**Line 5b – Total credit assigned**

Corporations that assign credit to other corporations within the same combined reporting group must complete form FTB 3544, Part A, Election to Assign Credit Within Combined Reporting Group. Enter the total amount of credit assigned from form FTB 3544, Part A, column (g) on this line.

**Line 5c – Credits elected to be refundable in future years**

~~If you elect to make credits disallowed due to the credit limitation refundable,~~ enter the amount of credit that would have otherwise been available to reduce tax in this tax year but for the \$5,000,000 credit limitation.

You may not elect to have a partial amount of your disallowed credit be refundable. If you elect to make this credit refundable you must make the same election for all other credits you claimed this year that were also disallowed due to the credit limitation. Complete form FTB 3870 and attach it to your original, timely filed tax return.

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**Franchise Tax Board Privacy Notice on Collection**

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