

# 2020 Instructions for Form 592-PTE

## Pass-Through Entity Annual Withholding Return

### What's New

#### Pass-Through Entity Annual Withholding Return

- For taxable years beginning on or after January 1, 2020, a pass-through entity that has paid withholding on behalf of a nonresident owner or has been withheld upon must use Form 592-PTE, Pass-Through Entity Annual Withholding Return, to report the total withholding.

#### Payment Voucher for Pass-Through Entity Withholding

- For taxable years beginning on or after January 1, 2020, a pass-through entity must use Form 592-Q, Payment Voucher for Pass-Through Entity Withholding, to remit the withholding payments. For more information, get Form 592-Q.

### General Information

At the end of the taxable year, pass-through entities (PTEs) complete Form 592-PTE, Pass-Through Entity Annual Withholding Return, to report the total withholding for the year and to allocate the income and related withholding to the owners.

For California 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.

**Grantor Trust** – A trust whose assets and income are controlled by a grantor.

**Non-Grantor Trust** – A trust not owned by an individual and viewed as a taxable entity.

For the purpose of this form, a PTE is an entity that has paid withholding on behalf of a nonresident owner or has had its income withheld upon. Each of these PTEs is a withholding agent and is required to file a Form 592-PTE on an annual basis to allocate withholding.

A lower tier PTE is an entity with California source income that has a PTE owner. If it withheld tax on behalf of its nonresident owners, it is required to file a Form 592-PTE to allocate withholding to each nonresident owner, in accordance with each nonresident owner's interest in the entity.

An upper tier PTE is a PTE's owner that is itself a PTE. If tax has been withheld on behalf of the upper tier PTE by a lower tier PTE, the upper tier PTE is required to file a Form 592-PTE to allocate withholding paid on its behalf to each owner, whether a California resident or nonresident, in accordance with each owner's interest in the entity.

Withholding, excluding backup 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.

#### Form 592-B, Resident and Nonresident

**Withholding Tax Statement** – The withholding agent must provide Form 592-B to each payee which shows the total amount withheld and reported for the tax year. The withholding agent does not submit Form 592-B to the FTB. For more information, get Form 592-B.

**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. The California backup withholding rate is 7% of the payment. For California purposes, dividends, interests, and any financial institutions release of loan funds made in the normal course of business are exempt from backup withholding. For additional information on California backup withholding, go to [ftb.ca.gov](http://ftb.ca.gov) and search for **backup withholding**.

If a payee has backup withholding, the payee must contact the FTB to provide a valid Taxpayer Identification Number (TIN) before filing a tax return.

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 CA SOS file number. Failure to provide a valid TIN will result in the denial of the backup withholding credit.

### A Purpose

Use Form 592-PTE, to report the total withholding under California Revenue and Taxation Code (R&TC) Sections 18662-4 and 18662-8. A PTE is generally an entity that passes its income or losses through to its owners instead of paying the related tax at the entity level. The types of PTEs for purposes of this regulation include estates and trusts, S corporations, LLCs, and partnerships. Get FTB Pub. 1017, Resident and Nonresident Withholding Guidelines, for more information.

Use Form 592-Q, Payment Voucher for Pass-Through Entity Withholding to

remit withholding payments reported on Form 592-PTE.

Compute the amount of resident and nonresident withholding tax to be withheld by applying a rate of 7% or a reduced amount as authorized in writing by the FTB. Get Form 589, Nonresident Reduced Withholding Request, for more information.

Compute the amount of backup withholding by applying the rate of 7% to a reportable payment when federal backup withholding is required (with certain limited exceptions). There are no reductions or waivers for backup withholding and no set minimum threshold. Backup withholding supersedes all types of withholding.

Do not use Form 592-PTE if any of the following apply:

- No payment, distribution or withholding occurred.
- You are reporting withholding on domestic nonresident individuals or corporations. Use Form 592, Resident and Nonresident Withholding Statement.
- You are reporting withholding on foreign partners or members. Use Form 592-F, Foreign Partner or Member Annual Withholding Return.
- You are reporting real estate withholding as the buyer or real estate escrow person withholding on the sale of real estate. Use Form 593, Real Estate Withholding Statement.

#### Example 1: Upper Tier PTE and Lower Tier Pass-Through Entity Definition

A is a California general partnership with two equal partners, B and C. B is an individual who is a resident of California. C is a non-California general partnership. C has two equal partners, D and E. D is an individual who is a nonresident of California and E is a California general partnership.

A is a lower tier PTE because it has California source income and it has an owner that is a PTE. C is the upper tier PTE because it is an owner of a PTE, A, and is itself a PTE. E is also an upper tier PTE because it is an owner of a PTE, C, and is itself a PTE.

#### Example 2: Form 592-PTE Requirements

A is required to file an annual Form 592-PTE following the end of the Year X to report the withholding it paid on behalf of C. The filing of Form 592-PTE will allocate the withholding A paid on behalf of C to C. A is not required to file an annual Form 592-PTE following the end of Year X with respect to B because B was a resident of California and no withholding was required to be paid on his or her behalf.

C is required to file an annual Form 592-PTE following the end of Year X to report the withholding A paid on its behalf throughout Year X and that A allocated to C. The filing of

Form 592-PTE will allocate the withholding A paid on C's behalf to C's owners, D and E, regardless of the owner's state of residency and in accordance with each owner's interest in C.

D is not required to file an annual Form 592-PTE following the end of Year X with respect to the withholding allocated to him or her because D is an individual and therefore is not required to allocate withholding. D can claim the withholding credit allocated to him or her on the individual California nonresident income tax return if he or she attaches a copy of Form 592-B, received from C.

E is required to file an annual Form 592-PTE following the end of Year X to report the withholding A paid on behalf of C during Year X and that C allocated to E. The filing of Form 592-PTE will allocate the withholding A paid and that C allocated to E and E allocated to E's owners, regardless of the owner's state of residency, and in accordance with each owner's interest in E.

When A files Form 592-PTE, A fills out Part I, Withholding Agent Information, and leaves Part II blank. When C files Form 592-PTE, C puts A's information in Part II, Pass-Through Information, then C puts C's information in Part I, Withholding Agent Information. When E files Form 592-PTE, E puts C's information in Part II then E puts E's information in Part I.

**Note:** Lower tier PTEs are required to file a Form 592-PTE to allocate withholding paid on behalf of nonresident owners, while upper tier PTEs are required to file a Form 592-PTE to allocate withholding paid on their behalf to all owners, regardless of the state of residency of each owner.

## B When and Where to File

Form 592-PTE must be filed on an annual basis no later than January 31<sup>st</sup> of the year following the year for which such withholding was required to be remitted to the FTB. This will allow an upper-tier PTE time to receive withholding information from the lower-tier PTE.

The tax withheld on payments is remitted in four specific periods. Each payment period has a specific due date.

### Specific Payment Period and Due Date

January 1 through March 31, 2020 . . . . .	April 15, 2020
April 1 through May 31, 2020 . . . . .	June 15, 2020
June 1 through August 31, 2020 . . . . .	September 15, 2020
September 1 through December 31, 2020 . . . . .	January 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.

**Paper Filing** - Mail Form 592-PTE, include the voucher from Form 592-Q and payment if there is a balance due, to:

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

**Important:** If you filed Form 592-PTE electronically, then mail any payment due with Form 592-Q. Do not mail Form 592-PTE.

**Record Keeping** - The withholding agent retains this form for a minimum of five years and must provide it to the FTB upon request.

**10-Day Notification** - California follows federal law, which requires that withholding agents notify foreign payees within 10 days of any tax withheld. For California withholding purposes, withholding agents should make a similar notification to nonresident payees. No particular form is required for this notification, and it is commonly done on the statement accompanying the distribution or payment. However, the withholding agent may choose to report the tax withheld to the payee on a Form 592-B.

## C Electronic Filing Requirements

When the number of payees entered on Form 592-PTE, Schedule of Payees, exceeds 250, Form 592-PTE must be filed electronically with the FTB using FTB's Secure Web Internet File Transfer (SWIFT) instead of paper. However, withholding agents must provide payees with copies of Forms 592-B.

For electronic filing, submit your file using the SWIFT process as outlined in FTB Pub. 923, Secure Web Internet File Transfer (SWIFT) Guide for Resident, Nonresident, and Real Estate Withholding.

For the required file format and record layout for electronic filing, get FTB Pub. 1023S, Resident and Nonresident Withholding Electronic Submission Requirements.

If you are the preparer for more than one withholding agent, provide a separate electronic file for each withholding agent.

Electronic signatures shall be considered as valid as the originals.

## D Amending Form 592-PTE

If an error is discovered after the withholding agent files Form 592-PTE, including filing with an incorrect taxable year form, then the agent must file an amended Form 592-PTE to correct any errors. Only withholding agents file amended forms.

If you previously filed Form 592-PTE with an incorrect taxable year, then follow the steps below:

1. Complete a new Form 592-PTE with the correct taxable year.
  - Enter all the withholding and payee information.

- Leave the "Amended" box unchecked on the top left corner of the form.
2. Complete a second Form 592-PTE with the same taxable year as originally filed.
    - Enter all the withholding and payee information.
    - Check the "Amended" box in the top left corner of the form.
    - Enter \$0.00 for the total withholding amount due on Side 1, Part III, Tax Withheld.
    - Enter \$0.00 for the amount of tax withheld for each payee on Side 2, Schedule of Payees.
  3. Mail both forms to the address shown under General Information B, When and Where to File.

If you previously filed Form 592-PTE with a correct taxable year, but reported information incorrectly, follow the steps below:

1. Complete a new Form 592-PTE with the same taxable year as originally filed.
  - Check the "Amended" box at the top left corner of the form.
  - Enter all the correct withholding and payee information. Do not enter negative numbers.
  - Attach a letter to the **back** of the form to explain the reason(s) for the corrections.
  - Keep the original Form 592-PTE for your records.
2. Mail the amended form and the attached letter to the address shown under General Information B, When and Where to File.

**Important:** For assistance to prepare and file an amended Form 592-PTE, contact the FTB.

## E Interest and Penalties

Interest on late payments is computed from the due date of the withholding to the date paid. Failure to withhold may result in the withholding agent being personally liable for the amount of tax that was required to be withheld, plus interest and penalties, unless the failure was due to reasonable cause.

A penalty will be assessed for failure to file complete, correct, and timely information returns (Form 592-PTE Schedule of Payees) with the FTB. The penalty is calculated per payee:

- \$30 if filed 1 to 30 days after the due date.
- \$60 if filed 31 days to 6 months after the due date.
- \$100 if filed more than 6 months after the due date.

For more information, get FTB 1150.

## Specific Instructions

If completing Form 592-PTE by hand, enter all the information requested using black or blue ink.

**Taxable Year** - The taxable year on the form must match the year of withholding.

**Prior Year Distribution** - Check the Prior Year Distribution box at the top of Side 1 on

Form 592-PTE if the income distribution took place in the current taxable year, but represents income for a prior taxable year.

**Example:** You completed your 2020 tax return on April 15, 2021 and later determine you need to distribute additional income to your owners. Use a 2020 Form 592-PTE and check the Prior Year Distribution box.

**Total Withholding at End of Year** - Check the Total Withholding at End of Year box at the top of Side 1 on Form 592-PTE if the income distribution took place in the current taxable year.

**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

Enter only business or individual information, not both, check the appropriate box and enter the TIN. For more details, see General Information and section A Purpose Example 1 and Example 2.

If your entity is an upper tier pass-through entity that is an S corporation, partnership, LLC, estate, or trust that received payments or distributions that were withheld upon by another entity and you are allocating the withholding credit to your partners in a partnership, members of an LLC, estate or trust beneficiaries, or S corporation shareholders, enter your entity's name in the business name field, and the TIN, and address in the designated areas.

## Part II – Pass-Through Entity Information

Enter only business or individual information, not both, check the appropriate box and enter the TIN. This is the withholding agent information for the PTE which withheld on behalf of the current Form 592-PTE filer. For more details, see General Information and section A Purpose Example 1 and Example 2.

If you were withheld upon by multiple PTEs for the taxable year, attach a schedule of PTEs, as necessary.

Enter the **total** number of payees included on the Schedule of Payees.

## Part III – Tax Withheld

**Line 1** – Enter the total withholding, excluding backup withholding, from the Schedule of Payees on Side 2 and from any additional pages of the Schedule of Payees.

**Line 2** – Enter the total backup withholding from the Schedule of Payees on Side 2 and any additional pages of the Schedule of Payees.

**Line 4** – Enter the amount of prior payments made to the FTB and not previously distributed to payees on a prior Form 592-PTE. These payments may include amounts from an amended Form 592-PTE.

**Line 5** – Enter the amount withheld by another entity that is being distributed to your partners in a partnership, members of an LLC, estate or trust beneficiaries, or S corporation shareholders. If any of the amount withheld by the lower tier PTE is to be used against the tax owed by your entity, **do not** include that amount in line 5. Attach a note to Form 592-PTE explaining how much of the credit will be used to offset your tax due.

## Schedule of Payees Instructions

Enter all the applicable information for each payee you report as having nonresident or backup withholding to ensure each payee's withholding payment is applied timely and properly.

**Do not** include payees who have zero withholding unless you are amending Form 592-PTE to exclude a payee originally reported in error.

**Do not** leave a blank payee box unless you are at the end of the Schedule of Payees.

**You must use the Schedule of Payees on Side 2 of Form 592-PTE to report all payees.**

If you withheld tax on multiple payees for the taxable year, complete and include additional copies of the Schedule of Payees from Side 2 of Form 592-PTE, as necessary. Enter the withholding agent's name and TIN at the top of each additional page.

**Do not** attach your own schedules to this form. We only accept and process additional payees reported on the Schedule of Payees from Side 2 of Form 592-PTE.

**Business or Individual Payee Name, TIN, and Address** – Enter only business or individual information for each payee, not both, check the appropriate box, and enter the TIN. **Do not** enter the business name of your entity as a payee.

If the payee is a **grantor trust**, enter the individual name and TIN of the grantor that is required to file a tax return and report the income. **Do not enter the name of the trust or trustee information.** (For tax purposes, grantor trusts are transparent. The individual grantor must report the income and claim the withholding on the individual's California tax return.)

If the payee is a **non-grantor trust**, enter the name of the trust and the trust's FEIN. **Do not enter trustee information.** If the non-grantor trust has applied for a FEIN and it has not yet been received or it has not applied for a FEIN, leave the identification number field blank. After the FEIN is received, contact the FTB.

**Total Income for the Withholding Period** – Enter the amount of income/distributions withheld upon. **Do not** leave blank or include return of capital.

**Backup Withholding** – If the payee is subject to backup withholding, check this box.

**Amount of Tax Withheld** – Enter the total amount withheld for the period.

## 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