**California**

1. **Is penalty abatement available?**
   1. Yes
2. **What is the statute/law that authorizes the state to abate penalties?**
   1. [Cal. Rev. & Tax. Code § 19131 (West)](Statute%20Section%2019131.%20Failure%20to%20make%20and%20file%20a%20return.docx)
   2. [2016 CA REG TEXT 423808 (NS), 2016 CA REG TEXT 423808 (NS)](Statute%202016%20CA%20REG%20TEXT%20423808.docx)
3. **What is the statute/law/guidance (internal memorandum to employees reviewing PA requests) that outlines what justifies relief? For example:** 
   1. The IRS has the authority to abate penalties based on two statutes, plus additional statutes that authorize abatement of interest and case law that authorizes and defines reasonable cause. SEE the attachments: “[Statute 2016 CA REG TEXT 423808](Statute%202016%20CA%20REG%20TEXT%20423808.docx),” “[Statute Section 19131](Statute%20Section%2019131.%20Failure%20to%20make%20and%20file%20a%20return.docx),” and “[Reasonable Cause Case Law Article](Reasonable%20Cause%20Case%20Law%20Article.pdf).”
4. **Is there a specific form that must be filed to request abatement, or does the taxpayer just submit written statement. What needs to be included in the statement if the state does not have a form?**
   1. *Taxpayers or their representatives may use either* [*Form FTB 2917*](Form%202917%20Reasonable%20Cause%20-%20Individual%20and%20Fiduciary%20Claim%20for%20Refund.pdf) *or* [*Form FTB 2924*](Form%202924%20Reasonable%20Cause%20-%20Business%20Entity%20Claim%20for%20Refund%20Form.pdf) *or write a letter to file a claim for refund or to request penalty abatement due to reasonable cause.*
      1. If you write your own letter, it must include the following information for you and your spouse:
         1. Name
         2. Social security number
         3. Address
         4. Telephone number
         5. Tax year
         6. Type of penalty
         7. Reason why penalty should be canceled
   2. *Request for Abatement of Interest based on Financial Hardship should include the following documents:*
      1. A completed Financial Statement, [Form FTB 3561](Form%203561%20Financial%20Statement.pdf).
      2. A detailed physician's statement, if applicable.
      3. Verification of catastrophic circumstance or significant disability.
   3. *Request for Abatement of Interest based on Reliance on Written Advice from FTB*: (1) the taxpayer makes a formal written request for advice from us as to whether a particular activity or transaction is subject to tax, (2) we respond in writing regarding your written request for advice, and (3) the taxpayer reasonably relies on that advice on whether a certain activity or transaction is subject to tax by California, and the tax due is not remitted based on such reliance.
      1. If interest abatement is requested because the taxpayer relied on written advice from us, the taxpayer must provide all of the following:
         1. A copy of the original written request and a copy of our written advice.
         2. A statement, made under penalty of perjury that outlines the facts on which the claim for abatement is based.
         3. Any other information we may require.
      2. If important facts are misstated or omitted in your formal written request for advice, we will not abate the interest
   4. *Erroneous refund*
      1. An erroneous refund is a refund issued by us in error, which must have occurred through no fault of the taxpayer. If we determine that we made an erroneous refund, we will issue a notice and demand for repayment to the taxpayer. If the taxpayer does not make repayment in response to the notice and demand, interest on the erroneous refund will start accruing 30 days after the demand is mailed. We will automatically waive interest on an erroneous refund for the time period between the issuance of the erroneous refund and 30 days after the notice and demand for repayment is issued. Taxpayers do not need to request abatement.
   5. *Disaster Losses*
      1. Disaster LossFor taxable years beginning on or after January 1, 1998, and for disasters declared on or after January 1, 1998, we will not charge interest for the extension period for an individual taxpayer who is a victim of a disaster. Up to 90 days of interest will be waived if both of the following are true:
         1. The individual was located in a presidentially-declared disaster area or in a county or city in California that is declared to be in a state of disaster by the Governor.
         2. The FTB extended the time to file an income tax return and to pay income tax.
      2. Important:  The provisions do not apply to estates and trusts or to corporations.
      3. Important:  For disasters that occurred on or after September 11, 2001, we will not charge interest for the extension period for any taxpayer (i.e., individuals, including estates and trusts, and business entities) who is a victim of a disaster. Thus, up to one year of interest will be waived if both of the following are true:
         1. The taxpayer was located in a presidentially-declared disaster area or any county or city in this State that is proclaimed by the Governor to be in a state of disaster that incurred a loss.
         2. The FTB extended the time to file an income tax return and to pay income tax.
   6. *FTB/IRS error or delay for individuals and business entities*
      1. The law gives us the discretion to abate interest if you show that an unreasonable error or delay by an FTB employee occurred while performing certain types of acts that caused interest to accrue on your additional tax or caused a delay in your payment of your tax.
      2. To qualify for interest abatement based on an FTB error or delay, you must show that either:
         1. An unreasonable error or delay by an FTB employee occurred while the employee was performing a [ministerial act](https://www.ftb.ca.gov/individuals/faq/interestabatement.shtml#6) that caused interest to accrue or caused a delay in payment, or
         2. An error or delay by an FTB employee occurred while the employee was performing a [managerial act](https://www.ftb.ca.gov/individuals/faq/interestabatement.shtml#6) that caused interest to accrue or caused a delay in payment for any tax year beginning on or after January 1, 1998.
      3. In addition, you must meet the following criteria to qualify for interest abatement under the ministerial or managerial act provisions.
         1. The interest accrued after September 25, 1987.
         2. No significant aspect of the error or delay is attributable to you.
         3. The error or delay occurred after the date we first contacted you in writing about your deficiency or payment.
      4. The law also provides that if the Internal Revenue Service (IRS) abates interest on a [deficiency](https://www.ftb.ca.gov/individuals/faq/interestabatement.shtml#6) based on an error or delay in the performance of a [ministerial](https://www.ftb.ca.gov/individuals/faq/interestabatement.shtml#6) or [managerial act](https://www.ftb.ca.gov/individuals/faq/interestabatement.shtml#6), we will also abate interest for the same time period, if the following conditions are met:
         1. The additional tax you owe to us is based on a final federal determination of tax.
         2. The federal error or delay occurred on or before the final federal determination.
         3. The interest accrued after September 25, 1987.
         4. For managerial acts, only interest accrued on tax years beginning on or after January 1, 1998 may be abated.
      5. To request an abatement of interest based on an error or delay by the FTB or the IRS, use [FTB Form 3701](Form%203701%20Request%20for%20Abatement%20of%20Interest.pdf), Request for Abatement of Interest.
         1. If you are filing a protest against a proposed deficiency or an appeal from a notice of action on a protest, you must submit your request for abatement of interest along with your protest or appeal.
5. **Where and how are the requests submitted?  Can they be made orally over the phone through an authorized POA? Must the submissions be mailed, or can they be faxed?** 
   1. *If you believe a penalty should be canceled due to reasonable cause*, taxpayers or their representatives must send supporting documentation to the office of the Franchise Tax Board by mail with a copy of the notice.
      1. Mail Form FTB 2917, FTB 2924 or your letter to:
         1. FRANCHISE TAX BOARD  
            PO BOX 942840  
            SACRAMENTO CA 94240-0040
      2. Please allow 6 weeks for a decision to be made.
      3. Billing will continue while we review your letter. To avoid the accrual of interest and to stop the collection process, you must pay the amount due. If we determine that the penalty should be canceled, we will refund your money with interest.
   2. *Interest abatement requests based on financial hardship should be mailed to:*
      1. COLLECTION ADVISORY TEAM   
         FRANCHISE TAX BOARD MS A-340  
         PO BOX 2952  
         SACRAMENTO CA 95812
   3. *Interest abatement requests based on reliance on written advice from the FTB* 
      1. Send your request to:
      2. LEGAL DIVISION  
         FRANCHISE TAX BOARD MS A-260  
         PO BOX 1720  
         RANCHO CORDOVA, CA 95741-1720