2009 Instructions for Form 541

California Fiduciary Income Tax Return

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2005**, and to the California Revenue and Taxation Code (R&TC).

What's New

Charitable Contributions for 2010 Haiti Disaster – California law conforms to the federal law which allows a 2009 charitable contribution deduction for cash contributions made after January 11, 2010, and before March 1, 2010, for the relief of victims in areas affected by the earthquake in Haiti on January 12, 2010. Estates and trusts may claim the deduction on the 2009 **or** 2010 California tax return. Estates and trusts may choose to claim the deduction in different taxable years for federal and California purposes.

Tax Increase – Beginning on January 1, 2009, the tax rate increased by 0.25%.

Estimated Tax Payments – For taxable years beginning on or after January 1, 2010, quarterly estimated tax payments shall be paid in the following percentages of the required annual payment:

1st Quarter – 30 percent
2nd Quarter – 40 percent
3rd Quarter – No payment is required
4th Quarter – 30 percent

Estates and trusts with a tax liability less than $500 **do not** need to make estimated tax payments. See Section J, Estimated Tax Payments for more information.

Deferred Income – California **has not** conformed to the federal election to defer the income from discharge of indebtedness in connection with the reacquisition after December 31, 2008, and before January 1, 2011. See Form 541, line 8 instructions, for more information.

Backup Withholding – For taxable years beginning on or after January 1, 2010, 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 Franchise Tax Board (FTB). 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** and search for **backup withholding**.

California Film and Television Tax Credit – For taxable years beginning on or after January 1, 2011, a film and television credit against tax will be allowed. The credit, which is allocated and certified by the California Film Commission, is 20% of expenditures attributable to a qualified motion picture and 25% of production expenditures attributable to an independent film or a TV series that relocates to California. The California Film Commission will accept applications on a first come, first served basis beginning on July 1, 2009. For more information go to **film.ca.gov** and search for **incentives**.

Natural Heritage Preservation Credit – The funding for the Natural Heritage Preservation Credit is available beginning January 1, 2010, until June 30, 2015. Currently there is no funding available to award or claim credits for the period from July 1, 2008, to December 31, 2009. However, carryover is not affected for previously awarded credits.

New Jobs Credit – For taxable years beginning on or after January 1, 2009, a new jobs credit against the net tax will be allowed for a qualified employer in the amount of $3,000 for each qualified full-time employee hired during the taxable year that increases the employer's number of full-time employees over the previous year. This is determined on an annual full-time equivalent basis. Any credits not used in the taxable year may be carried forward up to eight years. For more information go to **ftb.ca.gov** and search for **new jobs** or get form FTB 3527, New Jobs Credit.

Farmworker Housing Credit – For taxable years beginning on or after January 1, 2009, the farmworker housing credit has been consolidated into the low-income housing tax credit. For more information, get form FTB 3521, Low-Income Housing Credit.

Southern California Wildfires 2008 – For tax information for victims of wildfires in Los Angeles and Ventura counties that occurred in October 2008 or November 2008 and wildfires in Orange, Riverside, San Bernardino, and Santa Barbara counties that occurred in November 2008, get FTB Pub. 1034, Disaster Loss How to Claim a State Tax Deduction.

Santa Barbara Wildfires – For tax information for victims of the Santa Barbara county wildfires that occurred in May 2009, get FTB Pub. 1034.

General Information

Net Operating Loss – For taxable years beginning in 2008 and 2009, California suspended the net operating loss (NOL) carryover deduction. Estates and trusts may continue to compute and carryover an NOL during the suspension period. **However**, estates and trusts with net business income of less than $500,000 or with disaster loss carryovers are not affected by the NOL suspension rules.

The carryover period for suspended losses is extended by:

- Two years for losses incurred in taxable years beginning before January 1, 2008.
- One year for losses incurred in taxable years beginning on or after January 1, 2008, and before January 1, 2009.

Also, NOL carryovers, and the number of taxable years to which the loss may be carried, are modified. For more information, get form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Individuals, Estates and Trusts.

Business tax credit limitation – For taxable years beginning on or after January 1, 2008, and before January 1, 2010, there is a limitation on the application of business tax credits for estates and trusts whose net business income is $500,000 or more. The limitation is equal to 50% of the net tax before the application of any credits.

Riverside County Wind Damage – For tax information for victims of extremely strong and damaging winds that occurred in October 2007 in Riverside County, get FTB Pub. 1034.

Humboldt County Fire and California Wildfires 2008 – For tax information for victims of the Humbolt County Fire that occurred in May 2008, or the wildfires that occurred in Butte, Kern, Mariposa, Mendocino, Monterey, Plumas, Santa Barbara, Santa Clara, Santa Cruz, Shasta, and Trinity counties, get FTB Pub. 1034.

Inyo Complex Fire – For tax information for victims of the Inyo Complex Fire and subsequent damage that occurred as a result of severe rainstorms in July 2008, get FTB Pub. 1034.

Third Party Designee – An estate or trust can designate a third party to discuss the tax return with the FTB. For more information, see General Information, H, Third Party Designee.

Revised Schedule K-1 – The California Schedule K-1 (541), Beneficiary's Share of Income, Deductions, Credits, etc., line items were revised to be in a similar format with the federal Schedule K-1 (1041), Beneficiary's Share of Income, Deductions, Credits, etc. Refer to the Schedule K-1 Federal/State Line References chart, and Specific Line Instructions when completing California Schedule K-1 (541).

Round Cents to Dollars – Round cents to the nearest whole dollar. For example, round $50.50 up to $51 or round $25.49 down to $25. If you do not round, the FTB will disregard the cents.

A Important Information

In general, California law conforms to the Internal Revenue Code (IRC) as of January 2005. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to **ftb.ca.gov** and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.

For updates regarding the American Recovery and Reinvestment Act of 2009, go to **ftb.ca.gov** and search for **conformity**.

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. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the tax booklets. Taxpayers should not consider the tax booklets as authoritative law.

Nonresident Group Returns
A corporation may file a group nonresident return on behalf of certain electing nonresident individuals who receive wages, salaries, fees, or other compensation from that corporation for director services performed in California, including attendance of board of directors' meetings in California.

California Use Tax
If the fiduciary made purchases from out-of-state sellers and owes California Use Tax, the fiduciary may report and pay the tax on Form 541. See "California Use Tax," for more information.

Access by Internet
You can download, view, and print California tax forms and publications at **ftb.ca.gov**.

California Tax Service Center
For additional business tax information, go to the California Tax Service Center at **taxes.ca.gov**. This website is sponsored by the Board of Equalization (BOE), the Employment Development Department (EDD), the FTB, and the IRS.

State Agencies Websites
Access other state agencies' websites through the State Agencies Directory on California's website at **ca.gov**.

Providing California and Federal Returns
The FTB may request a copy of California or federal returns that are subject to or related to a federal examination. Generally, the California statute of limitations is four years from the due date of the return or from the date filed, whichever, is later. However, the statute is extended in situations in which an individual or a business entity is under examination by the IRS.

The FTB recommends keeping copies of returns and records that verify income, deductions, adjustments, or credits reported, for at least the minimum time required under the statute of limitations. However, some records should be kept much longer.

Fiduciaries may be required to produce documentation substantiating the claimed basis of any assets sold, exchanged, transferred, or distributed regardless of the original acquisition date.

Tax Shelter
If the fiduciary was involved in a reportable transaction, including a listed transaction, the fiduciary may have a disclosure requirement. Attach the federal Form 8886, Reportable Transaction Disclosure Statement, to the back of the California return along with any other supporting schedules. If this is the first time the reportable transaction is disclosed on the return, send a duplicate copy of the federal Form 8886 to the address below. The FTB may impose penalties if the trust fails to file federal Form 8886, or any other required information.

ATSU 398 MS F385
FRANCHISE TAX BOARD
PO BOX 1673
SACRAMENTO CA 95812-9900

For more information, go to **ftb.ca.gov** and search for **tax shelter**.

Claim of Right
If the fiduciary had to repay an amount that was included in income in an earlier year, under a claim of right, the fiduciary may be able to deduct the amount repaid from its income for the year in which it was repaid. Or, if the amount the fiduciary repaid is more than $3,000, the fiduciary may be able to take a credit against its tax for the year in which it was repaid. For more information, see the Repayments section of federal Publication 525, Taxable and Nontaxable Income.

Punitive Damage Awards
For court actions filed after August 16, 2004, and the final determination rendered by June 30, 2006, the tax treatment of punitive damages differs between federal and state. For California purposes, the amount of punitive damages paid to the director of the Department of Finance shall be excluded from income and the attorney fees associated with the amount paid are not deductible.

California Use Tax
The use tax has been in effect in California since July 1, 1935. It applies to purchases from out-of-state sellers and is similar to the sales tax paid on purchases made in California.

In general, fiduciaries must pay California use tax on purchases made from out-of-state (for example, by telephone, over the Internet, by mail, or in person) if:

- The seller does not collect California sales or use tax.
- The fiduciary uses, gives away, stores, or consumes the item in this state.

Example: The fiduciary purchases a desk for its use from a company in North Carolina. The company ships the desk from North Carolina to the fiduciary's address in California for the fiduciary's use and does not charge California sales or use tax. The fiduciary owes use tax on the purchase.

Complete the Use Tax Worksheet on page 11 to calculate the amount due.

Extension to file. If the fiduciary requests an extension to file its income tax return, wait until the fiduciary files its return to report the purchases subject to use tax and to make their use tax payment.

Penalty. To avoid late payment penalties for use tax, the fiduciary must report and pay the use tax with a timely filed income tax return.

Changes in use tax reported. Do not file an Amended Fiduciary Income Tax Return to revise the use tax previously reported. If the fiduciary has changes to the amount of use tax previously reported on the original tax return, contact the State Board of Equalization.

For assistance, go to the State Board of Equalization at **boe.ca.gov** or call their Taxpayer Information Section at 800.400.7115 or TTY/TDD 800.735.2929. Income tax information is not available at these numbers.

B Purpose

Use Form 541, California Fiduciary Income Tax Return, if any of the following apply to report:

- Income received by an estate or trust
- Income that is accumulated or currently distributed to the beneficiaries
- An applicable tax liability of the estate or trust
- File an amended return for the estate or trust

A fiduciary includes a trustee of a trust including a qualified settlement fund, or an executor, administrator, or person in possession of property of a decedent's estate.

For taxation purposes, a trust will generally be regarded as a separate entity. However, if there is an unlawful shifting of income from the individual who has earned that income to a trust, the trust will not be treated as a separate entity. The income will be taxed to the individual who earned the income. If the individual establishing the trust has a substantial ability to control the assets, all of the income will be taxed to that individual. Deductions of personal living expenses by an individual or trust is not allowed unless specifically allowed by the R&TC and the IRC.

C Who Must File

Do not file Form 541 if there are no California fiduciaries, California noncontingent beneficiaries, or California sourced income.

Nonresidents or Part-year Residents. See the instructions for Schedule G, California Source Income and Deduction Apportionment, on page 14. Also, get FTB Pub. 1100, Taxation of Nonresidents and Individuals Who Change Residency.

Decedent's Estate. The fiduciary (or one of the fiduciaries) must file Form 541 for a decedent's estate if any of the following apply:

- Gross income for the taxable year of more than $10,000 (regardless of the amount of net income)
- Net income for the taxable year of more than $1,000
- An alternative minimum tax liability

Trust. The fiduciary (or one of the fiduciaries) must file Form 541 for a trust if any of the following apply:

- Gross income for the taxable year of more than $10,000 (regardless of the amount of net income)
- Net income for the taxable year of more than $100
- An alternative minimum tax liability

Simple trusts that have received a letter from the FTB granting exemption from tax under R&TC Section 23701d are considered to be corporations for tax purposes and may be required to file Form 199, California Exempt Organization Annual Information Return. See the back cover, "Where to Get Tax Forms and Publications."

Nonexempt charitable trusts described in IRC Section 4947(a)(1) must file Form 199.

Trusts described in IRC Section 401(a) may be required to file an exempt organization return. Get Form 109, California Exempt Organization Business Income Tax Return, for more information.

Optional Filing Methods for Certain Grantor Trusts. The FTB will accept the optional reporting requirements stated in federal Treasury Regulation Section 1.671-4(b)(2).

Real Estate Mortgage Investment Conduit (REMIC) Trust. A REMIC is a special vehicle for entities that issue multiple classes of investor interests backed by a fixed pool of mortgages. Get the instructions for federal Form 1066, U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return, for more information. The fiduciary (or one of the joint fiduciaries) must file Form 541 and pay an annual tax of $800 for a REMIC that is governed by California law, qualified to do business in California, or has done business in California at any time during the year.

A REMIC trust is not subject to any other taxes assessed on this form. Attach a copy of federal Form 1066 to the back of the completed Form 541.

Bankruptcy Estate. The fiduciary must file Form 541 for the estate of an individual involved in bankruptcy proceedings under Chapter 7, 11, or 12 of Title 11 of the United States Code if the estate has one of the following:

- Gross income for the taxable year of more than $10,000 (regardless of the amount of net income)
- Net income for the taxable year of more than $1,000
- An alternative minimum tax liability

Taxation of Bankruptcy Estate of an Individual. The bankruptcy estate that is created when an individual debtor files a petition under either chapter 7 or 11 of Title 11 of the U.S. Code is treated as a separate taxable entity. A trustee or a debtor-in-possession administers the bankruptcy estate. If the bankruptcy court later dismisses the bankruptcy, the individual debtor is treated as if the bankruptcy petition had never been filed.

A separate taxable entity is not created if a partnership or corporation files a petition under any chapter of Title 11 of the U.S. Code.

Every trustee (or debtor-in-possession) for an individual's bankruptcy estate under chapter 7 or 11 of Title 11 of the U.S. Code must file a return if the estate has one of the following:

- Gross income for the taxable year of more than $10,000 (regardless of the amount of net income)
- Net income for the taxable year of more than $1,000

Caution: The filing of a tax return for the bankruptcy estate does not relieve the individual debtor of his or her (or their) individual tax obligations.

Qualified Settlement Fund (including designated settlement fund). The fiduciary must file Form 541 for a qualified settlement fund (print **"QSF"** in red at the top of Form 541, Side 1), as defined under IRC Section 468B if any of the following apply:

- The court or government agency supervising the administration of the fund is in California
- The fund receives or expects to receive income from California sources, (i.e., income from real or tangible personal property located in California and income from intangible personal property with a business or taxable situs in California)

Electing Small Business Trust (ESBT). An election by the trustee pursuant to IRC Section 1361 to be an electing small business trust for federal purposes is treated as an election by the trustee for California purposes. No separate election for California purposes is allowed. Any election made applies to the taxable year of the trust in which the election is made and all subsequent years of the trust unless revoked with the consent of the FTB.

Qualified Subchapter S Trusts (QSST). The portion of a trust holding S corporation stock related to an IRC Section 1361(d) election cannot use the simplified reporting method for grantor trusts. As a result, the trust must apply all of the following:

- File a complete Form 541
- Indicate that it is a QSST treated as a grantor trust
- Provide a separate Schedule K-1 (541) to the beneficiary showing that all of the income from the S corporation stock related to the election is taxable to the beneficiary

Qualified Funeral Trusts. Special rules apply to the taxation of qualified funeral trusts for trustees that elect to use these rules. For details, get Form 541-QFT, California Income Tax Return for Qualified Funeral Trusts.

Regulated Investment Companies (RIC) and Real Estate Investment Trusts (REIT). If the fiduciary filed a Form 1120-RIC, U.S. Income Tax Return for Regulated Investment Companies, or a Form 1120-REIT, U.S. Income Tax Return For Real Estate Investment Trusts, file Form 100, California Corporation Franchise or Income Tax Return, instead of Form 541. See the back cover, "Where to Get Tax Forms and Publications."

Federal and State Fiduciary Forms

If the fiduciary filed federal Form:	Then the fiduciary should file California Form:
706	N/A
990T	109
990PF	199
1040NR	541
1041	541
1041-A	541-A
5227	541-B

- **Form 1041,** U.S. Income Tax Return for Estates and Trusts
- **Form 1040NR,** U.S. Nonresident Alien Income Tax Return. Used for filing nonresident alien fiduciary (estate and trust) federal returns
- **Form 5227,** Split-Interest Trust Information Return. Used to report financial activities of charitable remainder trusts, pooled income funds, and charitable lead trusts
- **Form 1041-A,** U.S. Information Return Trust Accumulation of Charitable Amounts. Used to report information on charitable contributions as required by IRC Section 6034 and related regulations
- **Form 990PF,** Return of Private Foundation, or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation
- **Form 990T,** Exempt Organization Business Income Tax Return (and proxy tax under Section 6033(e))
- **Form 706,** U.S. Estate (and Generation-Skipping Transfer) Tax Return, to figure estate tax imposed by Chapter 11 of the IRC on the decedent's estate. It also computes the generation-skipping transfer tax imposed by Chapter 13
- **Form 541,** California Fiduciary Income Tax Return
- **Form 541-A,** Trust Accumulation Of Charitable Amounts. Used to report a charitable or other deduction under IRC Section 642(c), or for charitable or split-interest trust
- **Form 541-B,** Charitable Remainder and Pooled Income Trusts
- **Form 109,** California Exempt Organization Business Income Tax Return
- **Form 199,** California Exempt Organization Annual Information Return

D Definitions

Get federal Form 1041, U.S. Income Tax Return for Estates and Trusts, for information about any of the following:

- Beneficiaries
- Fiduciaries
- Decedent's estates
- Simple trusts
- Income required to be distributed currently
- Income, deductions, and credits in respect of a decedent
- Distributable net income (DNI)
- Complex trusts
- Bankruptcy estates
- Grantor-type trusts
- Pooled income funds

E Additional Forms the Fiduciary May Have to File

In addition to Form 541, the fiduciary must file a separate Schedule K-1 (541) or an FTB-approved substitute for each beneficiary.

Trusts that only hold assets related to an IRC Section 1361(d) election should include all of the trust's items of income and deductions on the Schedule K-1 of the beneficiary who made the election and should write "QSST" across the top of the Schedule K-1 (the trust is treated as a grantor trust with respect to such beneficiary).

Trusts that hold assets related to an IRC Section 1361(d) election and other assets not related to an IRC Section 1361(d) election should provide its beneficiary or beneficiaries with separate Schedules K-1 (541). One for the income and deductions from the assets related to the IRC Section 1361(d) election and one for the income and deductions from the other assets. The Schedule K-1 (541) for the income and deductions for the IRC Section 1361(d) assets should include all of the trust's items of income and deductions from such assets. Write "QSST" across the top of the Schedule K-1 (541).

Substitute Schedule K-1 (541). If the estate or trust does not use an official FTB Schedule K-1 (541) or a software program with an FTB-approved Schedule K-1 (541), it must get approval from the FTB to use a substitute form.

You may also be required to file one or more of the following:

- **Form 540**, California Resident Income Tax Return
- **Form 540NR**, California Nonresident or Part-Year Resident Income Tax Return (Long or Short)
- **Form 541-A**, Trust Accumulation of Charitable Amounts
- **Form 541-B**, Charitable Remainder and Pooled Income Trusts
- **Form 541-ES**, Estimated Tax for Fiduciaries
- **Form 541-T**, California Allocation of Estimated Tax Payments to Beneficiaries
- **Form 592**, Quarterly Resident and Nonresident Withholding Statement
- **Form 592-B**, Resident and Nonresident Withholding Tax Statement
- **Form 592-F**, Foreign Partner or Member Annual Return

- **Form 593**, Real Estate Withholding Tax Statement
- **Schedule P (541)**, Alternative Minimum Tax and Credit Limitations – Fiduciaries
- **Form 4800**, Interest and Interest-Dividend Payment Reporting Requirement Letter*
- **Federal Forms 1099**-A, B, INT, LTC, MISC, MSA, OID, R, and S

*Entities paying interest to California taxpayers on non-California municipal bonds that are held by California taxpayers, are required to report interest payments aggregating $10 or more. Information returns and Form 4800 are due on or before June 1, 2010.

F Period Covered by the Return

File Form 541 for calendar year 2009 or a fiscal year beginning in 2009. Only trusts exempt from taxation under IRC Section 501(a) or a charitable trust described under IRC Section 4947(a)(1) and estates may have a fiscal year. If the fiduciary does not file a calendar year return, it must enter the taxable year in the space at the top of Form 541.

For estates, the date of death determines the end of the decedent's taxable year and the beginning of the estate's taxable year. The first taxable year for the estate may be any period of 12 months or less that ends on the last day of a month.

G When to File

File Form 541 by the 15th day of the 4th month following the close of the taxable year of the estate or trust. For calendar year estates and trusts, file Form 541 and Schedules K-1 (541) by April 15, 2010. If Form 541 cannot be filed by the filing due date, the estate or trust has an additional six months to file without filing a written request for extension. However, to avoid late-payment penalties, the tax liability must be paid by the original due date of the return. This also applies to REMICs that are subject to an annual $800 tax. 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.

If an extension of time to file is needed but an unpaid tax liability is owed, use form FTB 3563, Payment for Automatic Extension for Fiduciaries, that is included in this booklet.

If the return is not filed by the extended due date, delinquent filing penalties and interest will be imposed on any tax due from the original due date of the return.

The 2009 Form 541 may be used for a taxable year beginning in 2010 if both of the following apply:

- The estate or trust has a taxable year of less than 12 months that begins and ends in 2010.
- The 2010 Form 541 is not available by the time the estate or trust is required to file its tax return. However, the estate or trust must show its 2010 taxable year on the 2009 Form 541 and incorporate any tax law changes that are effective for taxable years beginning after December 31, 2009.

A qualified settlement fund is treated as a corporation for filing and reporting purposes and should file its California income tax return by the 15th day of the 3rd month following the close of the taxable year, normally March 15th. The corporation must attach a copy of the federal Form 1120-SF, U.S. Income Tax Return for Settlement Funds (Under Section 468B), and any statements or elections required by Treasury Regulations to Form 541.

H Third Party Designee

If the fiduciary wants to allow the FTB to discuss its 2009 return with the paid preparer who signed it, check the "Yes" box in the signature area of the return. This authorization applies only to the individual whose signature appears in the "Paid Preparer's Use Only" section of the return. It does not apply to the firm, if any, shown in that section.

If the "Yes" box is checked, the fiduciary is authorizing the FTB to call the paid preparer to answer any questions that may arise during the processing of its return. The fiduciary is also authorizing the paid preparer to:

- Give the FTB any information that is missing from the return.
- Call the FTB for information about the processing of the return or the status of any related refund or payments.
- Respond to certain FTB notices about math errors, offsets, and return preparation.

The fiduciary is not authorizing the paid preparer to receive any refund check, bind the estate or trust to anything (including any additional tax liability), or otherwise represent the estate or trust before the FTB.

The authorization will automatically end no later than the due date (without regard to extensions) for filing the estate's or trust's 2010 tax return. If the fiduciary wants to expand the paid preparer's authorization, see form FTB 3520, Power of Attorney Declaration for the Franchise Tax Board. If the fiduciary wants to revoke the authorization before it ends, notify the FTB in writing or call 800.852.5711.

I Where to File

If an **amount is due**, mail the return and payment to:

FRANCHISE TAX BOARD
PO BOX 942867
SACRAMENTO CA 94267-0001

Using blue or black ink, write the estate's or trust's federal employer identification number (FEIN) and "2009 Form 541" on all payments. **Do not** mail cash.

Make all checks or money orders payable in U.S. dollars and drawn against a U.S. financial institution.

If there is a **refund or no amount is due**, mail the return to:

FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0002

Private Delivery Service. California conforms to federal law regarding the use of certain designated private delivery services to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. See federal Form 1041 for a list of designated delivery services. If a private delivery service is used, address the return to:

FRANCHISE TAX BOARD
SACRAMENTO CA 95827

Caution: Private delivery services cannot deliver items to PO boxes. If using one of these services to mail any item to the FTB, **DO NOT** use an FTB PO box.

J Estimated Tax Payments

Estates and trusts are required to make quarterly estimated tax payments if the estate or trust expects to owe at least $500 in tax, after subtracting withholding and credits. Estates and trusts, which receive the residue of the decedent's estate, are required to make estimated income tax payments for any year ending two or more years after the date of the decedent's death.

California law conforms to IRC Section 6654(d) regarding the amount required to be paid as estimated tax payments. Fiduciaries with an adjusted gross income (AGI) of $150,000 or less calculate their required estimated tax on the lesser of 90% of the current year tax or 100% of the prior year tax. Fiduciaries with 2009 AGI greater than $150,000 are required to estimate their tax based on the lesser of 90% of their current year tax or 110% of their prior year tax.

Estates and trusts with an adjusted gross income equal or greater than $1,000,000 must calculate their estimated tax on 90% of their current year tax.

For taxable year **2009 only**, estimated tax installment payments were required to be 30% of the estimated tax liability for the first and second installments and 20% of the estimated tax liability for the third and fourth installments.

Beginning January 1, 2010, estates and trusts must make 30% for the first installment, 40% for the second, no estimated payment for the third, and 30% for the fourth installment. For more information, get Form 541-ES.

K Decedent's Will and Trust Instrument

Do not file a copy of the decedent's will or the trust instrument unless the FTB requests one.

L Limitations

At-Risk Loss Limitations. Generally, the amount the estate or trust has "at-risk" limits the loss that may be deducted for any taxable year. Get federal Form 6198, At-Risk Limitations, to figure the deductible loss for the year. Be sure to use California amounts.

Passive Activity Loss and Credit Limitations. IRC Section 469 (which California incorporates by reference) generally limits deductions from passive activities to the amount of income derived from all passive activities. Similarly, credits from passive activities are limited to tax attributable to such activities. These limitations are first applied at the estate or trust level. Get the instructions for federal Form 8582, Passive Activity Loss Limitations, and federal Form 8582-CR, Passive Activity Credit Limitations, for more information on passive activities loss and credit limitation rules. Get form FTB 3801-CR, Passive Activity Credit Limitations, to figure the amount of credit allowed for the current year.

M Special Rule for Blind Trust

If the fiduciary is reporting income from a qualified blind trust (under the Ethics in Government Act of 1978), it should not identify the payer of any income to the trust, but complete the rest of the return as provided in the instructions. Also, write **"BLIND TRUST"** at the top of Form 541, Side 1.

N Multiple Trust Rules

Two or more trusts are treated as one trust if the trusts have substantially the same grantor(s) and substantially the same primary beneficiary(ies), and if the principal purpose of the use of multiple trusts is avoidance of tax. This provision applies only to that portion of the trust that is attributable to contributions to corpus made after March 1, 1984.

O Interest and Penalties

Interest. Interest will be charged on taxes not paid by the due date, even if the return is filed by the extended due date. For more information, see General Information G, When to File.

Late filing of return. A penalty is assessed if the return is filed after the due date (including extensions), unless there was reasonable cause for filing late. The penalty is 25% of the tax liability if the return is filed after the extended due date. If the return is filed more than 60 days after the extended due date, the minimum penalty is $100 or 100% of tax due on the return, whichever is less.

Late payment of tax. A penalty is assessed for not paying tax by the due date unless there was reasonable cause for not paying on time. The penalty is 5% of the unpaid tax plus one-half of 1% for each month, or part of a month, that the tax is late, up to a maximum of 25%. The late payment penalty may be waived where 90% of the tax shown on the return is paid by the original due date of the return, but not less than the annual tax.

If an estate or trust is subject to both the penalty for failure to file a timely return and the penalty for failure to pay the total tax by the due date, a combination of the two penalties may be assessed, but the total will not exceed 25% of the unpaid tax.

Penalty for failure to provide Schedule K-1 (541). The fiduciary is required to provide a Schedule K-1 (541) to each beneficiary who receives a distribution of property or an allocation of an item of the estate. A penalty of $50 per beneficiary (not to exceed $100,000 for any calendar year) will be imposed on the fiduciary if this requirement is not satisfied.

If the estate or trust includes interest on any of these penalties with the payment, identify and enter these amounts in the bottom margin of Form 541, Side 1. **Do not** include the interest or penalty in the tax due on line 34 or reduce the overpaid tax on line 35.

Other penalties. Other penalties may be assessed for a payment returned by the fiduciary's bank for insufficient funds, accuracy-related matters, and fraud.

Underpayment of Estimated Tax Penalty. The underpayment of estimated tax penalty shall not apply to the extent the underpayment of an installment was created or increased by any provision of law that is chaptered during and operative for the taxable year of the underpayment. To request a waiver of the underpayment of estimated tax penalty, get form FTB 5805, Underpayment of Estimated Tax by Individuals and Fiduciaries.

P Attachments

If the estate or trust needs more space on the forms or schedules, attach separate sheets showing the same information in the same order as on the printed forms.

Enter the estate's or trust's FEIN on each sheet. Also, use sheets that are the same size as the forms and schedules and indicate clearly the line number of the printed form to which the information relates. Show the totals on the printed forms.

Q Miscellaneous Items

California law follows federal law in the areas of:

- Accounting methods
- Separate shares in a single trust
- Separate shares in a single estate
- Blind trusts
- Multiple trusts
- Simple and complex trusts
- Common trust funds
- Excess distributions

Liability for tax. The fiduciary is liable for payment of the tax. Failure to pay the tax may result in the fiduciary being held personally liable. See R&TC Sections 19071 and 19516.

Estate income to be reported. If a decedent, at the date of death, was a resident of California, the entire income of the estate must be reported. If a decedent, at the date of death, was a nonresident, only the income derived from sources within California should be reported.

Deductions upon termination. A deduction shall be allowed to the beneficiaries succeeding to the property of the estate or trust if, upon termination, the estate or trust has one of the following:

- A capital loss carryover
- For its final taxable year, deductions (other than the charitable deductions) in excess of gross income
- A net operating loss

Tax-exempt income. California **does not** tax:

- **Interest on governmental obligations.** Interest derived from bonds issued by California or its political subdivisions, the federal government, the District of Columbia (issued before December 24, 1973), or territories of the United States is not taxable by California.
- **Proceeds of insurance policies.** In general, a lump sum payable at the death of the insured under a life insurance policy is excludable from gross income of the recipient.
- **Miscellaneous items wholly exempt from tax.** (1) Gifts (not received as a consideration for services rendered), money or property acquired by bequest, devise, or inheritance (but the income derived therefrom is taxable); and, (2) Income, other than rent, derived by a lessor of real property upon the termination of a lease, representing the value of such property attributable to buildings erected or other improvements made by the lessee.

Withholding on nonresident beneficiaries. Fiduciaries must withhold tax on payments of income from California sources that are not subject to payroll withholding and made to nonresident beneficiaries. See R&TC Sections 18662 through 18677. Get Form 592, Quarterly Resident and Nonresident Withholding Statement and Form 592-B, Resident and Nonresident Withholding Tax Statement, or Form 592-F, Foreign Partner or Member Annual Return, to report the withholding.

See Cal. Code Regs., tit. 18 sections 17951-1(c), 17951-2, and 17953 regarding taxability of distributions to nonresident beneficiaries.

Tax certificate. If assets that exceed $250,000 in fair market value (FMV) are distributable to one or more nonresident beneficiaries and the FMV of the estate's assets exceeded $1,000,000 at the date of death, then pursuant to R&TC Section 19513, the fiduciary must obtain a tax clearance certificate prior to court approval of the fiduciary's final account. To request the certificate, file form FTB 3571, Request for Estate Income Tax Certificate, at least 30 days prior to the court date for the hearing on the petition for final distribution of the estate assets.

Specific Line Instructions

Identification Area

Follow the instructions for federal Form 1041 when completing the identification area on Form 541, Side 1. Attach a schedule listing the names and addresses of additional fiduciaries (who served the trust during any portion of the taxable year) who are not identified on the front of Form 541. Identify each fiduciary as a resident or nonresident of California. California law is generally the same as federal law in the following areas:

- Simplified filing requirements
- Methods of reporting
- Pooled income funds
- Amended returns
- Final returns
- Nonexempt charitable and split-interest trusts

Qualified Subchapter S Trust. Trusts that only hold assets related to an IRC Section 1361(d) election should fill out the "Income" and "Deduction" sections of Form 541 like all other trusts, except the trust should take an income distribution deduction on line 18 equal to its adjusted total income from line 17.

Trusts that hold assets related to an IRC Section 1361(d) election and other not related assets should fill out the "Income" and "Deduction" sections of Form 541 only for their income and deductions attributable to assets not related to an IRC Section 1361(d) election.

Use Schedule B of Form 541 to determine their distribution deduction.

Principal Business Activity (PBA) Code. If the estate or trust was engaged in a trade or business during the taxable year, enter the principal business activity code used on the federal Schedule C, Profit or Loss From Business, or Schedule C-EZ, Net Profit From Business.

Private Mail Box. Include the Private Mail Box (PMB) in the address field. Write "PMB" first, then the box number. Example: 111 Main Street PMB 123.

Amended Return. If the fiduciary is filing an amended Form 541, check the box labeled "Amended return." Complete the entire return, correct the lines needing new information, and recompute the tax liability. On an attached sheet, explain the reason for the amendments and identify the lines and amounts being changed on the amended return. Include the fiduciary name and FEIN on each attachment.

If the amended return results in a change to income, or a change in distribution of any income or other information provided to a beneficiary, an amended Schedule K-1 (541) must also be filed with the amended Form 541 and given to each beneficiary. Write **"AMENDED"** across the top of the amended Schedule K-1 (541).

Income

Trusts that have resident and nonresident trustees and/or resident and nonresident non-contingent beneficiaries, must complete Schedule G on Form 541, Side 3, in conjunction with the following line instructions for Schedule G on page 14.

The amounts transferred from Schedule G should only include income and deductions reportable to California.

Line 1 – Interest income
Enter the total of all taxable interest including any original issue discount bonds and income received as a holder of a regular interest in a REMIC.

If the fiduciary filed Form 1120-RIC or Form 1120-REIT, file Form 100 instead of Form 541.

Line 2 – Dividends
Enter the total of all taxable dividends.

Line 3 – Business income or (loss)
If the estate or trust was engaged in a trade or business during the taxable year, complete form FTB 3885F, Depreciation and Amortization, and attach it to Form 541. Also complete and attach a copy of federal Schedule C or C-EZ using California amounts. Follow federal instructions for "Depreciation, Depletion, and Amortization," regarding dividing the deductions between the fiduciary and the beneficiary(ies).

Energy conservation rebates, vouchers, or other financial incentives are excluded from income.

Line 4 – Capital gain or (loss)
Enter from Schedule D (541), Capital Gain or Loss, the gain or (loss) from the sale or exchange of capital assets. See the instructions for Schedule D (541).

Line 5 – Rents, royalties, partnerships, other estates and trusts, etc.
Enter the total of net rent and royalty income or (loss) and the total income or (loss) from partnerships and other estates, or trusts. **Do not** include amounts for any of the following:

- Interest, enter on line 1
- Dividends, enter on line 2
- Capital gain or (loss), enter on Schedule D (541)
- Ordinary gain or (loss), enter on Schedule D-1, Sales of Business Property

Complete and attach federal Schedule E, Supplemental Income and Loss, using California amounts. Attach form FTB 3885F to report any depreciation and amortization deduction. Follow federal instructions for "Depreciation, Depletion, and Amortization," regarding dividing the deductions between the fiduciary and the beneficiary(ies).

Elections to expense certain depreciable business assets under IRC Section 179 and R&TC Sections 17267.2, 17267.6, and 17268 do not apply to estates and trusts.

Any losses or credits from passive activities may be limited. See General Information L, for information about passive activity loss limitations.

Line 6 – Farm income or (loss)
Enter the net income or (loss) from farming during the taxable year. Attach federal Schedule F, Profit or Loss From Farming, using California amounts. Attach form FTB 3885F to report any depreciation and amortization deduction. Follow federal instructions for "Depreciation, Depletion, and Amortization" regarding dividing the deductions between the fiduciary and the beneficiary(ies).

Line 7 – Ordinary gain or (loss)
Enter from Schedule D-1, the gain or (loss) from the sale or exchange of property other than a capital asset and also from involuntary conversions (other than casualty or theft). Get the instructions for Schedule D-1 for more information.

Line 8 – Other income
Enter the total taxable income not reported elsewhere on Side 1. State the nature of the income. Attach a separate sheet if necessary.

Examples of income to be reported on line 8 include the following:

- Unpaid compensation received by the decedent's estate that is income in respect of a decedent.
- The estate's or trust's share of aggregate income or loss that is ordinary income, if the estate or trust is a shareholder of an S corporation. Enter the name and FEIN of the S corporation. Report capital gain income, dividend income, etc., on other appropriate lines.
- The estate's or trust's share of taxable income or (loss) if the estate or trust is a holder of a residual interest in a REMIC. Beneficiaries should receive Schedule K-1 (541 or 565) and instructions from the REMIC. Get federal Schedule E, Part IV, instructions for reporting requirements; also, attach federal Schedule E.
- Any part of a total distribution shown on federal Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., that is treated as ordinary income.

Get California Schedule G-1, Tax on Lump-Sum Distributions, for more information.

California has not conformed to the federal election to defer the discharge of indebtedness income as described in IRC Section 108(i). If the estate or trust elected to defer the discharge of indebtedness income for federal purposes, **add the California** deferred amount on line 8.

Deductions

All deductions entered on line 10 through line 15c must include only the fiduciary's share of deductions related to taxable income. If the estate or trust has tax-exempt income, the amounts included on line 10 through line 15c must be reduced by the allocable portion attributed to tax-exempt income. See federal Form 1041 instructions, "Allocation of Deductions for Tax-Exempt Income," for information on how to determine the allocable amount to enter on line 10 through line 15c.

California law follows federal law for:

- Fiduciary, attorney, accountant, and return preparer fees.
- Limited deductions for losses arising from certain activities.
- Limited deductions for farming syndicates that had a change in membership or were established in 1977 (see IRC Section 464).
- Bankruptcy estates: See Title 11 of the USC 346(e) for California deductions allowed for expenses incurred during administration.
- California law conforms to federal law relating to the denial of deductions for lobbying activities, club dues, and employee remuneration in excess of one million dollars.

Line 10 – Interest
Enter any deductible interest paid or incurred that is not deductible elsewhere on Form 541. Attach a separate schedule showing all interest paid or incurred. Do not include interest on a debt that was incurred or continued in order to buy or carry obligations on which the interest is tax-exempt. If unpaid interest is due to a related person, get federal Publication 936, Home Mortgage Interest Deduction, for more information.

The amount of investment interest deduction is limited. Get form FTB 3526, Investment Interest Expense Deduction, to compute the allowable investment interest expense deduction. Any disallowed investment interest expense is allowed as a carryforward to the next taxable year. See IRC Section 163(d) and get federal Publication 550, Investment Income and Expenses, for more information.

If the allowable part of the excess investment interest expense is deductible and a completed form FTB 3526 is required, write "**FTB 3526 attached**" on the dotted line to the left of line 10. Then add the deductible investment interest to the other types of deductible interest and enter the total on line 10.

Line 11 – Taxes
Enter any deductible property taxes paid or incurred during the taxable year that are not deductible elsewhere on Form 541. Attach a separate schedule showing all taxes paid or incurred during the taxable year.

Do not deduct:

- Taxes assessed against local benefits that increase the value of the property assessed.
- Income or profit taxes imposed by the federal government, any state, or foreign country.
- Taxes computed as an addition to, or percentage of, any taxes not deductible under the law.
- Legacy, succession, gift, or inheritance taxes.
- Sales and local general sales and use taxes.

Line 12 – Fiduciary fees
Enter the deductible fees paid to the fiduciary for administering the estate or trust and other allowable administration costs incurred during the taxable year.

(continued on page 9)

CREDIT CHART

Credit Name	Code	Description
Community Development Financial Institution Deposits – Certification Required	209	20% of each qualified deposit made to a community development financial institution Obtain certification from: California Organized Investment Network (COIN), Department of Insurance, 300 Capitol Mall, Suite 1600, Sacramento CA 95814. Website: **insurance.ca.gov**
Disabled Access for Eligible Small Businesses – FTB 3548	205	Similar to the federal credit but limited to $125 based on 50% of qualified expenditures that do not exceed $250
Donated Agricultural Products Transportation – FTB 3547	204	50% of the costs paid or incurred for the transportation of agricultural products donated to nonprofit charitable organizations
Employer Child Care Contribution – FTB 3501	190	Employer: 30% of contributions to a qualified plan
Employer Child Care Program – FTB 3501	189	Employer: 30% of cost for establishing a child care program or constructing a child care facility
Enhanced Oil Recovery – FTB 3546	203	One third of the similar federal credit and limited to qualified enhanced oil recovery projects located within California
Enterprise Zone Hiring & Sales or Use Tax – FTB 3805Z	176	Business incentives for enterprise zone businesses
Environmental Tax – FTB 3511	218	Five cents ($.05) for each gallon of ultra low sulfur diesel fuel produced during the taxable year by a small refiner at any facility located in this state
Local Agency Military Base Recovery Area (LAMBRA) Hiring & Sales or Use Tax – FTB 3807	198	Business incentives for LAMBRAs
Low-Income Housing – FTB 3521	172	Similar to the federal credit but limited to low-income housing in California. For taxable years beginning on or after January 1, 2009, the farmworker housing credit has been consolidated into the low-income housing tax credit.
Manufacturing Enhancement Area (MEA) Hiring – FTB 3808	211	Percentage of qualified wages paid to qualified disadvantaged individuals
Natural Heritage Preservation – FTB 3503	213	55% of the fair market value of any qualified contribution of property donated to the state, any local government, or any nonprofit organization designated by a local government
New Jobs – FTB 3527	220	$3,000 allowed for a qualified employer for each increase in qualified full-time employees hired in the current taxable year
Other State Tax – Schedule S	187	Net income tax paid to another state or a U.S. possession on income also taxed by California)
Prior Year Alternative Minimum Tax – FTB 3510	188	Must have paid alternative minimum tax in a prior year and have no alternative minimum tax liability in 2009
Prison Inmate Labor – FTB 3507	162	10% of wages paid to prison inmates
Research – FTB 3523	183	Similar to the federal credit but limited to costs for research activities in California
Targeted Tax Area (TTA) Hiring & Sales or Use Tax – FTB 3809	210	Business incentives for TTA businesses

Repealed Credits: The expiration dates for these credits have passed. However, these credits had carryover provisions. The estate or trust may claim these credits only if there is a carryover available from prior years. If the estate or trust is not required to complete Schedule P (541), get form FTB 3540, Credit Carryover Summary, to figure the estate's or trust's credit carryover to future years. See "Where To Get Income Tax Forms and Publications" on the back cover.

Agricultural Products 175
Commercial Solar Electric System 196
Commercial Solar Energy 181
Employee Ridesharing 194
Employer Ridesharing: Large employer 191
Small employer 192
Transit passes 193
Energy Conservation 182
Farmworker Housing 207
Joint Strike Fighter Wages 215
Joint Strike Fighter Property 216
Los Angeles Revitalization Zone (LARZ) Hiring & Sales or Use Tax 159
Low-Emission Vehicles 160
Manufacturers' Investment 199
Orphan Drug 185
Political Contributions 184
Recycling Equipment 174
Residential Rental & Farm Sales 186
Ridesharing 171
Rice Straw 206
Salmon & Steelhead Trout Habitat Restoration 200
Solar Energy 180
Solar Pump 179
Solar or Wind Energy System 217
Water Conservation 178

(continued from page 7)

Allowable administration costs are those costs that were incurred in connection with the administration of the estate or trust that would not have been incurred if the property were not held in such estate or trust. These administration costs are not subject to the 2% floor. Trust expenses relating to outside investment advice and investment management fees are miscellaneous itemized deductions subject to the 2% floor. See instructions for line 15b.

Line 13 – Charitable deduction
Enter the amount from Form 541, Side 2, Schedule A, line 5.

Line 14 – Attorney, accountant, and return preparer fees
Enter deductible attorney, accountant, and return preparer fees paid for the estate or the trust.

Line 15a – Other deductions NOT subject to the 2% floor
Explain on a separate schedule all other authorized deductions that are not deductible elsewhere on Form 541. Enter the total on line 15a.

Include any net interest deduction on interest earned on an enterprise zone (EZ) or targeted tax area (TTA) investment that is more than the expense of earning that interest. Attach form FTB 3805Z, Enterprise Zone Deduction and Credit Summary, or form FTB 3809, Targeted Tax Area Deduction and Credit Summary.

Claim of Right. To claim the deduction, enter a deduction of $3,000 or less on line 15b or a deduction of more than $3,000 on line 15a. If the fiduciary elects to take the credit instead of the deduction, it should use the California tax rate, add the credit amount to the total on line 33, Total Payments. To the left of this total, write "IRC 1341" and the amount of the credit.

Casualty losses. California law generally follows federal law. See federal Form 4684, Casualties and Thefts.

Net operating loss (NOL) deductions. If the estate or trust's net business income for regular tax purposes is $500,000 or more, the NOL deduction is suspended for the 2008 and 2009 taxable years. For more information, see R&TC Sections 17276 through 17276.7 and get form FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Individuals, Estates and Trusts; form FTB 3805Z, Enterprise Zone Deduction and Credit Summary; form FTB 3807, Local Agency Military Base Recovery Area (LAMBRA) Deduction and Credit Summary, and form FTB 3809, Targeted Tax Area (TTA) Deduction and Credit Summary.

Line 15b – Allowable miscellaneous itemized deductions subject to the 2% floor
Miscellaneous itemized deductions are deductible only to the extent that the aggregate amount of such deductions exceeds 2% of AGI.

The term "miscellaneous itemized deductions" does not include deductions relating to:

- Interest under IRC Section 163
- Taxes under IRC Section 164
- Amortization of bond premium under IRC Section 171

For more exceptions, see IRC Section 67(b).

Trusts' expenses relating to outside investment advice and investment management fees are miscellaneous itemized deductions subject to the 2% floor.

For estates and trusts, AGI is computed by subtracting the following from total income (line 9):

- Fiduciary fees of the estate or trust (line 12).
- Income distribution deduction (line 18).
- Other deductions claimed on line 10 through line 15a that were incurred in the conduct of a trade or business or the production of income.

See the federal Form 1041 instructions for more information regarding the income distribution deduction and AGI computation.

Generally, the estate or trust will have to complete Schedule P (541) if an income distribution deduction is reported under IRC Section 651 or IRC Section 661.

Unallowable deductions. Deductions are not allowed on Form 541 for:

- Expenses that are allocable to one or more classes of income (other than interest income) exempt from tax.
- Any amount relating to expenses for production of income that is allocable to interest income exempt from tax. For the treatment of interest expense attributable to tax-exempt income, see the instructions for line 10. For the determination of the amount of expense attributable to tax-exempt income, see the instructions for federal Schedule B, Income Distribution Deduction, (Form 1041).
- Decedent's medical and dental expenses paid by the estate.
- Funeral expenses.

Tax Computation

Line 21a – Regular tax
Determine the tax on the taxable income (line 20) using the Tax Rate Schedule on the next page. Enter the tax on line 21a.

Line 21b – Other taxes

- Tax may be applied to lump-sum distributions from a qualified retirement plan. The fiduciary must complete Schedule G-1 to figure the amount of tax to enter on line 21b.
- Partial throwback tax on accumulation distribution from trust.

  If an estate or a trust is the beneficiary of a trust and in the current year received a distribution from the trust of income accumulated in prior taxable years (an accumulation distribution), the estate or trust may be liable for a partial throwback tax on the accumulation distribution. Under the throwback rules, the beneficiary of an accumulation distribution is taxed as if the distribution was made in the prior years when the income was accumulated. Figure the throwback tax on form FTB 5870A, Tax on Accumulation Distribution of Trusts. Include the tax on line 21b and attach form FTB 5870A to Form 541.
- Interest on tax deferred under the installment method for certain nondealer property installment obligations.

  If an obligation arising from the disposition of property to which IRC Section 453A applies is outstanding at the close of the year, the estate or trust must include the interest due under IRC Section 453A in the amount to be entered on line 21b. Attach a schedule showing the computation. Write **"IRC Section 453A"** on line 21b. Include the tax in the total on line 21b.
- Tax on an Electing Small Business Trust (ESBT).

  The portion of an ESBT that consists of stock in one or more S corporations must be treated as a separate trust, and the tax must be figured separately on that separate trust. Figure the tax on the S corporation items making the following modifications:

  a. If the trust holds S corporation stock and no other assets, the trust should do all of the following:
     - Only report the items described in IRC Section 641(c)(2)(C).
     - Take no other deductions (including the distribution deduction) or credits.
     - Pay tax at the highest individual rate.

  b. If the trust holds S corporation stock and other assets, report the income, deductions, and credits from the assets other than S corporation stock on Form 541, and report the items described in IRC Section 641(c)(2)(C) on a separate schedule. On the separate schedule, figure the trust's tax on the items described in IRC Section 641(c)(2)(C) using the highest rate applicable to individuals, carry that amount over to Form 541, Side 1, line 21b and attach the separate schedule to the return.

  Do not apportion to the beneficiaries any of the S corporation items of income, loss, deduction, or credit. Attach the tax computation to the return.

  Income from an ESBT is also subject to the Mental Health Services Tax. See instructions for Line 27.
- REMIC Annual Tax

  Enter the $800 REMIC annual tax on line 21b and line 28, tax liability. REMIC annual tax is not eligible for exemption credits.

Line 21c – QSF Tax
QSF is a Qualified Settlement Fund (including designated settlement funds). Determine the tax using corporate tax rates under R&TC Section 24693. For more information, see General Information C, Who Must File.

Tax Credits

Line 22 – Exemption credit
An estate is allowed an exemption credit of $10. A trust is allowed an exemption credit of $1. A qualified disability trust is allowed an exemption credit of $98.

If a final distribution of assets was made during the year, all taxable income of the estate or trust must be entered on line 18 as distributed to beneficiaries, and no exemption credit is allowable.

Line 23 – Credits
Various California tax credits are available to reduce the tax. For most credits, a separate schedule or statement must be completed and attached to Form 541. See the credit chart on page 8 for a list of the credits, their codes, and a brief description of each.

How to claim California tax credits:

1. Figure the amount of each credit using the appropriate form.
2. Use the Credit Limitation Worksheet to determine if the credits are limited. Complete the worksheet unless federal Schedules C, E, or F (Form 1040) and/or Schedule D (Form 1041) were not completed and the amount entered on Form 541, line 17, is less than $39,407.
   a) If federal Schedules C, D, E, or F (Form 1040) or Schedule D (Form 1041) were not completed and the amount entered on Form 541, line 17, is less than $39,407, **do not** complete the credit limitation worksheet. The credits are not limited.
   b) If the estate or trust completed federal Schedule C, E, or F (Form 1040) or Schedule D (Form 1041) and claimed or received any of the following:
      - Accelerated depreciation in excess of straight-line
      - Intangible drilling costs
      - Depletion
      - Circulation expenditures
      - Research and experimental expenditures
      - Mining exploration/development costs
      - Amortization of pollution control facilities
      - Income/loss from tax shelter farm activities
      - Income/loss from passive activities
      - Income from long-term contracts using the percentage-of-completion method
      - California qualified stock options (CQSOs)

      Yes Complete Schedule P (541).
      No Go to item (c).
   c) If the estate or trust claimed or received any of the following:
      - AMT adjustment from another estate or trust
      - Investment interest expense
      - Income from incentive stock options in excess of the amount reported on Form 540 or Form 540NR (Long or Short)
      - Charitable contribution deduction for appreciated property
      - Income from installment sales of certain property
      - Net operating loss deduction or disaster loss carryover reported on form(s) FTB 3805D, FTB 3805V, FTB 3805Z, FTB 3807, or FTB 3809

      Yes Complete Schedule P (541).
      No Complete the Credit Limitation Worksheet that follows.

Credit Limitation Worksheet

A	Enter the amount from Form 541, line 21	**A**	______
B	Enter personal and real property taxes paid. This includes any state and local personal property and state, local, or foreign real property taxes on Form 541, line 11	**B**	______
C	Enter miscellaneous itemized deductions from Form 541, line 15b	**C**	______
D	Add line B and line C	**D**	______
E	Enter any refund of personal or real property tax. **Do not** enter the amount of state income tax refund	**E**	______
F	Subtract line E from line D	**F**	______
G	Enter the amount from Form 541, line 20	**G**	______
H	Add line F and line G	**H**	______
I	Enter $39,407	**I**	______
J	Subtract line I from line H. If zero or less, enter -0-	**J**	______
K	Multiply line J by .0725	**K**	______
L	Subtract line K from line A. If less than zero, enter -0-	**L**	______
M	Enter the total credits	**M**	______

If line L is more than line M, the estate's or trust's credits are not limited. Go to "Claiming Credits on Form 541," below.

If line L is less than line M, get and complete Schedule P (541).

Claiming Credits on Form 541
If the conditions above do not apply, **do not** complete Schedule P (541).

Each credit is identified by a code number. If the estate or trust claims one credit, enter the credit code number and amount of the credit on line 23.

If the estate or trust claims more than one credit, it must use Schedule P (541), Part IV, to figure the total credit amount. Total the column B amounts from Lines 4 through 10 and Lines 12 through 16, of Schedule P (541), Part IV, and enter on Form 541, Line 23. Attach Schedule P (541) and any required supporting schedules or statements to Form 541.

If the estate or trust claims a credit with carryover provisions and the amount of the credit available this year exceeds the estate's or trust's tax, carry over any excess credit to subsequent years until the credit is used.

If the estate or trust claims a credit carryover for a repealed credit, use form FTB 3540, Credit Carryover Summary, to figure this credit, unless the estate or trust is required to complete Schedule P (541). In that case, enter the amount of the credit on Schedule P (541), Sections A2 and B1 and **do not** attach form FTB 3540.

Other Taxes

Line 26 – Alternative minimum tax (AMT)
If certain types of deductions, exclusions, and credits are claimed, the estate or trust may be subject to California's AMT. Get Schedule P (541) to figure the amount of tax to enter on line 26.

California law conforms to the existing federal law eliminating the deduction for contributions of appreciated property as an item of tax preference. As a result, taxpayers no longer need to include in their computation of alternative minimum taxable income (AMTI) the amount by which any allowable deduction for contributions of appreciated property exceeds the taxpayer's adjusted basis in the contributed property.

Schedule P (541) must be completed regardless of whether the estate or trust is subject to AMT if an income distribution deduction is reported on line 18.

Tax and Payments

Line 27 – Mental Health Services Tax
If the estate's or trust's taxable income is more than $1,000,000, compute the Mental Health Services Tax. Income from an Electing Small Business Trust (ESBT) is also subject to the Mental Health Services Tax.

Mental Health Services Tax Worksheet

A. Taxable income from Form 541, line 20	____________
B. ESBT Taxable Income	____________
C. Add line A and line B	____________
D. Less	($1,000,000)
E. Subtotal	____________
F. Multiply line E by 1%	x .01
G. **Mental Health Services Tax –** Enter this amount on line 27 of the 2009 Form 541, Side 1	____________

Line 29 – California income tax withheld
Attach federal Form(s) W-2 if the fiduciary claims credit for California income tax withheld on a decedent's wages and salaries received by the fiduciary. **Do not** include withholding from Forms 592-B or 593 on this line.

Line 30 – California income tax previously paid (minus tax allocated to beneficiaries)
Use this line only if the estate or trust is filing an amended return. Enter payments made with the original return plus additional tax paid after the original return was filed. Enter the serial numbers that the FTB stamped on the face of the cancelled check(s)

2009 Tax Rate Schedule

If the amount on Form 541, line 20 is:

Enter on line 21a:

over —	but not over —				of the amount over —
$ 0	$ 7,060	$ 0.00	+	1.25%	$ 0
7,060	16,739	88.25	+	2.25%	7,060
16,739	26,419	306.03	+	4.25%	16,739
26,419	36,675	717.43	+	6.25%	26,419
36,675	46,349	1,358.43	+	8.25%	36,675
46,349	and over	2,156.54	+	9.55%	46,349

(for each previous payment) if available, on the dotted line to the left of the amount on line 30. If the estate or trust did not receive a cancelled check or if the estate or trust made any payment(s) with a credit card, attach a statement showing the check number, the amount of the check or charge, the date posted to the account, and the name of the payee FTB.

Be sure to reduce the amount of tax previously paid by the amount of estimated tax that the beneficiary treated as a payment.

Line 31 – Resident/nonresident or real estate withholding
Enter the total California tax withheld from the estate's or trust's Forms 592-B or 593. Attach a copy of forms 592-B or 593 to the lower front of Form 541, Side 1.

An estate or trust that has resident/nonresident or real estate withholding should only claim the credit if the estate or trust did not distribute the related income in the current year. If the estate or trust distributed the related income, the estate or trust should prepare Form 592 and Form 592-B to distribute the credit to the beneficiaries who will report the taxable income and claim their share of the credit on their California income tax returns. If the estate or trust partially distributes the income, Form 592 and Form 592-B should show only the allocated income distribution and related withholding credit. **Do not** include withholding from other forms on this line.

Line 32 – 2009 CA estimated tax payments, amount applied from 2008 return, and payments with form FTB 3563
Enter the amount of any estimated tax payment the estate or trust made on Form 541-ES, Estimated Tax for Fiduciaries, for 2009. Also, enter the amount of any overpayment from the 2008 return that was applied to the 2009 estimated tax. Include payments made with form FTB 3563, Payment for Automatic Extension for Fiduciaries.

The trustee (or executor under certain circumstances) may elect to allocate to the beneficiary a portion of estimated payments. Use Form 541-T, California Allocation of Estimated Tax Payments to Beneficiaries. Be sure to reduce the amount of estimated tax payments you are claiming by the amount allocated to the beneficiary on Form 541-T.

Estimated tax paid by an individual before death must be claimed on the income tax return filed for the decedent and not on the Form 541 filed for the decedent's estate.

Line 34 and Line 35 – Tax Due/Overpaid Tax
If the amount on line 28 is larger than the amount on line 33, then the tax is larger than the payments and credits. Subtract line 33 from line 28. This is the amount of tax the estate or trust owes before any voluntary contributions or use tax.

If the amount on line 28 is less than the amount on line 33, then the payments and credits are larger than the tax. Subtract line 28 from line 33. This is the amount of overpaid tax before any voluntary contributions or use tax.

If the estate or trust must compute interest under the look-back method for completed long-term contracts, get form FTB 3834, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts. Include the amount of interest the estate or trust owes on line 34 or the amount of interest to be credited or refunded to the organization on line 35. Write **"FTB 3834"** on the dotted line to the left of line 34 or line 35, whichever applies.

If the estate or trust completed the credit recapture portion of any of the following forms, include the recapture amount on line 34. Write the form number and the recaptured amount on the dotted line to the left of line 34.

- Form FTB 3501, Employer Child Care Program/Contribution Credit
- Form FTB 3805Z, Enterprise Zone Deduction and Credit Summary
- Form FTB 3807, Local Agency Military Base Recovery Area (LAMBRA), Deduction and Credit Summary
- Form FTB 3808, Manufacturing Enhancement Area Credit Summary
- Form FTB 3809, Targeted Tax Area Deduction and Credit Summary

Line 36 – Credit to your 2010 estimated tax
Enter the amount from line 35 that the estate or trust wants applied to their 2010 estimated tax.

Line 37 – Amount of overpaid tax available this year
If an amount is entered on line 36, subtract it from line 35. Enter the result on line 37. The entire amount may be refunded or voluntary contributions may be made. If the estate or trust owes use tax, the estate or trust may offset that amount against this balance.

Line 38 – Use Tax
As explained on page 3, California use tax applies to purchases from out of state sellers (for example, purchases made by telephone, over the Internet, by mail, or in person). For questions on whether a purchase is taxable, go to State Board of Equalization's website at **boe.ca.gov**, or call their Taxpayer Information Section at 800.400.7115 or TTY/TDD 800.735.2929.

Note: The following businesses must continue to report purchases subject to use tax directly to the State Board of Equalization:

- Businesses that have a California seller's permit.
- Businesses that are not required to hold a California seller's permit, but receive at least $100,000 in gross receipts.

A fiduciary that is not required to report purchases subject to use tax directly to the State Board of Equalization may report use tax on Form 541. To report use tax on Form 541, complete the Use Tax Worksheet below.

If the fiduciary owes use tax but does not report it on Form 541, the fiduciary must report and pay the tax to the State Board of Equalization. For information on reporting use tax directly to the State Board of Equalization, go to their website at **boe.ca.gov**.

Failure to timely report and pay the use tax due may result in the assessment of penalties.

Use Tax Worksheet
Round all amounts to the nearest whole dollar.

1.	Enter purchases from out-of-state sellers made without payment of California sales/use tax. See worksheet instructions below . . . . $	.00
2.	Enter the decimal equivalent of the applicable sales and use tax rate. See worksheet instructions below	
3.	Multiply line 1 by the tax rate on line 2. Enter result here. . . . . $	.00
4.	Enter any sales or use tax paid to another state for purchases included on line 1. See worksheet instructions below . . . . $	.00
5.	Total Use Tax Due. Subtract line 4 from line 3. Enter the amount here and on line 38. If the amount is less than zero, enter -0-. . . . . $	.00

Worksheet, Line 1, Purchases Subject to Use Tax

- Report items that would have been taxable in a California store, such as office equipment and supplies.
- Include handling charges.
- **Do not** include any other state's sales or use tax paid on the purchases.
- Enter only purchases made during the year that corresponds with the tax return the fiduciary is filing.

Note: Report and pay any use tax you owe on the following purchases to the State Board of Equalization, not on your income tax return.

- Vehicles, vessels, and trailers that must be registered with the Department of Motor Vehicles.
- Mobile homes or commercial coaches that must be registered annually as required by the Health and Safety Code.
- Vessels documented with the U.S. Coast Guard.
- Aircraft.
- Leases of machinery, equipment, vehicles, and other tangible personal property.

Worksheet, Line 2, Sales and Use Tax Rate

- Enter the decimal equivalent of the sales and use tax rate applicable to the place in California where the property is used, stored, or otherwise consumed. For example, the decimal equivalent of 8.25% is 0.0825, and the decimal equivalent of 8.375% is 0.08375.
- If the fiduciary does not know the applicable rate, on the next page, "Sales and Use Tax Rates by County."

Worksheet, Line 4, Credit for Tax Paid to Another State

- This is a credit for tax paid to other states. The fiduciary cannot claim a credit greater than the amount of tax that would have been due if the purchase had been made in California. For example, if the fiduciary paid $8.00 sales tax to another state for a purchase, and would have paid $6.00 in California, the fiduciary can claim a credit of only $6.00 for that purchase.

Sales and Use Tax Rates by County

(includes state, local, and district taxes)

As of December 31, 2009

Note: All tax rates listed include the 1 percent statewide sales and use tax increase effective April 1, 2009. Tax rates were 1 percent less prior to April 1, 2009 unless otherwise noted. (For example, the tax rate in San Francisco effective April 1, 2009 is 9.50%. The tax rate prior to April 1, 2009 was 8.50%).

County	Rate	County	Rate
Alameda	9.75%	Orange[1]	8.75%
Alpine	8.25%	Placer	8.25%
Amador[2]	8.75%	Plumas	8.25%
Butte	8.25%	Riverside	8.75%
Calaveras	8.25%	Sacramento[1]	8.75%
Colusa[1]	8.25%	San Benito[1]	8.25%
Contra Costa[1]	9.25%	San Bernardino[1]	8.75%
Del Norte	8.25%	San Diego[1]	8.75%
El Dorado[1]	8.25%	San Francisco	9.50%
Fresno[1]	8.975%	San Joaquin[1]	8.75%
Glenn	8.25%	San Luis Obispo[1]	8.25%
Humboldt[1]	8.25%	San Mateo	9.25%
Imperial	8.75%	Santa Barbara	8.75%
Inyo	8.75%	Santa Clara[1]	9.25%
Kern[1]	8.25%	Santa Cruz[1]	9.00%
Kings	8.25%	Shasta	8.25%
Lake[1]	8.25%	Sierra	8.25%
Lassen	8.25%	Siskiyou	8.25%
Los Angeles[1,3]	9.75%	Solano	8.375%
Madera	8.75%	Sonoma[1,4]	9.00%
Marin[1,4]	9.00%	Stanislaus[1]	8.375%
Mariposa	8.75%	Sutter	8.25%
Mendocino[1]	8.25%	Tehama	8.25%
Merced[1]	8.25%	Trinity	8.25%
Modoc	8.25%	Tulare[1]	8.75%
Mono[1]	8.25%	Tuolumne[1]	8.25%
Monterey[1]	8.25%	Ventura[1]	8.25%
Napa	8.75%	Yolo[1]	8.25%
Nevada[1]	8.375%	Yuba	8.25%

1. Many cities in California impose a district tax which results in a higher sales and use tax rate than in other parts of the county. If you are reporting an item that was purchased for use in one of these counties, please check the following city list to see if a higher rate applies to your city. The tax rates shown apply if you live within the city limits of the listed community.
2. The tax rate in the county of Amador prior to April 1, 2009 was 7.25%.
3. The tax rate in the county of Los Angeles prior to April 1, 2009 was 8.25%.
   The tax rate in the county of Los Angeles between April 1, 2009 and June 30, 2009 was 9.25%.
4. The tax rate in the counties of Marin and Sonoma prior to April 1, 2009, was 7.75%.

County	City	Citywide Rate
Colusa	Williams	8.75%
Contra Costa	El Cerrito	9.75%
Contra Costa	Pinole	9.75%
Contra Costa	Richmond	9.75%
El Dorado	Placerville	8.50%
El Dorado	So. Lake Tahoe	8.75%
Fresno	Reedley	9.475%
Fresno	Sanger	9.725%
Fresno	Selma	9.475%
Humboldt	Arcata (effective 4/1/09)[1]	9.00%
Humboldt	Eureka (effective 4/1/09)[2]	8.50%
Humboldt	Trinidad (effective 4/1/09)[3]	9.00%
Kern	Arvin (effective 4/1/09)[4]	9.25%
Kern	Delano	9.25%
Lake	Clearlake	8.75%
Lake	Lakeport	8.75%
Los Angeles	Avalon	10.25%
Los Angeles	El Monte (effective 7/1/09)[5]	10.25%
Los Angeles	Inglewood	10.25%
Los Angeles	Pico Rivera (effective 7/1/09)[6]	10.75%
Los Angeles	South Gate	10.75%
Marin	San Rafael	9.50%
Mendocino	Fort Bragg	8.75%
Mendocino	Point Arena	8.75%
Mendocino	Ukiah	8.75%
Mendocino	Willits	8.75%
Merced	Los Banos	8.75%
Merced	Merced	8.75%
Mono	Mammoth Lakes	8.75%
Monterey	Del Rey Oaks	9.25%
Monterey	Pacific Grove	9.25%
Monterey	Salinas	8.75%
Monterey	Sand City	8.75%
Monterey	Seaside	9.25%
Nevada	Nevada City	8.875%
Nevada	Truckee	8.875%
Orange	La Habra (effective 4/1/09)[7]	9.25%
Orange	Laguna Beach (effective 7/1/09)[15]	8.75%
Sacramento	Galt (effective 4/1/09)[8]	9.25%
San Benito	Hollister	9.25%
San Benito	San Juan Bautista	9.00%
San Bernardino	Montclair	9.00%
San Bernardino	San Bernardino	9.00%
San Diego	El Cajon (effective 4/1/09)[9]	9.75%
San Diego	La Mesa (effective 4/1/09)[10]	9.50%
San Diego	National City	9.75%
San Diego	Vista	9.25%
San Joaquin	Manteca	9.25%
San Joaquin	Stockton	9.00%
San Luis Obispo	Arroyo Grande	8.75%
San Luis Obispo	Grover Beach	8.75%
San Luis Obispo	Morro Bay	8.75%
San Luis Obispo	Pismo Beach	8.75%
San Luis Obispo	San Luis Obispo	8.75%
Santa Clara	Campbell (effective 4/1/09)[11]	9.50%
Santa Cruz	Capitola	9.25%
Santa Cruz	Santa Cruz	9.50%
Santa Cruz	Scotts Valley (effective 4/1/09)[12]	9.25%
Santa Cruz	Watsonville	9.25%
Sonoma	Santa Rosa	9.25%
Sonoma	Sebastopol	9.25%
Stanislaus	Ceres	8.875%
Tulare	Dinuba	9.50%
Tulare	Farmersville	9.25%
Tulare	Porterville	9.25%
Tulare	Tulare	9.25%
Tulare	Visalia	9.00%
Tuolumne	Sonora	8.75%
Ventura	Oxnard (effective 4/1/09)[13]	8.75%
Ventura	Port Hueneme (effective 4/1/09)[14]	8.75%
Yolo	Davis	8.75%
Yolo	West Sacramento	8.75%
Yolo	Woodland	8.75%

1. The tax rate in Arcata prior to April 1, 2009 was 7.25%
2. The tax rate in Eureka prior to April 1, 2009 was 7.25%
3. The tax rate in Trinidad prior to April 1, 2009 was 7.25%
4. The tax rate in Arvin prior to April 1, 2009 was 7.25%
5. The tax rate in El Monte prior to April 1, 2009 was 8.25%
   The tax rate in El Monte between April 1, 2009 and June 30, 2009 was 9.75%.
6. The tax rate in Pico Rivera prior to April 1, 2009 was 8.25%
   The tax rate in Pico Rivera between April 1, 2009 and June 30, 2009, was 10.25%
7. The tax rate in La Habra prior to April 1, 2009 was 7.75%
8. The tax rate in Galt prior to April 1, 2009 was 7.75%
9. The tax rate in El Cajon prior to April 1, 2009 was 8.25%
10. The tax rate in La Mesa prior to April 1, 2009 was 7.75%
11. The tax rate in Campbell prior to April 1, 2009 was 8.25%
12. The tax rate in Scotts Valley prior to April 1, 2009 was 8.50%
13. The tax rate in Oxnard prior to April 1, 2009 was 7.25%
14. The tax rate in Port Hueneme prior to April 1, 2009 was 7.25%
15. The tax rate in Laguna Beach prior to April 1, 2009 was 8.25%
    The tax rate in Laguna Beach between April 1, 2009 and June 30, 2009 was 9.25%

Line 39 – Total voluntary contributions

Add voluntary contributions to the amount on line 34 or subtract voluntary contributions from the amount on line 37. The amount of tax due, including the contributions, must be paid when the return is filed. See Voluntary Contributions, on the next page for more information.

Line 40 – Refund or no amount due

If no amount is entered on line 38 or line 39, enter the amount from line 37 on line 40. This is the amount that will be refunded. If this amount is less than $1, attach a written statement to the return requesting the refund.

If an amount is entered on line 38 or line 39, subtract the amounts from the amount on line 37. If the result is zero or more, enter the result on line 40. If the result is less than zero, enter the result as a positive number on line 41.

Line 41 – Amount due

If no amount is entered on line 38 or line 39, enter the amount from line 34 on line 41. This is the amount due with the return.

If an amount is entered on line 38 or line 39, add the amounts to the amount on line 34. Enter the result on line 41. This is the amount due with the return.

If no amount is entered on line 34, add line 38 and line 39, subtract the total from line 37 and enter the result as a positive number on line 41. Otherwise, add line 34, line 38, and line 39 and enter the total on line 41.

Line 42 – Underpayment of estimated tax
The estate or trust may owe an estimated tax penalty if:

- the estate or trust underpaid its estimated tax liability for any payment period, or
- the amount on Line 34 is more than $500 and the estate or trust did not pay the lesser of:

	Current Years Tax	Prior Years Tax
AGI less than 150,000	90%	100%
AGI between $150,000 and $999,999	90%	110%
AGI $1,000,000 or greater	90%	

The FTB will figure the underpayment of estimated tax penalty and send a bill. However, the estate or trust may use form FTB 5805, Underpayment of Estimated Tax by Individuals and Fiduciaries, or form FTB 5805F, Underpayment of Estimated Tax by Farmers and Fishermen to:

- see if the estate or trust owes a penalty
- figure the amount of the penalty
- claim a waiver of estimated tax penalty
- use the annualized income installment method.

If the estate or trust completes form FTB 5805 or form FTB 5805F, attach the form to the back of Form 541. Enter the amount of the penalty on line 42 and fill in the appropriate circle on line 42.

Voluntary Contributions

Code 401 through Code 414
The estate or trust may make voluntary contributions of $1 or more in whole dollar amounts to the funds listed in this section. If one or more voluntary contributions are made, complete Voluntary Contributions on Side 2.

On Form 541, Side 2, line 39, enter the amount of the total voluntary contributions from the Voluntary Contributions, line 61.

If there is an overpaid tax on Form 541, line 37, the amount contributed must be subtracted from the overpaid tax. If there is a tax due on Form 541, line 34, the total contributions must be added to the tax due.

Code 401, Alzheimer's Disease/Related Disorders Fund. Contributions will provide grants to California scientists who study Alzheimer's disease and related disorders. This research includes basic science, diagnosis, treatment, prevention, behavioral problems, and care giving. With one-half million Californians living with the disease and another 2 million providing care to a loved one with Alzheimer's, our state is in the early stages of a major public health crisis. Your contribution will ensure that Alzheimer's disease receives the attention, research, and resources it deserves.

Code 402, California Fund for Senior Citizens. Contributions will provide support for the California Senior Legislature (CSL). The CSL is made up of volunteers who develop statewide senior related legislative proposals in areas of health, housing, transportation, and community services to be presented to the State Legislature. For more information go to **www.4csl.org**.

Code 403, Rare and Endangered Species Preservation Program. Contributions will be used to help protect and conserve California's many threatened and endangered species and the wild lands that they need to survive, for the enjoyment and benefit of you and future generations of Californians.

Code 404, State Children's Trust Fund for the Prevention of Child Abuse. Contributions will be used to fund programs for the prevention, intervention, and treatment of child abuse and neglect.

Code 405, California Breast Cancer Research Fund. Contributions will fund research toward preventing and curing breast cancer. Breast cancer is the most common cancer to strike women in California. It kills 4,000 California women each year. Contributions also fund research on prevention and better treatment, and keep doctors up-to-date on research progress. For more about the research your contributions support, go to **cbcrp.org**. Your contribution can help make breast cancer a disease of the past.

Code 406, California Firefighters' Memorial Fund. Contributions will be used for repair and maintenance of the California Firefighters' Memorial on the grounds of the State Capitol. Ceremonies to honor the memory of fallen firefighters and to assist surviving loved ones, and for an informational guide detailing survivor benefits to assist the spouses/RDPs and children of fallen firefighters.

Code 407, Emergency Food for Families Fund. Contributions will be used to help local food banks feed California's hungry. Your contribution will fund the purchase of much-needed food for delivery to food banks, pantries, and soup kitchens throughout the state. The State Department of Social Services will monitor its distribution to ensure the food is given to those most in need.

Code 408, California Peace Officer Memorial Foundation Fund. Contributions will be used to preserve the memory of California's fallen peace officers and assist the families they left behind. Since statehood, over 1,300 courageous California peace officers have made the ultimate sacrifice while protecting law-abiding citizens. The non-profit charitable organization, California Peace Officers' Memorial Foundation, has accepted the privilege and responsibility of maintaining a memorial for fallen officers on the State Capitol grounds. Each May, the Memorial Foundation conducts a dignified ceremony honoring fallen officers and their surviving families by offering moral support, crisis counseling, and financial support that includes academic scholarships for the children of those officers who have made the supreme sacrifice. On behalf of all of us and the law-abiding citizens of California, thank you for your participation.

Code 409, California Military Family Relief Fund. Contributions will be used to provide financial aid grants to members of the California National Guard who are California residents, and have been called to active duty.

Code 410, California Sea Otter Fund. The California Coastal Conservancy and the Department of Fish and Game will each be allocated 50% of the contributions. The California Coastal Conservancy will use the contributions for research and programs related to the near-shore ecosystem, including sea otters. The Department of Fish and Game will use the contributions to establish a sea otter fund within the department's index coding system for increased investigation, prevention, and enforcement action.

Code 411, California Ovarian Cancer Research Fund. Contributions will be used to conduct research relating to the cure, screening, and treatment of ovarian cancer.

Code 412, Municipal Shelter Spay-Neuter Fund. Fund Contributions will be used to provide low cost or free spay-neuter services and for administrative costs.

Code 413, California Cancer Research Fund. Contributions will be used to provide research on cancer causes, detection and prevention, and provide education and support to cancer survivors.

Code 414, ALS/Lou Gehrig's Disease Research Fund. Contributions will be used to conduct research relating to the cure, screening, and treatment of ALS.

Line 61 – Total Voluntary Contributions
Add the amounts entered on Code 401 through Code 414. Enter the total on Form 541, Side 2, line 39. If no amounts are entered on Code 401 through Code 414, **do not** enter an amount on Form 541, line 39.

Schedule A Charitable Deduction

California law generally follows federal law , however, California does not conform to IRC Section 1045 and IRC Section 1202.

A trust claiming a charitable deduction, etc., under IRC Section 642(c) for the taxable year must file the information return required by R&TC Section 18635 on Form 541-A.

California law follows federal law for charitable contributions.

See the instructions for completing federal Schedule A, Charitable Deduction (Form 1041).

Schedule B Income Distribution Deduction

California law generally follows federal law.

Schedule P (541) must be completed if the estate or trust had an income distribution deduction.

Line 1 – If the amount on Side 1, line 17, is less than zero and the negative number is attributable in whole or in part to the capital loss limitation rules under IRC Section 1211(b), then enter as a negative number on Schedule B, line 1, the lesser of the loss from Side 1, line 17, or the loss from Side 1, line 4. If the negative number is not attributable to the capital loss on line 4, enter -0-.

Line 2 – Figure the adjusted tax-exempt interest as follows:

From the amount of tax-exempt interest received, subtract the total of 1 and 2 below.

1. The amount of tax-exempt interest, including exempt interest dividends from qualified mutual funds, on Schedule A (541), line 2.
2. Any disbursements, expenses, losses, etc., directly or indirectly allocable to the interest (even though described as not deductible under R&TC Section 17280).

Figure the amount of the indirect disbursements, etc., allocable to tax-exempt interest as follows:

1. Divide the total tax-exempt interest received by the total of all the items of gross income (including tax-exempt interest) included in distributable net income.
2. Multiply the result by the total disbursements, etc., of the trust that are not directly attributable to any items of income.

Include any nontaxable gain from installment sales of small business stock sold prior to October 1, 1987, and includable in distributable net income.

Line 3 – Include all capital gains, whether or not distributed, that are attributable to income under the governing instrument or local law. If the amount on Schedule D (541), line 9, column (a) is a net loss, enter -0-.

Line 9 and Line 10 – These lines provide for the computation of the deduction allowable to the fiduciary for amounts paid, credited, or required to be distributed to the beneficiaries of the estate or trust. The deduction is equal to the amounts paid, credited, or required to be distributed or the distributable net income, whichever is smaller, adjusted in either case to exclude items of tax-exempt income entering into distributable net income. See the instructions for completing federal Schedule B, Income Distribution Deduction (Form 1041), and attach Schedule J (541), Trust Allocation of an Accumulation Distribution, if required.

Complete and attach to Form 541 a properly completed Schedule K-1 (541) for each beneficiary. An FTB-approved substitute form or the information notice sent to beneficiaries may be used if it contains the information required by Schedule K-1 (541).

For more information, see General Information E, Additional Forms the Fiduciary May Have to File.

Schedule G California Source Income and Deduction Apportionment

Trust Income to be Reported from Sources. Income retained by a trust is taxable to the trust. Income from California sources is taxable regardless of the residence of the fiduciaries and beneficiaries. R&TC Sections 17742 through 17745 provide that the taxability of non-California source income retained by a trust and allocated to principal depends on the residence of the fiduciaries and **noncontingent** beneficiaries, not the person who established the trust. Contingent beneficiaries are not relevant in determining the taxability of a trust.

A noncontingent beneficiary or vested beneficiary is one whose interest is not subject to a condition precedent. A condition precedent is one which must happen before some right dependent thereon accrues, or some act dependent thereon is performed. (Survivorship is a condition precedent.)

There are five different situations that can occur when determining the taxability of a trust. The situations and treatment are:

1. If the trustee (or all the trustees, if more than one) is a California resident, the trust is taxed on all income from all sources (R&TC Section 17742).
2. If the noncontingent beneficiary (or all the noncontingent beneficiaries, if more than one) is a California resident, the trust is taxed on all income from all sources (R&TC Section 17742).
3. If at least one trustee is a California resident and at least one trustee is a nonresident and all beneficiaries are nonresidents, the trust is taxed on all California source income plus the proportion of all other income that the number of California resident trustees bears to the total number of trustees (R&TC Section 17743). Complete Schedule G, Form 541, Side 3.
4. If all of the trustees are nonresidents and at least one noncontingent beneficiary is a California resident and at least one noncontingent beneficiary is a nonresident, the trust is taxed on all California source income plus the proportion of all other income that the number of California resident noncontingent beneficiaries bear to the total number of noncontingent beneficiaries (R&TC Section 17744). Complete Schedule G, Form 541, Side 3.
5. If the trust has resident and nonresident trustees and resident and nonresident noncontingent beneficiaries, both situations 3 and 4 apply. Complete Schedule G, Form 541, Side 3.

The R&TC and accompanying regulations do not discuss the situation where some fiduciaries and some beneficiaries are nonresidents (situation 5). The FTB Legal Ruling No. 238, October 27, 1959, provides the method for allocating non-California source income where there is a mixture of California resident and nonresident fiduciaries, and California resident and nonresident noncontingent beneficiaries.

Example: Assume that the total taxable income of the trust is $90,000 and is not sourced in California. There are three trustees, one of whom is a resident of California. There are two noncontingent income beneficiaries, one of whom is a resident of California. The amount of income taxable by California is calculated in the following steps:

1. Taxable income is first allocated to California by the ratio of the number of California trustees to the total number of trustees. The trustee calculation is 1/3 of $90,000 = $30,000.
2. The amount allocated to California in that ratio (from Step 1) is subtracted from total taxable income. The amount for the next allocation is $60,000 ($90,000 – $30,000).
3. The remainder of total income is then allocated to California by the ratio of the number of California noncontingent beneficiaries to the total number of noncontingent beneficiaries. The beneficiary calculation is 1/2 of $60,000 = $30,000.
4. The sum of the trustee calculation and the noncontingent beneficiary calculation is the amount of non-California source income taxable by California. The trustee income calculation of $30,000 plus the beneficiary income calculation of $30,000 equals the income taxable by California of $60,000.

The apportionment described above does not apply when the interest of a beneficiary is contingent. See R&TC Section 17745 regarding taxability in such cases.

If any of the following apply, all trust income is taxable to California. **Do not** complete Schedule G.

- All trustees are California residents
- All non-contingent beneficiaries are California residents
- All trust income is from California sources

The amounts transferred from Schedule G, column F and column H, should only include income and deductions reportable to California.

Part I

Complete lines 1a through 1f **before** completing the Income and Deduction Allocation.

The trustee is required to disclose the number of the trust's California resident trustees, nonresident trustees total trustees, California resident noncontingent beneficiaries, and total noncontingent beneficiaries.

Line 1(a) and Line 1(b) – Provide the total number of California resident trustees and the total number of California nonresident trustees who served the trust during any portion of the trust's taxable year. If a trustee ceased to serve the trust during any portion of the taxable year, changed residence during the taxable year, or began serving the trust during the taxable year, attach an additional statement identifying the particular trustee, the relevant date or dates, and a description of the event.

Line 1(d) and Line 1(e) – Include only noncontingent beneficiaries as provided in R&TC Section 17742. If the trust has no California resident noncontingent beneficiaries or no nonresident noncontingent beneficiaries, enter -0- on line 1(d) or line 1(e), respectively.

Part II

Complete Column A through Column H to determine the amounts to enter on Form 541, Side 1, line 1 through line 15b.

Income Allocation

Column A: Enter the California sourced income amount for line 1 through line 8.

Column B: Enter the non-California sourced income amount for line 1 through line 8.

Column C: Multiply column B by

$$\frac{\text{The number of CA trustees}}{\text{The total number of trustees}}$$

Column D: Subtract column C from column B.

Column E: Multiply column D by

$$\frac{\text{The number of CA noncontingent beneficiaries}}{\text{The total number of noncontingent beneficiaries}}$$

Column F: Add columns A, C, and E.

Line 9: Total lines 1 through 8 for column A through column F.

Deduction Allocation

Column G: Enter the total amount of deductions for line 10 through line 15b.

Column H: Multiply the amounts in column G, line 10 through line 15b by

$$\frac{\text{Line 9, column F}}{\text{Line 9, column A plus B}}$$