STATE OF CALIFORNIA
FRANCHISE TAX BOARD

FTB Publication 737

Tax Information for Registered Domestic Partners

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Purpose

This publication is primarily to assist registered domestic partners (RDPs) in filing their California income tax returns, if they have RDP adjustments. We have also included additional information about the history of RDP legislation and community property information that may be useful in completing the tax return.

The Internal Revenue Service (IRS) in a May 5, 2010, Chief Counsel Advice (CCA) memorandum stated that California RDPs must report one-half of their community income on his or her federal income tax return, unless the RDPs previously executed an agreement opting out of community property treatment. In a previous CCA, the IRS stated that an RDP had to report all of his or her earned income on his or her own federal tax return. This new CCA reverses that position.

The new CCA only addresses the treatment of community income of RDPs; it does not change the RDP's federal filing status. For federal purposes, an RDP will continue to use the single or head of household filing status.

RDP adjustments may be required on the California tax return because the filing status of an RDP for California purposes is not the same as the filing status that the RDP uses for federal purposes. Under California law, RDPs must file their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. RDPs are not allowed to use a married filing status on their federal tax returns. Frequently, the dollar limits for a single taxpayer and a married couple are the same and the dollar limit for a married person filing separately is one-half the amount for a single person or a married couple. To apply the correct dollar limits on the California tax return, an RDP might be required to reduce the amount of a deduction reflected on a federal tax return.

Another category of adjustment occurs when the substantive rule for a transaction is different for a married person. For example, no gain or loss is recognized when spouses transfer property among themselves. Since an RDP is treated as a spouse for California purposes, no gain or loss is recognized for California purposes when one RDP transfers property to his or her domestic partner. However, this transfer is not likely to get the same treatment for federal purposes and gain or loss might be recognized for federal purposes.

RDP adjustments include, but are not limited to the following:

- Division of community property
- Capital losses
- Transactions between RDPs
- Sale of residence
- Dependent care assistance
- Investment interest
- Qualified residence acquisition loan & equity loan interest
- Expense depreciation property limitations
- Individual Retirement Account
- Education loan interest
- Rental real estate passive loss
- Rollover of publicly traded securities gains into specialized small business investment companies

There are three possible methods to file if you are an RDP.

If you do not have any RDP adjustments:

1. Combine federal Form 1040, line 37 from each individual federal Form 1040 filed with the IRS and transfer the combined amount to Form 540, 540A, or 540NR (Long or Short), line 13.

   Note: RDPs who split their community income on their federal tax return and have no RDP adjustments may use this method.

If you have RDP adjustments, you will need to recalculate your federal adjusted gross income (AGI), before completing your California income tax return. You may use either one of the following methods:

2. Complete the California RDP Adjustments Worksheet (included in this publication).
3. Complete a pro forma federal Form 1040. A pro forma federal Form 1040 must be prepared using the same filing status used on your California tax return.

A pro forma federal Form 1040, is a federal tax return completed in the same manner that a married couple would report income and expenses.

The pro forma federal Form 1040 is used only to assist you in completing your California tax return. **DO NOT file the pro forma federal Form 1040 with the IRS.**

To complete the pro forma federal Form 1040 or the worksheet, follow the federal Form 1040 instructions along with the instructions provided in this publication.

General Information

In general, for taxable years beginning on or after January 1, 2010, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2009. 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.

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.

In general, California affords the same rights and responsibilities to RDPs that previously were available only to married individuals. For California tax purposes, the same long-standing rules applicable to married individuals (relating to filing status, community property income, etc.) now apply to RDPs. However, because the federal government does not recognize domestic partners as married individuals for federal tax (IRS) purposes, RDPs must continue to file as unmarried individuals on their federal tax returns.

Under California law, RDPs must file their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. RDPs will have the same legal benefits, protections, and responsibilities as married couples unless otherwise specified.

Substantially Equivalent – If you entered into a same-sex legal union in another state, other than a marriage, and that union has been determined to be substantially equivalent to a California registered domestic partnership, you are required to file a California income tax return using either the married/RDP filing jointly or married/RDP filing separately filing status.

For purposes of California income tax, references to a spouse, husband, or wife also refer to a California RDP, unless otherwise specified. When we use the initials RDP they refer to both a California registered domestic "partner" and a California registered domestic "partnership," as applicable.

California Registered Domestic Partners

California Family Code Section 297 provides that "domestic partners are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring."

Registered Domestic Partnership Requirements

A domestic partnership is established in California when both persons file a Declaration of Domestic Partnership with the California Secretary of State, and at the time of filing, all of the following requirements are met:

- Either of the following:

- ▶ Both persons are members of the same sex.
- ▶ One or both of the persons is/are over the age of 62 and meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402(a) for old-age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C. Section 1381 for aged individuals.

- Both persons have a common residence.
- Neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity.
- The two persons are not related by blood in a way that would prevent them from being married to each other in California.
- Both persons are at least 18 years of age.
- Both persons are capable of consenting to the domestic partnership.

The definition of "common residence" means that both domestic partners share the same residence. It is not necessary that the legal right to possess the common residence be in both of their names. Two people have a common residence even if one or both have additional residences. Domestic partners do not cease to have a common residence if one leaves the common residence but intends to return.

For additional domestic partner registration information, go to the California Secretary of State website at **sos.ca.gov** and search for **domestic partners registry** or call 916.653.3984.

Legislative History

Effective January 1, 2000, California legislation provided for the definition, registration, and termination of a domestic partner with the California Secretary of State. It also provided an option for state and local public employers to extend benefits to domestic partners under the Public Employees' Medical and Hospital Care Act and specified domestic hospital visitation rights.

Effective January 1, 2002, California legislation was enacted that treated an RDP as a spouse of the taxpayer for certain medical tax benefits.

Effective January 1, 2005, rights, benefits, and privileges were added which treated RDPs the same as married persons, with the exception that they could not file a California income tax return using the married filing jointly or married filing separately filing status in the same manner as married persons. Included within those rights, benefits, and privileges were community property rights (with the exception of earned income) which were applied to a registered domestic partnership as of the date of registration. This changed with the passage of law effective January 1, 2007, which requires RDPs, beginning in 2007, to file their California income tax returns using the married/RDP filing jointly or married/RDP filing separately filing status. Also beginning in 2007, RDP's earned income is treated as community property. For more detailed information, go to **ftb.ca.gov** and search for **rdp** and view legislative history.

Attachments to Your Tax Return

Did you attach any federal forms or schedules other than Schedule A (Form 1040), Itemized Deductions, Schedule B (Form 1040), Interest and Ordinary Dividends, Schedule L (Form 1040), Standard Deduction for Certain Filers, or Schedule M (Form 1040), Making Work Pay Credit, to your federal Form 1040?

No Do not attach a copy of your federal Form 1040 return to Form 540.

Yes Attach a copy of both RDP's federal Forms 1040 filed with the IRS and all supporting federal forms and schedules to Form 540.

Note: Attach a copy of either the California RDP Adjustments Worksheet or federal pro forma Form 1040 if used to complete your Form 540.

If the tax software product you use prevents you from filing the required attachment(s), you should retain copies of all documentation which may be requested at a later date.

Do I Have to File a California Income Tax Return?

Filing Requirements for RDP Residents, Nonresidents, and Part-Year Residents

Residents – File a California tax return if either your gross income (which consists of all income you received from all sources in the form of money, goods, property, and services, that is not exempt from tax) or your adjusted gross income (which consists of your federal adjusted gross income from all sources, reduced or increased by all California income adjustments) is more than the amounts shown on the chart below for your filing status, age, and number of dependents.

Nonresidents and Part-Year Residents – File a California tax return if you have any income from California sources and your gross income (which consists of all income you received from all sources in the form of money, goods, property, and services, that is not exempt from tax) or adjusted gross income (which consists of your federal adjusted gross income from all sources, reduced or increased by all California income adjustments) is more than the amounts shown on the chart below for your filing status, age, and number of dependents.

Note: If your gross income or adjusted gross income is less than the amounts listed on the chart, you may still have a filing requirement. For more information, get California Form 540/540A Personal Income Tax Booklet or California Form 540NR Nonresident or Part-Year Resident Income Tax Booklet.

On 12/31/10, my filing status was:	**and on 12/31/10, my age was:** (If your 65th birthday is on January 1, 2011, you are considered to be age 65 on December 31, 2010)	**California Gross Income**			**California Adjusted Gross Income**		
		Dependents			**Dependents**		
		0	**1**	**2 or more**	**0**	**1**	**2 or more**
Head of household (Get FTB Pub.1540, California Head of Household Filing Status)	Under 65 65 or older	14,754 19,704	18,054 22,179	20,529 24,159	11,803 16,753	15,103 19,228	17,578 21,208
Married/RDP filing jointly Married/RDP filing separately (The income of both spouses/RDPs must be combined; both spouses/RDPs may be required to file a tax return even if only one spouse/RDP had income over the amounts listed.)	Under 65 (both spouses/RDPs) 65 or older (one spouse/RDP) 65 or older (both spouses/RDPs)	29,508 34,458 39,408	32,808 36,933 41,883	35,283 38,913 43,863	23,607 28,557 33,507	26,907 31,032 35,982	29,382 33,012 37,962
Qualifying widow(er)	Under 65 65 or older		18,054 22,179	20,529 24,159		15,103 19,228	17,578 21,208
Dependent of another person Any filing status	Any age	More than your standard deduction (Use the California Standard Deduction Worksheet for Dependents on page 9 to figure your standard deduction.)					

Filing Status

Note: If you are filing as an RDP, be sure to fill in the circle next to the question in the Filing Status section of the tax return that asks "If your California filing status is different from your federal status, fill in the circle here."

Married/RDP Filing Jointly – If **any** of the following is true:

- You were an RDP as of December 31, 2010, even if you did not live with your RDP at the end of 2010.
- Your RDP died in 2010 and you did not re-register as an RDP or marry in 2010.
- Your RDP died in 2011 before you filed a 2010 tax return.

Married/RDP Filing Separately

- Community property rules apply to the division of income if you use the married/RDP filing separately status. For more information, get FTB Pub. 1031, Guidelines for Determining Resident Status, FTB Pub. 1051A, Guidelines for Married/RDP Filing Separate Returns, or FTB Pub. 1032, Tax Information for Military Personnel.
- You cannot claim a personal exemption credit for your RDP even if your RDP had no income, is not filing a tax return, and is not claimed as a dependent on another person's tax return.
- You may be able to file as head of household if your child lived with you and you lived apart from your RDP during the entire last six months of 2010.

Head of Household

For the specific requirements that must be met to qualify for head of household filing status, get FTB Pub. 1540, California Head of Household Filing Status. In general, head of household is for individuals who are unmarried and not in a registered domestic partnership and for certain married/RDP individuals living apart (considered unmarried or considered not in a registered domestic partnership) who provide a home for certain relatives. You may be entitled to use the head of household filing status as an RDP if all of the following apply:

- You met the requirements to be considered not in a registered domestic partnership on December 31, 2010.
- You paid more than one-half the cost of keeping up your home for the year 2010.
- For more than half the year, your home was the main home for you and your child who lived with you.
- You were not a nonresident alien at any time during the year.

For a child to qualify as your foster child for head of household purposes, the child must either be placed with you by an authorized placement agency or by order of a court. For more information, go to **ftb.ca.gov** and search for **hoh**.

Qualifying Widow(er) with Dependent Child

RDPs qualify for this filing status if **all** five of the following apply:

- Your RDP died in 2008 or 2009 and you did not marry or enter into another registered domestic partnership in 2010.
- You have a child, stepchild, adopted child, or foster child whom you claim as a dependent.
- This child lived in your home for all of 2010. Temporary absences, such as for vacation or school, count as time lived in the home.
- You paid over half the cost of keeping up your home for this child.
- You could have filed a joint return with your RDP the year he or she died, even if you actually did not do so.

Married/RDP Filing Separately

Division of Income – The domicile of the RDP earning the income determines the division of income between the RDPs when separate returns are filed. Each RDP must follow the laws of his or her state of domicile to determine if the income is separate or community property. California is a community property state. If the state of domicile is a community property state, when filing separate returns, each RDP must report half of the community property plus all separate income on his or her return. For California purposes, use federal Publication 555, Community Property, which contains an allocation worksheet to assist in the division of income.

If required to revise your federal adjusted gross income, have the following information available:

- Federal Income Tax Return and supporting schedules for each RDP.
- Copy of federal Form 1040 instructions including worksheets, as needed.
- If filing separately, a copy of FTB Pub. 1051A and allocation worksheet from federal Publication 555.

California Community/Separate Property

Community property is the total of the following property acquired and earnings received:

- By an RDP during a registered domestic partnership while domiciled in a community property state.
- By an RDP that is not separate property.

Each RDP owns one-half of all community property.

Separate property is:

- All property owned separately by an RDP before entering into a registered domestic partnership.
- All property acquired separately after entering into a registered domestic partnership, such as gifts, inheritances, and property purchased with separate funds.
- Money earned while domiciled in a separate property state.
- All property declared separate property in a valid agreement entered into before or after registration of the domestic partnership.

Community income is all income from community property, wages, salaries, and other compensation for personal services of either RDP while in a registered domestic partnership. Community income is divided equally between RDPs.

Under California law community status ends in any of the following situations:

- Upon the death of either RDP.
- When the decree of dissolution or termination of registered domestic partnership becomes final.
- When RDPs separate with no immediate intention of reconciliation.

Income from separate property is income of the RDP who owns the property.

When filing separate returns, the domicile of the RDP who earns the income determines the division of income between the RDPs. For income tax purposes, the income of RDPs domiciled in a community property state may be community income or separate income. When RDPs file separate returns, each RDP reports the following:

- One-half of the community income.
- All of his or her separate income.

For more information on community property, see federal Publication 555. RDPs will use the rules in federal Publication 555 for married people to determine how to apply those rules for California income tax purposes. The note in Publication 555 regarding California RDPs applies only to the filing of your federal return.

Pension Plans

For qualified pension plans, an RDP will not be treated as the spouse where such treatment would result in the disqualification for federal income tax purposes of a pension plan.

Anti-alienation provisions, applicable to qualified pension plans, prohibit assignment or transfer of plan assets except through a qualified domestic relations order (QDRO) or by certain survivor benefits. A QDRO is generally a court-ordered division of a qualified pension plan between spouses in relation to a divorce, a property division, or provision for child support. Because federal law does not recognize an RDP as a spouse, a plan will not be disqualified for California income tax purposes if a QDRO between RDPs is not recognized or if survivor benefits are not available to RDPs.

IRAs/Roth IRAs/Tax-Favored Accounts

An RDP will not be treated as a spouse where such treatment would result in a tax-favored account, such as a Individual Retirement Account (IRA), Roth IRA, Coverdell Education Savings Account (ESA), Archer Medical Savings Account (MSA), or IRC Section 529 plan (Qualified Tuition Program), no longer being qualified as a tax-favored account for federal purposes.

For example, under federal law, the beneficiary of a Coverdell ESA may transfer the remaining balance in an ESA to a new beneficiary. This new beneficiary must be "a member of the family," which is defined broadly to include the following relatives of the original beneficiary: spouse, child, brother, sister, stepbrother, stepsister, stepfather, stepmother, etc. Because federal law does not recognize an RDP as a spouse, the transfer of the balance in an ESA to a taxpayer's RDP or an RDP's child would result in the Coverdell ESA no longer being treated as a qualified tax-favored account for federal income tax purposes. Instead, the change in beneficiary would be considered a non-qualified distribution from the tax-favored account subject to additional tax of 10% for federal tax purposes and 2.5 % for California tax purposes. Therefore, for California purposes, an RDP would not be treated as a spouse for purposes of changing the beneficiary of a Coverdell ESA.

In the event of a distribution from an IRA, Roth IRA, or other tax-favored account, because federal law does not recognize RDPs, a taxpayer whose RDP or RDP's child receives distributions from the taxpayer's IRA, Roth IRA, or other tax-favored account, may incur additional tax penalties for federal income tax purposes, but not for California income tax purposes.

For example, in an IRA, if you take an early distribution from your IRA to pay the higher education expenses of your RDP or the child of your RDP, for federal purposes you would probably owe an additional tax of 10%, but for California purposes you would not owe the additional tax of 2.5%. However, for both federal and California tax purposes, you would need to include in your taxable income the early distribution from your IRA, unless you have a basis in the IRA that may be recovered tax-free.

For California income tax purposes, if you and/or your RDP is covered by an employer-provided retirement plan, then your California deduction for an IRA contribution may be limited. See the example for line 32 in the instructions for California RDP Adjustments Worksheet (included in this publication). The amount of a nondeductible IRA contribution creates a California-only IRA basis that is recoverable from IRA distributions that would otherwise be taxable for California income tax purposes. You must keep track of your California basis in your IRA. For general information about recovery of a California-only basis, get FTB Pub. 1005, Pension and Annuity Guidelines.

For California income tax purposes, if you or your RDP contributed to a Roth IRA in 2010 you need to review the income phase out limitations. The allowable Roth IRA contribution may be reduced based on you and your RDP's combined federal modified AGI.

2010 Filing Status	Federal Modified AGI
Married/RDP Filing Jointly or Qualifying Widow(er)	$167,000 - $177,000
Single, Head of Household, or Married/RDP filing separately and you did not live with your spouse/RDP for all of 2010	$105,000 - $120,000
Married/RDP Filing Separately and you lived with your spouse/RDP at any time in 2010	$0 - $10,000

Example:
Chris, Taxpayer One, and Pat, Taxpayer Two, are RDPs. Chris made a contribution to his Roth IRA of $5,000. Chris's federal modified AGI is $90,000. Pat made a contribution to his Roth IRA of $5,000. Pat's federal modified AGI is $95,000. Chris and Pat's combined federal AGI exceeds the $177,000 limitation for an allowable Roth IRA contribution. Because their combined federal modified AGI exceeds the limitation, for California purposes the Roth IRA contributions of Chris and Pat are treated as "excess contributions." However, California does not impose the six percent excise tax that is imposed under federal law on excess contributions to Roth IRAs.

If Chris or Pat receives a "qualified distribution" from a Roth IRA, the "qualified distribution" is tax-free and is not includible in their California taxable income. This tax-free treatment applies even if the "qualified distribution" includes earnings attributable to a previous "excess contribution" for California purposes.

Related Parties

In applying the IRC for California purposes:

- The definition of related parties includes RDPs. (IRC Section 267)
- The definition of spouse includes RDPs. Therefore, no gain or loss will be allowed for any transfer of property between RDPs. (IRC Section 1041)
- An RDP will be treated as a spouse for purposes of determining ownership of stock. However, if the treatment of an RDP as a spouse will lead to the disqualification of the taxpayer's choice of business entity, then the RDP will not be treated as a spouse for California purposes. (IRC Section 318)

TAXABLE YEAR **2010**

California RDP Adjustments Worksheet — Recalculated Federal Adjusted Gross Income

Name(s) as shown on return | SSN or ITIN

Part I Income Adjustment Worksheet Section A – Income	A Taxpayer One (taxable amounts from your original federal return)	B Taxpayer Two (taxable amounts from your original federal return)	C Adjustments	D Adjusted Federal Amounts (using the same rules applicable to spouses)
7 Wages, salaries, tips, etc 7				
8 Taxable interest. (b) TP1________ (b) TP2________ . . . . . (a)				
9 Ordinary dividends. (b) TP1________ (b) TP2________ . . . . . (a)				
10 Taxable refunds, credits, offsets of state and local income taxes 10				
11 Alimony received 11				
12 Business income or (loss) 12				
13 Capital gain or (loss) 13				
14 Other gains or (losses) 14				
15 IRA distributions. (a) TP1 ________ (a) TP2 ________ . . . . . (b)				
16 Pensions and annuities. (a) TP1 ________ (a) TP2 ________ . . . . . (b)				
17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. 17				
18 Farm income or (loss) 18				
19 Unemployment compensation 19				
20 Social security benefits. (a) TP1 ________ (a) TP2 ________ . . . . . (b)				
21 Other income 21				
22 **Total.** Combine line 7 through line 21 in column D. Go to Section B 22				

Section B – Adjustments to Income

23 Educator expenses. CAUTION: See instructions 23				
24 Certain business expenses of reservists, performing artists, and fee-basis government officials 24				
25 Health savings account deduction 25				
26 Moving expenses 26				
27 One-half of self-employment tax 27				
28 Self-employed SEP, SIMPLE, and qualified plans 28				
29 Self-employed health insurance deduction 29				
30 Penalty on early withdrawal of savings 30				
31 Alimony paid 31				
32 IRA deduction 32				
33 Student loan interest deduction 33				
34 Tuition and fees deduction. CAUTION: See instructions 34				
35 Domestic production activities deduction 35				
36 Add line 23 through line 35 in column D 36				
37 **Total.** Subtract line 36 from line 22 in column D. Enter the amount here and on Form 540, 540A, or 540NR (Long and Short), line 13. . 37				

Part II Adjustments to Federal Itemized Deductions

38 Federal itemized deductions. Add the amounts on each taxpayer's federal Schedule A (Form 1040), lines 4, 9, 15, 19, 20, 27, and 28. **Enter the amount here and on line 38, Schedule CA (540)** . . . . . 38 ________

Note: Apply the 7.5% limitation rule to your federal adjusted gross income to arrive at the amount for line 4. Apply the 2% limitation rule to your adjusted gross income to arrive at the amount for line 27. There are other itemized deductions that are also subject to the 2% limitation rule and some itemized deductions are subject to an overall limitation rule. See federal Publication 17, Your Federal Income Tax, Part Five, Standard Deduction and Itemized Deductions.

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Instructions for California RDP Adjustments Worksheet – Recalculated Federal Adjusted Gross Income

References to these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2009**.

General Information

In general, for taxable years beginning on or after January 1, 2010, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2009. 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.

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.

Purpose

Registered domestic partners (RDP) may use the California RDP Adjustments Worksheet or a pro forma federal Form 1040 to make RDP adjustments to calculate federal adjusted gross income (AGI) for California tax purposes.

To complete this worksheet, have the following information available:

- Federal Income Tax Return and supporting schedules for each RDP.
- Copy of federal Form 1040 Instructions including worksheets, as needed.
- If filing separately, a copy of federal Publication 555.
- If filing separately, a copy of FTB Pub. 1051A.

RDPs who file a California tax return and have no RDP adjustments between federal and California do not need to complete this worksheet. If you do not have any RDP adjustments, combine the amount on line 37 from each individual RDP's federal Form 1040 filed with the IRS and transfer the combined amount to Form 540, 540A, or 540NR (Long or Short), line 13.

RDP adjustments include but are not limited to the following:

- Division of community property, if not reported as community property on your federal tax return
- Capital losses
- Transactions between RDPs
- Sale of residence
- Dependent care assistance
- Investment interest
- Qualified residence acquisition loan & equity loan interest
- Expense depreciation property limitations
- Individual Retirement Account
- Education loan interest
- Rental real estate passive loss
- Rollover of publicly traded securities gain into specialized small business investment companies

RDPs filing as married/RDP filing jointly or married/RDP filing separately, and former RDPs filing single, with RDP adjustments will complete a pro forma federal Form 1040 using the same filing status as their California tax return or use this worksheet and instructions.

RDP adjustments occur when, for California purposes, you recalculate your federal tax return from a filing status of single or head of household to married/RDP filing jointly or married/RDP filing separately. RDP changes result in an increase or decrease to income or deductions. To complete this worksheet:

- Add column A and column B
- Add or subtract column C
- Enter the amount on column D
  (column A + column B) ± column C = column D

Example:
Chris, Taxpayer One, and Pat, Taxpayer Two, each have a capital loss on their separate federal tax returns, as shown below. Capital losses are limited to $3,000. When they recalculate their federal tax return as if married, they will make a $2,000 filing status adjustment in column C, line 13 of this worksheet. (A $3,000 loss plus a $2,000 loss equals a $5,000 loss; since they are limited to a $3,000 loss, the adjustment will be $2,000.)

Part I Income Adjustments Worksheet Section A — Income			
13 Capital gain or (loss)			
A Taxpayer One	B Taxpayer Two	C Adjustments	D Adjusted Federal Amounts
($3,000)	($2,000)	$2,000	($3,000)

If Chris and Pat are filing separately, they are each limited to a $1,500 loss. Therefore, Chris will make a $1,500 filing status adjustment and Pat will make a $500 filing status adjustment on their separately filed tax returns. Because Chris and Pat are filing separately, each one is considered Taxpayer One as shown below.

Part II Income Adjustments Worksheet Section A — Income			
13 Capital gain or (loss)			
A Taxpayer One	B Taxpayer Two	C Adjustments	D Adjusted Federal Amounts
($3,000)		$1,500	($1,500)
A Taxpayer One	B Taxpayer Two	C Adjustments	D Adjusted Federal Amounts
($2,000)		$500	($1,500)

Transfer Between Registered Domestic Partners
California conforms to IRC Section 1041, which provides that no gain or loss is recognized on transfers of property between spouses. For federal tax purposes, because federal law does not recognize RDPs, transfers between RDPs are not treated as transfers between spouses. However, beginning January 1, 2007, for California tax purposes, because California treats RDPs the same as spouses, no gain or loss is recognized on transfers of property between RDPs. This also applies to transfers between former RDPs, if the transfer is related to termination of the registered domestic partnership. For more information on transfers to a spouse, see Property Settlements in federal Publication 504, Divorced or Separated Individuals.

Instructions for Column A, Column B, and Column C

Column A – Taxpayer One Federal Form 1040
Taxpayer One, transfer the amounts from your federal Form 1040, line 7 through line 37 to column A of the worksheet.

Column B – Taxpayer Two Federal Form 1040
For married/RDP filing jointly taxpayer two, transfer the amounts from your federal Form 1040, line 7 through line 37 to column B of the worksheet.

For married/RDP filing separately or former RDP filing single, no amount will be shown in column B. All adjustments for community property will be made in column C.

For more information on community property, see federal Publication 555. RDPs will use the rules in federal Publication 555 for married people to determine how to apply those rules for California income tax purposes. The note in Publication 555 regarding California RDPs applies to filing of your federal tax return.

Column C – Adjustments
Use column C to make California RDP adjustments on line 7 through line 21 and line 23 through line 35 following the specific line instructions below. For additional information use the federal Form 1040 instructions. If the amount is less than zero (negative), enter the result in parentheses. For example: (12,345).

Part I, Income Adjustment Worksheet

Section A – Income, Columns A, B, and C

Line 7 – Wages, salaries, tips, etc.
Enter the total of your wages, salaries, tips, etc. For most people, the amount to enter on this line should be shown on box 1 of their Forms(s) W-2.

For additional information see the federal Form 1040 instructions for line 7.

Adjustments:

Exclusion for medical expenses reimbursement
California allows an exclusion from gross income for employer-provided accident or health insurance, and medical expense reimbursement for RDPs and their partner's dependents if they were not previously deducted. Self-employed individuals may also claim a deduction for health insurance costs paid for themselves, their spouse or RDP, and their dependent(s), including the dependent(s) of their RDP. Enter the amount included in federal income as a negative number on line 7, column C.

Dependent care assistance programs (IRC Section 129)
The amount which may be excluded for dependent care assistance with respect to dependent care services provided during a taxable year shall not exceed $5,000 ($2,500 in the case of a separate tax return filed by a married/RDP individual).

For married/RDP filing jointly, if you and your RDP excluded more than $5,000 on your federal tax returns, your federal adjusted gross income for California purposes is increased by the amount which exceeds $5,000. For married/RDP filing separately, if you excluded more than $2,500 on your federal tax return, your federal adjusted gross income for California purposes is increased by the amount which exceeds $2,500.

Line 8a – Taxable interest
Each payer should send you a Form 1099-INT, Interest Income, or Form 1099-OID, Original Issue Discount. Enter your total taxable interest income on line 8a.

For additional information see the federal Form 1040 instructions for line 8a.

Line 8b – Tax-exempt interest
If you received any tax-exempt interest, such as from municipal bonds, each payer should send you a Form 1099-INT. Enter the total on line 8b.

For additional information see the federal Form 1040 instructions for line 8b.

Line 9a – Ordinary dividends
Each payer should send you a Form 1099-DIV, Dividends and Distributions. Enter your total ordinary dividends on line 9a.

For additional information see the federal Form 1040 instructions for line 9a.

Line 9b – Qualified dividends
Enter your total qualified dividends on line 9b.

For additional information see the federal Form 1040 instructions for line 9b.

Line 10 – Taxable refunds, credits, offsets of state and local income taxes
If you received a refund, credit, or offset of state or local income taxes in 2010, you may receive a Form 1099-G, Certain Government Payments.

For additional information see the federal Form 1040 instructions for line 10.

Line 11 – Alimony received
Enter amounts received as alimony or separate maintenance.

For additional information see the federal Form 1040 instructions for line 11.

Adjustment: If you are an RDP receiving alimony not included in your federal income, enter the alimony amount on line 11, column C.

Line 12 – Business income or (loss)
Enter your business income or loss.

For additional information see the federal Form 1040 instructions for line 12.

Adjustments:

Election to treat certain depreciable business assets as an expense (IRC Section 179(b))
You may elect to treat the cost of any IRC Section 179 property as an expense, which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the IRC Section 179 property is placed in service.

If you are filing married/RDP filing separately, your deduction is limited to 50% of the total allowable. Enter 50% of the total deduction as a positive number on line 12, column C.

Election to treat certain reforestation expenditures as an expense (IRC Section 194)
In the case of any qualified timber property with respect to which the taxpayer has made an election, the taxpayer shall treat reforestation expenditures that are paid or incurred during the taxable year with respect to such property as an expense that is not chargeable to capital account. The reforestation expenditures shall be allowed as a deduction. The aggregate amount of reforestation expenditures, with respect to each qualified timber property, shall not exceed $10,000 ($5,000 if you file as married/RDP filing separately).

If you claimed a reforestation expense deduction in the amount of $5,000 on your federal tax return and you are filing married/RDP filing jointly, enter the difference between your total reforestation expense (up to $10,000 for each qualified timber property) and the amount you deducted on your federal tax return on line 12, column C, as a negative number.

Rollover of publicly traded securities gain into specialized small business investment companies (IRC Section 1044)
In the case of the sale or any publicly traded securities with respect to which the taxpayer elects the application of IRC Section 1044, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds the cost of any common stock or partnership interest in a specialized small business investment company purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by any portion of such cost previously taken into account under this section.

The amount of gain that may be excluded for any taxable year shall not exceed the lesser of $50,000 ($25,000 if filing married/RDP filing separately) or $500,000 ($250,000 if filing married/RDP filing separately), reduced by the amount of gain excluded for all preceding taxable years. If you are filing married/RDP filing jointly, enter the difference between your single tax return and your recalculated amounts (not to exceed the limitations) on line 12, column C, as a negative number.

Line 13 – Capital gain or (loss) (IRC Section 1044(b)(3))
If you had a capital gain or loss, including any capital gain distributions or a capital loss carryover from 2009, you must complete and attach federal Schedule D (Form 1040), Capital Gains and Losses.

For additional information see the federal Form 1040 instructions for line 13.

Adjustment: For California purposes, RDPs are treated as husband and wife in provisions where the husband and wife are treated as one person. RDPs are not treated as one person at the federal level.

If your capital losses are more than your capital gains, you can claim a capital loss deduction. The capital loss deduction for RDPs who file as married/RDP filing jointly is limited to $3,000 ($1,500 if you are an RDP filing as married/RDP filing separately).

Line 14 – Other gains or (losses) (IRC Section 121)
If you sold or exchanged assets used in a trade or business, see the Instructions for federal Form 4797, Sale of Business Property.

Adjustment: RDPs are allowed an exclusion of gain on the sale of their principal residence. RDPs filing as married/RDP filing jointly are able to exclude up to $500,000 ($250,000 if you file as married/RDP filing separately).

If you sold your principal residence and excluded a gain of $250,000 on your federal tax return and are filing married/RDP filing jointly, enter the difference between your total gain (up to $500,000) and the amount you excluded from your federal income on line 14, column C, as a negative number.

Line 15 – IRA distributions
An RDP will not be treated as a spouse where such treatment would result in a tax-favored account not being qualified as a tax-favored account for federal income tax purposes.

Adjustment: An RDP may have an adjustment to line 15 if the RDP has a California-only basis in an IRA, which is recoverable from an IRA distribution. For example, an RDP may have a California-only basis in an IRA if the RDP's partner is covered by an employer-provided retirement plan. Based on the RDPs' combined adjusted gross income, the available deduction for an IRA contribution may be reduced for California income tax purposes. The amount disallowed for an IRA contribution on this worksheet creates a California-only basis in the IRA. RDPs must keep track of their California-only basis in order to recover it tax-free from IRA distributions reported on line 15 in future years.

Line 15a and Line 15b – IRA distributions
You should receive a Form 1099-R, Distribution From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., showing the amount of any distribution from your IRA. Unless otherwise noted in the line 15a and line 15b instructions, an IRA includes a traditional IRA, Roth IRA, simplified employee pension (SEP) IRA, and a savings incentive match plan for employees (SIMPLE) IRA. Except as provided in the federal Form 1040 instructions for line 15a and line 15b, leave

line 15a blank and enter the total distribution on line 15b.

For additional information see the federal Form 1040 instructions for line 15a and line 15b.

Line 16a and Line 16b – Pensions and annuities
You should receive a Form 1099-R showing the amount of your pension and annuity payments.

For additional information see the federal Form 1040 instructions for line 16a and line 16b.

Line 17 – Rental real estate, royalties, partnerships, S corporations, trust, etc.
Enter the amount from federal Schedule E (Form 1040), Supplemental Income and Loss, line 26 or line 41, here.

Adjustment: Get federal Form 8582, Passive Activity Loss Limitations, if your modified AGI is over $100,000. If you or your RDP actively participated in a passive rental real estate activity, you can deduct up to $25,000 of loss from the activity from your nonpassive income. This special allowance is an exception to the general rule disallowing losses in excess of income from passive activities. The maximum amount of the special allowance is reduced if your modified AGI is more than $100,000 ($50,000 if you file as married/RDP filing separately).

If you have a loss, subtract the total allowable loss shown on your recalculated federal Form 8582 from the total of the amounts on line 17, column A and column B. Enter the result on line 17, column C, as a positive number.

Line 18 – Farm income or (loss)
Enter the amount from federal Schedule F (Form 1040), Profit or Loss From Farming, line 36 here.

Adjustment: Election to treat certain depreciable business assets as an expense (IRC Section 179(b))
You may elect to treat the cost of any IRC Section 179 property as an expense, which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the IRC Section 179 property is placed in service.

If you are filing as married/RDP filing separately, your deduction is limited to 50% of the total allowable. Enter 50% of the total deduction as a positive number on line 18, column C.

Line 19 – Unemployment compensation
You should receive a Form 1099-G showing the total unemployment compensation paid to you in 2010.

For additional information see the federal Form 1040 instructions for line 19.

Line 20a and Line 20b – Social security benefits
You should receive a Form SSA-1099, Social Security Benefit Statement, showing in box 3 the total social security benefits paid to you.

For additional information see the federal Form 1040 instructions for line 20.

Adjustment: A portion of your benefits may be taxable. How much is taxable depends on the total amount of your benefits and other income. Generally, the higher that total amount, the greater the taxable part of your benefits. To figure the total taxable amount of your social security benefits, calculate the taxable benefit amount using the Social Security Benefits Worksheet found in the federal Form 1040 instructions. Subtract that amount from the total of the amounts on line 20, combine column A and column B on your California RDP Adjustment Worksheet. Enter the result on line 20, column C.

Line 21 – Other income
Use line 21 to report any income not reported elsewhere on your tax return or other schedules.

For additional information see the federal Form 1040 instructions for line 21.

Section B – Adjustments to Income, Columns A, B, and C

Line 23 – Educator expenses
The deduction for educator expenses that was taken on this line of the 2009 federal Form 1040 has expired and does not apply for 2010. The line has been reserved in case Congress extends the deduction to 2010. To find out whether Congress has extended the deduction, go to **irs.gov**.

Line 24 – Certain business expenses of reservists, performing artists, and fee-basis government officials
Include the following deductions on line 24:

- Certain business expenses of National Guard and reserve members who traveled more than 100 miles from home to perform services as a National Guard or reserve member.
- Performing-arts-related expenses.
- Business expenses of fee-basis state or local government officials.

For additional information see the federal Form 1040 instructions for line 24.

Adjustment: RDPs may only claim expenses as a performing artist if they file as married/RDP filing jointly, unless they lived apart from their RDP for the entire year.

Line 25 – Health savings account (HSA) deduction
If contributions (other than employer contributions) were made to your HSA for 2010, you may be able to take this deduction. See federal Form 8889, Health Savings Accounts (HSAs), for additional information.

A "tax-favored account" means an individual account, plan, or arrangement that is exempt from tax under federal law, including a HSA. Where the treatment of an RDP as a spouse would result in a tax-favored account that would not be qualified as a tax-favored account for federal income tax purposes, the RDP will not be treated as a spouse for California tax purposes with respect to that account.

Line 26 – Moving expenses
If you moved in connection with your job or business or started a new job, you may be able to take this deduction.

For additional information see the federal Form 1040 instructions for line 26.

Line 27 – One-half of self-employment tax
If you were self-employed and owe self-employment tax, use federal Schedule SE, Self Employment Tax, to figure the amount of your deduction.

Line 28 – Self-employed SEP, SIMPLE, and qualified plans
If you were self-employed or a partner, you may be able to take this deduction. See federal Publication 560, Retirement Plans for Small Business (SEP, SIMPLE, and

Qualified Plans), or, if you were a minister, see federal Publication 517, Social Security and Other Information for Members of the Clergy and Religious Workers.

Line 29 – Self-employed health insurance deduction
You may be able to deduct the amount you paid for health insurance coverage (established under your business) for yourself, your RDP, your dependents, and your RDP's dependents. Your total California deduction cannot exceed the limitations explained in the federal instructions. Do not include health insurance costs for any month you were eligible to participate in any subsidized health plan maintained by your or your domestic partner's employer.

For additional information see the federal Form 1040 instructions for line 29.

Adjustments:

Self-employed health insurance deduction
Enter the amount of health insurance coverage for your registered domestic partner and their dependents on line 29, column C, as a positive amount.

Subsidized health plan maintained by your partner's employer
Enter the amount of health insurance cost included for any month you were eligible to participate in any subsidized health plan maintained by your registered domestic partner's employer on line 29, column C, as a negative amount.

Line 30 – Penalty on early withdrawal of savings

The Form 1099-INT or Form 1099-OID you received will show the amount of any penalty you were charged.

Line 31 – Alimony paid
If you made payments to or for your spouse/RDP or former spouse/RDP under a divorce or separation instrument, you may be able to take this deduction. For additional information, see federal Publication 504.

Adjustment: If you are an RDP paying alimony not included in your adjustment to income for federal purposes, enter the alimony amount on line 31, column C, as a positive amount.

Line 32 – IRA deduction
If you made contributions to a traditional IRA for 2010, you may be able to take an IRA deduction.

For additional information see the federal Form 1040 instructions for line 32.

Adjustment: If you are an RDP and your federal modified AGI exceeds the amounts in the charts below, your IRA deduction will be limited. To figure your adjustment, see federal Form 1040 instructions for line 32. Enter the adjustment amount on line 32, column C, as a positive amount.

A "tax-favored account" means an individual account, plan, or arrangement that is exempt from tax under federal law, including an IRA. Where the treatment of an RDP as a spouse would result in a tax-favored account that would not be qualified as a tax-favored account for federal income tax purposes, the RDP would not be treated as a spouse for California tax purposes with respect to that account.

Use the chart below if the RDP that contributed to an IRA was covered by an employer retirement plan.

2010 Filing Status	Federal modified AGI
Married/RDP Filing Jointly or Qualifying Widow(er)	$89,000 - $109,000
Single, Head of Household, or Married/RDP filing separately and you did not live with your spouse/RDP for all of 2010	$56,000 - $66,000
Married/RDP Filing Separately and you lived with your spouse/RDP at any time in 2010	$0 - $10,000

Use the chart below if the RDP that contributed to an IRA was **not** covered by an employer plan, but the partner of the RDP was covered by an employer retirement plan.

2010 Filing Status	Federal modified AGI
Married/RDP Filing Jointly or Qualifying Widow(er)	$167,000 - $177,000
Single, Head of Household, or Married/RDP filing separately and you did not live with your spouse/RDP for all of 2010	$ no phase-out
Married/RDP Filing Separately and you lived with your spouse/RDP at any time in 2010	$0 - $10,000

Example:
Chris, Taxpayer One, and Pat, Taxpayer Two, are RDPs. Chris made an IRA contribution of $5,000 in 2010. Chris's federal modified AGI is $80,000, he is not covered by an employer-provided pension plan. On his separate federal tax return, Chris deducted his entire IRA contribution on line 32 of his Form 1040. Pat is covered by an employer-provided pension plan and he did not make an IRA contribution in 2010. Pat's federal modified AGI is $150,000. Chris and Pat's combined federal modified AGI exceeds the $177,000 limitation and they cannot deduct an IRA contribution. When they recalculate their federal modified AGI, as if married, they will make a $5,000 filing status adjustment in column C, line 32 of this worksheet.

Part I Income Adjustments Worksheet Section B – Adjustments to Income			
Line 32 IRA Deduction			
A. Taxpayer One	B. Taxpayer Two	C. Adjustments	D. Adjusted Federal Amounts
($5,000)	$0	$5,000	$0

Line 33 – Student loan interest deduction
Use the Student Loan Interest Deduction Worksheet in the federal Form 1040 instructions to determine your student loan interest deduction.

For additional information see the federal Form 1040 instructions for line 33.

Line 34 – Tuition and fees deduction
The tuition and fees deduction that was taken on this line of the 2009 federal Form 1040 has expired and does not apply for 2010. The line has been reserved in case Congress extends the deduction to 2010. To find out whether Congress has extended the deduction, go to **irs.gov**.

Line 35 – Domestic production activities deduction
You may be able to deduct up to six percent of your qualified production activities income.

For additional information see the federal Form 1040 instructions for line 35.

Instructions for Column D

Column D – Adjusted Federal Amounts

To calculate column D:

- Add column A and column B
- Add or subtract column C
- Enter the amount in column D

  (column A + column B) ± column C = column D

Line 22 – Total
Combine line 7 through line 21 in column D.

Line 36
Add line 23 through 35 in column D.

Line 37 – Total
Subtract line 36, column D from line 22, column D. Enter the amount here and on Form 540, 540A, or 540NR (Long or Short), line 13.

Transfer the amounts from column D, line 7 through line 37 to Schedule CA, column A, line 7 through line 37.

Part II Adjustments to Federal Itemized Deductions

Line 38 – Federal itemized deductions

The following adjustments may be required for qualified residence interest (IRC Section 163(h)):

- **Acquisition indebtedness –** The aggregate amount treated as acquisition indebtedness for a period shall not exceed $1,000,000 ($500,000 in the case of a married individual or an RDP filing a separate tax return). If your combined acquisition indebtedness is over $1,000,000, enter the amount of interest on your indebtedness (up to $1,000,000) on your recalculated federal Schedule A (Form 1040), line 10 or line 11.
- **Home equity indebtedness –** The aggregate amount treated as home equity indebtedness for any period shall not exceed $100,000 ($50,000 in the case of a married individual or an RDP filing a separate tax return). If your combined home equity indebtedness is over $100,000 enter the amount of interest on your indebtedness (up to $100,000) on your recalculated federal Schedule A (Form 1040), line 10 or line 11.

Medical and Dental Expenses
Taxpayer benefits are extended to include the taxpayer's RDP and their dependent(s) for medical expenses and health insurance benefits.

Combine your medical and dental expenses and apply the 7.5% limitation rule to your recalculated jointly adjusted gross income to arrive at the amount for line 4 of the federal Schedule A (Form 1040).

Job Expenses and Certain Miscellaneous Deductions
Combine your job expenses and miscellaneous deductions and apply the two percent limitation rule to your recalculated jointly adjusted gross income to arrive at the amount for line 27 of the federal Schedule A (Form 1040).

Frequently Asked Questions

(For more RDP information, go to **ftb.ca.gov** and search for **rdp.)**

1. **Can I file a joint California tax return with my RDP for tax years prior to 2007?**

   No. Domestic partners **cannot** file a married filing joint or married filing separate tax return for tax years prior to 2007. A domestic partner is required to use the same filing status for state income tax purposes that was used or would have been used for federal income tax purposes. For taxable years beginning on or after January 1, 2007, domestic partners are required to use the same filing status available to married persons.

2. **Is the earned income of domestic partners treated as community property for tax years prior to 2007?**

   No. Earned income is not treated as community property for state income tax purposes for tax years prior to 2007.

3. **If one RDP dies, can the surviving RDP file a joint tax return?**

   Yes, if an RDP dies, the surviving RDP can file as married/RDP filing jointly for the year the RDP dies if he or she does not enter into a new registered domestic partnership or marriage. If an RDP dies in the following year prior to filing their tax return the surviving RDP can file a married/RDP filing jointly tax return. For more information on deceased taxpayers, go to **ftb.ca.gov** and search for **deceased taxpayer**.

4. **Can the Franchise Tax Board (FTB) waive accuracy-related penalties for RDPs due to reasonable cause?**

   Yes, but there are no special rules to grant waiver of penalties for RDPs. "Reasonable cause" is a standard exception to most penalties imposed under the California Revenue and Taxation Code and the federal Internal Revenue Code. Generally, reasonable cause exists where the failure to comply occurs despite the exercise of ordinary business care and prudence.

5. **Do mortgage interest rules for RDPs filing California tax returns apply?**

   Yes, but only if the limitations applicable on a federal tax return for married individuals would limit your interest deduction on your California return. For more information about those limits see federal Publication 936, Home Mortgage Interest Deduction.

6. **Can an RDP who files a California married/RDP filing jointly tax return exclude up to $500,000 of capital gain on the sale of a principal residence?**

   Yes, if they meet the capital gain exclusion rules that apply to a married individual filing a joint tax return. For more information, see federal Publication 523, Selling Your Home.

7. **Can an RDP who filed a joint tax return apply for relief under California's innocent joint filer provisions?**

   Yes, California innocent joint filer provisions apply to anyone who files a married/RDP filing joint tax return. For more information, get FTB Pub. 705, Innocent Joint Filer – Relief From Paying California Income Taxes.

8. **If a court orders termination of a registered domestic partnership and a California Family Law Court awards spousal support (alimony), what is the tax treatment of these payments?**

   For California, if the payment satisfies the requirements under tax law for alimony, it would be deducted by the payor and included by the payee. However, federal treatment of these payments is uncertain.

9. **If a court with jurisdiction of a dissolution proceeding for a registered domestic partnership assigns a tax debt owing to the FTB to one of the partners, is the FTB bound by the court order?**

   The parties to a dissolution can stipulate to any payment arrangement of taxes that they wish, and the court could order one party to satisfy outstanding tax liabilities. However, the FTB is not generally bound by such a court order. There are some circumstances where the FTB will follow a court order revising tax liability between the parties to a dissolution proceeding. For more information, get FTB Pub. 705.

10. **Can an RDP file as "head of household" (HOH) on a California tax return?**

    Yes, RDPs can file as a HOH on a California tax return if he or she maintains the main home for his or her birth child, stepchild, adopted child, or eligible foster child and are "considered not in a registered domestic partnership."

    To be "considered not in a registered domestic partnership" you must meet **all** of the following requirements:

    - Your RDP did not live in your home during the last six months of the tax year.
    - You file a separate tax return.
    - You pay more than half the cost of keeping up your home for the tax year.
    - Your home was the main home of your birth child, stepchild, adopted child, or eligible foster child for more than half the year.
    - You must be able to claim an exemption for the child.

    For more information on filing HOH, get FTB Pub. 1540, California Head of Household Filing Status.

Definitions

Registered Domestic Partnership – Two persons who filed a Declaration of Domestic Partnership with the California Secretary of State.

Marriage – A legal union of two persons.

Married – United in a legally recognized marriage.

Spouse – A married person or a person who is part of a lawful marriage.

Former Spouse – A former married person or a person who was previously part of a legal marriage.

Married/RDP Filing Jointly Filing Status – A filing status for married couples who were married as of the last day of the tax year. Beginning in 2007, this filing status may also be used by RDPs who have registered as domestic partners with the California Secretary of State by the last day of the tax year.

Married/RDP Filing Separately Filing Status – A filing status for married couples and RDPs who choose to report their respective incomes, exemptions, and deductions on separate tax returns.

Divorce – The legal termination of a marriage.

Unmarried/Not in a Registered Domestic Partnership – A taxpayer is unmarried and not in a registered domestic partnership if on the last day of the tax year, one of the following applies:

- The taxpayer has never been married and never entered into a registered domestic partnership.
- The taxpayer is legally divorced from his or her spouse/RDP under a final decree of divorce or a final decree of dissolution of RDP. A petition for divorce or dissolution of RDP **or** an interlocutory decree of divorce or interlocutory decree of RDP is **not** the same as a final decree. A married taxpayer remains married or an RDP until the final decree is issued.
- The taxpayer is legally separated from his or her spouse/RDP under a final decree of legal separation. A petition for legal separation or an informal separation agreement is **not** the same as a final decree of legal separation. Also, simply living apart from a spouse/RDP is **not** the same as being legally separated under a final decree of legal separation.

A married/RDP taxpayer is unmarried or not in an RDP for head of household purposes if the taxpayer's spouse/RDP was a nonresident alien at any time during the year. However, if the taxpayer filed a joint tax return in a previous year by choosing to treat the spouse/RDP as a resident, the choice continues in subsequent tax years until it is revoked. If the taxpayer has not revoked the choice by the extended due date for filing a tax return in the current year, the nonresident alien spouse/RDP is still a resident for tax purposes in the current year and the taxpayer remains married or an RDP.

Considered Unmarried (Head of Household) – To qualify for head of household filing status, a married taxpayer or RDP must meet the requirements to be considered unmarried or considered not in a registered domestic partnership. One of those requirements is that the taxpayer's spouse or partner must not have lived in the home at any time during the last six months of the tax year.

Decree of Dissolution – The Final Judgment of Divorce (also referred to as a Decree of Dissolution or Decree of Divorce); the court order that terminates a marriage and certain registered domestic partnerships. The marriage or registered domestic partnership is not officially terminated until a final decree is issued by the court.

Legal Separation – To be legally separated, a person must have received a final decree of legal separation issued by a court. A petition for legal separation, an informal separation agreement, or simply living apart from a spouse/RDP is not the same as being legally separated under a final decree of legal separation.

Termination/Dissolution of RDP – Depending on the circumstances, registered domestic partnerships may be terminated either by court order following a dissolution proceeding in the Superior Court or by filing a Notice of Termination of Domestic Partnership with the California Secretary of State.

Mother – A female parent that has born an offspring, has adopted a child, or otherwise established a maternal relationship with another person.

Father – A male parent who functions in a paternal capacity with regard to another; especially, a man who adopts a child.

Parent – A father or mother.

Additional Information

How to Get California Tax Information

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

By phone – To order California tax forms, call our automated phone service at 800.338.0505.

In person – Many libraries and post offices provide free California tax booklets during the filing season.

Employees at libraries and post offices cannot provide tax information or assistance.

By mail – We will send you two copies of each tax form and one copy of each set of instructions. Allow two weeks to receive your order. If you live outside California allow three weeks to receive your order. Write to:

TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
RANCHO CORDOVA CA 95741-0307

Letters

If you write to us, be sure your letter includes your social security number (SSN) or Individual Taxpayer Identification Number (ITIN), and your daytime and evening telephone numbers. Send your letter to:

FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0040

We will respond to your letter within ten weeks. In some cases, we may need to call you for additional information.

Volunteer Income Tax Assistance (VITA)

At more than 1,200 sites throughout California, trained volunteers provide free assistance to low-income, senior, disabled, and non-English speaking persons who need to file simple federal and state income tax returns. Many military bases also provide this service for members of the armed forces.

The locations for VITA will be listed at **ftb.ca.gov** from mid-January 2011, through April 15, 2011, or call the Franchise Tax Board at 800.852.5711 to find the volunteer assistance location nearest you.

Telephone Assistance

Telephone assistance is available year-round from 7 a.m. until 5 p.m. Monday through Friday, except holidays. Hours are subject to change.

Telephone: 800.852.5711 from within the United States
916.845.6500 from outside the United States
800.829.1040 for federal tax questions, call the IRS

TTY/TDD: 800.822.6268 for persons with hearing or speech impairments

Asistencia bilingüe en español
Asistencia telefónica está disponible todo el año durante las 7 a.m. y las 5 p.m. lunes a viernes, excepto días festivos. Las horas están sujetas a cambios.

Teléfono: 800.852.5711 dentro de los Estados Unidos
916.845.6500 fuera de los Estados Unidos
800.829.1040 para preguntas sobre impuestos federales

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