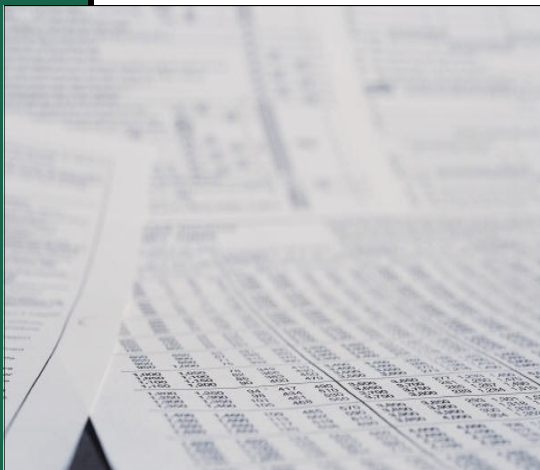




## Deadline to Implement New Federal Tax Withholding Tables



The 2010 Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act (2010 Tax Relief Act) made many changes affecting employee income tax withholding for 2011. For example, by delaying sunsetting of the Bush tax cuts for two years, the favorable income tax rates for individuals and elimination of the marriage penalty for married taxpayers filing jointly and claiming the standard deduction remain in effect. The 2010 Tax Relief Act also reduced the employee social security (FICA) tax rate by two percentage points, to 4.2%, for remuneration received during 2011. As a result, for 2011, employees will pay only 4.2% Social Security tax on wages up to \$106,800 (the Social Security wage base limit). The employer tax rate for Social Security remains unchanged at 6.2%.

Although withholding tables are typically released annually in November to give payroll professionals sufficient time to get the tables into their computer systems before the new rates go into effect in January, they were delayed for 2011 because of uncertainty regarding the 2011 tax rates. In late December, following the passage of the 2010 Tax Relief Act, the Internal Revenue Service (IRS) issued Notice 1036, Early Release Copies of the 2011 Percentage Method Tables for Income Tax Withholding, carrying advance copies of the 2011 percentage method tables for income tax withholding. The tables reflect changes made by the 2010 Tax Relief Act.

Notice 1036 and an accompanying news release, IR 2010-124, explained that employers should implement the new 2011 withholding tables and 4.2% employee social security tax rate as soon as possible, but not later than January 31, 2011. After implementing the new 4.2% rate, employers are also instructed to make an offsetting adjustment in a subsequent pay period to correct any social security tax overwithholding as soon as possible, but not later than March 31, 2011. These rules were covered further in Publication 15 (Circular E), Employer's Tax Guide for use in 2011.

For more information about this article, please contact us at [taxalerts@windes.com](mailto:taxalerts@windes.com) or any of our tax professionals at (562) 435-1191, (949) 271-2600, (310) 316-8130, or (213) 239-9745.

## Starting Date for Processing Returns Impacted by the 2010 Tax Law Changes

---

The Internal Revenue Service (IRS) has announced that it will start processing the 2010 tax returns of certain taxpayers who had previously been advised to delay filing, including those planning to file Schedule A or claim above-the-line deductions for higher education tuition and fees or educator expenses, on February 14, 2011. The IRS stated that it needed the extra time to update its systems to reflect the tax law changes from the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (2010 Tax Relief Act).

The IRS also reminded e-filers affected by the delay that many major software providers are prepared to accept impacted returns immediately. These taxpayers can get a head start on preparing their returns, and the software providers will hold onto the returns and electronically submit them after IRS systems open on February 14, 2011.

Taxpayers using commercial software were advised to check with their providers for specific instructions. Those who use a paid tax preparer were instructed to check with their preparers, who also may be holding returns until IRS system updates are complete.

The IRS also reminded taxpayers who are not impacted by the delay, including those claiming the Earned Income Tax Credit (EITC), education tax credits, child tax credits, and other popular tax breaks, that their 2010 returns can be filed immediately.

For more information about this article, please contact us at [taxalerts@windes.com](mailto:taxalerts@windes.com) or any of our tax professionals at (562) 435-1191, (949) 271-2600, (310) 316-8130, or (213) 239-9745.

## Internal Revenue Service (IRS) Launches the IRS2Go App for iPhone/Android

---

On January 24, 2011, the IRS unveiled IRS2Go, its first smartphone application that will allow taxpayers to check the status of their tax refunds and obtain helpful tax information.

"This new smartphone app reflects our commitment to modernizing the agency and engaging taxpayers where they want when they want it," said IRS Commissioner Doug Shulman. "As technology evolves and younger taxpayers get their information in new ways, we will keep innovating to make it easy for all taxpayers to access helpful information." The IRS2Go phone app gives people a convenient way of checking on their federal refunds. It also gives people a quick way of obtaining easy-to-understand tax tips. Apple users can download the free IRS2Go application by visiting the Apple App Store. Android users can visit the Android Marketplace to download the free IRS2Go app.



"This phone app is a first step for us," Shulman said. "We will look for additional ways to expand and refine our use of Smartphone and other new technologies to help meet the needs of taxpayers." The mobile app, among a handful in the federal government, offers a number of safe and secure ways to help taxpayers. Features of the first release of the IRS2Go app include:

### **Get Your Refund Status**

Taxpayers can check the status of their federal refunds through the new phone app with a few basic pieces of information. First, taxpayers enter a Social Security number, which is masked and encrypted for security purposes. Next, taxpayers pick the filing status they used on their tax returns. Finally, taxpayers enter the amount of the refunds they expect from their 2010 tax returns. For people who e-file, the

refund function of the phone app will work within about 72 hours after taxpayers receive an e-mail acknowledgement saying the IRS received their tax returns. For people filing paper tax returns, longer processing times mean they will need to wait three to four weeks before they can check their refund status. About 70 percent of the 142 million individual tax returns were filed electronically last year.

### **Get Tax Updates**

Phone app users enter their e-mail addresses to automatically get daily tax tips. Tax tips are simple, straightforward tips and reminders to help with tax planning and preparation. Tax tips are issued daily during the tax filing season and periodically during the rest of the year. The plain English updates cover topics such as free tax help, child tax credits, the Earned Income Tax Credit, education credits, and other topics.

### **Follow the IRS**

Taxpayers can sign up to follow the IRS Twitter news feed, [@IRSnews](#). IRSnews provides the latest federal tax news and information for taxpayers. The IRSnews tweets provide easy-to-use information, including tax law changes and important IRS programs.

IRS2Go is the latest IRS effort to provide information to taxpayers beyond traditional channels. The IRS also uses tools such as YouTube and Twitter to share the latest information on tax changes, initiatives, products and services through [social media](#) channels. For more information on IRS2Go and other new media products, visit [www.IRS.gov](#). Related Item: [IRS Goes Mobile With IRS2Go](#).

For more information about this article, please contact us at [taxalerts@windes.com](#) or any of our tax professionals at (562) 435-1191, (949) 271-2600, (310) 316-8130, or (213) 239-9745.

# Start Reporting Assigned Tax Credits on 2010 Returns

*This article is reproduced with permission from Spidell Publishing, Inc.*

For taxable years beginning on or after July 1, 2008, any "eligible credit" allowed to a corporate taxpayer may be assigned by that taxpayer to any "eligible assignee." However, assigned credits may only be applied against the tax of the eligible assignee for taxable years beginning on or after January 1, 2010. Therefore, a corporation that was assigned a credit in 2008 and/or 2009 may claim the credit on the 2010 return.

## Assigning and Claiming the Credit

The election to share a credit is irrevocable once it is made, and must be made by the taxpayer allowed that credit, on an originally filed return for the year of assignment. Use Form FTB 3544, Election to Assign Credit Within Combined Reporting Group, to assign credits. A corporation that makes an irrevocable election to assign a credit in 2010 must file Form FTB 3544 with the tax return. After the credit is assigned, the assignee is treated as if it originally generated the assigned credit. All restrictions and limitations, including carryover limitations, will then apply to the assignee. Also, the assignor is required to maintain the information necessary to substantiate any credit and to verify any credit assignment.

The assignor must disclose the existence and nature of any assigned credit limitations to the eligible assignee and to the Franchise Tax Board (FTB). Such limitations may include, but are not limited to:

- Limitations imposed on the credit to certain types of income, such as income from one of the California Economic Development Areas (Enterprise Zones);
- Limitations imposed by California's conformity to Internal Revenue Code (IRC) Section 383 when there is an ownership change; and
- Limitations on the number of years the assigned credits may be carried forward.

Use Form FTB 3544A, List of Assigned Credit Received and/or Claimed by Assignee, to claim any assigned credits.

## Eligible Taxpayers

Eligible assignors include any taxpayer who is a member of a combined reporting group, and an "eligible assignee" means any affiliated corporation that is a member of the same combined reporting group. A corporation that purchases another corporation may take advantage of unused credits and apply them against that corporation's income.

An eligible credit is:

- Any credit earned by the taxpayer in a year beginning on or after July 1, 2008; or
- Any credit earned in any taxable year beginning before July 1, 2008 that is eligible to be carried forward to the taxpayer's first taxable year beginning on or after July 1, 2008.

In other words, taxpayers may assign credits and credit carryforwards.

For more information about this article, please contact us at [taxalerts@windes.com](mailto:taxalerts@windes.com) or any of our tax professionals at (562) 435-1191, (949) 271-2600, (310) 316-8130, or (213) 239-9745.

# Important Reminder for California Child and Dependent Care Expense Credit

*This article is reproduced with permission from Spidell Publishing, Inc.*

In order to avoid the delay in processing the taxpayer's return, it is important to make sure that all the following eight qualifications be met in order to claim the credits:



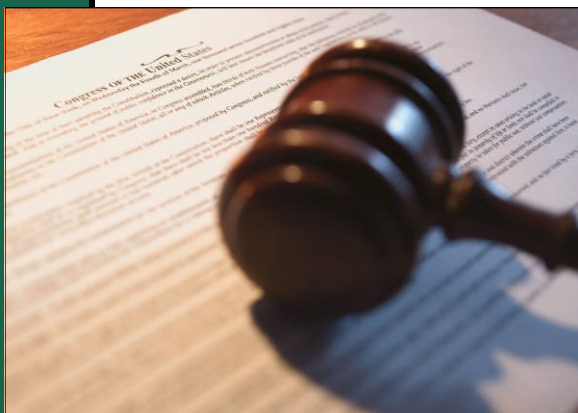
1. Married or registered domestic partners (RDP) **must** file a joint return unless they meet the three requirements below:
  - He/she lived apart from his/her spouse/RDP at all times during the last six months of 2010.
  - The qualifying person(s) lived in their home more than half of 2010.
  - He/she provided over half the cost of keeping up the home.
2. Care must be provided **within** California for one or more qualifying persons.
3. The taxpayer paid for care for the qualifying child or qualifying person while he/she (and the spouse/RDP) worked or looked for work.
4. The taxpayer (and his/her spouse/RDP) must have **earned** income during the year: wages, salary, tips, active duty pay, or net earnings from self-employment income. Earned income **does not** include pensions, social security payments, worker's compensation, interest, dividends, capital gains, unemployment compensation, or public assistance.
5. The taxpayer and the qualifying person(s) must have lived in the same home for more than half the year.
6. The person who provided the care cannot be the taxpayer's spouse/RDP, the parent of the qualifying child, or a person for whom the taxpayer can claim a dependent exemption.
7. All of the required information about the care provider(s) must be provided on California Form 3506, including a complete physical address where the care was provided - street number, city, state, and zip code. A post office box is not acceptable. Incomplete information could delay or disallow the credit.
8. The taxpayer's federal adjusted income must be \$100,000 or less.

California Franchise Tax Board (FTB) may ask for proof of payment. The taxpayers should keep accurate records so they can meet the burden of proof if requested by the FTB. The FTB may also contact the care provider to verify the information provided.

For more information about this article, please contact us at [taxalerts@windes.com](mailto:taxalerts@windes.com) or any of our tax professionals at (562) 435-1191, (949) 271-2600, (310) 316-8130, or (213) 239-9745.

# California Conformity Bill will not be Repealed Retroactively for Now

*This article is reproduced with permission from Spidell Publishing, Inc.*



Proposition 26 amends the California constitution to require a two-thirds vote of the Legislature to enact or increase many types of fees that are currently approved by a majority vote. Proposition 26 also requires two-thirds of the Legislature to approve any measure that increases taxes for any single taxpayer in California, even if that measure does not result in an overall increase in state tax revenues.

The proposition contains a repeal requirement for any state law adopted after January 1, 2010, and before November 3, 2011, that would have required two-thirds majority vote under the new law. However, any laws falling into this category can be "saved" if the Legislature reenacts the law

with a two-thirds vote by November 2, 2011. If the law is not reenacted by November 3, 2011, its future is uncertain. There has been much debate over this issue. Some analysts have stated that the law would be invalid retroactively (meaning that taxpayers would be required to file amended returns where conformity provisions were used), and others have stated that only the tax increase provisions would be invalidated. While the ultimate resolution to this dilemma is unknown at this time, the California Franchise Tax Board (FTB) has stated that all provisions of the law will remain valid law, at least through November 3, 2011.

The FTB has stated that it must enforce SB 401, even after the adoption of Proposition 26, as required by the California Constitution. The FTB needs an appellate court determination to do otherwise. As a result, the FTB is required to enforce SB 401 until an appellate court has made a determination that some or all of SB 401 is "void" pursuant to Proposition 26 and, therefore, unenforceable. This means that, unless an appellate court states otherwise, even if SB 401 is not reenacted by November 3, 2011, the FTB will apply its provisions for the periods for which it is applicable (generally, for the 2010 and subsequent taxable years).

Although SB 401 had not been reintroduced, it is believed that the bill will be reintroduced by Senator Wolk. If the law is reenacted with the necessary two-thirds majority, all of the provision will remain in place, and this debate can be put to rest. For more information on the FTB's analysis, see [www.ftb.ca.gov/law/Guidance/2011/20110101.pdf](http://www.ftb.ca.gov/law/Guidance/2011/20110101.pdf).

For more information about this article, please contact us at [taxalerts@windes.com](mailto:taxalerts@windes.com) or any of our tax professionals at (562) 435-1191, (949) 271-2600, (310) 316-8130, or (213) 239-9745.

# California Wages and Medical Insurance Nonconformity

*This article is reproduced with permission from Spidell Publishing, Inc.*



If an employer's health insurance plan separately sets forth a cost for each participant, then the cost attributable to an adult nondependent child must be added to California wages. Employees' W-2s should reflect this state and federal wage difference.

The difficulty arises when the plan does not set forth a separate cost for each participant. In these cases, per the instructions for California Schedule CA (for federal/California wage differences), an employer must "impute" the cost of health insurance for the employee's nondependent adult child on the employee's W-2.

## Separate Charge

When the separate cost is a stated amount, the taxable amount for California purposes would be the difference between:

- The cost of insurance including the nondependent adult child; and
- What the cost would have been without including the adult child.

## No Separate Charge

If the premium does not directly spell out the additional coverage for additional dependents, the employer and the insurance company must determine the amount of increased value. The employer must determine the amount of the added benefit by contacting the insurance company.

## Example

Employer pays 100% of the cost of health insurance for all employees and qualified dependents (including nondependent adult children). Employer's plan charges an additional premium for each additional family member. Employee covers self, spouse, and one dependent child for \$500. Employee adds an additional nondependent adult child to the policy at a cost of \$100 (for a total premium of \$600). Employer will consider the \$100 to be additional wages for California purposes, which should be included in the state wages (box #16) on Form W-2.

Assume the same facts as in the previous example, except, in this scenario, Employer's plan charges a flat rate for employee, spouse, and one to three dependents. In this example, the cost for employee, spouse, and one child is \$600. There is no additional cost to add the nondependent adult child. Although there is no separate charge for the additional individual, the employer and insurance company must impute the additional cost of insurance for the nondependent adult. The imputed amount will be included in the state wages (box #16) on Form W-2.

### Payroll Taxes

According to the Employment Development Department (EDD), the additional income is subject to State Disability Insurance (SDI) and Unemployment Insurance (UI).

### Other Scenarios

The deduction for self-employment health insurance will also be reduced by California to the extent of the additional benefit; and, payments through a cafeteria plan for nondependent adult child coverage must be imputed.

For more information about this article, please contact us at [taxalerts@windes.com](mailto:taxalerts@windes.com) or any of our tax professionals at (562) 435-1191, (949) 271-2600, (310) 316-8130, or (213) 239-9745.

## Three New California Enterprise Zones

*This article is reproduced with permission from Spidell Publishing, Inc.*



Anaheim, Los Angeles Harbor Gateway, and Santa Clarita Valley have been named Enterprise Zones (EZs) by the state's Housing and Community Development Department (HCD).

Conditionally, designated EZs are allowed to offer tax incentives during their redesignation periods - the gap between the expiration date of the old EZ and the final designation of the new EZ. Brand new EZs are not in a redesignation period. Therefore, incentives for these EZs begin once the zone receives its final designation as an Enterprise Zone.

Both the Anaheim and Los Angeles Harbor Gateway EZs are considered brand new zones. They will not be able to offer tax incentives until they receive final designation from the HCD, which could take months. However, the Santa Clarita Valley EZ, which was vastly expanded with HCD's 2010 designation, will be able to offer tax incentives to the expanded portion of the zone beginning on the day it is conditionally designated by the HCD. The original portion of the zone already qualified to offer tax incentives.

For more information about this article, please contact us at [taxalerts@windes.com](mailto:taxalerts@windes.com) or any of our tax professionals at (562) 435-1191, (949) 271-2600, (310) 316-8130, or (213) 239-9745.



# New California Board of Equalization (BOE) Collection Fee

*This article is reproduced with permission from Spidell Publishing, Inc.*



The BOE will assess a new collection fee on each liability of greater than \$250 that is more than 90 days past due. Taxpayers can avoid the fee by paying their liabilities in full or entering into an installment agreement prior to the fee being assessed. The fee applies to all BOE-administrated taxes, except insurance taxes and motor vehicle fuel tax because the BOE administers, but does not collect them.

The BOE will notify all taxpayers with current liabilities of the upcoming fee. Also, a note will be added to each Demand Notice that the BOE sends after January 1, 2011, explaining the application of the fee.

Fee Amounts Effective January 1, 2011		
Liability Size	Liability Amount	Fee Amount
Small	\$250.01 - \$2,000.00	\$185
Medium	\$2,000.01 - \$50,000.00	\$550
Large	\$50,000.01 and greater	\$925

For more information about this article, please contact us at [taxalerts@windes.com](mailto:taxalerts@windes.com) or any of our tax professionals at (562) 435-1191, (949) 271-2600, (310) 316-8130, or (213) 239-9745.



**WINDES & McCLAUGHRY  
ACCOUNTANCY CORPORATION**

*Certified Public Accountants & Consultants*

EXCEEDING EXPECTATIONS SINCE 1926

Windes & McClaughry is a recognized leader in the field of accounting, assurance, tax, and business consulting services. Our goal is to exceed your expectations by providing timely, high-quality, and personalized service that is directed at improving your bottom-line results. Quality and value-added solutions from your accounting firm are essential steps toward success in today's marketplace. You can depend on Windes & McClaughry to deliver exceptional client service in each engagement. For over eighty years, we have gone beyond traditional services to provide proactive solutions and the highest level of capabilities and experience.

Windes & McClaughry's team approach allows you to benefit from a breadth of technical expertise and extensive resources. We service a broad range of clients, from high net-worth individuals to privately held businesses to publicly traded companies. We act as business advisors, working with you to set strategies, maximize efficiencies, minimize taxes, and take your business to the next level.



**Headquarters**

111 West Ocean Boulevard  
Twenty-Second Floor  
Long Beach, CA 90802

Tel: (562) 435-1191

**Los Angeles Office**

601 South Figueroa Street  
Suite 4950  
Los Angeles, CA 90017

Tel: (213) 239-9745

**Orange County Office**

18201 Von Karman Avenue  
Suite 1060  
Irvine, CA 92612

Tel: (949) 271-2600

**South Bay Office**

21515 Hawthorne Boulevard  
Suite 840  
Torrance, CA 90503

Tel: (310) 316-8130

Visit us online at: [www.windes.com](http://www.windes.com)

*Contact us at [taxalerts@windes.com](mailto:taxalerts@windes.com)*