REPORTABLE PAYMENT INCOME TAX WITHHOLDING 8422.195

(Revised 06/2016)

Each state department is responsible for federal and state backup withholdings on reportable payments or state withholding on payments made to nonresidents, as defined in SAM Section 8422.190. Details and instructions for the withholding types are as follows:

Federal Backup Withholding Requirements
The Internal Revenue Code (IRC) section 3406 states that reportable payments to payees are subject to backup withholding when:

1. Payee Data Record form STD. 204 (in lieu of an IRS Form W–9) has not been completed providing certification of correct TIN and exemption.
2. IRS notifies your state department that your payee is subject to backup withholding.
3. IRS notifies your state department that your payee furnished an incorrect TIN.
4. Payee fails to certify exemption from withholding on interest and dividends per IRC Section 3406(d).

Computation of Federal Backup Withholding
For each payee invoice or similar payment document that is subject to federal backup withholding, the state department shall compute the federal backup income tax to be withheld by multiplying the invoice amount (or the portion subject to tax) by the federal backup withholding rate determined by the Internal Revenue Service (IRS). For the current rate and more information, refer to IRS website http://www.irs.gov/ for IRS Publication 1281, *Backup Withholding for Missing and Incorrect Name/TIN(S).* Additional resources include IRS Publication 15, *Employer's Tax Guide,* and IRS Publication 17, *Your Federal Income Tax.* The computation may be performed on the payee invoice(s) or on a separate computation sheet which should be attached to the invoice(s) and included with the claim schedule. The net amount (original invoice amount less the withholding amount) is the amount due to the payee.

State Backup Withholding Requirements
Payees who are subject to federal backup withholding are also subject to state backup withholding except for:

1. Payments of interest and dividends (reported on IRS Forms 1099-INT, 1099-DIV, 1099-OID, and 1099-PATR).
2. Any release of loan funds made by a financial institution in the normal course of business.

The California Revenue and Taxation Code section 18664 states that reportable payments to payees are subject to state backup withholding at 7 percent of the payments made on or after January 1, 2010. Under circumstances where both backup withholdings and nonresident withholding apply, only backup withholding shall be required. See below for computation.

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REPORTABLE PAYMENT INCOME TAX WITHHOLDING 8422.195 (Cont. 1)
(Revised 06/2016)

State Nonresident Income Tax Withholding Requirements
Payments to nonresidents may be subject to withholding at 7 percent. A payee will be considered a nonresident when the nonresident box has been checked on the STD. 204. This form is required to be completed by all payees doing business with any state department as described in SAM section 8422.190. To determine if withholding is required, refer to the decision charts on Franchise Tax Board (FTB) website at http://www.ftb.ca.gov/individuals/wsc/decision_chart.shtml.

Withholding is not required if:

1. The payments to the payee are $1,500 or less for the calendar year. If it is not known whether payments will exceed $1,500 for the calendar year, then withholding is optional at the discretion of the department on the first $1,500 in payments made during the calendar year.
2. The payment is for equipment/supplies or interest.
3. The services were not performed in California.

The withholding rate may be reduced or waived by the FTB; however, it is the responsibility of the payee to contact the FTB to request a reduced withholding amount or waiver. If FTB approves the request, the payee shall provide a copy of FTB's approval letter to the department for filing with the payee's STD. 204. Without an approval letter on file, the department must apply the 7 percent withholding rate to the payee's payment.

The withholding agent/state department should obtain a completed and signed California Form 587 *Nonresident Withholding Allocation Worksheet* from the nonresident before a payment is made. Form 587 is used to determine if withholding is required and the amount of California source income subject to withholding. The withholding agent must retain Form 587 for a minimum of four years and must provide it to the FTB upon request.

Computation of State Backup and Nonresident Income Tax Withholding
For each payee invoice or similar payment document that is subject to state backup or nonresident income tax withholding, the state department shall compute the tax to be withheld by multiplying the invoice amount by the 7 percent withholding rate (or the FTB approved reduced withholding amount for nonresident payees, if applicable). This computation may be performed on the payee invoice(s) or on a separate computation sheet which should be attached to the invoice(s) and included with the claim schedule. The net amount (original invoice amount less the withholding amount) is the amount due to the payee.

State departments are advised to maintain a current copy of FTB Publication 1017, *Resident and Nonresident Withholding Guidelines,* for reference in determining the state's withholding requirements. The publication and further information is available at www.ftb.ca.gov.

For expense reimbursement payments to nonresidents, see FTB Publication 1017 on Income Subject to Withholding.