

BUDGET LETTER

SUBJECT: WITHHOLDING REQUIREMENTS ON NONRESIDENT VENDOR PAYMENTS	NUMBER: 10-12
REFERENCES: STATE ADMINISTRATIVE MANUAL SECTIONS 8422.195 AND 8422.196, REVENUE AND TAXATION CODE SECTIONS 17951, 18662, AND 18668	DATE ISSUED: May 24, 2010
	SUPERSEDES:

TO: Agency Secretaries
Department Directors
Departmental Budget Officers
Departmental Accounting Officers
Department of Finance Budget Staff

FROM: DEPARTMENT OF FINANCE

NOTE: Departments are requested to forward a copy of this Budget Letter (BL) to Procurement Officers and other personnel dealing with contracts.

This BL reminds departments of tax withholding requirements for payments to nonresident contractors or vendors (vendors) performing services in California or receiving rent, lease or royalty payments from property (real or personal) located in California. These vendor payments may be subject to state income tax withholding of 7 percent of their total payments. The California Revenue and Taxation Code (R&TC) sections 17951, 18662, and 18668 provide statutory authority to the Franchise Tax Board (FTB) to administer withholding laws pertaining to nonresident vendors. In addition, State Administrative Manual (SAM) sections 8422.195 and 8422.196 provide instructions for state income tax withholding.

INSTRUCTIONS

Payments to nonresident vendors may be subject to state income tax withholding of 7 percent. A vendor is considered a nonresident when the nonresident box is checked on the Payee Data Record form (STD. 204). This form is required to be completed by nongovernmental entities when receiving payment from state departments. Departments are mandated to withhold at the time of payment to the nonresident vendor, and to report and submit funds withheld to the FTB. Pursuant to R&TC sections 18662(d) and 18668, departments are liable for amounts not withheld, under-withheld, or not remitted to the FTB.

Departments are not required to withhold on nonresident vendor payments if any of the following conditions are met:

1. The payments to a vendor are \$1,500 or less for the calendar year.
2. The payment is for the purchase of equipment or supplies, or for interest.
3. The services were not performed in California.

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

SAM section 8422.195 and 8422.196 provide instructions for the state nonresident withholding amount. The nonresident income tax withheld shall be remitted to the FTB with Form 592, *Resident and Nonresident Withholding Statement*, and Form 592-V, *Payment Voucher for Resident and Nonresident Withholding* at the address on the form and completed by the due dates listed in the form's instructions. In addition, departments must provide each nonresident a Form 592-B, *Resident and Nonresident Withholding Tax Statement*, before January 31st following the close of the calendar year.

Departments are advised to maintain a current copy of FTB Publication 1017, *Resident and Nonresident Withholding Guidelines*, for reference in determining the state withholding requirements. Additional information on the remittance and reporting of withholding is provided on the instructions for the FTB Forms 592, 592-B, and 592-V. The publication and the forms are available on the FTB's website at www.ftb.ca.gov (tip: search for "withholding").

TRAINING

Finance has partnered with the FTB to offer a no-cost training to departments on nonresident withholding. Please refer to the Attachment A for further details and registration information.

CONTACTS

For additional information or questions regarding withholding requirements, please contact the FTB, Withholding Services and Compliance Section, at (916) 845-4900 or (888) 792-4900, Fax (916) 845-9512, or e-mail (non-confidential) at WSCS.GEN@ftb.ca.gov.

Other questions related to this BL may be directed to the Department of Finance, Fiscal Systems and Consulting Unit at (916) 324-0385 or e-mail fscuhotline@dof.ca.gov.

/s/ Kevin Fujitani for

Veronica Chung-Ng
Program Budget Manager

Attachment