

**2010**

**Group Nonresident Return Election**

**3864**

Attach to Form 540NR and to the appropriate business entity return.

Business entity's/corporation's name	FEIN	CA corporation or Secretary of State (SOS) file no.	
Business address (number and street, suite, PO Box, or PMB no.)		Telephone ( )	Nature of business activity
City, state, and ZIP Code		State in which the principal business activity is conducted	
Principal California business address	Shareholders/Partners/Members/Directors		
	Number non-electing	Number electing	

**TERMS AND CONDITIONS OF FILING A GROUP NONRESIDENT RETURN**

The above business entity/corporation and its electing nonresident individuals included in the filing of the group nonresident return agree to the following terms and conditions:

- a. Attach a Signed form FTB 3864 to the Group Nonresident Return.** Each year the business entity/corporation must make an election to file a group return on behalf of its electing nonresident individuals. Make the election by attaching a completed form FTB 3864 to the group nonresident return (Form 540NR). An authorized general partner, member-manager, corporate officer, or an attorney-in-fact of the business entity/corporation must sign the form FTB 3864.
  - b. Group Nonresident Return Must be a Calendar Year.** A group nonresident return is not allowed to have a fiscal year end. If the business entity has a fiscal year end, report on the 2010 group nonresident return the individual's distributive share of California source income from the business entity's taxable year ending in 2010. If the corporation has a fiscal year end, report on the 2010 group nonresident return the director's compensation that he or she received in 2010.
  - c. Long Form 540NR, California Nonresident or Part-Year Resident Income Tax Return.** Use Long Form 540NR for the group nonresident return. Prepare the Form 540NR as instructed in FTB Pub. 1067, Guidelines for Filing a Group Form 540NR.
  - d. Individual's Election to be Included in the Group Nonresident Return is Irrevocable.** Each year the business entity/corporation will allow each nonresident individual the election to be included in the group nonresident return. Only a qualified nonresident individual may elect to be included in the group nonresident return. Once the group nonresident return is filed for the year, the individual's election is irrevocable.
  - e. Qualified Nonresident Individual.** A qualified individual must be an individual and must be a full-year nonresident of California. In addition, the income from the business entity/corporation must be the only California source income of the individual, unless the other California source income is being reported on another group nonresident return. Partnerships, LLCs, corporations, estates, trusts (other than the grantor of grantor trusts described under IRC Section 671-679 and not recognized as a separate taxable entity for income tax purposes), and other entities cannot be included on the group nonresident return.
  - f. Powers-of-Attorney Maintained by Business Entity/Corporation.** The business entity/corporation shall maintain a file of powers-of-attorney executed by each electing nonresident individual. The powers-of-attorney shall authorize the business entity/corporation to include the electing nonresident individual in the group nonresident return filed. **Do not** attach the powers-of-attorney to the return.
  - g. Deductions.**
    - Shareholders/partners/members are not allowed deductions except those necessary to determine each individual's distributive share of income from the business entity. However, a deduction is allowed for contributions to qualified deferred compensation plans attributable to earned income of a partner/member as provided in Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, as modified by the Revenue and Taxation Code (R&TC) beginning with Section 17501. No deduction to a qualified deferred compensation plan is allowed if the individual has earned income from any other source.
    - Directors are not allowed any deductions.
- See FTB Pub.1067 for more information.