TITLE 18. FRANCHISE TAX BOARD

As required by section 11346.4 of the Government Code, this is notice that a public hearing has been scheduled to be held at 2:00 p.m., January 12, 2009, at Franchise Tax Board, 9646 Butterfield Way, Town Center Golden State Room B, Sacramento, California, to consider amendments of Regulation sections 23701(i) and 23772(d) under Title 18 of the California Code of Regulations, pertaining to exempt organizations.

An employee of the Franchise Tax Board will conduct the hearing. Interested persons are invited to present comments, written or oral, concerning the proposed regulatory action. It is requested, but not required, that persons who make oral comments at the hearing also submit a written copy of their comments at the hearing.

Government Code section 15702, subdivision (b), provides for consideration by the three-member Franchise Tax Board of any proposed regulatory action if any person makes such a request in writing.

WRITTEN COMMENT PERIOD

Any interested persons or their representatives may submit written comments to the agency officer named below. Written comments will be accepted until 5:00 p.m., January 12, 2009. The Franchise Tax Board will consider all relevant matters presented before the proposed regulatory action is taken.

AUTHORITY AND REFERENCE

Revenue and Taxation Code section 19503 authorizes the Franchise Tax Board to prescribe regulations necessary for the enforcement of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), Part 10.7 (commencing with Section 21001) and Part 11 (commencing with Section 23001) of the Revenue and Taxation Code. The proposed regulatory action makes necessary amendments to regulation sections 23701(i) and 23772(d) to conform to statutory changes made to section 23701d of the Revenue and Taxation Code.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

AB 897, Stats. 2007, ch.238, amended section 23701d of the Revenue and Taxation Code to change the rules for California income and franchise tax purposes for organizations that are exempt under Internal Revenue Code section 501(c)(3). As the legislative purpose of AB 897 is to allow federal law under Internal Revenue Code section 501(c)(3) to control, to the extent that existing California regulations conflict with federal law under Internal Revenue Code section 501(c)(3), consideration of any conflict in existing regulations is required to effectuate the Legislature's intent in AB 897. Therefore, to effectuate the legislative purpose of AB 897, the proposed amendments to the existing regulations will allow incorporated subordinates to be able to obtain tax exemption by virtue of being part of a group

Regulation 23701(i)

The Franchise Tax Board proposes to amend California Code of Regulations, title 18, section 23701(i).

The proposed amendments to the existing regulation are necessary to conform to the statutory changes to Revenue and Taxation Code section 23701d. The proposed amendment to California Code of Regulations, title 18, section 23701(i), will allow incorporated subordinates to be able to obtain tax exemption by virtue of being part of a group, as opposed to having to file for California tax exemption separately.

Regulation 23772(d)

The Franchise Tax Board proposes to amend California Code of Regulations, title 18, section 23772(d).

The proposed amendments to the existing regulation are necessary to conform to the statutory changes to Revenue and Taxation Code section 23701d. The proposed amendment to California Code of Regulations, title 18, section 23772(d), will allow incorporated subordinates to be able to obtain tax exemption by virtue of being part of a group, as opposed to having to file for California tax exemption separately.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed under Part 7, commencing with Government Code section 17500, of Division 4: None.

Other non-discretionary cost or savings imposed upon local agencies: None.

Cost or savings in Federal funding to the State: None.

The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states.

Cost impacts on a representative, private person, or business: The Franchise Tax Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on the creation or elimination of jobs in the state: None.

Effect on the creation of new businesses or elimination of existing businesses within the state: None.

Effect on the expansion of businesses currently doing business within the state: None.

Significant effect on housing costs: None.

Effect on small business: These regulations pertain to tax exempt organizations and, therefore, have no impact on small business.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Franchise Tax Board must determine that no reasonable alternative considered by it, or that has otherwise been identified and brought to the attention of the Franchise Tax Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

The Franchise Tax Board invites interested persons to present statements or arguments with respect to alternatives to the proposed amendments to the regulations during the written comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED AMENDMENTS TO THE REGULATIONS

The Franchise Tax Board has prepared an initial statement of reasons for the proposed regulatory action. The express terms of the proposed regulatory action, the initial statement of reasons for the regulatory action, and all the information upon which the proposed regulatory action is based are available upon request from the officer named below.

CHANGE OR MODIFICATION OF ACTIONS

The proposed regulatory action may be adopted after consideration of any comments received during the comment period.

The amendments to the regulations may also be adopted with modifications if the changes are nonsubstantive or the resulting regulations are sufficiently related to the text made available to the public so that the public was adequately placed on notice that the regulations as modified could result from that originally proposed. The text of the regulations as modified will be made available to the public at least 15 days prior to the date on which the amendments to the regulations are adopted. Requests for copies of any modified regulations should be sent to the attention of the agency officer named below.

AVAILABILITY OF FINAL STATEMENT OF REASONS

When the final statement of reasons is available, it can be obtained by contacting the agency officer named below, or by accessing the Franchise Tax Board's website at http://www.ftb.ca.gov/.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

This notice, the initial statement of reasons, and the express terms of the proposed regulations are also available at the Franchise Tax Board's website at http://www.ftb.ca.gov/.

ADDITIONAL COMMENTS

If you plan on attending or making an oral presentation at the regulation hearing, please contact the agency officer named below.

The hearing room will be accessible to persons with physical disabilities. Any person who is in need of a language interpreter, including sign language, should contact the officer named below at least two weeks prior to any scheduled hearing so that the services of an interpreter may be arranged.

CONTACT

All inquires concerning this notice or any request for a public hearing should be directed to Colleen Berwick at the Franchise Tax Board, Legal Department, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Tel.: (916) 845-3306; Fax: (916) 845-3648; E-Mail: colleen.berwick@ftb.ca.gov. In addition, all questions on the substance of the proposed amendments to the regulations can be directed to Adam Susz, Tax Counsel, at the Franchise Tax Board, Legal Department, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Tel.: (916) 845-7066; Fax: (916) 855-5753; E-Mail: Adam.Susz@ftb.ca.gov.