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Request to Terminate Water's-Edge Election

1117

For use by taxpayers filing on a water's-edge basis.

Part I

Corporation name (as reflected on original water's-edge return)	Key California corporation number
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Address (number and street, PO Box or PMB no.)

City	State	ZIP Code
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Do not change the method of filing until the Franchise Tax Board (FTB) has approved this request.

Request to terminate the water's-edge election effective for taxable year ending

MONTH	DAY	YEAR
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Beginning date of the water's-edge election

MONTH	DAY	YEAR
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Part II

This is a request for FTB's consent to terminate the water's-edge election as permitted in California Revenue and Taxation Code (R&TC) Section 25113(c)(10). The basis for the request to terminate is as follows. (See instructions. Attach additional sheets if necessary.)

Part III

List Taxpayers Requesting to Terminate Election <small>(Attach additional sheets if necessary)</small>	California Corporation Number	Federal Employer Identification Number

THIS FORM MUST BE FILED SEPARATELY FROM THE TAX RETURN

See instructions for more information.

Part IV

Provide a list of all gains or losses on stock or assets during the water's-edge election period of any affiliated banks or corporations included in the combined report prior to the water's-edge election. See Part V.

Bank or Corporation Name	Item Disposed Of	Date Sold/Disposed Of	Gain/Loss

Part V

The books and records with respect to the gains and losses listed in Part IV above, earnings and profits (E&P) of affiliated banks and corporations, the nature of the event giving rise to the request, the consequences of such event, and other relevant matters must be made available upon request of the FTB.

Conditions:

A request for consent to terminate an election may be subject to the following conditions:

1. Dividends received during the remaining period of the election from affiliated banks or corporations not included in the water's-edge combined report will be considered to have been paid first out of the E&P not included in the combined report of a unitary business for purposes of computing any allowable dividend exclusion under R&TC Section 25106. To the extent the dividends exceed such E&P, they may be subject to the exclusion.
2. Gains on distribution with respect to stock that is not a dividend or from the sale or other disposition of assets received during the remaining period of the election from affiliated banks or corporations not included in the water's-edge combined report will not be deferred or eliminated. Losses from the sale or worthlessness of stock or from the sale or other disposition of assets of affiliated banks or corporations not included in the water's-edge combined report will be allowed only to the extent of dividend income or other gain recognized as a result of the change in election.
3. Gains or losses on the disposition of stock or assets of an affiliated bank or corporation that was included in a combined report prior to the election and that was excluded from the water's-edge combined report will be included in income in the first return filed after permission is granted. Losses will be included only to the extent of gain recognized as a result of the change in election.

If the taxpayer does not believe that one or more of these conditions are necessary to prevent the avoidance of tax or to clearly reflect income, attach a letter that explains why the conditions are not necessary or applicable.

Part VI

Signature and Verification.

1. I attest to the accuracy of factual statements.
2. I attest to the belief that the termination of the water's-edge election is permitted by law.

Under penalties of perjury, I declare that I have examined this form, including accompanying schedules and statements, and to the best of my knowledge, it is true, correct, and complete.

_____ Signature of officer _____ Title _____ Date

_____ () _____
 Print or type name of person to contact Telephone

Mail this form to:

FRANCHISE TAX BOARD
 PO BOX 1779
 RANCHO CORDOVA CA 95741-1779

Do not file form FTB 1117 with the tax return. The request will not be timely and will be considered invalid.

Instructions for Form FTB 1117

Request to Terminate Water's-Edge Election

General Information

Purpose

Use form FTB 1117 to request the FTB's consent to terminate the water's-edge election prior to the end of the seven-year (84-month) election period as provided in California Revenue and Taxation Code (R&TC) Section 25113(c)(10).

R&TC Section 25113 provides how and when the water's-edge election is to be made. In addition, this section provides the manner in which the water's-edge election may be terminated with or without the consent of the FTB. The filing of form FTB 1117 is required only if the taxpayer requests FTB's consent to terminate the water's-edge election prior to the end of the seven-year (84-month) election period, and it meets one of the two requirements provided under R&TC Section 25113(c)(10). The requirements are:

- The taxpayer requests to terminate the water's-edge election for good cause. Good cause for these purposes has the same meaning as described in Treasury Regulation (Treas. Reg.) Section 1.1502-75(c). R&TC Section 25113(c)(10)(A).
- The taxpayer's purpose for requesting termination is to permit the state to contract with an expatriate corporation, or its subsidiary, pursuant to Public Contract Code Section 10286.1(b)(2). R&TC Section 25113(c)(10)(B).

Note: The FTB's consent is not required if the election is being terminated as a result of an affiliation change as provided in R&TC Section 25113.

Specific Instructions

Part I

Private Mail Box-Include the Private Mail Box (PMB) in the address field. Write the acronym "PMB" first, then the box number. Example: 111 Main Street PMB 123.

Consent to Terminate

Part II

In general, the request for consent to terminate the water's-edge election will be granted only if the taxpayer meets one of the following:

- If the taxpayer requests to terminate the water's-edge election for good cause, it must demonstrate that it meets the good cause requirement as described in Treas. Reg. Section 1.1502-75(c).
- If the taxpayer requests to terminate the water's-edge election, so it can meet the requirements of Public Contract Code section 10286.1(b)(2), it must provide source documentation to support its request.

The basis for the request for consent to terminate the water's-edge election must be in writing and must clearly state the reason for the request.

Changing an Election

A request for consent to terminate an election under Part II of this form may be subject to the conditions outlined in Part V of form FTB 1117. If the FTB determines that the termination shall be granted subject to one or more of the conditions, the taxpayer will be notified. The taxpayer will be given an opportunity to either accept the conditions or withdraw the request for termination.

Action on Request

If the FTB takes no action or requests no additional information, a request for consent to terminate the water's-edge election under Part II of this form is deemed **disallowed** after 90 days have expired.

The taxpayer may withdraw its request at any time before the FTB takes action.

The request must be in writing and mailed to:

FRANCHISE TAX BOARD
PO BOX 1779
RANCHO CORDOVA CA 95741-1779

Effective Date

In general, requests for consent to terminate the water's-edge election are effective for:

- The taxable year in which good cause occurred if the request is made for good cause.
- The taxable year in which the expatriate corporation, or its subsidiary, enters into the contract with the state.

Due Date of Form FTB 1117

Form FTB 1117 must be filed with the FTB no later than the 90th day prior to the due date, including extensions, of the return for which the termination would be effective.

Where to Mail

A taxpayer must file form FTB 1117, Request to Terminate Water's-Edge Election, separately from any other form. Form FTB 1117 filed with a return is **not** valid and **will not** terminate a taxpayer's water's-edge election.

Mail form FTB 1117 to:

FRANCHISE TAX BOARD
PO BOX 1779
RANCHO CORDOVA CA 95741-1779

For more information, see R&TC Section 25113 and FTB Notice 2004-2.