

Notice of Modifications to Text of
Proposed Regulation Section 25137-8.2, Relating to the Apportionment of the
Income of Motion Picture and Television Film Producers, Distributors, and
Television Networks

A hearing was on September 13, 2011, by Benjamin F. Miller, Retired Annuitant of the Franchise Tax Board Legal Division, the "hearing officer," on a proposed amendment to California Code of Regulations, title 18, to adopt section 25137-8.2 (Regulation section 25137.8-2) which was noticed in the California Regulatory Notice Register on July 29, 2011.

Department staff reviewed the proposed regulation language and considered the comments submitted at and before the hearing. The hearing officer recommends that the proposed new regulation section be amended as described in more detail below. The proposed changes to the proposed regulation were available prior to the hearing of September 13, 2011 on the Franchise Tax Board's website and were provided to the public at the hearing on September 13, 2011. Comments were requested and none were received relating to these changes.

These nonsubstantial or sufficiently related changes (within the meaning of Govt. Code Section 11346.8) recommended by the hearing officer are reflected in the attachment hereto. These amendments to the regulation are reflected by underscore for additions and strikeout for deletions. Proposed changes to Regulation section 25137-8.2 are summarized below.

1. Subsection (a) is amended to apply the proposed regulation to the producers and distributors of television commercials. Current regulation section 25137-8 is applicable to the producers of television commercials. These entities were eliminated from the proposed regulation to conform the regulation to Regulation IV.18.(h) of the Multistate Tax Commission. Staff requested comments on whether there was objection to including the producers and distributors of television commercials in the proposed regulation and no objections were voiced. This change conforms the proposed regulation to the current regulation.
2. Subsection (b) has been reordered to place the definitions in alphabetical order and to consolidate the definition of "films" into a single subsection. There is no change in the wording of the definitions.
3. Subsection (c) has been amended to include a sentence providing that new technologies will be handled in a manner consistent with the proposed regulation.
4. Subsection (c)(1)(A) has been amended by dividing what was one sentence into two sentences to provide more clarity. No change in the intended meaning results.

These sufficiently related changes are being made available to the public for the 15 day period required by Government Code section 11346.8, subdivision (c), and California Code of Regulations, title 1, section 44. Written comments regarding these changes will be accepted until 5:00 pm on November 14, 2011. The Franchise Tax Board is sending a copy of the proposed amendments to proposed Regulation section 25137-8.2 to all individuals

who requested notification of such changes, as well as those who commented in writing to the previously noticed proposed adoption of Regulation section 25137-8.2

All inquiries and written comments concerning this notice should be directed to Colleen Berwick at (916) 845-3306, FAX (916) 845-3648, E-Mail Colleen.Berwick@ftb.ca.gov; or by mail to the Legal Division, Attn: Colleen Berwick, P.O. Box 1720, Rancho Cordova, CA 95741-1720. The notice and the proposed amendments will also be made available at the Franchise Tax Board's website at <http://www.ftb.ca.gov/>.