

REVISED FINAL STATEMENT OF REASONS  
PROPOSED REGULATION SECTION 19266,  
RELATING TO FINANCIAL INSTITUTION RECORD MATCH

The proposed regulation does not impose any mandate on local agencies or school districts.

**UPDATE OF INITIAL STATEMENT OF REASONS**

In accordance with the requirement of Government Code section 11346.2, subdivision (b)(5), that the Franchise Tax Board consider alternatives to the proposed regulatory action, staff of the Franchise Tax Board conducted two interested parties meetings prior to commencing the formal regulatory process. A first interested parties meeting was held on August 16, 2011, to solicit input from the public. Staff did not provide language at that time, but rather, provided discussion topics that sought to elicit input on the content of a potential regulation designed to implement the procedural framework of the Financial Institution Record Match (FIRM), as required by Revenue and Taxation Code (RTC) section 19266 (the FIRM statute).

After this first interested parties meeting, Franchise Tax Board staff drafted a proposed regulation for review by interested parties. This language was provided for public review and comment at a second interested parties meeting held on September 27, 2011. At this meeting, staff discussed general FIRM procedural issues and the draft regulatory language with the public. Staff received no comments or revisions to the proposed regulatory language.

Franchise Tax Board staff received one procedural question at the September 27, 2011, meeting regarding the prospective processing of a FIRM reimbursement cost bill. The inquiry related to a situation where the financial institution planned to join with other financial institutions to retain a vendor to develop FIRM software and procedures were shared among several financial institutions. Staff commented that each financial institution should retain separate documentation to substantiate the monies paid on the project.

The public notice required by section 11346.4 of the Government Code was mailed and published in the California Notice Register on January 18, 2013. The hearing was held, as noticed, on March 27, 2013, to consider the adoption of California Code of Regulations, title 18, section 19266. No comments were made at the public hearing and no other written comments were received.

A 15-day notice of proposed changes to the regulation based upon staff's proposals was published on December 6, 2013. No written or oral comments were received with respect to that 15-day notice. With respect to the adoption of proposed Regulation section 19266, changes from the proposed regulation as initially noticed are summarized below:

Subsection (a) changed the term "system" to "program," for clarity.

Subsections (a) and (d) were changed to add the term "non-tax" debt, consistent with usage of that term in Revenue and Taxation Code section 19266.

Subsection (b) was changed to refer to and incorporate by reference [FTB Publication 2057 \(rev. 08-2013\)](#), FIRM General Information Booklet.

Subsections (c), (e), and (f) were changed to refer to and incorporate by reference [FTB Form 2060 PC \(rev. 08-2013\)](#), Election.

Subsections (d) and (g) were changed to refer to the secured internet transfer protocol set forth in FTB Publication 2057, FIRM General Information Booklet, and FTB Form 2060 PC, Election.

Subsection (d) also changed the phrase "process the data exchange" to "match the data", for clarity.

Subsection (g) changed "forms and instructions" to "the specifications".

Subsections (d), (h), (i), (l) and (m) were changed to delete unnecessary language.

Subsection (i) changed "will" to "shall" and deletes "forms and instructions".

Subsections (j) and (k) were changed to move the reference to Revenue and Taxation Code section 19266 and the appropriate subdivision to the beginning of the sentence. Additionally, both subdivisions were changed to refer to and incorporate by reference [FTB Form 2058 PC \(rev. 08-2013\)](#), Temporary Exemption/Suspension Request, and FTB Form 2060 PC, Election.

Subsection (l) was changed to changed to refer to and to incorporate by reference [FTB Form 2059 PC \(rev. 08-2013\)](#), Reimbursement Invoice.

Subsection (n), referring to the operative date, was deleted.

Throughout the regulation, phrases such as "FIRM Program Administrator," FIRM Participation Schedule," and "Transmitter" were provided in a uniform format.

Throughout the regulation, when using the phrases "sixty (60) days" or "thirty (30) days", the word "calendar" was deleted.

Other nonsubstantive changes were made including technical, punctuation, and grammar errors during staff's review process.

Following the hearing on March 27, 2013, department staff also reviewed the Initial Statement of Reasons for proposed Regulation section 19266 (ISR). Department staff made revisions to the ISR, all of which had no impact on the text or scope of the proposed regulation. Department staff referenced the revised ISR in the 15-day notice of proposed changes to the regulation, which was published on December 6, 2013. Staff also stated in the 15-day notice that the revised ISR was available for inspection in the public file of the Franchise Tax Board, and that individuals could comment on the

revised ISR during the 15-day period. No written or oral comments were received with respect to the revised ISR, which was referenced in 15-day notice.

### **INCORPORATION BY REFERENCE**

In compliance with California Code of Regulations, title 1, section 20(c)(1), the Franchise Tax Board has determined that it would be cumbersome, unduly expensive, or otherwise impractical to publish FTB Forms 2057, 2058, 2059, and 2060 in the California Code of Regulations.

FTB Forms 2057, 2058, 2059, and 2060 were made available upon request directly by the Franchise Tax Board during the 15-day period as required in California Code of Regulations, title 1, section 20(c)(2).

### **NONDUPLICATION**

The proposed regulation duplicates Revenue and Taxation Code Section 19266, which is cited as reference for the proposed regulation. The duplication is necessary to satisfy the clarity standard of Government Code Section 11349.1(a)(3) to operate and administer a Financial Institution Records Match (FIRM) program, which utilizes automated data exchanges to the maximum extent feasible to identify accounts of delinquent tax and non-tax debtors held at financial institutions doing business in California.

### **ALTERNATIVES DETERMINED**

The Franchise Tax Board has determined that no alternative to the proposed regulation it considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of the law, in accordance with Government Code section 11346.9, subdivision (a)(4)). In addition, the proposed regulation pertains to financial institutions doing business in California as described in RTC section 19266. The proposed regulation does not pertain to private persons or small business.