

2018 Instructions for Form FTB 2424

Water's-Edge Foreign Investment Interest Offset

General Information

Revenue and Taxation Code (R&TC)

Section 24344(c) provides that interest expense incurred for purposes of foreign investment (as defined below) may be offset against the foreign dividend deduction allowed under R&TC Section 24411. The foreign investment interest offset may not exceed the total foreign dividend deduction allowed for the taxable year.

Use form FTB 2424, Water's-Edge Foreign Investment Interest Offset, to compute the foreign investment interest offset. The amount of interest expense attributable to foreign investment is equal to the amount of interest expense specifically assigned to foreign investment plus the amount of unassigned interest expense allocated to foreign investment. Unassigned interest expense is allocated by formula. The amount of the offset is limited to the lesser of the following:

- The sum of interest expense specifically assigned and interest expense allocated to foreign investment.
- The foreign dividend deduction.

This limited amount is multiplied by 75% to arrive at the foreign investment interest offset. Interest expense that exceeds the offset amount will be subject to the standard interest offset computation of R&TC Section 24344(b). See FTB Notice 2000-9.

If there is no foreign dividend deduction under R&TC Section 24411, then no foreign interest offset computation is necessary.

A Definitions

1. Foreign investment

Foreign investment is stock or other equity investment, which is included in total assets, regardless of when it was acquired, in the following instances:

- An entity whose dividends would be qualifying dividends for purposes of R&TC Section 24411.
- A non-affiliated corporation that is organized under the laws of a country or political subdivision of a country other than the United States.

To determine the asset value for the foreign investment, see Section B "Asset Values."

2. Interest expense assigned to specific property

Interest expense is considered to be related solely to specific property, if the existence of all of the facts and circumstances described below is established:

- The indebtedness on which the interest was paid was specifically incurred for the purpose of purchasing, maintaining, or improving the specific property.
- The proceeds of the borrowing were actually applied to the specified purpose.

- The creditor can look only to the specific property (or any lease or other interest therein) as security for payment of the principal and interest of the loan and, thus, has no secured interest in any other property of the borrower or the borrower itself with respect to repayment of the loan.

Even though the above facts and circumstances are present in substance as well as form, a deduction for interest will not be considered definitely related to a specific property where the motive for structuring the transaction in the manner described above was without any economic significance.

3. Unassigned interest expense

Interest expense paid that does not meet the above conditions to be assigned, is unassigned interest expense.

4. Interest expense on restricted accounts

Interest expense on restricted accounts is interest expense paid on new debt incurred on or after January 1, 1988, if the proceeds of the debt are deposited into an account that prevents its use for foreign investment and the account is not, in fact, used for foreign investment. However, debt shall not be treated as incurred on or after January 1, 1988, if the majority of the proceeds were used to refinance debt incurred prior to January 1, 1988, or the debt arises pursuant to a line of credit or similar arrangement.

5. Total assets

Total assets means all of the assets of a corporation included in a water's-edge combined report by reason of R&TC Section 25110, after the elimination of intercompany accounts of assets.

6. Average values of assets

An average of values is computed by averaging the value of assets at the beginning and ending of the taxable year.

B Asset Values

Assets and stock or other equity investments with less than 50% ownership are taken into account at the federal tax book value (original cost for federal tax purposes less depreciation, amortization, or depletion).

Stock or other equity investments with more than a 50% ownership are taken into account at the adjusted basis for federal tax purposes if any of the following apply:

- Increased by the amount of the earnings and profits (E&P) of such corporation attributable to such stock, or other equity investment and accumulated during the period the stock, or other equity investment was owned by another affiliated corporation.

- Reduced (but not below zero) by any deficit in E&P of such corporation attributable to such stock or other equity investment for such period.

See R&TC Section 24344(c) and the related regulations for more information.

Specific Line Instructions

Line 2

Enter total interest expense for all entities included in the water's-edge combined report filed pursuant to R&TC Section 25110, net of intercompany interest expense.

Line 3

Enter the interest expense specifically assignable to foreign investments. See R&TC Section 24344(c) and the related regulations for more information.

Line 4

Enter the interest expense specifically assignable to domestic investments or other property. See R&TC Section 24344(c) and the related regulations for more information.

Line 11

Unassigned foreign investment is the average value of all foreign investment to which interest is not specifically assigned.

Line 12

Unassigned total assets is the average value of all the water's-edge group's unassigned total assets.

Line 13

In calculating the percentage, do not include any foreign investment, and assets to which interest expense has been specifically assigned.

Note: If the taxpayer reported the foreign dividend deduction for dividends received from foreign investments and foreign construction projects, the taxpayer must calculate a separate foreign investment interest offset for each component. The interest expense assignable to the construction project shall be multiplied by 100 percent, while the interest expense assignable to the non-construction project shall be multiplied by 75 percent. The two separately calculated amounts are then added together and entered on Schedule R, Side 1, line 1b.