



**FTB Notice 2023-02 Closing Agreement**

This Closing Agreement (“**Agreement**”) is made pursuant to California Revenue and Taxation Code (R&TC) Section 19441, subdivision (a), by and between the Franchise Tax Board of the State of California (“**FTB**”) and \_\_\_\_\_  
 \_\_\_\_\_ (SSN/ITIN/EIN) \_\_\_\_\_  
 and \_\_\_\_\_ (SSN/ITIN/EIN) \_\_\_\_\_  
 (“**Taxpayer(s)**”) (collectively, the “**Parties**”).

**Factual Recitals**

**A Tax Return(s) Filed**

Taxpayer filed California franchise or income tax return(s) for the taxable year(s) set forth below (“**Taxable Year(s) at Issue**”) for which Taxpayer claimed California tax benefits associated with the transaction(s) described in Paragraph B below:  
 (If additional space is required, please include information on a separate attachment to this Agreement.)

Return Number	Taxable Year Ended	Type of Return (Form Number)	Date Return Filed
1			
2			
3			
4			
5			
6			
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8			
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10			
11			
12			

**B Description of Transaction(s)**

**B.1** Taxpayer participated in the following transactions referred to in FTB Notice 2023-02 as Eligible Transactions:

- Micro-Captive Insurance (MCI) transactions.
- Syndicated Conservation Easement (SCE) transactions.

**B.2** A description of the transaction(s) is attached as Schedule I.

**B.3** Taxpayer claimed the following tax benefits (including, but not limited to, deductions, losses, and exclusion of income, e.g., treatment of income as loans):

(If additional space is required, please include information on a separate attachment to this Agreement.)

Return Number (Per table in A above)	Description of Tax Benefits	Amount of Tax Benefits Claimed on California Tax Return	Form and Line Number of Return where Tax Benefits Claimed

*(Continued on next page)*



**B.4** Taxpayer claimed the following transaction costs – *Continued*

Return Number (Per table in A above)	Description of Transaction Costs	Amount of Costs Claimed on California Tax Return	Form and Line Numbers of Return where Costs Were Claimed

**B.5** The term “**Transaction(s)**” is defined as Paragraphs B.1 through B.4., inclusive, along with Schedule I.

**C Taxpayer Compliance with FTB Notice 2023-02**

The Taxpayer has complied with the requirements set forth in FTB Notice 2023-02 and has fully completed the following schedules attached hereto and made part of this Agreement:

- Schedule I – Description of Transactions.
- Schedule II – Information Document Request (IDR) Checklist with copies of all information requested in the IDR.
- Schedule III – Additional Tax and Penalty Computation.

**D California Voluntary Compliance Initiative**

Taxpayer has not included in the Transactions in this Agreement any transaction for which Taxpayer filed an amended return under the California Voluntary Compliance Initiative I or II that included the reversal of tax benefits and/or transaction costs with respect to such transaction.

**E Pending Actions**

- E.1** For the Taxable Year(s) at Issue there are no pending actions in a California state court that involve a dispute between Taxpayer and FTB involving the Transaction(s). Any transaction that is the subject of pending actions in a California state court between Taxpayer and FTB is not eligible for inclusion in this Agreement.
- E.2** For the Taxable Year(s) at Issue there are no pending appeals by Taxpayer before the State of California Office of Tax Appeals involving the Transaction(s).
- E.3** There are pending appeals by Taxpayer before the State of California Office of Tax Appeals involving the Transaction(s) for the Taxable Year(s) at Issue listed below. List up to four taxable years in each column.

(If additional space is required, please include information on a separate attachment to this Agreement.)

Taxable Year(s) at Issue	Taxable Year(s) at Issue	Taxable Year(s) at Issue

**F FTB Notices or Contacts**

**F.1** FTB issued a Notice of Proposed Assessment (NPA) to Taxpayer for the Transaction(s) for the Taxable Year(s) at Issue listed below.

(If additional space is required, please include information on a separate attachment to this Agreement.)

Taxable Year	NPA Number	Taxable Year	NPA Number

*(Continued on next page)*

**F.1 – Continued**

Taxable Year	NPA Number

Taxable Year	NPA Number

**F.2** Taxpayer has been contacted by the IRS or FTB within the meaning of Treasury Regulation Section 1.6664-2(c)(3) for the Taxable Year(s) at Issue listed below, but FTB has not issued an NPA to Taxpayer for the Transaction(s) for any of the Taxable Year(s) at Issue listed in this Paragraph F.2 below. List up to four taxable years in each column.

(If additional space is required, please include information on a separate attachment to this Agreement.)

Taxable Year

Taxable Year

Taxable Year

**F.3** Taxpayer has not been contacted by the IRS or FTB within the meaning of Treasury Regulation Section 1.6664-2(c)(3) for the Taxable Year(s) at Issue listed in this Paragraph F.3 below. List up to four taxable years in each column.

(If additional space is required, please include information on a separate attachment to this Agreement.)

Taxable Year

Taxable Year

Taxable Year

**G Final Federal Determinations**

**G.1** Taxpayer's federal return has not been adjusted with respect to MCI and/or SCE Transactions pursuant to a final federal determination.

**G.2** Taxpayer's federal return has been adjusted with respect to MCI and/or SCE Transactions pursuant to a final federal determination attributable to a formal IRS settlement initiative for the Taxable Year(s) at Issue listed below.

Taxable Year	Transaction Type (e.g., "MCI" or "SCE" – list separately)

*(Continued on next page)*



**G.4.b SCE Transactions:**

(If additional space is required, please include information on a separate attachment to this Agreement.)

<b>Return Number</b> (Per table in A above)	<b>Description of Tax Benefits Allowed Per Final Federal Determination</b>	<b>Amount of Tax Benefits Allowed Per Final Federal Determination</b>	<b>Form and Line Number of Return where Tax Benefits Allowed</b>

**G.5** The final federal determination(s) allowed transaction costs with respect to the Transactions for the Taxable Year(s) at Issue in the amounts as follows:

**G.5.a MCI Transactions:**

(If additional space is required, please include information on a separate attachment to this Agreement.)

<b>Return Number</b> (Per table in A above)	<b>Description of Transaction Costs Allowed Per Final Federal Determination</b>	<b>Amount of Costs Allowed Per Final Federal Determination</b>	<b>Form and Line Numbers of Return Where Costs Were Allowed</b>

**G.5.b SCE Transactions:**

(If additional space is required, please include information on a separate attachment to this Agreement.)

<b>Return Number</b> (Per table in A above)	<b>Description of Transaction Costs Allowed Per Final Federal Determination</b>	<b>Amount of Costs Allowed Per Final Federal Determination</b>	<b>Form and Line Numbers of Return Where Costs Were Allowed</b>

**Agreement**

**1 Intent of Parties**

The Parties desire to effect a binding determination of the treatment of the tax benefits, the transaction costs, and the associated penalties of the Transaction(s) in accordance with the provisions of FTB Notice 2023-02, which treatment is sometimes hereafter referred to as “the subject matter of this Agreement.” The Board and Taxpayer believe that it is in the best interest of each of them to effect a binding determination with respect to the subject matter of this Agreement.

The following are determined and agreed upon by the parties for purposes of:

- California personal income tax.
- California corporate franchise and income tax.

**2 Tax Benefits**

All tax benefits from the Transaction(s) are disallowed (except to the extent allowed pursuant to a final federal determination, including by the Internal Revenue Service (IRS) in final federal audit changes, by a federal court decision, or by a federal court settlement, resolving the taxpayer's tax benefits from the Transaction(s) for federal income tax purposes). To receive allowance of any tax benefits pursuant to a final federal determination, the Taxpayer must provide a copy of all documents that substantiate the allowance of tax benefits pursuant to the final federal determination, including the documents requested in Schedule II.

**3 Disallowance of Transaction Costs**

Taxpayer is not allowed, as an ordinary loss or deduction, any transaction costs relating to the Transaction(s) (except to the extent allowed for federal income tax purposes pursuant to a final federal determination, including by the IRS in final federal audit changes, by a federal court decision, or by a federal court settlement). To receive allowance of any transaction costs pursuant to a final federal determination, the Taxpayer must provide a copy of all documents that substantiate the allowance of transaction costs pursuant to the final federal determination as requested in Schedule II. The disallowed transaction costs cannot be added to the basis of any property. To the extent transaction costs are not allowed, the payments for costs shall be treated as nondeductible noncapitalizable expenses, including for purposes of determining Taxpayer's adjusted basis in a partnership interest or in shares of stock of an S corporation.

#### 4 Tax

FTB accepts the payment from Taxpayer by (check appropriate boxes):

- Check
- Electronic Funds Transfer
- Installment Agreement (payment in full within 12 months)

for the additional tax in the amounts determined and agreed, as set forth below, attributable to the disallowance of Transaction-related tax benefits set forth in paragraph B.3. above (except as allowed pursuant to a final federal determination as provided in G.4 above) and the disallowance of a deduction/loss for transaction costs set forth in paragraph B.4. above (except as allowed pursuant to a final federal determination as provided in G.5 above). (If Taxpayer is required to pay by electronic payment under R&TC Section 19011 or 19011.5, Taxpayer must do so and is not eligible to submit the payment by check.)

(If additional space is required, please include information on a separate attachment to this Agreement.)

<b>Return Number</b> (Per table in A above)	<b>Taxable Year</b>	<b>Total Tax Per Return</b>	<b>Total Tax Per Agreement</b>	<b>Additional Tax Per Agreement</b>
1				
2				
3				
4				
5				
6				
7				
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12				

#### 5 Penalties

FTB accepts the payment by (check appropriate boxes):

- Check
- Electronic Funds Transfer
- Installment Agreement (payment in full within 12 months)

for the penalties in the amounts determined and agreed as set forth below. (If Taxpayer is required to pay by electronic payment under R&TC Section 19011 or 19011.5, Taxpayer must do so and is not eligible to submit the payment by check.)

- 5.1 FTB issued NPAs to Taxpayer for the Taxable Years at Issue Identified in F.1, above, for the penalty amounts imposed under R&TC Section 19774 and/or R&TC Section 19777 with respect to the Transaction(s).**  
The penalties assessed under R&TC Section 19774 are compromised in full pursuant to the Chief Counsel's exercise of authority under R&TC Section 19774, subdivision (d). Taxpayer remains liable for the penalties assessed under R&TC Section 19777, as set forth below. Taxpayer is relieved of any penalties assessed under R&TC Sections 19164 and 19164.5, or increased interest assessable under R&TC Section 19778. Notwithstanding the prior sentence, if FTB imposed penalties under R&TC Section 19772 with respect to the Transactions for the Taxable Years at Issue, such previously imposed penalties under R&TC Section 19772 are not relieved or otherwise affected by this Agreement. Taxpayer retains the right to file a claim for refund to the extent allowed by law of any penalties previously imposed under R&TC Section 19772 with respect to the Transactions and/or may request rescission of the penalties by the Chief Counsel pursuant to R&TC Section 19772(f). In addition, if applicable, Taxpayer may be subject to penalties under R&TC Section 19138 with respect to the returns listed by Taxpayer in Paragraph A of the Factual Recitals of this Agreement.



- 5.2 FTB issued NPAs to Taxpayer for the Taxable Years as Identified in F.1, above, for the penalty amounts imposed under R&TC Section 19774 and/or R&TC Section 19777 with respect to the Transaction(s) and Taxpayer has Resolved its Reporting of Tax Benefits from the Transaction(s) for Federal Income Tax Purposes Pursuant to Participating in a Formal IRS Settlement Initiative for the Taxable Years at Issue Identified in G.2 above.** Taxpayer is subject to the penalty terms under 5.1 above with respect to the NPAs for the Taxable Years Identified in F.1 above.
- 5.3 Taxpayer has been Contacted by the IRS or FTB within the Meaning of Treasury Regulation Section 1.6664-2(c)(3) for the Taxable Year(s) at Issue listed in Paragraph F.2, above, but FTB has not issued an NPA to Taxpayer for the Transaction(s) for any of the Taxable Year(s) at Issue listed in F.2.** Taxpayer is liable for penalties under R&TC Section 19164(a) in the amount of 20 percent of the underpayment for each Taxable Year at Issue listed in paragraph F.2. Taxpayer is relieved of any penalties assessable under R&TC Sections 19164(c), 19164.5, 19772, 19774, 19777, 19778, and former Section 19773, with respect to the Transaction(s) for the Taxable Years at Issue listed in paragraph F.2. Notwithstanding the prior sentence, if FTB has imposed penalties under R&TC Section 19772 with respect to the Transactions for the Taxable Years at Issue in paragraph F.2, such previously imposed penalties under R&TC Section 19772 are not relieved or otherwise affected by this Agreement. Taxpayer may file a claim for refund to the extent allowed by law of any penalties previously imposed under R&TC Section 19772 with respect to the Transactions for the Taxable Years at Issue and/or may request rescission of the penalties by the Chief Counsel pursuant to R&TC Section 19772(f). In addition, if applicable, Taxpayer may be subject to penalties under R&TC Section 19138 with respect to the returns listed by Taxpayer in Paragraph A of the Factual Recitals of this Agreement.
- 5.4 Taxpayer has not been Contacted by the IRS or FTB within the Meaning of Treasury Regulation Section 1.6664-2(c)(3) for the Taxable Year(s) at Issue listed in Paragraph F.3, above.** Taxpayer is relieved of any penalties assessable under R&TC Sections 19164, 19164.5, 19772, 19774, 19777, 19778, and former Section 19773, with respect to the Transaction(s) for the Taxable Years at Issue listed in paragraph F.3. Notwithstanding the prior sentence, if FTB has imposed penalties under R&TC Section 19772 with respect to the Transactions for the Taxable Years at Issue paragraph listed in paragraph F.3, such previously imposed penalties under R&TC Section 19772 are not relieved or otherwise affected by this Agreement. Taxpayer may file a claim for refund to the extent allowed by law of any penalties previously imposed under R&TC Section 19772 with respect to the Transactions for the Taxable Years at Issue and/or may request rescission of the penalties by the Chief Counsel pursuant to R&TC Section 19772(f). In addition, if applicable, Taxpayer may be subject to penalties under R&TC Section 19138 with respect to the returns listed by Taxpayer in Paragraph A of the Factual Recitals of this Agreement.
- 5.5 Taxpayer has Resolved its Reporting of Tax Benefits from the Transaction(s) for Federal Income Tax Purposes Pursuant to a Final Federal Determination Attributable to Participating in a Formal IRS Settlement Initiative for the Taxable Year(s) at Issue Identified in paragraph G.2 above, but FTB has not issued an NPA to Taxpayer for the Transaction(s) for any of the Taxable Year(s) at Issue listed in G.2.** For each of the Taxable Years at Issue listed in paragraph G.2, Taxpayer is assessed a penalty under R&TC Section 19164(a) with respect to the additional tax determined under this agreement at the same rate that Taxpayer paid (or at the same rate which was paid by a pass-through entity with respect to Taxpayer's federal return) for federal purposes and pursuant to the same treatment of the tax benefits as was provided in the Agreement for resolution under the formal federal settlement initiative. To receive a penalty rate under R&TC Section 19164 at the same rate as provided to Taxpayer in an IRS formal settlement initiative, Taxpayer must provide copies of the following documents:
- A copy of the IRS Settlement Initiative Offer letter.
  - A copy of the federal closing agreement with all schedules, attachments, and affidavits.
  - A copy of any other documentation that makes clear the participant resolved its federally claimed tax benefits from the Transaction(s) in accordance with a formal IRS settlement initiative.
- Taxpayer is relieved of any penalties assessable under R&TC Sections 19164(c), 19164.5, 19772, 19774, 19777, 19778, and former Section 19773, with respect to the Transaction(s) for the Taxable Years at Issue listed in paragraph G.2. Notwithstanding the prior sentence, if FTB has imposed penalties under R&TC Section 19772 with respect to the Transactions for the Taxable Years at Issue listed under paragraph G.2, such previously imposed penalties under R&TC Section 19772 are not relieved or otherwise affected by this Agreement. Taxpayer may file a claim for refund to the extent allowed by law of any penalties previously imposed under R&TC Section 19772 with respect to the Transactions for the Taxable Years at Issue and/or may request rescission of the penalties by the Chief Counsel pursuant to R&TC Section 19772(f). In addition, if applicable, Taxpayer may be subject to penalties under R&TC Section 19138 with respect to the returns listed by Taxpayer in Paragraph A of the Factual Recitals of this Agreement.
- 5.6 For the Taxable Years at Issue listed under Paragraph G.3 above, Taxpayer Resolved its Reporting of Tax Benefits from the Transactions for Federal Income Tax Purposes Pursuant to a Final Federal Determination Other Than Pursuant to a Formal IRS Settlement Initiative.** Taxpayer is subject to the penalty terms of paragraph 5.1 or 5.3 above, as applicable.



**9.2 Adjustments on Unrelated Grounds.** This Agreement is without prejudice to the right of FTB to examine any taxable year(s) of Taxpayer, including the Taxable Year(s) at Issue, and raise issues and make assessments, adjustments or take any other action concerning any matter other than the Transaction(s). This Agreement is without prejudice to the right of Taxpayer to timely file refund claims on any grounds, other than grounds relating to the Transaction(s) and except as provided in 9.1 above, for any taxable year, including the Taxable Year(s) at Issue, within the applicable statute of limitations.

**9.3 Unrelated Federal Adjustments.** This Agreement shall not limit FTB's ability to make further adjustments to Taxpayer's tax liability for any taxable year in order to conform to any final federal determination for any taxable year(s) of Taxpayer, including the Taxable Year(s) at Issue, based on grounds unrelated to the Transaction(s), nor will this Agreement limit Taxpayer's right to contest such adjustments. Nothing in this Agreement shall limit Taxpayer's ability to file claims for refund, except as provided in 9.1 above, for any year based on grounds unrelated to the Transaction(s) in order to conform to any final federal determination, nor will this Agreement limit FTB's right to contest such claims for refund or adjustments.

**9.4 Binding and Conclusive.** This Agreement is binding and conclusive with respect to the Transaction(s). No Party to this Agreement will subsequently raise or attempt to contest for any taxable year any issue relating to the Transaction(s), except that:

**9.4.1** This Agreement may be modified, reopened, or revoked by FTB in the event of fraud, malfeasance, misrepresentation and/or omission of a material fact by Taxpayer.

**9.4.2** The Agreement is subject to the R&TC Sections that expressly provide that effect be given to their provisions (including any stated exceptions for R&TC Section 19441, subdivision (b)) notwithstanding any other law or rule of law; and

**9.4.3** To the extent that this Agreement relates to a taxable year(s) ending after the date of this Agreement, it is subject to any law that is, or becomes, operative with respect to that taxable year(s).

**9.5 Ruling Disclosure Requirement.** If Taxpayer requests a ruling from FTB with respect to any matter arising with respect to the Taxable Year(s) at Issue or affected by this Agreement, the Taxpayer shall, in the request for a ruling, disclose the existence of this Agreement and that such ruling may affect a matter covered by this Agreement.

## **10 Effective Date**

This Agreement shall be effective upon its execution by or on behalf of Taxpayer and FTB's Executive Officer.

## **11 Applicable Law**

This Agreement shall be construed and interpreted in accordance with the laws of the state of California. The Parties, and each of them, hereby agree to submit to the jurisdiction of the California courts in any action relating to this Agreement, or the enforcement or interpretation of the terms hereof.

## **12 Miscellaneous**

**12.1 Entire Agreement.** This document, together with Schedules I through III and all attachments, including Taxpayer's responses to Schedule II, constitutes the entire agreement between the Parties, all oral agreements being merged herein, and supersedes all prior representations. No waiver, modification or amendment of any provision of this Agreement shall be effective unless specifically made in writing and properly executed by all the Parties to this Agreement. If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction or as a result of future legislative action, such holding or action shall be strictly construed and shall not affect the validity or effect of any other provision hereof.

**12.2 Effect on Successors.** This Agreement is binding upon the Parties and their subsidiaries, affiliates, officers, directors, agents, personal or other representatives, successors in interest, transferees and assigns, and each of them.

**12.3 Parties in Interest.** None of the provisions of this Agreement or any other document relating hereto provides any rights or remedies to any person other than the Parties hereto and their respective successors, transferees, assumers and assigns, if any.

**12.4 Authority to Execute.** The persons executing this Agreement represent and warrant that they have the authority to execute this Agreement on behalf of the respective Parties.

**12.5 Interpretation.** The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms. References to a Party are also to such Party's assumers, transferees, successors, and assigns.

**12.6 Agreement with Terms.** By signing, the Parties certify that they have read and agreed to the terms of this Agreement.

**Execution of Agreement**

Taxpayer declares under penalty of perjury that the information contained in this Agreement under the section entitled "Factual Recitals" and contained in this Agreement under Schedules I and III are true, correct, and complete to the best of Taxpayer's knowledge.

**Primary Taxpayer**

Print name	
Signature <b>X</b>	Date

**Additional Taxpayer**

Print name	
Signature <b>X</b>	Date

**Taxpayer Representative**

Print name	
Signature <b>X</b>	Date

**Taxpayer (other than an individual) – Attach Statement of Authorization**

Print name		Title
Signature <b>X</b>	Date	

**Franchise Tax Board of the State of California**

Print name Selvi Stanislaus		Title Executive Officer
Signature <b>X</b>	Date	

**Statement of Authorization**

Please complete for each signatory taxpayer and submit signed originals with signed Closing Agreement.

I, \_\_\_\_\_,

represent that I am an (please check the appropriate box below):

- Officer authorized to act on behalf of the following Taxpayer(s).
- Authorized representative (pursuant to a valid FTB Form 3520-PIT or 3520-BE, Power of Attorney, on file with FTB) of the following Taxpayer(s).

Taxpayer Name	Identification Number

**Signature**

I declare under penalty of perjury that the foregoing is true, correct, and complete.

Print name	Title
Signature <b>X</b>	Date

# FTB Notice 2023-02 Closing Agreement Schedule I

## Description of Transactions

### Micro-Captive Insurance (MCI) Transactions(s)

This MCI Transaction(s) includes transactions having the following characteristics (please mark all applicable boxes):

- 1.a** Taxpayer owned an interest in one or more entities conducting trades or businesses (Insured Entities).

List below the names, federal employee identification number (FEIN), corporation number for state of formation, and California Secretary of State (SOS) registration number (if any) for each Insured Entity involved in the MCI Transaction(s).

Taxpayer Name	FEIN	Corporation Number and State of Formation	CA SOS Number

- 1.b** Taxpayer is an entity conducting a trade or business (Insured Entity).

List below the name, FEIN, corporation number for state of formation, and California Secretary of State registration number (if any) for Taxpayer (Insured Entity) involved in the MCI Transaction(s).

Taxpayer Name (Insured Entity)	FEIN	Corporation Number and State of Formation	CA SOS Number

- 2.a** Taxpayer and/or persons related to Taxpayer and/or persons related to Insured Entities directly or indirectly owned another entity (Micro-Captive), which they treat as a nonlife insurance company. (For this purpose, related means persons having a relationship as described in Internal Revenue Code (IRC) Section 267(b) or Section 707(b). In addition, for this purpose, a person owning a derivative of the stock of Micro-Captive is considered to indirectly own the stock of Micro-Captive.)

- 2.b** Beneficial owner(s) of Taxpayer (Insured Entity) and/or persons related to beneficial owner(s) of Taxpayer (Insured Entity) directly or indirectly owned another entity (Micro-Captive) which they treat as a nonlife insurance company. (For this purpose, related means persons having a relationship as described in IRC Section 267(b) or Section 707(b). In addition, for this purpose, a person owning a derivative of the stock of Micro-Captive is considered to indirectly own the stock of Micro-Captive.)

List below the names, FEINs, and jurisdiction of formation of all Micro-Captives involved in the MCI Transactions.

	Name of Micro-Captive	FEIN	Jurisdiction of Formation
1			
2			
3			
4			
5			
6			

- 3.a** Micro-Captive entered into contracts directly with Insured Entities that the parties treated as insurance contracts for federal and California income tax purposes and pursuant to which Insured Entities made payments directly to Micro-Captive.

- 3.b** Micro-Captive entered into contracts with an intermediary company (Intermediary) that the parties treat as reinsurance contracts to reinsure risks that Insured Entities initially insured with Intermediary through contracts the parties treat as insurance contracts and pursuant to which Insured Entities have made payments to Intermediary.

Under the reinsurance contracts payments are made by Intermediary to Micro-Captive for risks ceded to Micro-Captive. List below the names and FEINS of any Intermediaries from which each Micro-Captives received payments treated as reinsurance premiums.

	Name of Intermediary	FEIN
1		
2		
3		
4		
5		
6		

- 4** Insured Entities treated the direct payments to the Micro-Captive or the payments to the Intermediary as insurance premiums within the scope of Treasury Regulation Section 1.162-1(a) and deducted them as ordinary and necessary business expenses under IRC 162, incorporated by reference by California Revenue and Taxation Code (R&TC) Section 17201 and 24343.
- 5** Micro-Captives made an election under IRC Section 831(b) to be taxed only on investment income and excluded the payments received under the insurance or reinsurance contracts from their taxable income for federal income tax purposes.
- 6** Money paid to the Micro-Captive as premiums under the insurance or reinsurance contracts was transferred by the Micro-Captive:
  - 6.a** To Taxpayer or to an entity owned directly or indirectly by Taxpayer or was otherwise transferred for Taxpayer's benefit, such as to pay or secure obligations or expenses of Taxpayer.
  - 6.b** To persons other than Taxpayer and for the benefit of persons other than Taxpayer.
- 7** Taxpayer reported on Taxpayer's California franchise or income tax returns deductions and/or losses for amounts paid directly or indirectly for transaction costs and fees associated with the MCI Transactions.

**Syndicated Conservation Easement (SCE) Transaction(s)**

This SCE Transaction(s) includes transactions having the following characteristics (please mark all applicable boxes):

- 1** Taxpayer participated in a syndicated partnership investment opportunity that was marketed to Taxpayer using promotional materials and representations, including, e.g., a private placement memorandum, which purported to provide investors charitable contribution income tax deductions for donations of conservation easements and fee simple interests in land in amounts that significantly exceeded the amounts invested.

For each partnership Taxpayer directly invested in for purposes of the SCE Transaction, list the partnership's name and FEIN and California Secretary of State number of the partnership.

	Taxable Years Invested	Name of Entity	FEIN	CA SOS Number
1				
2				
3				
4				
5				
6				
7				
8				
9				

**SCE Transaction(s) – Continued**

- 2** Taxpayer reported on Taxpayer's California franchise or income tax returns charitable contribution deductions for donations of conservation easements and/or fee simple land interests made by partnerships in which Taxpayer held a direct or indirect interest.
- 3** Taxpayer reported on Taxpayer's California franchise or income tax returns deductions and/or losses for amounts paid directly or indirectly through partnerships for transaction costs and fees associated with the partnership investments or associated with the charitable deductions for donations of conservation easements and/or fee simple interests in land.
- 4** Taxpayer is a partnership that reported on its federal and/or California partnership return(s) charitable contribution deductions for donations of conservation easements and fee simple interests in land and Taxpayer is required to report final federal adjustments pursuant to R&TC Section 18622.5, or has reported such adjustments, with respect to SCE Transactions.

List the name and FEIN (and California Secretary of State number if any) of the Taxpayer partnership.

Name of Entity	FEIN	CA SOS Number



## FTB Notice 2023-02 Closing Agreement Schedule II

### Information Document Request

Please provide the following information and/or documents.

#### A MCI Transactions

**Attached**   **Not Attached** (provide explanation in statement)

- |                          |                          |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <b>1</b> Provide complete copies of all Forms 8886, Reportable Transaction Disclosure Statements, the Taxpayer and related entities filed with the IRS and/or FTB with respect to the MCI Transactions. Please ensure all appropriate information is included on the form.  |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>2</b> Provide the following information for each Insured Entity with respect to the MCI Transactions: <ul style="list-style-type: none"><li>• Name.</li><li>• Federal employee identification number (FEIN).</li><li>• Corporate identification number from the state of legal formation if other than California.</li><li>• California Secretary of State number or FTB identification number.</li></ul>  |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>3</b> Provide the name and FEIN of the Micro-Captive Insurance Companies and their jurisdictions of legal formation.   |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>4</b> Provide the names and taxpayer identification numbers of each entity and individual with a direct or indirect ownership interest in each Micro-Captive Insurance Company involved in the MCI Transaction(s).   |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>5</b> Provide the amounts of the deductions reported by Insured Entities for insurance premiums paid directly or indirectly, the taxable years of such insurance premium deductions, and the names and FEINs of the Micro-Captive Insurance Companies and/or Intermediary Companies to which premiums were paid in the MCI Transactions.   |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>6</b> Provide the captive and reinsurance policies and retrocession agreements for each taxable year and/or provide the invoices for insurance premiums for each taxable year that were issued to the Insured Entities that reported MCI transaction-related insurance premium deductions.   |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>7</b> Provide the amounts of any transfers for each taxable year of money or other property from the Micro-Captive Insurance Company to: (1) the Taxpayer; (2) to entities owned directly or indirectly by Taxpayer, or (3) to other persons. Provide a statement of how the transfers to or for the benefit of each separate person for each taxable year were treated for federal and California franchise and/or income tax purposes, e.g., loans.  |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>8</b> Provide copies of any ledger entries, loan agreements, promissory notes, and/or security agreements which document any transfers of funds from the Micro-Captive Insurance Company to the Taxpayer, to entities owned directly or indirectly by Taxpayer, or to other persons.   |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>9</b> Provide federal Schedules K-1 (Forms IRS 1120S/1065) and California Schedules K-1 (Forms FTB 100S/565/568), if any, with attached statements received by Taxpayer from all pass-through entities utilized as part of the MCI transactions for all taxable years for which MCI transaction tax benefits were reported by the Taxpayer.  |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>10</b> Provide all feasibility studies relating to the MCI Transaction(s).   |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>11</b> For each taxable year, provide a list of the total amounts of MCI transaction-related costs and fees that Taxpayer deducted for California franchise and/or income tax purposes on Taxpayer's California tax returns and state where such amounts were reported on the return and on its attached forms and schedules.  |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>12</b> For each taxable year for which Taxpayer has had a final federal determination regarding tax benefits derived from MCI Transaction(s), provide the relevant documents, such as a final federal revenue agent's report, IRS settlement agreement, or federal court decision, which determined the final federal adjustments to Taxpayer's income and penalties attributable to MCI Transactions.   |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>13</b> For each taxable year for which Taxpayer resolved tax benefits with respect to the MCI Transactions pursuant to a formal IRS settlement initiative, provide: <ul style="list-style-type: none"><li>• A copy of the IRS settlement initiative offer letter.</li><li>• A copy of the federal closing agreement with all schedules, attachments, and affidavits.</li><li>• A copy of any other documentation that makes clear the participant resolved its federally claimed tax benefits from the MCI Transactions in accordance with a formal IRS settlement initiative.</li></ul> |

## B SCE Transactions

**Attached**   **Not Attached** (provide explanation in statement)

- |                          |                          |  |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <b>1</b> Provide complete copies of all Forms 8886, Reportable Transaction Disclosure Statements, the Taxpayer filed with the IRS and/or FTB with respect to each SCE Transaction. Please ensure all appropriate information is included on the form.  |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>2</b> If the Taxpayer did not file a complete Form 8886 with the IRS or FTB that includes the following information, provide the following for each partnership directly or indirectly involved in the SCE transaction(s): <ul style="list-style-type: none"><li>• the legal name.</li><li>• the FEIN.</li><li>• the California Secretary of State number or FTB identification number, if any.</li><li>• the corporate identification number from the state of legal formation, if other than California.</li></ul>  |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>3</b> Provide for each SCE transaction the partnership or limited liability company Private Placement Memorandum through which Taxpayer participated in the SCE transaction.  |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>4</b> Provide federal Schedules K-1 (Forms IRS 1120S/1065) with attached statements and California Schedules K-1 (Forms FTB 100S/565/568), if any received by the Taxpayer, which reported tax benefits attributable to the SCE transaction(s).   |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>5</b> Provide for each SCE transaction the IRS Forms 8283, including all included statements and documents as required by IRS regulations and Form 8283 instructions, with respect to any charitable deduction tax benefits from the SCE transaction(s).  |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>6</b> Provide for each SCE transaction the appraisal report for each donated property interest, e.g., conservation easement or fee simple interest.   |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>7</b> For each taxable year, provide a list of the total amounts of SCE Transaction-related costs and fees that Taxpayer deducted for California franchise and/or income tax purposes on Taxpayer's federal and/or California returns and state where such amounts were reported on the return and its attached forms and schedules.  |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>8</b> For each taxable year for which Taxpayer has had a final federal determination regarding tax benefits derived from SCE Transaction(s), provide the relevant documents, such as a final federal revenue agent's report, IRS settlement agreement, or federal court decision, which determined the final federal adjustments to Taxpayer's income and penalties attributable to SCE Transactions.   |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>9</b> For each taxable year for which Taxpayer resolved tax benefits with respect to the SCE Transactions pursuant to a formal IRS settlement initiative, provide: <ul style="list-style-type: none"><li>• A copy of the IRS settlement initiative offer letter.</li><li>• A copy of the federal closing agreement with all schedules, attachments, and affidavits.</li><li>• A copy of any other documentation that makes clear the participant resolved its federally claimed tax benefits from the SCE Transactions in accordance with a formal IRS settlement initiative.</li></ul> |

## FTB Notice 2023-02 Closing Agreement Schedule III

### Additional Tax and Penalty Computation

(Complete additional Schedules III as necessary for all Taxable Year(s) at Issue.)

If Taxpayer received NPAs with respect to the Transaction(s), the amounts shown on Schedule III should agree with the amounts on the NPAs, unless there has been a final federal determination that FTB follows pursuant to this Agreement that results in revisions to the Transaction-related income adjustments on the NPA(s).

Item Description	Taxable Year 1	Taxable Year 2	Taxable Year 3	Taxable Year 4
1 Taxable Year(s)				
2 Taxable Income as Reported or Previously Revised				
3 Increase Due to MCI and/or SCE Transaction(s)				
4 Itemized Deductions				
5 Capital Loss				
6 Net Operating Loss				
7 Other Increases or Decreases				
8a Revised Taxable Income				
8b Apportioning Taxpayers: Net income for state purposes from attached revised Schedule R through R-6.				
9 Revised Tax				
10 Allowable Credits				
11 Other Taxes				
12 Total Tax Liability				
13 Less: Tax Previously Assessed				
14 Additional Tax				
15 Delinquent Filing Penalty under R&TC § 19131				
16 Accuracy Related Penalty under R&TC § 19164				
17 Interest-based Penalty under R&TC § 19777				
18 Total Additional Tax and Penalties				