



STATE OF CALIFORNIA
FRANCHISE TAX BOARD
Legal Branch
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KATHLEEN CONNELL
 Chair

DEAN ANDAL
 Member

B. TIMOTHY GAGE
 Member

April 13, 2000

Information Letter
 99-1274

Re: *****

Dear *****:

Your request for a Chief Counsel Ruling dated ***** , has been referred to me for response. In your letter and in response to my questions, you provided detailed facts and an analysis of the history of the entity. Thank you for the information and analysis provided, as well as your complete response to my questions.

Chief Counsel Ruling Guidelines

California Revenue and Taxation Code section 21012 authorizes relief from assessed taxes, interest, and penalties in certain situations where the taxpayer reasonably relied to its detriment on the written advice of a legal ruling from the Chief Counsel. Subdivision (h) of section 21012 provides that Chief Counsel Rulings shall be issued in accordance with published guidelines. The Franchise Tax Board provided such guidelines in FTB Notice 89-277, dated May 10, 1989 (copy attached).

Staff of the Franchise Tax Board generally follows federal policy in those areas in which the Chief Counsel declines to issue a ruling. (See FTB Notice 89-277, section C.) We will ordinarily not issue advance rulings in certain areas because of the factual nature of the problems involved. We may also decline to issue a ruling whenever warranted by the facts and circumstances of a particular case. Further, we will normally decline to issue an advance ruling where California State and federal laws are the same. (See FTB Notice 89-277, C.(5).)

The issue as presented in your letter is whether the *****
 ***** is properly considered to be a partnership or classified as some other entity.

Revenue and Taxation Code section 23038(b)(2)(B)(ii) provides:

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The classification of an eligible business entity as a partnership or an association taxable as a corporation for purposes of this part, Part 10 (commencing with section 17001), and Part 10.2 (commencing with section 18401) shall be the same as the classification of the entity for federal tax purposes.

The determination of the entity classification for federal tax purposes will control for California income and franchise tax purposes. Therefore, we decline to issue a ruling in this case because California State law and federal law are the same.

Very truly yours,

Edward J. Kline
Tax Counsel

Attachment