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Information Letter 2016-01

Regarding: Chief Counsel Ruling Request – Elections under the Repair Regulations  
Taxable Years: \*\*\*\*\*

Dear \*\*\*\*\*:

This letter is in response to your correspondence, dated \*\*\*\*\*, requesting a Chief Counsel Ruling. California Revenue and Taxation Code section 21012, subdivision (h), provides that "chief counsel rulings shall be issued as provided in published guidelines." On October 12, 2009, the Franchise Tax Board issued FTB Notice 2009-08, entitled "Franchise Tax Board Ruling Guidelines", which can be found at [https://www.ftb.ca.gov/law/notices/2009/2009\\_08.pdf](https://www.ftb.ca.gov/law/notices/2009/2009_08.pdf).

In the interest of sound tax administration, FTB will not issue rulings in situations involving a tax position taken in a previously filed tax return. While we decline to issue a Chief Counsel Ruling addressing your request, we are providing general information regarding California elections related to the Treasury Regulations commonly referred to as the "repair regulations" (see T.D. 9636, September 13, 2013, and T.D. 9689, August 14, 2014).

For both Part 10 (dealing with personal income tax) and Part 11 (dealing with corporate income and franchise tax) of the California Revenue and Taxation Code, California generally follows the repair regulations applicable for federal income tax purposes. (Revenue and Taxation Code sections 17024.5, subdivision (d), and 23051.5, subdivision (d).) If a taxpayer submits a request to change an accounting method for federal income tax purposes and the IRS approves the request, the change will also apply for California franchise and income tax purposes, as long as California law has conformed to or is substantially similar to the underlying law which is being applied. In order to obtain treatment other than that elected for federal purposes, a separate election must be made for California in the manner set forth in FTB Notice 2000-8 ([https://www.ftb.ca.gov/law/notices/2000/2000\\_8.shtml](https://www.ftb.ca.gov/law/notices/2000/2000_8.shtml)).

A common issue involving the repair regulations occurs when there may be a difference between federal and California depreciable basis, useful life, or method of depreciation. To the extent California follows a federal provision for which federal approval was granted, the federal approval for a change in accounting method will apply for California purposes even though the resulting federal numbers may be different than the California numbers, including any resulting Internal Revenue Code

section 481 adjustments. In cases where there is a federal-California difference, taxpayers should attach to their California tax return a copy of their federal Form 3115, "Application for Change in Accounting Method". In addition, to assist the FTB in reviewing their California tax returns, taxpayers should attach a pro forma Form 3115 with adjusted California figures.

Please be advised that this letter is for information only and does not constitute "written advice from the board" within the meaning of California Revenue and Taxation Code section 21012, subdivision (a), and may not be relied upon within the meaning of that section.

Peter Kwok  
Tax Counsel III