



chair John Chiang
member Jerome E. Horton
member Ana J. Matosantos

State of California
Franchise Tax Board

02.11.13

Information Letter 2013-01

Subject: Chief Counsel Ruling Request – *****

Dear M*. *****,

In your April 3, 2012 correspondence, you requested a Chief Counsel Ruling from the Franchise Tax Board on behalf of ***** (hereinafter "the Firm"). In your request, you ask whether the Firm should source fees received from its clients that are corporations and other business entities under California Code of Regulations, title 18, section 25136-2, subdivision (c)(2), based on the location of the attorney who serviced the client. In your ruling request, you also ask the Franchise Tax Board to recognize that the Firm's books and records are not available based on factual and legal reasons.

We regret to inform you that your request for a chief counsel ruling has been denied. Revenue and Taxation Code section 21012, subdivision (h), provides that "Chief counsel rulings shall be issued as provided in published guidelines." FTB Notice 2009-08 (October 12, 2009) provides that the Franchise Tax Board will not issue advance rulings in situations where the applicable law is clear and reasonably thorough research would provide the answer (FTB Notice 2009-08, at ¶ C.4), and where the answer to the questions presented depends primarily upon factual issues. (FTB Notice 2009-08, at ¶ C.6.)

First, we must decline your request for a chief counsel ruling because the determination of the answer to the question posed in the request could be reached with reasonably thorough research. Regulation 25136-2, subdivision (c)(2)(E) Example 3 provides an illustration of sourcing rules applicable in a factual situation similar to that of the Firm, where revenue is sourced according to where the service was performed. The only difference between Example 3 and the Firm's situation is that Example 3 explicitly applies to an auditing corporation, and the Firm is a law firm. Unless stated otherwise, examples in a regulation are used to elucidate principles, not limit a regulation's scope.

Second, we must decline your request for a chief counsel ruling to the extent you ask the Franchise Tax Board to recognize that the Firm's books and records are not

available to verify where the service was performed, whether because they are privileged and confidential, or for other reasons. The Franchise Tax Board declines to issue a ruling on this issue, as articulated under FTB Notice 2009-08 at ¶ C.6, because the answer to this question depends primarily on a mix of factual and legal issues.

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

Sincerely,

Ted Tourian
Tax Counsel