

## Summary of Second Interested Parties Meeting Regulation § 24465, Transfer of Appreciated Property to an Insurer

- I. **Administration:** On March 29, 2012 at 10:00 a.m., members of the public attended an interested parties meeting at the Franchise Tax Board's offices in Sacramento. Parties attended in person and by telephone. Those physically present were asked to register at the entrance. The session was to be tape recorded for reference but there would be no attribution of comments and no transcript.

The Moderator, Tommy Leung, referenced the document that was available as a handout: the notice of the meeting, which included discussion topics and draft regulatory language, and which was posted online. A summary of the interested parties meeting would be prepared and made available.

The purpose of the meeting was for the public to provide comments on the draft language for section 24465(c) (record keeping) and the economic impact, if any, of such draft language. The participants then focused on the discussion topics document and draft language.

- II. **Discussion:** The discussion was organized topically, section 24465(c) record keeping requirements first, followed by economic impact.

Recordkeeping. There was a question regarding an issue that was raised during the first Interested Parties Meeting concerning filing of the annual statement. Staff indicated that instead of having the insurer file the annual statement, the annual statement would be filed with the transferor/taxpayer's return, with the insurer signing it along with the transferor/taxpayer.

Another comment concerned (m) of the draft language<sup>1</sup> as to whether staff was referring to stock of the insurer, stock of the transferred entity, or both. Staff indicated (m) referred to both the stock of the insurer and of the transferred entity, and would clarify that in the next draft. The same question was asked regarding (n)<sup>2</sup>. Staff believes the response to the inquiry concerning (m) is applicable, but will verify and provide clarification in the next draft.

Finally, a question was raised as to whether an unintentional non-filing of the annual statement, where the department has not been prejudiced and/or had yet to begin auditing the transferor/taxpayer, could be excused. Staff responded that as far as

---

<sup>1</sup> "(m) If shares of stock were transferred to Insurer, percentage of Insurer/transferred stock (measured by relative fair market value) was subsequently transferred or disposed of."

<sup>2</sup> "(n) Whether Insurer issued additional or canceled existing shares of stock during the taxable year. If so, indicate number of shares outstanding before and after such issuance/cancellation."

omissions of annual statements for post-transfer taxable years, CRTC § 24465 has a self-policing mechanism that would trigger the recognition of the deferred gain, with a reasonable cause exception. Staff also indicated that with respect to the failure to file the annual statement for the taxable year of the transfer, it would see if it were possible to draft language to address the inquirer's concern(s).

Economic Impact. An inquiry was made as to whether it would be acceptable if, instead of completing all the blanks on the annual statement, reference to an attachment of a regulatory filing would be sufficient. Staff responded that as long as the attachment was specific enough to cover the information requested on the annual statement, such a method would be acceptable; staff also indicated that the form would still need the blanks for the basic identifying information completed, as well as the signatures of both the transferor/taxpayer and insurer.