

Request to Proceed to Interested Parties Meeting
for a Proposed Regulation under California Code of Regulations, Title 18, Section 25137,
Relating to Alternative Apportionment Method Petition Procedures

Revenue and Taxation Code (RTC) section 25137 states that when the standard allocation and apportionment provisions of the Uniform Division of Income for Tax Purposes Act (RTC, §§ 25120-25139) do not fairly represent the extent of a taxpayer's business activity in this state, the taxpayer may petition for the use of an alternative method to accomplish an equitable allocation or apportionment of income to this state.

In FTB Board Resolution 2000-10, your Board delegated to staff the authority to consider, and grant or deny, petitions to utilize alternative formulas under RTC section 25137. If a taxpayer is not satisfied with staff's determination, it can request that the three-member Board consider the petition in an open session of a Franchise Tax Board meeting.

In recent years, the number of taxpayers seeking to utilize alternative apportionment methodologies under the authority of RTC section 25137 has increased. Commensurate with this increase, staff has received an increasing number of inquiries about the procedures to follow in submitting petitions under RTC section 25137. For these reasons, staff believes that formal regulatory guidance would be helpful in assisting taxpayers with submitting petitions for relief under RTC section 25137.

Thus, staff requests authority from your Board to begin the interested Parties Meeting process, to meet with taxpayers and possibly draft proposed regulatory language that might be promulgated to outline procedures for submitting petitions under this section. Staff anticipates holding an initial Interested Parties Meeting to discuss various procedures that might be followed in submitting a petition, and then working with members of the public to draft regulatory language. At that time, staff would anticipate returning to your Board to present proposed language and to request permission to move into the formal rulemaking process under the Administrative Procedures Act.