

Request to Proceed to Interested Parties Meeting for Proposed Regulation Section 23663,  
Relating to Correction of Defective Elections to Assign Credits Among Members of a  
Combined Reporting Group

Revenue and Taxation Code (RTC) section 23663 permits the assignment of credits among affiliated members of the same combined reporting group. RTC section 23663 was added by Section 10 of AB 1452 (Stats. 2008, ch. 763) and is specifically operative for assignments made in taxable years beginning on or after July 1, 2008, and first permits usage of assigned credits against the "tax" of the assignee in taxable years beginning on or after January 1, 2010.

An assignment is made as an election on a taxpayer's original tax return. In some situations taxpayers have made defective elections, such as when the total credits available to be assigned are less than the assignor contemplated when the original tax return was filed or an assignee was not a member of the same combined reporting group on the required dates. However, under RTC section 23663, subdivision (c), credit assignments are irrevocable, thereby leaving taxpayers with no clear recourse to fix such defective elections.

The purpose of the Interested Parties Meeting (IPM) would be to elicit public input and discuss issues relating to a proposed regulation which would authorize and establish specific procedures under which taxpayers may request that Franchise Tax Board staff permit the correction of such defective elections, and identify general standards under which staff would review such requests, including, if possible, examples of situations where such requests may or may not likely be granted following staff review.