

## **TITLE 18. FRANCHISE TAX BOARD**

As required by Government Code section 11346.4, this is notice that a public hearing has been scheduled to be held at 10:00 a.m., on Monday, July 17, 2006, at the Franchise Tax Board, 9646 Butterfield Way, Town Center Golden State Room A/B, Sacramento, California, to consider the amendment of California Code of Regulations, title 18, section 17952. These proposed changes address the timing of the sourcing of gains or losses from the sale or other disposition of intangible personal property.

An employee of the Franchise Tax Board will conduct the hearing, and a report will be submitted to the three-member Franchise Tax Board for its consideration, along with a recommendation as to whether the three-member Board should hold a hearing on the proposed regulatory action. Government Code section 15702, subdivision (b), provides for consideration by the three-member Franchise Tax Board of any proposed regulatory action if any person makes such a request in writing. If a written request is received, the three-member Franchise Tax Board will consider the proposed regulatory action prior to adoption.

Interested persons are invited to present comments, written or oral, concerning the proposed regulatory action. It is requested, but not required, that persons who make oral comments at the hearing also submit a written copy of their comments at the hearing.

### **WRITTEN COMMENT PERIOD**

Written comments will be accepted until 5:00 p.m., Monday, July 17, 2006. All relevant matters presented will be considered before the proposed regulatory action is taken. Comments should be submitted to the agency officer named below.

### **AUTHORITY AND REFERENCE**

Revenue and Taxation Code section 19503 authorizes the Franchise Tax Board to prescribe regulations necessary for the enforcement of Part 10 (commencing with section 17001), Part 10.2 (commencing with section 18401), Part 10.7 (commencing with section 21001) and Part 11 (commencing with section 23001). Revenue and Taxation Code section 17954 specifically authorizes the Franchise Tax Board to prescribe regulations to allocate and apportion gross income from sources within and without this state. The proposed regulatory action interprets, implements, and makes specific Revenue and Taxation Code section 17952.

### **INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW**

This proposed amendment to California Code of Regulations, title 18, section 17952, adds a new subsection (d) to directly state that sourcing of gains or losses from the sale or other disposition of intangible property is determined at the time of such sale or other disposition. Any applicable deferral of tax provisions does not affect the sourcing rules for the gain or loss realized.

## **DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION**

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed under Part 7, commencing with Government Code section 17500, of Division 4: None.

Other non-discretionary cost or savings imposed upon local agencies: None.

Cost or savings in federal funding to the state: None.

Significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost to directly affected private persons/businesses potential: The Board is not aware of any cost impacts that a private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on the creation or elimination of jobs in the state: None.

Significant effect on the creation of new businesses or elimination of existing businesses within the state: None.

Significant effect on the expansion of businesses currently doing business within the state: None.

Effect on small business: This regulation may affect small business.

Significant effect on housing costs: None.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

## **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Franchise Tax Board has prepared an initial statement of the reasons for the proposed regulatory action. The express terms of the proposed regulatory action, the initial statement of the reasons for the regulatory action, and all the information upon which the proposed regulatory

action is based are available upon request from the agency officer named below. When the final statement of reasons is available, it can be obtained by contacting the agency officer named below, or by accessing the Franchise Tax Board's website at <http://www.ftb.ca.gov>.

### **CHANGE OR MODIFICATION OF ACTIONS**

The three-member Franchise Tax Board may adopt the proposed regulatory action after consideration of any comments received during the comment period. Government Code section 15702, subdivision (b), provides for consideration by the three-member Board of any proposed regulatory action if any person makes such a request. If a request is received, the three-member Board will consider the proposed regulatory action prior to adoption.

The regulations and amendments may also be adopted with modifications if the changes are nonsubstantive or the resulting regulations are sufficiently related to the text made available to the public so that the public was adequately placed on notice that the regulations as modified could result from that originally proposed. The text of the regulations as modified will be made available to the public at least 15 days prior to the date on which the regulations are adopted. Requests for copies of any modified regulations should be sent to the attention of the agency officer named below.

### **ADDITIONAL COMMENTS**

If you plan on attending or making an oral presentation at the regulation hearing, please contact the agency officer named below.

The hearing room is accessible to persons with physical disabilities. Any person planning to attend the hearing, who is in need of a language interpreter, including sign language should contact the officer named below at least two weeks prior to the hearing so that the services of an interpreter may be arranged.

### **CONTACT**

All inquiries concerning this notice or the hearing should be directed to Colleen Berwick at Franchise Tax Board, Legal Department, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Telephone (916) 845-3306; Fax (916) 845-3648; E-Mail: [Colleen.Berwick@ftb.ca.gov](mailto:Colleen.Berwick@ftb.ca.gov). In addition, all questions on the substance of the proposed regulation can be directed to Natasha Sherwood Page; Tel.: (916) 845-6729. This notice, the initial statement of reasons and express terms of the proposed regulations are also available at the Franchise Tax Board's website at [www.ftb.ca.gov](http://www.ftb.ca.gov).