

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

As required by Government Code section 11346.4, this is notice of intention to adopt amendments to California Code of Regulations, title 18, section 18001-1, subsection (c), removing text that limits the timing of when a taxpayer may claim a credit from California for income taxes paid to another state. There will not be a public hearing unless requested by an interested person at least 15 days before the close of the written comment period. Any request for a public hearing should be submitted to the agency officer named below.

### **WRITTEN COMMENT PERIOD**

Written comments will be accepted until 5:00 p.m., on October 4, 2004. 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 & 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) of the Revenue and Taxation Code. The proposed regulatory action interprets, implements, and makes specific Revenue and Taxation Code section 18001.

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

According to the current regulation language contained in California Code of Regulations, title 18, section 18001-1, subsection (c), the credit for income taxes paid to another state will only be applied against the "net tax" imposed on the same income in the same year. The governing statute, Revenue and Taxation Code section 18001, subdivision (a), however, does not require that the same income be taxed in the same year nor does it require that the credit be applied only against the "net tax" imposed on the income in the same year. The governing statute provides that the credit for taxes paid to another state may be properly claimed when the same income that was taxed by the other state is also taxed by California. The proposed amendments to California Code of Regulations, title 18, section 18001-1, subsection (c), will remove the text that requires that the same income be taxed in the same year in order for the credit to be available. These amendments will apply retroactively for all open years.

### **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 that 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 impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

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

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

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

Effect on small business: None. The proposed amendment only applies to individuals and not small businesses.

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 INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The express terms of the proposed regulatory action, as well as the initial statement of reasons and all 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 proposed regulatory action may be adopted after consideration of any comments received during the comment period.

The regulation may also be adopted with modifications if the changes are nonsubstantive or the resulting regulation is sufficiently related to the text made available to the public so that the public was adequately placed on notice that the regulation as modified could result from that

originally proposed. The text of the regulation as modified will be made available to the public at least 15 days prior to the date on which the regulation is adopted. Requests for copies of any modified regulations should be sent to the attention of the agency officer named below.

### **ADDITIONAL COMMENTS**

If a hearing is held, the hearing room will be accessible to persons with physical disabilities. Also, any person who is in need of a language interpreter, including sign language, should contact the agency 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 the Franchise Tax Board, Legal Branch, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Tel.: (916) 845-3306; Fax: (916) 845-3648; E-Mail: [colleen.berwick@ftb.ca.gov](mailto:colleen.berwick@ftb.ca.gov), or the designated backup, Doug Powers; Tel.: (916) 845-4962; Fax: (916) 845-3648; E-Mail: [doug.powers@ftb.ca.gov](mailto:doug.powers@ftb.ca.gov). In addition, all questions on the substance of the proposed regulation can be directed to Jeanne M. Sibert, Tel.: (916) 845-5554; Fax: (916) 845-3648; E-mail: [jeanne.sibert@ftb.ca.gov](mailto:jeanne.sibert@ftb.ca.gov). This notice, the initial statement of reasons, and the express terms of the proposed regulation are also available at the Franchise Tax Board's website at <http://www.ftb.ca.gov>.