TITLE 18. FRANCHISE TAX BOARD
PROPOSED REGULATION

Text of Modified Regulation

The original text is in single underline. Changes are illustrated by double underline for proposed additions and by strikeout for proposed deletions.

18416.5 Election of Alternative Communication Method

(a) Definitions – For purposes of this regulation:

(1) "MyFTB folder" means the taxpayer's limited access secure folder or the taxpayer's authorized representative's secure folder which is accessed through the taxpayer's or taxpayer's authorized representative's account on FTB's internet web site or mobile application.

(2) "PECM" means the preferred electronic communication method selected by the taxpayer or the taxpayer's authorized representative, which may include traditional email, text, or other alternate forms of electronic communication that may become available in the future.

(3) "TPEA" means Taxpayer Provided Electronic Address, which may include an email address, text number, or other electronic delivery service address designated by the taxpayer to receive notification and which is accessible by the taxpayer electronically.

(4) "RPEA" means Representative Provided Electronic Address, which may include an email address, text number, or other electronic delivery service address designated by the taxpayer's authorized representative to receive notification and which is accessible by the representative electronically.

(5) "Successfully transmitted" means when the document or text is stored as a document or text in the taxpayer's MyFTB folder. The taxpayer or taxpayer's authorized representative should confirm that the document or text is viewable in the taxpayer's MyFTB folder to verify successful transmission.

(b) Election of Alternative Communication Method –

(1) Election Process - From the MyFTB folder, the taxpayer or the taxpayer's authorized representative may select the specific preferred method of alternative communication (e.g., e-mail, text or other FTB approved alternative electronic method of communication as described on the Franchise Tax Board's Internet Web site) and enter the TPEA or RPEA, as applicable, to obtain notification via the PECM.

(2) Consequences of Election – The consequences of making an election under subsection (b)(1) are as follows:

(A) By consenting to receive Franchise Tax Board notices via the taxpayer's or taxpayer's authorized representative's chosen PECM, the Franchise Tax Board's action in sending the notification to the TPEA or the RPEA via the PECM and making an image of the actual notice

available for viewing in MyFTB folder shall be considered notice to the taxpayer on the date the notification via PECM is transmitted and the notice is made available for viewing on MyFTB folder. Notifications and notices provided pursuant to this regulation shall be treated as if the actual notice was a notice mailed on that day by United States first-class mail, postage prepaid.

(B) Once the election to receive notification through the selected alternative communication method is confirmed, FTB notifications transmitted through the PECM will indicate that a notice from FTB is available for viewing in MyFTB folder. The notification sent through the PECM will contain plain language, either in the body of the message or by means of an internet link to the FTB website, informing the taxpayer that a failure to take appropriate action set forth on the notice in the MyFTB folder may cause the taxpayer to forego procedural or administrative rights to challenge the proposed action contained within the actual notice available in the taxpayer's MyFTB folder.

(3) Authorized Representatives - A taxpayer's appointment of a representative constitutes authorization for FTB to send notification to the taxpayer's authorized representative using an alternative communication method. Authorized taxpayer representatives electing to enroll in an alternative communication method to receive notification on behalf of a taxpayer are subject to the same election, revocation, and consequences of electing to receive notification via the alternative communication method as the taxpayer, as described in this regulation.

(4) Revoking Election - **Electing out of Previously Selected PECM**. If a taxpayer or the taxpayer's authorized representative who has previously selected a PECM in the MyFTB folder no longer wishes to receive notification under the currently-selected PECM, the taxpayer or the taxpayer's authorized representative may access the taxpayer's MyFTB folder and make a new election under subsection (b)(1).

(5) Delivery Failure - The taxpayer is responsible to ensure that the provided TPEA is correct and that the taxpayer can receive notification at that TPEA. If FTB discovers that the delivery of ~~any~~ notification sent via a taxpayer's chosen PECM has failed, FTB may make one or more attempts to re-deliver a notification using the PECM to the TPEA. If FTB determines that the redelivery is unsuccessful, FTB shall ~~may~~ inform the taxpayer of the failure to deliver notification to the TPEA by standard United States Mail delivery and advise the taxpayer of the need to remedy delivery failures to the TPEA.

FTB may revoke the election of the taxpayer's PECM and use standard United States mail delivery to send copies of future notices to the taxpayer.

(c) Filing a Protest or Other Correspondence

From the MyFTB folder, the taxpayer or taxpayer's authorized representative may file a protest, notification, and other communication with the Franchise Tax Board. The filing date of the protest or date of other correspondence or response shall be the date that the document or text provided by the taxpayer or taxpayer's authorized representative is "successfully transmitted" to the Franchise Tax Board.

~~***(d)*** This regulation shall apply to elections made and protests or other correspondence filed on or after July 1, 2015.~~