

TITLE 18. FRANCHISE TAX BOARD  
PROPOSED AMENDMENTS TO  
REGULATION 25137(c)(1)(A)

A hearing was held on May 8, 2000, by Carl Joseph of the Franchise Tax Board Legal Staff, on proposed amendments to Regulation Section 25137(c)(1)(A). This hearing was held pursuant to notice published in the California Regulatory Notice Register on March 24, 2000. Section 25137(c)(1)(A) of the Revenue and Taxation Code provides for the exclusion from the sales factor of the apportionment formula any gross receipts derived from an occasional sale of a fixed asset, but only if those gross receipts are substantial in nature. The additional proposed amendments to the regulation under this notice will extend the same rule to sales of intangible property, e.g., stock in an affiliate, patents, and trademarks.

This notice proposes sufficiently related changes to the previously-noticed proposed rulemaking (within the meaning of Govt. Code Section 11346.8) which are described below:

As originally drafted, the regulation did not provide definitions for the terms “substantial,” “occasional,” and “incidental.” Due to public comment received with respect to the original notice, the proposed regulation is now modified to include definitions for these terms. In addition, the text of the proposed amendments to Regulation 25137(c)(1)(A) has now been modified to provide that the effective date of the regulatory changes shall apply with respect to sales occurring on or after January 1, 2001.

These changes are properly treated as sufficiently related changes within the meaning of Govt. Code Section 11346.8 because notice of the possibility that these changes would occur was included in the original Notice published on March 24, 2000. The sufficiently related changes reflected in this notice are being made available to the public for the 15-day period required by Government Code Section 11346.8(c) and Section 44 of Title 1 of the California Code of Regulations. Also, nonsubstantive formatting and grammatical changes are also included in this notice. Additions to the text of the originally-proposed amendments to Regulation 25137(c)(1)(A) are reflected by bold italic, and deletions are reflected by bold strikeout. Written comments regarding these changes will be accepted until 5:00 p.m. on November 1, 2000.

A copy of the proposed amendments is being sent to all individuals who requested notification of such changes, as well as those who attended the hearing and those who commented orally or in writing, and will be available to other persons upon request from the agency officer named below.

All inquiries and written comments concerning this notice should be directed to Colleen Berwick (916) 845-3306, FAX (916) 845-3648, E-Mail: [colleen.berwick@ftb.ca.gov](mailto:colleen.berwick@ftb.ca.gov), or by mail to the Legal Branch, Attn: Colleen Berwick, P.O. Box 1720, Rancho Cordova, CA 95741-1720. The notice and the proposed amendments will also be made available at the Franchise Tax Board’s website at <http://www.ftb.ca.gov>.