

INITIAL STATEMENT OF REASONS FOR THE
AMENDMENT OF REGULATION SECTION 23334

SPECIFIC PURPOSE OF THE PROPOSED REGULATORY ACTION

This proposed regulatory action is part of a larger project to make taxpayers aware of their rights and responsibilities pertaining to requesting and receiving a tax clearance certificate. This proposed regulatory action explains that to complete the dissolution, withdrawal, or merger process with the Secretary of State, a corporation may be required to obtain a tax clearance certificate from the Franchise Tax Board and file it with the Secretary of State.

NECESSITY

This proposed regulatory action clarifies and amends existing California Code of Regulations, title 18, section 23334. The existing regulation explains the process for obtaining a tax clearance certificate. The existing regulation needs greater clarity, because the statutory law relating to the tax clearance process has changed significantly since the last amendment to this regulation and many taxpayers apparently do not understand the effect of the recent legislative changes on the tax clearance process. The proposed regulatory action also clarifies the process for requesting and receiving a tax clearance certificate in greater detail than the existing regulation. Additionally, the proposed regulatory action explains that a tax clearance certificate will not be issued to a suspended or forfeited corporation until that corporation is revived.

TECHNICAL, THEORETICAL, AND /OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Franchise Tax Board did not rely upon any technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON AFFECTED PRIVATE PERSONS OR SMALL BUSINESS.

The Franchise Tax Board has determined that there were no alternatives considered which would be more effective in carrying out the purpose of the proposed regulatory action or would be as effective and less burdensome to affected private persons or small businesses than the proposed regulatory action.

ADVERSE ECONOMIC IMPACT ON BUSINESS

None identified. The proposed regulatory action clarifies that dissolving, withdrawing, and certain merging corporations continue to exist for state tax purposes until the corporation obtains and files a valid tax clearance certificate. Any impact on business would be to their benefit, because the proposed regulatory action clarifies what steps are necessary to obtain and file a tax clearance certificate to avoid additional taxes and penalties.