

FINAL STATEMENT OF REASONS FOR THE AMENDMENT OF REGULATION  
SECTIONS 25106.5-0 AND 25106.5

The proposed regulations do not impose any mandate on local agencies or school districts.

Update of Initial Statement of Reasons

The public notice required by Section 11346.4 of the Government Code was mailed and published on October 1, 1999. The hearing was held, as scheduled, on November 19, 1999. Oral testimony was not offered with respect to the proposed amendments to the indicated regulations (Transcript of Hearing, Tab 13). One set of written comments was received during the comment period related to proposed amendments to Regulation Section 25106.5-2. Responses to those comments are contained in the regulation file.

After the first hearing, the United States Supreme Court held that Section 24344(b) of the California Revenue and Taxation Code (also known as the "interest offset") was unconstitutional (*Hunt-Wesson v. Franchise Tax Board* (2000) \_\_\_ U.S. \_\_\_, 145 L.Ed. 2d 974). The Supreme Court had accepted the taxpayer's petition for certiorari in that case at the time of the publication of notice for the proposed regulation. The proposed regulation had made reference to Section 24344(b) and/or "interest offset" which was no longer appropriate given the holding of the Court. Sufficiently related changes were made to the proposed regulations, to remove those references, and a 15-day public notice was mailed on April 21, 2000. No comments were received during the comment period which ended May 8, 2000. This regulation was presented to the three-member Franchise Tax Board at its February 8, 2000 meeting, and again at its March 27, 2000 meeting, which authorized both the 15-day notice and submission of the proposed regulations to the Office of Administrative Law. The proposed regulations were submitted to the Office of Administrative Law (Regulation File No. 00-0523-01S), but were later withdrawn in order to make additional changes to the proposed regulation for clarity. These changes were reflected in a second 15-day public notice, which was mailed on August 21, 2000. No comments were received during the comment period which ended September 8, 2000.

Alternatives Determined

Franchise Tax Board has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.