

TITLE 18. FRANCHISE TAX BOARD
PROPOSED AMENDMENTS TO
REGULATIONS 25106.5-0, 25106.5, and 25106.5-2

Proposed amendments to Regulation Sections 25106.5-0, 25106.5, and 25106.5-2 were noticed in the California Regulatory Notice Register on October 1, 1999. Proposed 15-day notice changes to the original proposed amendments were noticed in the California Regulatory Notice Register on April 21, 2000. This notice proposes minor editing changes to the revised proposed amendments for clarity. With one exception, the new proposed amendments constitute nonsubstantial changes (within the meaning of Govt. Code Section 11346.8). There is one sufficiently related change (within the meaning of Govt. Code Section 11346.8). Additions to the indicated regulations are reflected by bold italic dotted underscore, and deletions to the indicated regulations are reflected by bold double strikeout superscript. The proposed “sufficiently related” change is described below.

Regulation 25106.5

Former Subsection (f), revised as Subsection (g): After the phrase “for the income year” strike the remaining portion of the sentence. Add new sentences to read: “The minimum franchise tax imposed by Section 23153 is then applied, if applicable. The resulting amount is the taxpayer member’s regular tax, within the meaning of Section 23455(c) of the Revenue and Taxation Code.”

This amendment is necessary to reflect that the term “regular tax,” as used in Section 23455(c) of the Revenue and Taxation Code, is a defined term, and refers to the tax imposed under Chapter 2, Chapter 3, or Section 23731 of Chapter 4 of the Bank and Corporation Tax Law (Part 11, Div. 2, Revenue and Taxation Code). The tax referred to in those Chapters includes the imposition of the minimum franchise tax (Section 23153, Revenue and Taxation Code) for some taxpayers, particularly those subject to Chapter 2. Accordingly, the regulation is amended to reflect imposition of the minimum franchise tax imposed by Section 23153.

By definition “regular tax” does not include tax credits (see Section 23455(c)(2), Revenue and Taxation Code). Accordingly, the reference to tax credits is stricken as surplusage.

The nonsubstantial and 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. Written comments regarding these changes will be accepted until 5:00 p.m. on September 8, 2000.

Government Code Section 15702(b) provides for consideration by the three-member Board of any proposed regulatory action if any person makes such a request.

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), 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 www.ftb.ca.gov.

This notice also advises members of the interested public that the initial statement of reasons has been revised to provide more detail regarding the necessity for this regulation. A copy of the revised statement of reasons can be obtained from Ms. Berwick at the above telephone number, Fax number, E-mail address or mailing address.