

INITIAL STATEMENT OF REASONS FOR THE
ADOPTION AND AMENDMENT OF
REGULATIONS SECTION 25106.5-0 THROUGH 25106.5-10

PUBLIC PROBLEM, ADMINISTRATIVE REQUIREMENT, OR OTHER CONDITION OR CIRCUMSTANCE THAT THE REGULATION IS INTENDED TO ADDRESS

Section 25106.5 of the Revenue and Taxation Code (Rev. and Tax. Code) was enacted in 1987 to provide specific authority to promulgate regulations dealing with combined reporting. Before the enactment of Section 25106.5, combined reporting procedures were reflected in FTB Publication 1061.

SPECIFIC PURPOSE OF THE REGULATIONS

The series of proposed regulations would provide detailed rules relating to combined reporting procedures. In general, the proposed regulations provide combined reporting rules for accounting methods and elections, aggregation of business income of a unitary group, collection of apportionment factor data, fiscalization, apportionment and intrastate apportionment, capital gain and loss, partial period combination, and application of nonbusiness income and other California source income.

NECESSITY

The Franchise Tax Board does not have a comprehensive set of regulations that deal with the mechanics of combined reporting. For the most part, the mechanics of combined reporting have been developed by years of audit experience, and have, over the years, been reflected in FTB Publication 1061. However, even that publication does not set forth many of the specific rules relating to combined reporting. Instead, the effect of combined reporting practices has, for the most part, been illustrated by example.

The Franchise Tax Board has an obligation to regulate when it seeks to prescribe rules of general application.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS.

Other than FTB Publication 1061, 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 regulation or would be as effective and less burdensome to affected private persons or small businesses than the proposed regulation. In addition, the proposed regulation pertains to corporate taxpayers and therefore does not affect private individuals.

ADVERSE ECONOMIC IMPACT ON BUSINESS

The Franchise Tax Board has determined that the proposed regulations will not have a significant overall economic impact on business. The proposed treatment of capital gains will generally have a favorable impact on business. However, some taxpayers will be adversely affected by the application of the apportionment rules of these regulations, because they represent a significant departure from existing practices. However, other taxpayers are favorably affected those same rules when compared to existing practices. For the most part, the remainder of the proposed regulations reflect existing practices.