

ADDITIONAL 15 DAY NOTICE REGARDING CALIFORNIA CODE OF REGULATIONS,
TITLE 18, SECTION 25137(c)(1)(D)

The Franchise Tax Board is making available to the public for the 15-day period required by required by Government Code Section 11347.1 a study that was introduced as part of the responses to comments regarding the above captioned regulation. While the study has been available for some time to the public on the Franchise Tax Board's website, www.ftb.ca.gov, and was available prior to the Franchise Tax Board's adoption of the regulation, the 15 day notice requirement was not fulfilled. In addition to the study, there are other documents and decisions that were utilized in the Final Statement of Reasons, or generally referred to in the Initial Statement of Reasons, that the Franchise Tax Board wishes to allow comment on during this additional comment period. The Final Statement of Reasons is attached to this notice.

The additional documents open for comment during the 15 day notice period are:

1. The Treasury Function Inventory study. This document is available on the Franchise Tax Board's website as Exhibit B to item 3c of the Franchise Tax Board's agenda for the November 28, 2007 Board meeting. The URL for agenda item 3c is: <http://www.ftb.ca.gov/law/meetings/attachments/112807/3c.pdf>
2. The State Board of Equalization's published opinion in *Appeal of Pacific Telephone and Telegraph*, 78-SBE-028 (May 4, 1978).
3. The State Board of Equalization's published opinion in *Appeal of Fluor Corporation*, 95-SBE-016 (December 12, 1995).
4. The Court of Appeal's vacated opinion in *Toys R Us Inc. v. Franchise Tax Board*, 41 Cal. Rptr. 3d 285 (April 5, 2006).
5. The Court of Appeal's unpublished and later vacated opinion in *The Limited Stores Inc v. Franchise Tax Board*, 2005 Cal. App. Unpub. LEXIS 6572 (July 28, 2005).
6. The First District Court of Appeal's published decision in *The Limited Stores, Inc., et al., v. Franchise Tax Board* (2007) 152 Cal.App.4th 1491.
7. A section of the state taxation treatise by Hellerstein & Hellerstein: State Taxation (3rd Edition), Par. 9.15[3][a][ii]. This document is available on the Franchise Tax Board's website and is set forth on page 10 of Exhibit A (Staff summary of comments, responses and recommendations in conjunction with hearing of August 17, 2007) to item 3c of the Franchise Tax Board's agenda for the November 28, 2007, Board meeting. The URL for agenda item 3c is: <http://www.ftb.ca.gov/law/meetings/attachments/112807/3c.pdf>
8. The Final Statement of Reasons for the proposed regulation.
9. A report to the Franchise Tax Board regarding the interested parties meetings held by the staff regarding the California Supreme Court decisions in *General Motors Corporation v. Franchise Tax Board* (2006) 39 Cal.4th 773, and *Microsoft Corporation v. Franchise Tax Board* (2006) 39 Cal.4th 750. This report can be found on the Franchise Tax Board's website as agenda item 5 of the Board's April 4, 2007, Board meeting. The URL for the Board agenda is: <http://www.ftb.ca.gov/law/meetings/agendas/040407.pdf>

10. The Multistate Tax Commission's Model Regulation Reg. IV. Section 18 (c)(4).
This regulation is available on the MTC's website, www.mtc.gov.
11. The regulatory rules passed in other states to address the treasury function issue: Haw. Admin. Rules 18-235-38-03(f); Idaho Admin. Rules 35.01.01.570.03; N.M. Admin. Code 3.5.19.11(A)(4); Utah Admin. Rules R865-6F-8(10)(c)(iv).

The documents referenced in this notice are available at the Franchise Tax Board's office during normal business hours at:

Franchise Tax Board
9646 Butterfield Way
Sacramento, CA 95827

A mailing of this notice 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.

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 Department, Attn: Colleen Berwick, P.O. Box 1720, Rancho Cordova, CA 95741-1720. This notice and the proposed amendment and adoption will also be made available at the Franchise Tax Board's website at <http://www.ftb.ca.gov/>