



STATE OF CALIFORNIA
FRANCHISE TAX BOARD
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KATHLEEN CONNELL
Chair

CLAUDE PARRISH
Member

B. TIMOTHY GAGE
Member

February 23, 2001

Chief Counsel Ruling
20-0322

Re: *****

Dear *****:

This chief counsel ruling is issued in response to your ***** , request on behalf of your client, ***** (the "Bank"), and pertains only to that entity.

In your request, as supplemented by a clarifying letter dated ***** , you note that the Bank purchased, at a discount, Qualified Zone Academy Bonds ("Academy Bonds") with an aggregate principal amount of ***** . You stated that the Academy Bonds provided certain federal tax credits and benefits as set forth in Internal Revenue Code section 1397E, and that the Bank qualifies as an eligible taxpayer for such benefits. You also noted that Internal Revenue Code section 1397E(g) requires the taxpayer to include in gross income the amount of the credit allowed under Internal Revenue Code section 1397E.

ISSUE

Will the Bank be required to recognize as income for California franchise tax purposes the amount of federal credit allowed for federal income tax purposes under Internal Revenue Code section 1397E ?

DISCUSSION

Internal Revenue Code section 1397E provides an eligible taxpayer who holds an Academy Bond with a federal income tax credit in the amount determined in subsection (b) of that section. The California Bank and Corporation Tax Law does not incorporate Internal Revenue Code section 1397E into the Revenue and Taxation Code. The annual California franchise tax on banks, financial corporations, or corporations is not reduced or offset by the federal tax credit provided by the provisions set forth in Internal Revenue Code section 1397E. The California Bank and Corporation Law does not contain a provision that includes in a California taxpayer's income the amount of credit allowed by Internal Revenue Code section 1397E.

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HOLDING

***** is not required to recognize as income for California franchise tax purposes the amount of federal tax credit it is allowed under Internal Revenue Code section 1397E.

Please be advised that the tax consequences expressed in this letter are applicable to the named taxpayer only and are based upon and limited to the facts submitted. Moreover, this chief counsel ruling specifically does not address application of the original issue discount rules or any other tax consequences of this transaction. You specifically confirmed with me that your request was not addressing any income other than the income that would be determined by the provisions of Internal Revenue Code section 1397E(g).

In the event of a change in relevant statutory, judicial, or administrative case law, a change in federal interpretation of federal law in cases where our opinion is based upon such interpretation, or a change in the material facts or circumstances relating to your request upon which this opinion is based, this opinion may no longer be applicable. It is your responsibility to be aware of these changes should they occur.

This letter is a legal ruling by the Franchise Tax Board's Chief Counsel within the meaning of Revenue and Taxation Code section 21012, subdivision (a)(1). Please attach a copy of this letter and your request to the back of the appropriate return(s) (if any) when filed or any notices or inquiries which might be issued.

Very truly yours,

David Gemmingen
Tax Counsel III