



STATE OF CALIFORNIA  
**FRANCHISE TAX BOARD**  
**Legal Branch**  
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 Member

November 13, 2002

Chief Counsel Ruling  
 2002-02

\*\*\*\*\*

RE: \*\*\*\*\*

Dear \*\*\*\*\*:

This chief counsel ruling is issued in response to your \*\*\*\*\* , request for advice as to the date upon which the water's-edge election of \*\*\*\*\* will expire.

FACTS

\*\*\*\*\* is a calendar-year taxpayer. It timely filed, on extension, its Form 100-WE, Water's-Edge Contract, making a water's-edge election beginning January 1, 1994. It filed its Form 1116, Notice of Nonrenewal of Water's-Edge Contract, on or about October 14, 1998, at the same time as it filed its Franchise Tax Return for the \*\*\*\*\* .

ISSUE

What is the expiration date of \*\*\*\*\* water's-edge election?

HOLDING

\*\*\*\*\* water's-edge election expires December 31, 2004.

DISCUSSION

Revenue & Taxation Code section 25111(a) provides that a water's-edge election shall be made on the original return for a year and shall be for an initial term of 84 months. It further provides that an additional year shall be added to the contract term on the anniversary date of the contract unless notice of nonrenewal is filed as prescribed in subdivision (d) of section 25111.

Subdivision (d) of 25111 provides that the taxpayer shall serve written notice of nonrenewal upon the Board at least 90 days in advance of the annual renewal

date. Unless that written notice is provided to the board, the election shall be considered renewed as provided in subdivision (a).

California Code of Regulations, title 18 (CCR), section 25111(b)(2) defines the anniversary date of the contract as the later of the due date of the return or the due date of the return as extended. The anniversary date is established when the taxpayer enters into the contract and remains the same for each subsequent year.

\*\*\*\*\* made a water's-edge election on its return for \*\*\*\*\*  
\*\*\*\*\* . Thus, \*\*\*\*\* anniversary date is October 15. \*\*\*\*\*  
Notice of Nonrenewal was filed on October 14, 1998. Because the Notice of Nonrenewal was not filed at least 90 days in advance of the annual renewal date of October 15, 1998, another year was added to the contract, and the contract period as of that date was 84 months from the beginning of taxable year 1998. Because the Notice of Nonrenewal was filed more than 90 days before the next anniversary date, October 15, 1999, another year was not added to the contract period, and the contract will expire 84 months from the beginning of taxable year 1998, on December 31, 2004. (See CCR § 25111(h)(2)(A), Example 1(b).)

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 to your response to any notices or inquiries which might be issued.

Very truly yours,

Claudia K. Land  
Tax Counsel IV