



11.29.2018

FTB NOTICE 2018 - 03

SUBJECT: Filing Requests Regarding Defective Credit Assignments under California Code of Regulations, Title 18, Section 23663

PURPOSE: This Notice provides guidance to taxpayers regarding requests under California Code of Regulations, title 18 ("Regulation"), sections 23663-2(c), 23663-2(d), 23663-3(b), 23663-3(c), 23663-3(d), and 23663-4.

Required Information

All of the following must be included in a request submitted under this Notice:

- 1) **Cover Letter:** Any request under this Notice must include a cover letter signed by the taxpayer (or by a representative authorized to sign on behalf of the taxpayer) requesting that staff apply Regulation section 23663-2(c), 23663-2(d), 23663-3(b), 23663-3(c), 23663-3(d) or 23663-4.
- 2) **Header:** The cover letter (discussed above) and all pages of any tax returns and amended tax returns required by Regulation section 23663-5(f) must indicate at the top in red ink "DEFECTIVE CREDIT ASSIGNMENT REQUEST".
- 3) **Information from the Regulation:** All of the information listed in Regulation section 23663-5(f) must be included with the request.

Where to Send Request

- 1) Requests under this Notice shall be mailed to the following address:

Credit Assignment MS F350
Franchise Tax Board
PO Box 1779
Rancho Cordova, CA 95741-1779

- 2) **Special Rule for Requests which Impact a Current Audit or Protest:** When a request under this Notice, if approved, will impact a tax year currently under audit or protest, then a request under this Notice (including all required information as noted above) should be made directly to the auditor or protest officer currently handling the audit or protest.

Reminder of September 18, 2019 Deadline to Correct Many Pre-Regulation Defective Assignments

Regulation section 23663-4(e) provides taxpayers a one-year period to apply the correction of an error provisions of Regulation section 23663-4 to defective assignments made before the regulation became effective. As Regulation section 23663-4 became effective on September 18, 2018, this one-year period ends on September 18, 2019.

Amended Tax Returns

Amended tax returns filed in accordance with Regulation section 23663-5(f)(1)(S) need only include pages where the information on the tax return has changed due to the application of the regulations discussed in this Notice. It is not necessary to file all pages of the amended tax return.

Any amended tax returns provided under this Notice shall not raise any issue except for the application of the relevant regulations to which this Notice pertains or an issue related to the application of such regulations. If a taxpayer desires to raise any additional issues or claims unrelated to the regulations to which this Notice pertains, the taxpayer should file an additional amended tax return with the Franchise Tax Board (FTB). In order to assist in the proper processing of that additional amended tax return, the amended tax return should inform the FTB that the taxpayer has also submitted a request under this Notice.

Exemption from e-filing Requirement

Any amended tax returns submitted under this Notice are exempt from the requirement in Revenue and Taxation Code section 18621.10 that the "return shall be filed using electronic technology" due to the FTB's technology constraints in processing electronic requests under this Notice.

Acknowledgement of a Request

Within 30 days of a taxpayer making a request under this Notice, the FTB will send the taxpayer or the taxpayer's representative a letter acknowledging receipt of the taxpayer's request. An acknowledgement will not be sent for requests made directly to an auditor or protest officer (per the procedure discussed above) since the taxpayer or the taxpayer's representative will already be working directly with the auditor or protest officer.

Approval of a Request

A taxpayer shall receive the treatment requested under this Notice only if the FTB informs the taxpayer in writing that the taxpayer's request has been approved.

Power of Attorney

Any power of attorney declaration, FTB Form 3520, should be submitted separately to the FTB, not as part of a request sent under this Notice. The preferred method to submit a power of attorney declaration is through MyFTB which can be accessed at www.ftb.ca.gov.

Request Date

The date a request is treated as made under this Notice shall be the date the request is postmarked.

Questions

The FTB has established the following email address to which questions regarding this Notice may be sent: FTBcreditassignment@ftb.ca.gov. **Requests under this Notice may not be sent to this email address.**

The principal author of this Notice is **Ciro Immordino** of the Franchise Tax Board, Legal Division. For further information regarding this Notice, contact Mr. Immordino at P.O. Box 1720, Rancho Cordova, CA 95741-1720.