



September 6, 2019

## **FTB NOTICE – 2019-04**

### **SUBJECT: PROCEDURES TO MAKE AN ELECTION UNDER CALIFORNIA REVENUE AND TAXATION CODE SECTION 17859, RELATED TO TECHNICAL TERMINATIONS.**

#### **PURPOSE:**

This Notice provides guidance to taxpayers regarding making an election under California Revenue and Taxation Code ("RTC") section 17859, related to adoption of federal amendments to Internal Revenue Code ("IRC") section 708, for the 2018 taxable year.

#### **BACKGROUND:**

Section 16(a) of Assembly Bill 91 – Loophole Closure and Small Business and Working Families Tax Relief Act of 2019 ("AB 91") enacted RTC section 17859. As of January 1, 2019, this section incorporates certain federal Tax Cuts and Jobs Act of 2017 (P.L. 115-97) amendments to IRC section 708, relating to the technical termination of a partnership. Subdivision (d)(1) of RTC section 17859 allows taxpayers to elect to apply the changes to IRC section 708 for taxable years beginning after December 31, 2017 and before January 1, 2019. Pursuant to RTC section 17859(d)(2), the FTB shall determine how the election will be made and in what manner.

#### **PROCEDURE**

In order to make an election under RTC section 17859(d)(1), a taxpayer must complete all of the following:

1. Include a statement with their original or amended California tax return, for the appropriate taxable year, stating the taxpayers' intent to make an election under RTC section 17859(d)(1).
2. On the top of the first page of the original or amended tax return, write or print "AB 91 – Section 17859(d)(1) Election" in blue or black ink.
3. Mail all "AB 91 – Section 17859(d)(1) Election" returns to:

Franchise Tax Board  
P.O. Box 1570  
Rancho Cordova, CA 95741-1570

If a taxpayer has an electronic filing requirement under RTC section 18621.10, the taxpayer may file a paper return for the purposes of making the election pursuant to this Notice. In that case, the taxpayer shall also include a statement with the return stating that the taxpayer is filing a paper return in lieu of an electronic return pursuant to FTB Notice 2019-04.

The principal author of this notice is Shane J. Hofeling of the Franchise Tax Board, Legal Division. For further information regarding this notice, contact Mr. Hofeling at P.O. Box 1720, Rancho Cordova, CA 95741-1720.