



DECEMBER 23, 2019

**FTB NOTICE – 2019-06**

**SUBJECT:** Process for Establishing a Limited Partnership is Disregarded for Federal Income Tax Purposes

**PURPOSE:**

To inform limited partnerships of the steps to substantiate with the Franchise Tax Board ("FTB") that they are properly disregarded for federal income tax purposes, as discussed in Legal Ruling 2019-02.

**BACKGROUND:**

FTB Legal Ruling 2019-02 concludes that limited partnerships that are disregarded for federal income tax purposes are not required to file an income tax return pursuant to California Revenue and Taxation Code ("CRTC") section 18633 or pay the annual tax pursuant to CRTC section 17935.

**PROCEDURE:**

Limited partnerships that are properly disregarded pursuant to FTB Legal Ruling 2019-02 that receive or have received a Filing Enforcement Notice from the FTB should submit documents pertaining to Item (1) or Item (2) below to establish that the limited partnership has no income tax return filing and annual tax payment requirements. The FTB will review the submitted documentation and make a determination on whether the limited partnership has sufficiently established that it is properly disregarded for federal income tax purposes, and therefore, is not subject to the income tax return filing and annual tax payment requirements.

The following are the documents to be provided by the limited partnership to FTB:

- (1) The certificate of limited partnership, partnership agreement, organizational chart of ownership, and federal returns of the partners for the particular taxable year or years in question; or
- (2) A declaration signed under penalty of perjury by the general partner of the limited partnership under local law. If the limited partnership's general partner under local law is a limited liability company ("LLC"), then the manager or, if there is no manager, the authorized member of the general partner LLC must

sign the declaration. The declaration must clearly identify the general partner and must state that the entity was disregarded for federal income tax purposes during the respective tax years.

### **Claims for Refund Previously Filed with FTB**

The FTB received claims for refund from limited partnerships based upon an interpretation of CRTS section 23038(b)(2)(B)(iii) similar to that in Legal Ruling 2019-02.

If a limited partnership filed a claim for refund, items (1) or (2) mentioned above should be provided to FTB.

This information may be mailed to:

DLP CLAIM  
Franchise Tax Board  
P.O. Box 942857  
Sacramento, CA 94257-4040

For Courier Service Delivery or Private Courier Mail:

DLP CLAIM  
Franchise Tax Board  
Sacramento, CA 95827-1500

### **New Claims for Refund Based on FTB Legal Ruling 2019-02**

If a limited partnership wants to file a new claim for refund based on FTB Legal Ruling 2019-02, the local law general partner of the limited partnership should mail a letter to the FTB and comply with items (1) or (2) above.

The limited partnership's general partner must sign the declaration under penalty of perjury. Note that refund claims may only be filed for those tax years for which the statute of limitations remains open.

The principal author of this notice is Michael R. Laisné of the FTB, Legal Division. For further information regarding this notice, contact Mr. Laisné at P.O. Box 1720, MS A260, Rancho Cordova, CA 95741-1720.