

NOTE: This paper is intended only for purposes of facilitation of discussion at the Interested Parties Meeting scheduled for June 4, 2021.

EXPLANATION OF DRAFT LANGUAGE AMENDING CALIFORNIA CODE OF REGULATIONS, TITLE 18, (CCR) SECTION 25136-2

The focus of this Interested Parties Meeting (IPM) will be on the draft language amending title 18, California Code of Regulations, (CCR) section 25136-2, California's market-based sourcing rules for sales of other than tangible personal property. This will be the sixth IPM for the second round of amendments to CCR section 25136-2. The first IPM was held on January 20, 2017, the second on June 16, 2017, the third on May 18, 2018, the fourth on July 19, 2019, and the fifth on July 21, 2020.

Available to the public for this sixth IPM are the following three documents: the Sixth IPM Notice; the Sixth IPM Draft Language (Draft Language); and this Explanation of Draft Language.

This document contains the Explanation of Draft Language. Language proposed at previous IPMs but no longer proposed is not included. Language proposed at previous IPMs that is unchanged from prior IPMs is also not included. However, proposed language which has been modified from proposed language presented at the previous IPMs is noted. All page references are to the page number of the Draft Language document.

To facilitate reading, please note that the following proposed changes appearing in the Draft Language are not discussed in this document: internal reference changes intended to reflect newly-proposed or relocated subsections; proper formatting for references to the California Revenue and Taxation Code, the California Code of Regulations, and the Internal Revenue Code; and proper formatting for percentages, calculations, and numerical values.

EXPLANATION OF DRAFT LANGUAGE

1. Defined Asset Management Services definition at (b)(1).

Staff proposes to add a definition for "asset management services" at subsection (b)(1). The definition was developed after discussion with stakeholders in the asset management and investment advisory industries. The definition is required to inform taxpayers which activities generate asset management service gross receipts assignable through subsection (c)(2), particularly in light of a newly-proposed rule for professional services at subsection (c)(3) (see Item 4, below).

2. Defined Professional services definition at (b)(9).

Staff proposes to add a definition for professional services at subsection (b)(9). The definition was developed after discussion with stakeholders in certain professional services industries. The definition is required in light of the newly-proposed rule for professional services at subsection (c)(3) (see Item 4 below).

3. Changed Law Corp example to Architecture Corp example at (c)(1)(E).2.

Because staff is proposing a new rule for enumerated professional services (see Item 4 below), including legal services, at subsection (c)(3), staff is no longer proposing the Law Corp example, formerly proposed at (c)(1)(E)2. The example has been modified to demonstrate application of the simplifying rules at subsection (c)(1) in the context of architecture services.

4. Added rule for professional services at (c)(3).

Interested parties previously stated that certain professional services are difficult to assign under the proposed rules at (c)(1) due to administrability issues. Based on input from interested parties, staff proposes a special rule for certain professional services at subsection (c)(3).

5. Changed applicability date of amendments to 2022 at (j)(3).

In recognition of the amendment process timeline, staff proposes to change the applicability date of amendments to taxable years beginning on or after January 1, 2023.

6. Deletion of paragraph (j)(4).

Staff proposes deleting this paragraph because it is obsolete.