

NOTE: This handout is intended only for purposes of facilitating discussion at the Interested Parties Meeting scheduled for July 30, 2020.

EXPLANATION OF DRAFT TEXT

The purpose of this Interested Parties Meeting (IPM) is to receive input from the taxpayer community regarding a proposed amendment to Title 18 of the California Code of Regulations (CCR), Section 18001-1, to clarify the statutory term "net income taxes paid to another state" for purposes of the Other State Tax Credit (OSTC). This will be the second IPM for this topic. The first IPM was held on August 7, 2019.

The following documents are available to the public for the July 30, 2020 IPM: the Second IPM Notice; Draft Text; and this Explanation of Draft Text. The first IPM Summary was previously posted to the Franchise Tax Board's website.

Discussion of the proposed amendment to CCR section 18001-1.

Clarifying the term "net income taxes paid to another state" for purposes of the OSTC:

The proposed amendment to CRR section 18001-1 would provide clarification for determining whether a tax constitutes a net income tax. The proposed amended language provides clarity by defining when a tax constitutes a tax on net income. Since the OSTC is only available for net income taxes, a tax that may be imposed on items that are not net income taxes will not be considered a net income tax. A tax that must be paid regardless of whether or not the tax base constitutes income is not a net income tax. A tax will be considered a net income tax only where the tax is limited to net income. In determining whether a tax is a tax on net income, if a tax base includes items other than net income, in whole or in part, as applied to all taxpayers, the tax is not a tax on net income, regardless of whether an individual taxpayer would only be taxed on net income.