

# **Summary of Interested Parties Meeting Proposed Regulation at §18001, Other State Tax Credit**

## **I. Administration**

On August 7, 2019 at 1:00 p.m., at the Franchise Tax Board (FTB) central office in Sacramento, interested members of the public (Participants) attended the Interested Parties Meeting (IPM) on the potential adoption of a regulation under California Code of Regulations, title 18, (CCR) section 18001 (Regulation). Participants attended in person and by telephone. Participants physically present were asked to register at the entrance, and phone participants introduced themselves.

Veronica Long, FTB Tax Counsel, and Adam Susz, FTB Attorney V, served as the IPM Facilitators (Facilitators). Ms. Long explained the purpose of the IPM was to provide the public with an opportunity to provide comments on the potential adoption of the Regulation. Participants were advised they had until September 4, 2019 to submit written comments. No further comments were received.

## **II. Discussion**

The purpose of the meeting was to receive public input on the potential adoption of a regulation to clarify the statutory term "net income taxes paid to another state" for purposes of the Other State Tax Credit (OSTC) contained in California Revenue and Taxation Code section 18001.

Facilitators opened the discussion for public input on this topic, and received comments as detailed below:

Commentators asked why this area of the tax law was selected for a potential regulation and inquired as to the FTB's reason in seeking public input on this topic. Facilitators responded that this area of tax law had received public interest and FTB was providing a public forum to receive public input about a potential regulation in this area.

One commentator expressed concern that a potential regulation clarifying the term "net income taxes paid" for purposes of the OSTC would also affect corporations. The commentator noted that currently, corporations obtain a deduction for taxes other than income taxes paid to other states, and felt concerned that a potential regulation regarding the term "net income taxes" would negatively impact the existing corporate deduction.

One commentator suggested that guidance should be adopted to allow S corporation shareholders to receive the OSTC for taxes imposed on gross income and allow S corporation shareholders to receive the OSTC for the Revised Texas Franchise Tax. The commentator submitted proposed draft language to amend CCR section 18001-1 to permit S corporation shareholders an OSTC for taxes measured by income, profits, or under the "Cost of Goods Sold" method of the Revised Texas Franchise Tax. The

commentator also sought clarity about the timeframe of a potential regulation. Facilitators responded that as this IPM was the first meeting on this topic to gather public input, FTB will consider all comments received from the public before determining how to proceed.

### **III. Closing**

The Facilitators indicated that staff would review comments received from the public during the comment period and discuss with FTB management how to proceed.