

Summary of First Interested Parties Meeting

Regulation Sections 17951-5 and 17951-8, Market-Based Rules – Personal Income Tax Sourcing

I. Administration

On October 8, 2020 at 10:00 a.m., the Franchise Tax Board (FTB) held a telephonic Interested Parties Meeting (IPM) that was attended by interested members of the public (Participant(s)) concerning proposed amendments to the regulation at Title 18 of the California Code of Regulations (CCR), section 17951-5 and the proposed adoption of CCR section 17951-8. This was the first IPM on this regulation project. During the IPM, participants were able to submit comments verbally or by email.

Natasha Page, FTB Tax Counsel IV, Maria Brosterhous, FTB Tax Counsel IV, and Red Gobuty, FTB Tax Counsel IV, served as the IPM Facilitators (Facilitators). The Facilitators explained the purpose of the IPM was to provide the public with an opportunity to provide comments on the proposed amended draft language and proposed new language as provided in the Draft Text document published concurrently with the Notice of the Interested Parties Meeting. Participants were advised they could submit written comments, which were due by November 5, 2020.

II. Discussion

The Facilitators discussed the Draft Text document section by section and opened the telephone lines for comments on each of the proposed regulatory changes.

III. Summary

The following summarizes comments received during the IPM and in writing by the close of the IPM comment period.

A Participant expressed confusion whether there would be a definition of "services performed in a fiduciary capacity" in proposed CCR section 17951-8. The Facilitators agreed to consider the suggestion in further drafting.

A Participant noted a desire for further clarity regarding Chief Counsel Ruling 2019-03 and its efficacy during the pendency of this regulation process. The Facilitators responded that, although Chief Counsel Rulings are specific to the taxpayers to whom they are issued, the law presented in noted Chief Counsel Ruling correctly states the present law.

The Facilitators responded to a comment regarding the reasoning behind the regulation and whether there was pending litigation in this area. The Facilitators responded that they are unable to comment on a current appeal or litigation matter, but that FTB is providing guidance for the market-based sourcing rules that have taken effect.

Finally, a Participant noted it was unclear whether there would be a voluntary disclosure program for individuals. The Facilitators responded that the FTB does not have statutory authority to implement a voluntary disclosure program at this time.

IV. Closing

At the conclusion of the IPM, the Facilitators thanked all Participants for attending and stated that all commentary would be taken under consideration. The Facilitators indicated that FTB staff would review comments received from the public during the comment period and prepare this summary.