

## Income/Franchise:

### California FTB Proposes Market-Based Sourcing Rule Changes with Comments Due by October 31

*Proposed Amended California Code of Regulations, Title 18, section 25136-2, Cal. FTB (9/13/24); Notice of Proposed Rulemaking, Cal. FTB (9/13/24); Initial Statement of Reasons, Cal. FTB (9/13/24).* After holding six Interested Parties Meetings (IPMs) during 2017 through 2021 regarding proposed amendments to California Code of Regulations, Title 18, section 25136-2, in which it sought public input on draft changes to this market-based sourcing regulation for sales other than sales of tangible personal property [see previously issued Multistate Tax Alert for details about the sixth IPM and notable draft proposed changes], the California Franchise Tax Board (FTB) has “after considering all comments, objections, and recommendations regarding the proposed action,” formally proposed to adopt changes to the regulation. The proposed amendments to the regulation include:

**URL:** <https://www.ftb.ca.gov/tax-pros/law/regulatory-activity/25136-2%20draft%20text.pdf>

**URL:** <https://www.ftb.ca.gov/tax-pros/law/regulatory-activity/25136-2%20Notice-Proposed-Rulemaking.pdf>

**URL:** <https://www.ftb.ca.gov/tax-pros/law/regulatory-activity/25136-2-ISOR.pdf>

**URL:** <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-mta-california-franchise-tax-board-to-hold-sixth-interested-parties-meeting-on-market-based-sourcing-regulatio.pdf>

- Important definitions used throughout the regulation, including a definition for “asset management services;”
- Clarification of existing rules on the assignment for sales of services and new provisions for specific service industries;
- Clarifying amendments and examples for sales of intangible property;
- New rules for sales that are a blend of services and intangible property; and
- Clarifying rules for sales of marketable securities.

The proposed regulation amendments, if approved, generally would apply to taxable years beginning on or after January 1, 2024. Written comments on these proposed changes must be received by October 31, 2024. Moreover, while a public hearing on the proposed rule changes has not been scheduled, the FTB states that it will hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period. Please contact us with any questions.

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