



SALT INSIGHTS

Jurisdiction: California
Tax Type: Income & Franchise Tax
Issue: Entity Classification
Date: May 18, 2018

SYNOPSIS:

The California Franchise Tax Board (FTB) has issued a notice of proposed rulemaking with respect to its intention to amend California Code of Regulations (CCR), Title 18, §§ 23038(b)-1 (Classification of organizations for California income and franchise tax purposes), 23038(b)-2 (Business entities; definitions); and 23038(b)-3 (Classification of certain business entities); add a placeholder for a reserved regulation at CCR section 23038(b)-4; and adopt a proposed regulation at CCR § 23038(b)-5 (Domestic and foreign business entities).

The effect of the proposed amendments to CCR §§ 23038(b)-1, 23038(b)-2 and 23038(b)-3 is that California's regulations will conform to corresponding federal regulations at 26 CFR §§ 301.7701-1, 301.7701-2 and 301.7701-3, as in effect on May 1, 2014, to the extent those regulations are applicable to California's income and franchise tax law.

INSIGHT:

Adopting the proposed California amended regulations will bring California's entity classification closer to parity with the corresponding federal entity classification, as well as prevent confusion or potential inconsistent tax treatment of business entities that may arise due to differences between the federal and state regulations. Accordingly, there are entity classification issues that should be considered such as conformity dates, tax rates, computation of tax, administrative processes, discontinuities in state classification regimes, apportionment, and nexus to name a few. Contact SimekScott to discuss.

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