

Income/Franchise:

California FTB Addresses Reliance on Revoked Chief Counsel Rulings and Possible Penalty Relief

News Release: FTB issues Legal Ruling on California's Market-Based Rules, Cal. FTB (4/11/22). In a news release, the California Franchise Tax Board (FTB) issued some additional guidance on its recently issued Legal Ruling 2022-01 [see *State Tax Matters*, Issue 2022-13, for more details on this ruling legal ruling], which addresses the “relevant considerations and proper analysis” for determining the assignment of gross receipts from the sales of services pursuant to California Revenue and Taxation Code (CRTC) section 25136(a)(1), as supplemented by California Code of Regulations (CCR), title 18, section 25136-2, under three distinct fact patterns. The FTB explains that Legal Ruling 2022-01 applies to business customers and taxpayers whose filing obligations and tax liabilities are determined in reference to CRTC section 25136 and CCR section 25136-2; “presents the proper application of rules related to the assignment of sales from services to this state for apportionment purposes;” and retroactively revokes Chief Counsel Rulings 2015-03 and 2017-01. In this respect, the FTB explains that if a taxpayer relied on either of these two revoked chief counsel rulings when determining its tax filing position, “the Large Corporate Understatement Penalty (LCUP) will not be assessed against it, and an Accuracy Related Penalty (ARP) will also not apply, assuming the taxpayer filed a California return.” However, if a taxpayer relied on the chief counsel rulings’ analyses to determine it did not have a filing requirement, and consequently filed a late return, “a delinquent penalty will apply.” Furthermore, according to the FTB’s news release, interest will be assessed on any underpayment amounts resulting from a taxpayer’s reliance on these two chief counsel rulings.

URL: <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2022-11-ftb-issues-legal-ruling-on-californias-market-based-rules.html>

URL: <https://www.ftb.ca.gov/tax-pros/law/legal-rulings/2022-01.pdf>

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/220401_3.html

See forthcoming Multistate Tax Alert for more details on Legal Ruling 2022-01, including some related taxpayer considerations, and please contact us with any questions in the meantime.

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