

Income/Franchise:

California: Limited Time Resolution Offered for Some Eligible Transactions Subject to NEST Penalty

FTB Notice 2023-02, Cal. Fran. Tax Bd. (5/31/23). The California Franchise Tax Board (FTB) issued FTB Notice 2023-02, which announces the creation of a resolution process that will allow certain eligible taxpayers to resolve “eligible transactions” that may be subject to the non-economic substance transaction (NEST) understatement penalty under Cal. Revenue and Taxation Code (RTC) section 19774 by providing reduced penalties. Specifically, the resolution process permits certain eligible taxpayers that have entered into abusive micro-captive insurance transactions and/or syndicated conservation easement transactions to submit closing agreements to “reverse the tax benefits and receive reduced penalties for any applicable tax year.” According to the notice, letters will be sent to identified taxpayers inviting them to participate in this resolution; however, participation is not limited to those who have received an invitation letter and is open to any eligible taxpayer that wishes to participate. Eligible taxpayers must submit a complete and signed “Notice 2023-02 Closing Agreement” from July 10, 2023, through November 17, 2023, and pay all taxes, applicable penalties, and accrued interest by November 17, 2023, or enter into an installment payment arrangement to pay the full amount over a period not to exceed twelve months. Please contact us with any questions.

URL: <https://www.ftb.ca.gov/tax-pros/law/ftb-notice/2023-02.pdf>

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