



This Week in State Tax (TWIST)

September 23, 2024



California: Recent Steps Towards Finalizing Updated Market-Based Sourcing Regulations

The California Franchise Tax Board (FTB) recently issued a long-awaited [Notice of Proposed Rulemaking](#) to amend its regulation, 18 CCR 25136-2, that covers market-based sourcing rules for sales of other than tangible personal property. A prior version of this regulation was finalized in 2016 and became operative on January 1, 2017. Since then, the FTB has held six Interested Parties Meetings, the last of which was held in June 2021.

The text of the regulation issued by the FTB with its Notice features a limited number of changes to the 2021 draft of the amended regulation. Specifically, the current draft revises the industry-specific assignment rules for providers of large volume professional services to provide clarity and ensure the proper application of these rules. The regulation provides a listing of activities that are considered qualifying professional services including, among others, tax services, audit, legal, actuary, business advisory consulting, investment management and certain brokerage services. The language in the June 2021 draft provided that if a taxpayer provides *substantially similar professional services* to more than 250 customers, then gross receipts would be assigned to the billing address of each customer. The updated language indicates that if a taxpayer provides services to more than 250 customers *in any single type of professional service*, then gross receipts will be assigned to the billing address of each customer. The updated proposed regulation has retained the proviso that if more than five percent of the taxpayer's receipts from the sales of that service are derived from a single customer, then the billing address presumption does not apply, and the taxpayer would need to determine the specific location where the benefit of the service was received by this customer.

The proposed regulation provides that the amendments would apply for taxable years beginning on or after January 1, 2024, though the FTB may view certain amendments as merely providing clarity to a result of applying the "market sourcing" statutory changes, which generally became effective for taxable years beginning on or after January 1, 2013. Written comments on the proposed rulemaking will be accepted until October 31, 2024, and a public hearing will be held if a written request for a hearing is received no later than 15 days prior to the close of the comment period. For questions about 18 CCR Section 25136-2, please contact [Abner Chong](#) or [Candace Axline](#), [Oksana Jaffe](#), or [Geoffrey Way](#).

Learn about us:



[kpmg.com](https://www.kpmg.com)

INTERNAL USE ONLY

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2024 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. USCS011027-2A

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.