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March 22, 1989

FTB Notice 89-129
410:BRL:CN-89-129

Re: Computation of Distributive Shares, Limited
Partnership Minimum Tax, S Corporation 2½% Tax

Advice has been requested as to the proper computation of partners' and shareholders' distributive shares of limited partnership and S corporation income in light of the tax on limited partnerships imposed by Revenue and Taxation Code §23081 and the 2½% S corporation tax imposed by Revenue and Taxation Code §23802.

As explained below, the §23081 limited partnership tax paid and the §23802 S corporation tax may not be deducted from limited partnership or S corporation income when computing partners' or shareholders' distributive shares for California Personal Income Tax purposes.

Revenue and Taxation Code §17220 was modified by AB 2130 (Stats. 1988, Ch. 11, applicable to tax years beginning on or after January 1, 1987) to read:

17220. No deduction shall be allowed for any of the following:

(a) State, local and foreign income, war profits and excess profits taxes.

(b) Taxes paid under Chapter 1.5 (commencing with Section 23081) of Part 11 (relating to Tax on Limited Partnerships.)

(c) Taxes paid under Chapter 4.5 (commencing with Section 23800) of Part 11 (relating to Tax Treatment of S Corporations and Their Shareholders.)

~~Limited Partnerships~~

Revenue and Taxation Code §17851 incorporates the federal Subchapter K provisions, (except as provided in Revenue and Taxation Code §§23081 and 17852-17932.) Under Internal Revenue Code §702(b), the character of any partnership item passes through as if incurred directly by the individual partner. As the individual partner may not deduct his or her portion of the minimum tax under §17220(b), such amounts should not be deducted from the partners' distributive shares.

~~S Corporations~~

NOTE: ((---)) = Indicates obsolete information.

Revenue and Taxation Code §23800 incorporates the federal Subchapter S provisions, (except as otherwise provided in Revenue and Taxation Code §§23800 - 23810.) Under Internal Revenue Code §1366(b), the character of any S corporation item passes through as if incurred directly by the individual shareholder. As the individual shareholder may not deduct his or her portion of the 2½% tax under §17220(c), such amounts should not be deducted from the shareholders' distributive shares.

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