2019 Instructions for Form FTB 1115

Request for Consent for a Water's-Edge Re-Election

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 2015**, and to the California Revenue and Taxation Code (R&TC).

~~General Information~~

~~In general, for taxable years beginning on or after January 1, 2015, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2015. However, there are continuing differences between California and federal law. When California conforms to federal tax law changes, we do not always adopt all of the changes made at the federal level. For more information, go to **ftb.ca.gov** and search for **conformity**. Additional information can be found in FTB Pub. 1001, Supplemental Guidelines to California Adjustments, the instructions for California Schedule CA (540 or 540NR), and the Business Entity tax booklets.~~

~~The instructions provided with California tax forms are a summary of California tax law and are only intended to aid taxpayers in preparing their state income tax returns. We include information that is most useful to the greatest number of taxpayers in the limited space available. It is not possible to include all requirements of the California Revenue and Taxation Code (R&TC) in the instructions. Taxpayers should not consider the instructions as authoritative law.~~

~~Important~~ Information

In general, if a corporation terminates its water's-edge election, with or without the Franchise Tax Board's (FTB's) consent, it is required to file on a worldwide basis for at least 84 months before making another election. The FTB may waive the application of this rule for good cause. Good cause for this purpose has the same meaning as described in Treas. Reg. Section 1.1502-75(c). To obtain the FTB's consent to re-elect water's-edge for good cause, the taxpayer must file form FTB 1115, Request for Consent for a Water's-Edge Re-Election.

The FTB's consent is not required if the election was terminated as a result of an affiliation change as provided in R&TC Section 25113.

A Purpose

Use form FTB 1115 to request the FTB's consent to re-elect water's-edge prior to the expiration of the 84-month period following the last day of the terminated election. The FTB may approve the corporation request for a good cause as provided in R&TC Section 25113(c)(11) and Cal. Code Regs., tit. 18, section 25113.

Do not use this form to renew a current water's-edge election.

B Due Date

The taxpayer must file form FTB 1115 with the FTB no later than the 90th day prior to the due date, including extensions, of the tax return for which the re-election would be effective.

Do not file form FTB 1115 with the tax return because the request will **not** be timely filed and will be considered invalid.

C Approval and Effective Date

Do not change the method of filing until the FTB has approved this request. The FTB's approval of the request for consent to re-elect water's-edge does not constitute making a water's-edge election. After receiving the FTB's consent to re-elect, the corporation must make its water's-edge election. See General Information F, Making a Water's-Edge Election, for more information.

Approval for consent to re-elect water's-edge is effective for the taxable year in which good cause occurred. Consent given by the FTB will not be retroactive.

The FTB will notify the corporation if its request is approved. The corporation should generally receive a determination on its re-election request within 60 days after it has filed form FTB 1115. If the FTB takes no action or requests no additional information within 60 days of the filing of the request to re-elect, the request is deemed to be **disallowed**. See Cal. Code Regs., tit. 18, section 25113(e) for more information.

D Where to File

A corporation must file form FTB 1115 **separately** from any other form. A form FTB 1115 filed with the tax return would **not** be considered timely filed and would **not** be valid.

Mail form FTB 1115 to:

FRANCHISE TAX BOARD
PO BOX 1779
RANCHO CORDOVA CA 95741-1779

E Request to Withdraw

The corporation may withdraw its request at any time before the FTB takes action.

The request must be in writing and mailed to the address shown in General Information D, Where to File.

F Making a Water's-Edge Election

R&TC Section 25113 and Cal. Code Regs., tit. 18, section 25113 govern the manner of making a water's-edge election as provided under R&TC Section 25110. A corporation electing water's-edge must do each of the following:

- Compute the corporation's income on a water's-edge basis.
- C corporations use Form 100W, California Corporation Franchise or Income Tax Return - Water's-Edge Filers; S corporations use Form 100S, California S Corporation Franchise or Income Tax Return.
- Attach the Form 100-WE, Water's-Edge Election, to the timely filed **original** return (Form 100W or Form 100S) for the year of the election.

Form 100W and Form 100-WE are the forms prescribed by the FTB for corporations filing on a water's-edge basis. The FTB does not consider the filing of federal informational returns such as Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations, and Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business, to be other objective evidence for purposes of making a valid water's-edge election. California law requires the filing of these federal forms whether the taxpayer files on a worldwide or water's-edge basis (R&TC Sections 19141.2 and 19141.5). Get Form 100W Corporation Tax Booklet Water's-Edge Filers, for more information.

Specific Instructions

Private Mail Box (PMB)
Include the PMB in the address field. Write "PMB" first, then the box number. Example: 111 Main Street PMB 123.

Part II – Basis to Request a Water's-Edge Re-Election

Provide an explanation for the request to re-elect water's-edge. The basis for the request must clearly state the good cause supporting the request.

In general, the request for consent to re-elect water's-edge will be granted only if the corporation demonstrates that it meets the good cause requirements as described in Treas. Reg. Section 1.1502-75(c).