

Alert | State & Local Tax (SALT)



April 2025

San Francisco Holds Hearing on Proposed New Sourcing Regulations Under Proposition M

On the heels of **Proposition M**—which mandates that the San Francisco Tax Collector adopt sourcing rules for determining the location of gross receipts—the San Francisco Office of the Treasurer & Tax Collector released proposed sourcing regulations, holding a hearing to discuss the matter on April 8, 2025.

Overview of the Proposed Regulations

The proposed regulations generally align with the California Franchise Tax Board (FTB)'s market-based sourcing rules, but diverge in certain areas:

1. *Waterfall Approach to Sourcing:* The regulations implement a waterfall (tiered) approach to sourcing gross receipts from:
 - Services and intangible property, including the use of customer-related data, books and records, or reasonable approximation; and
 - Financial instruments, which also follow a waterfall structure due to limitations on mirroring FTB's treatment via regulation.
2. *Industry-Specific Rules Excluded:* The proposed regulations do not adopt some of the FTB's special industry sourcing rules (e.g., rules applicable to partnerships, banks, and construction contractors).

3. *Clarification on Apportionment:* The Tax Collector's Office explicitly notes that the proposed sourcing rules do not modify the apportionment rules and are solely intended to guide the sourcing of gross receipts within the apportionment formula.

Procedural Background and Public Hearing

On April 8, 2025, the Tax Collector's Office held a public hearing to discuss the proposed regulations and solicit feedback. Highlights from the hearing include:

1. *Comparative Reviews:* Tax Collector Office Staff conducted comparative reviews of sourcing frameworks from the FTB and other jurisdictions.
2. *Written Comments:* Hearing officials confirmed that written comments were due by close of business on April 18, 2025. They specified that comments identifying specific clients will be treated as confidential, whereas general submissions will be public.
3. *Oral Comments:* There were also oral comments provided by industry representatives.
 - One private practice tax representative raised concerns over ambiguity in the treatment of asset management service providers.
 - A San Francisco Chamber of Commerce representative expressed support for consistency with FTB rules but requested clarity regarding the applicability of certain industry-specific rules. The Chamber representative also suggested the addition of a presumption of correctness in favor of taxpayers who follow the regulations.

Takeaways

The Tax Collector's Office collected public comments on the proposed sourcing regulations on April 18, 2025. Based on these comments, additional hearings may be held to discuss the concerns raised by the public in response to the proposed sourcing regulations.

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