

Multistate Tax Commission

Uniformity Committee Meeting

March 8, 2017

Melissa Williams
Tax Counsel IV
California Franchise Tax Board
Melissa.Williams@ftb.ca.gov

1

California Regulation 25136-2

- **New Market-Based Rules for Assignment of Sales of Other than Tangible Personal Property**
 - For tax years beginning 1/1/2011 forward, only those who elected single sales factor
 - For tax years beginning 1/1/2013, mandatory for all taxpayers who come under UDITPA rules

2

Main Issues

- Sales from services
 - To the extent the benefit of the service was received in CA
- Sales from intangible property
 - To the extent the property was used in CA

3

Sales from Services to Individuals

- Billing address -- safe harbor rule for taxpayers
- Reasonable approximation

4

Sales from Services to Business Entities

- Contract with customer or taxpayer's books and records
- Reasonable approximation
- The place from where the customer placed the order
- Customer's billing address

5

Intangible Property Complete Transfer of All Property Rights

- Contract with customer or taxpayer's books and records
- Reasonable approximation
- Customer's billing address

6

Intangible Property Licensing

- **Marketing Intangibles**

- Contract with customer or taxpayer's books and records
- Reasonable approximation
- Sales to wholesaler

7

Intangible Property Licensing

- **Non-Marketing/Manufacturing Intangibles**

- Contract with the customer or taxpayer's books and records
- Reasonable approximation
- Licensee's billing address

8

Intangible Property Licensing

- **Mixed Intangibles**

- Separate statement of fees
- If statement is not separate or is unreasonable, fees are presumed to be paid for marketing

9

Special Rules

- Taxpayer effort and expense required to obtain necessary information
- Reasonable approximation
- 25137 incorporations

10