

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 403

January 27, 1977

TREATMENT OF EXCISE TAXES: SALES FACTOR OF THE APPORTIONMENT FORMULA

Syllabus:

Advice has been requested concerning how excise taxes are to be treated for sales factor purposes for income years beginning after December 31, 1966 (UDITPA-years) and for income years beginning before December 31, 1966 (pre-UDITPA years).

Regulation 25134(a)(1)(A) of Title 18 of the California Administrative Code applies to income years beginning after December 31, 1966, and expressly requires that federal and state excise taxes be included in the sales factor if the taxes are passed on to the buyer or included as part of the selling price of the product. The general rule, however, for income years beginning on or before December 31, 1966, is that excise taxes are to be excluded from the sales factor.