

AGENDA

Interested Parties Meeting Limited Liability Company Fee

March 13, 2007

Tuesday, 9:00-Noon

Franchise Tax Board, Town Center, Golden State Room A

Facilitators: Judi Bentzien, Denise Springer

Attendees: Interested Parties

Meeting Objective: ➤ **Discuss alternative remedies to implement final decision in *Northwest Energetic Services, LLC v. Franchise Tax Board* and *Ventas Finance I, LLC v. Franchise Tax Board***

Agenda Topics

	Topic	Speaker	Length
I.	Introductions and Overview a. Trial court decisions suggesting fee structure is unconstitutional: What if the decision is upheld on appeal? b. Design a constitutional structure for future taxation c. Consider how remediation can be accomplished	Titus Toyama Michael C. Genest	9:00-9:10
II.	The Current Law 5-tier fee based on total income reportable to California for LLCs in California	Jeanne Sibert	9:10-9:15
III.	Types of Entities Subject to Fee a. Registered with no California activities b. Activities within and without California c. Activities wholly within California	Jeanne Sibert	9:15-9:20
IV.	The Litigation a. Describe Northwest and possible interpretation of holding b. Describe Ventas and possible interpretation of holding c. Status on appeal d. Possible outcomes <ul style="list-style-type: none">• Current law sustained• Interpretation of statutory language to require apportionment• As applied to individual taxpayers – everyone else must sue• As applied to a class of taxpayers• Statute is void as to everyone e. Attorney fees	Jeanne Sibert	9:20-9:30

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V.	Fiscal Implications a. Fees paid <ul style="list-style-type: none"> • Distribution of classes • Fees paid in total • By class of entity b. Claims filed <ul style="list-style-type: none"> • Numbers • Dollars c. Fiscal affect of possible judicial outcomes	Jay Chamberlain	9:30-10:00
BREAK (10:00-10:15)			
VI.	Remediation Alternatives a. Legal requirements per due process to cure discrimination – meaningful backward-looking relief <ul style="list-style-type: none"> • Refund all amounts • By credit against future payments • Combination b. Legislative claims bill – other legislative remedies c. Ability to schedule refunds as long as interest is paid	John Davies Ben Miller	10:15-10:45
VII.	Prospective Response a. Eliminate “check the box” and tax LLCs as corporations b. New apportioning fee <ul style="list-style-type: none"> • Multiple-tiered structure • Measured fee/tax c. Replace all revenue d. Leave at same level e. Set fee to provide funds for cost of remediation <ul style="list-style-type: none"> • Permanent • Temporary – Surtax 	Ben Miller Patrick Kusiak	10:45-11:15
VIII.	Other Issues to Consider	Titus Toyama	11:15-11:30
IX.	Wrap Up <ul style="list-style-type: none"> • Sharing of Today’s Results • Opportunity for Future Involvement 	Titus Toyama	11:30-11:45