



STATE OF CALIFORNIA  
**FRANCHISE TAX BOARD**  
Legal Department  
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MICHAEL C. GENEST  
Member

### **February 2007 Franchise Tax Board Litigation Roster**

All currently active cases and those recently closed are listed on the roster. Activity or changes with respect to a case appear in bold-face type. Any new cases will appear in bold-face type.

A list of new cases that have been added to the roster for the month is also provided, as well as a list of cases that have been closed and will be dropped from the next report.

The Franchise Tax Board posts the Litigation Roster on its Internet site. The Litigation Roster can be found at: <http://www.ftb.ca.gov/law/litrstr/index.html>.

The Litigation Rosters for the last four years may be found on the Internet site.

**FRANCHISE AND INCOME TAX**  
**Closed Cases – February 2007**

**Case Name**

**Court Number**

None

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**FRANCHISE AND INCOME TAX**  
**New Cases – February 2007**

**Case Name**

**Court Number**

None

**FRANCHISE AND INCOME TAX  
MONTHLY REFUND LITIGATION ROSTER**

**February 2007**

**BLACKIE, GERALD v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC362241

*Taxpayer's Counsel*

Paul William Raymond  
Attorney at Law

Filed – 11/21/06

*FTB's Counsel*

**Anthony Sgherzi**

Issues: 1. Whether Plaintiff was a resident of California for the year 1994.  
2. Whether Plaintiff would be subject to any penalties if the tax is sustained.

Year: 1994 Amount \$538,997.00

Status: Answer to Plaintiff's Complaint filed on January 19, 2007.

**BRAR, Kaldeep S. & Imelda A. & Professional Resource Enterprises, Inc. v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC365233

*Taxpayer's Counsel*

Robert F Klueger, Esq.  
Boldra, Klueger & Stein, LLP

Filed – 01/24/07

*FTB's Counsel*

Mark P. Richelson

Issue: 1. Whether FTB properly determined the Los Angeles Revitalization Zone credit carryovers to which Plaintiffs were entitled.

Year: 1999 Amount \$335,885.53

Status: Summons and Complaint for Refund of Personal and Corporation Income Taxes filed on January 24, 2007, and served by mail on the Franchise Tax Board on January 30, 2007.

**CITY NATIONAL CORPORATION v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC334772

Court of Appeal, 2<sup>nd</sup> Appellate District No. B189240

*Taxpayer's Counsel*

Kenneth R. Chiate, Mary S. Thomas  
Quinn, Emanuel, Urquhart, Oliver & Hedges, LLP

Filed – 06/10/05

*FTB's Counsel*

Donald R. Currier  
Joseph M. O'Heron

Sherrill Johnson

Offices of the General Counsel  
City National Bank

Issues: 1. Whether Plaintiff improperly engaged in tax shelter transaction involving Regulated Investment Trusts (REITs) and Regulated Investment Companies (RICs) during the subject years.

2. Whether certain subsidiaries were exempt from California taxation as IRC 501(c)(15) entities.
3. Whether Plaintiff has satisfied the requirement of exhausting all administrative remedies in order to maintain a lawsuit.

Years: 1999 through 2003 Amount \$84,676,129.00

Status: **Defendant/Respondent's Petition for Review filed February 26, 2007. Record transmitted to Supreme Court on February 28, 2007.**

<b>CITY NATIONAL CORPORATION &amp; Subs. v. Franchise Tax Board</b>	
Sacramento Superior Court Docket No. 06AS02275	Filed – 06/06/06
<u>Taxpayer's Counsel</u>	<u>FTB's Counsel</u>
Kenneth R. Chiate	Michael J. Cornez
Quinn, Emanuel, Urquhart Oliver & Hedges, LLP	
Sherrill Johnson	
Offices of the General Counsel	
City National Bank	

Issue: Whether Plaintiffs improperly engaged in tax shelter transaction involving Real Estate Investment Trusts (REITs).

Year: 2004 Amount \$23,900,000.00

Status: **Discovery proceeding.**

<b>COLGATE-PALMOLIVE, CO. &amp; SUBSIDIARIES v. Franchise Tax Board</b>	
Sacramento Superior Court Docket No. 03AS00707	Filed - 02/07/03
<u>Taxpayer's Counsel</u>	<u>FTB's Counsel</u>
Eric J. Coffill, Carley A. Roberts	Steven J. Green
Morrison & Foerster, LLP	

- Issues:
1. Whether the sales factor was properly calculated by excluding proceeds from short-term financial instruments and value added taxes assessed by foreign countries.
  2. Whether the property factor needs to be adjusted to value property at its appreciated value to fairly reflect its activities in California.

Years: 1974 through 1982, 1984 through 1987, 1989 through 1991 Amount \$2,912,696.00

Status: Order to Stay Proceeding signed by Judge Virga on November 29, 2004, until a decision is reached in the *General Motors v. FTB* case.

**DELUCCHI, MARIO & KATHLEEN, et al. v. Franchise Tax Board**

Sacramento Superior Court Docket No. 06AS02661

Taxpayer's Counsel

Harry Gordon Oliver II

Attorney at Law

Filed -

FTB's Counsel

Michael J. Cornez

Issues: 1. Whether Plaintiffs properly computed income on an installment sale.  
2. Whether Plaintiffs may be deemed to have elected out of the installment method.  
3. Whether Plaintiffs' gain on the sale of a stock qualified for exemption as Small Business Stock in 1995.

Year: 1995 Amount \$988,900.00

Status: Discovery proceeding.

**DILTS, WALTER B. JR. AND PHYLLIS A. KAPPELER v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC04436496

Taxpayer's Counsel

R. Todd Luoma

Law Office of Richard Todd Luoma

Filed - 11/19/04

FTB's Counsel

Anne Michelle Burr

Issue: Whether Plaintiffs ceased to be California residents as of December 16, 1994.

Years: 1994 and 1995 Amount \$973,101.00

Status: Notice sent by the Court, Order to Show Cause continued to January 8, 2008.

**DUFFIELD, David A. & Cheryl D. v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC07459331

Taxpayer's Counsel

Jeffrey M. Vesely

Kerne H. O. Matsubara, Annie H. Huang

Pillsbury, Winthrop, Shaw, Pittman, LLP

Filed – 01/05/07

FTB's Counsel

David Lew

Issues: 1. Whether Plaintiffs exchange of PeopleSoft Stock for the stock of Nevada Pacific Development Corporation qualified as a tax-free exchange pursuant to Revenue and Taxation Code section 17321.  
2. Whether Plaintiffs were subject to the penalty imposed by section 19777.5.  
3. Whether the penalty imposed by section 19777.5 meets Due Process requirements.  
4. Whether Plaintiffs were entitled to an abatement of interest pursuant to Revenue and Taxation Code section 19104.

Year: 1994 Amount \$11,159,001.25

Status: **Answer to Complaint for Refund of Tax, Interest and Penalty Paid, Declaratory Relief and Abatement of Interest filed on February 26, 2007.**

**GARCIA, W. ROCKE AND GLENDA L. v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC06456659

Taxpayer's Counsel

William J. McLean

A Professional Law Corporation

Filed – 10/02/06

FTB's Counsel

Kristian Whitten

- Issue:
1. Whether Plaintiffs timely acquired replacement real property in compliance with the Internal Revenue Code section 1033.
  2. Whether a decision by the State Board of Equalization precludes the assessment of penalties pursuant to section 19777.5.
  3. Whether the penalty assessed by Section 19777.5 satisfies due process requirements.

Year: 1992

Amount \$616,065.66

Status: **Plaintiffs' Case Management Statement filed on February 13, 2007. Defendant's Case Management Statement filed on February 15, 2007. Plaintiffs' Objection to Setting of Case for Non-Jury Trial filed on February 23, 2007.**

**GENERAL ELECTRIC COMPANY AND SUBSIDIARIES v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC06-449157

Court of Appeal, 1<sup>st</sup> Appellate Dist. Court No. A115530

Taxpayer's Counsel

Amy L. Silvertein

Silverstein & Pomerantz, LLP

Jeffrey M. Vesely

Pillsbury, Winthrop, Shaw, Pittman, LLP

Filed – 02/03/06

FTB's Counsel

David Lew

- Issues:
1. Whether the penalty imposed by section 19777.5(a) on amounts due and payable on March 31, 2005, for years beginning before January 31, 2003, violates the due process clause of the United States Constitution.
  2. What is the meaning of "due and payable" for purposes of section 19777.5(a) of the Revenue and Taxation Code?

Years: (None)

Amount \$0.00

Status: **Plaintiffs/Appellants' Reply Brief filed on February 13, 2007.**

**GENERAL MILLS, INC. & SUBSIDIARIES v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC05-439929

Taxpayer's Counsel

Thomas H. Steele

Andres Vallejo, Jeffrey S. Terraciano

Morrison & Foerster LLP

Filed – 03/29/05

FTB's Counsel

Marguerite Stricklin

- Issues:
1. Whether the Plaintiffs' payroll factor was properly computed by excluding foreign employee stock options.
  2. Whether the Plaintiffs' sales factor was properly calculated by excluding receipts from commodities transactions and short-term financial instruments.
  3. Whether federal RAR adjustments were properly taken into account.

Years: 1992 through 1997 Amount \$3,550,367.00

Status: **Plaintiffs' Opening Pre-Trial Brief filed on February 2, 2007. Defendant's Trial Brief and Appendix of Authorities in Support of Trial Brief Volume 1 and 2 filed on February 2, 2007. Plaintiffs' Reply Brief filed on February 15, 2007. Defendant's Trial Reply Brief filed on February 16, 2007. Trial commenced on February 20, 2007, and continued to April 4, 2007.**

**GENERAL MOTORS CORPORATION, et al. v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC269404  
 Court of Appeal, 2<sup>nd</sup> Appellate District No. B165665  
 California Supreme Court No. S127086

Filed - 03/06/02

Taxpayer's Counsel

Charles R. Ajalat  
 Law Office of Ajalat, Polley & Ayooob

FTB's Counsel

Stephen Lew  
 Donald Currier  
 Joseph O'Heron

- Issues:
1. Whether gross receipts from the disposition of marketable securities were properly excluded from the sales factor.
  2. Whether interest income was properly characterized as business income.
  3. Whether dividends received with respect to stock representing less than a 50% voting interest were properly classified as business income.
  4. Whether the limitation on deductions prescribed by sections 24402 and 24410 resulted in unconstitutional discriminatory taxation.
  5. Whether various receipts from intangible assets were properly excluded from the sales factor.
  6. Whether research tax credits were properly limited to the entity incurring the expense.
  7. Whether a deduction was properly denied with respect to foreign country taxes withheld on dividends.
  8. Whether the taxpayer is entitled to an increased deduction with respect to depreciation on assets held by foreign country subsidiaries.
  9. Whether the taxes determined to be owing by the Franchise Tax Board were properly computed and assessed.

Years: 1986 through 1988 Amount \$10,692,755.00

Status: Court of Appeal Unpublished Opinion filed on January 29, 2007, remanding case to the Trial Court to resolve the matter consistent with the discussion in *General Motors* and *Microsoft* cases.

**GOLDEN WEST HEALTH PLAN, INC. v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC353849

Filed – 06/15/06

Taxpayer's Counsel

Alan R. Maler  
 Greenberg Traurig, LLP

FTB's Counsel

Marla Markman

Issue: Whether Plaintiff made a valid S Corporation election for California purposes.

Years: 04/01/03 through 06/01/03

Amount \$669,045.00

Status: Trial scheduled for July 11, 2007. **Defendant's Notice of Motion-Judgment on the Pleadings filed on February 9, 2007. Hearing on Motion-Judgment on the Pleadings scheduled for March 15, 2007. Mandatory Settlement Conference and Final Status Conference scheduled for June 25, 2007.**

**GONZALES, THOMAS J. II v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC06454297

Taxpayer's Counsel

Martin A. Schainbaum, Esq.

Martin A. Schainbaum, PLC

Filed – 07/18/06

FTB's Counsel

Paul D. Gifford

Joyce E. Hee

Issues: 1. Whether the loss claimed with respect to a Son of Boss transaction was allowable.  
2. Whether a taxpayer self-reporting under VCI is eligible for interest suspension pursuant to section 19116.  
3. Whether the taxpayer is entitled to deduct legal expenses paid in connection with an investment.

Years: 2000 and 2001

Amount \$12,374,510.00

Status: Mandatory Settlement Conference scheduled for February 5, 2008. Trial scheduled for February 19, 2008.

**HAMEETMAN, FRED AND JOYCE v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC 305968

Court of Appeal, 2<sup>nd</sup> Appellate District No. B187278

Taxpayer's Counsel

Eric L. Troff, Esq.

Gibbs, Giden, Locher & Turner, LLP

Filed - 11/12/03

FTB's Counsel

Donald Currier

Issue: Whether Plaintiffs were entitled to a business bad debt deduction.

Years: 1990 and 1993

Amount \$65,738.00

Status: **Notice and Remittitur issued on February 21, 2007.**

**HARGIS, BOB & RUTH v. Franchise Tax Board**

San Diego Superior Court Docket No. GIC 876431

Taxpayer's Counsel

Kevin M. Bagley, Robert M. Shaughnessy

Duckor, Stradling, Metzger & Wynne

A Law Corporation

Filed – 12/05/06

FTB's Counsel

Leslie Branman Smith

- Issues:
1. Whether Plaintiffs were residents of California during the years at issue.
  2. Whether a penalty for a dishonored check was properly assessed.
  3. Whether the penalty provided for in section 19777.5 was properly assessed.

Years: 1999 and 2000 Amount \$915,873.40

Status: Discovery proceeding.

**HILTON, ERIC & BITTEN v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC354308

Taxpayer's Counsel

Richard K. Semeta

A Professional Law Corporation

Filed – 06/21/06

FTB's Counsel

Anthony Sgherzi

Issue: Whether a portion of the gain realized on the exercise of stock options by a non-resident was California source income.

Year 1997 Amount \$27,346.98

Status: Discovery proceeding. **Final Status Conference scheduled for May 3, 2007 and Court Trial scheduled for May 14, 2007.**

**HYATT, GILBERT P. v. Franchise Tax Board**

Clark County Nevada District Court No. A382999

Nevada Supreme Court No. 47141

Taxpayer's Counsel

Thomas L. Steffen & Mark A. Hutchison

Hutchison & Steffen, H. Bartow Farr III

Filed - 01/06/98

FTB's Counsel

James W. Bradshaw

McDonald, Carano,

Wilson LLP

Las Vegas, Nevada

- Issues:
1. Whether Plaintiff was a resident of California from September 26, 1991 through April 2, 1992.
  2. Whether the Franchise Tax Board committed various torts with respect to plaintiff and is subject to a claim for damages.
  3. Whether the Nevada courts have or should exercise jurisdiction over the Franchise Tax Board.

Years: 1991 and 1992 Amount \$7,545,492.00 Tax  
\$5,659,119.00 Penalty

Status: Nevada Supreme Court  
The case is pending before the Nevada Supreme Court on a writ action by Gilbert P. Hyatt.

**THE LIMITED STORES, INC. AND AFFILIATES v. Franchise Tax Board**

Alameda Superior Court Docket No. 837723-0  
Court of Appeal, 1<sup>st</sup> Appellate District Court No. A102915  
California Supreme Court No. S136922

Filed - 04/09/01

Taxpayer's Counsel

Carley Roberts  
Morrison & Foerster, LLP

FTB's Counsel

Joyce Hee

Hollis L. Hyans  
Morrison & Foerster, LLP  
New York, NY

- Issues: 1. Whether gross receipts from the sale of short-term financial instruments should be included in the sales factor.  
2. Whether gain realized on the sale of a partial interest in a limited partnership formed from three subsidiaries constitutes business income.

Years: 1993 and 1994 Amount \$2,185,718.00

Status: **Order Vacating Submission, and Permitting Further Briefing filed on February 23, 2007. Counsels are directed to file simultaneous replies to the supplemental briefs filed in January. The parties shall file briefs simultaneously by Thursday, March 15, 2007.**

**LUCAS, LADONNA v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BS102039

Filed – 03/08/06

Taxpayer's Counsel

LaDonna Lucas, In Pro Per

FTB's Counsel

Felix Leatherwood

- Issues: 1. Whether the Superior Court has jurisdiction to consider the action filed by the Plaintiff.  
2. Whether Appellant qualifies as a head of household for the year 2002 and 2003.

Years: 2002 and 2003 Amount Unknown

Status: Judgment filed by Respondent on November 28, 2006.

**MARKEN, DONALD W. & CLAUDINE H. v. Franchise Tax Board**

San Francisco Superior Court Docket No. 302520  
Court of Appeal, 1<sup>st</sup> Appellate Dist. No. A091644  
California Supreme Court No. S 104529  
Court of Appeal, 1<sup>st</sup> Appellate Dis. No. A109715  
Court of Appeal, 1<sup>st</sup> Appellate District No. A110668 (Attorneys' Fees)

Filed - 04/05/99

Taxpayer's Counsel

William E. Taggart, Jr.  
Taggart & Hawkins

FTB's Counsel

Marguerite Stricklin

Issue: Whether Plaintiffs were residents of California in 1993.

Year: 1993

Amount \$244,012.00

Status: Order filed on February 23, 2007, scheduling Oral Argument for March 13, 2007.

**MONTGOMERY WARD LLC v. Franchise Tax Board v. Franchise Tax Board**

San Diego Superior Court Docket No. GIC802767

Filed - 12/30/02

Taxpayer's Counsel

FTB's Counsel

Antolin, Pilar M. Sansone, Amy Silverstein  
Silverstein & Pomerantz, LLP

Domini Pham

Issues: 1. Whether proceeds from the sale, maturity or other disposition of short-term financial instruments were properly excluded from the sales factor.  
2. Whether section 24402 Rev. & Tax. Code is constitutional.

Years: 1989 through 1994

Amount \$2,694,192.00

Status: Status Conference held on January 5, 2007. Trial scheduled for October 5, 2007.

**NEW GAMING SYSTEMS, INC. & AKA INDUSTRIES, INC. v. Franchise Tax Board**

Sacramento Superior Court Docket No. 03AS05705

Filed - 10/10/03

Taxpayer's Counsel

FTB's Counsel

**Robert R. Rubin**

Michael Cornez

**McDonough, Holland & Allen, PC**

Issues: 1. Whether New Gaming Systems, Inc., timely filed its suit for refund for the income year ended March 31, 1996.  
2. Whether a declaratory relief action can be brought to prevent the collection of tax.  
3. Whether a suit for refund can be maintained for a year in which the amount of tax has not been paid in full.  
4. Whether Plaintiffs are liable for California taxes on income generated from leases for operating Indian casinos.

Years: 1996 and 1997

Amount \$111,587.87

Status: Trial Setting Conference has been continued to March 19, 2007.

**NEWS AMERICA INCORPORATED (FOX, INC.) v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC350576

Filed - 04/12/06

Taxpayer's Counsel

FTB's Counsel

Neil R. O'Hanlon

Brian D. Wesley

Hogan & Hartson, LLP

Issues: 1. Whether the Franchise Tax Board properly classified gain realized on the sale of an interest in a partnership as nonbusiness income.

2. If the gain on the sale of the interest in a partnership was nonbusiness income, whether it should be allocated to New York.
3. Whether the assignment to California of the gain realized on the sale of the partnership fairly reflects the activities of the taxpayer in this state.

Year: 1989 Amount \$1,726,405.00

Status: Discovery proceeding. Final Status Conference scheduled for August 31, 2007, and Trial scheduled for September 10, 2007.

**NORTHWEST ENERGETIC SERVICES, LLC v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC05-437721 Filed – 01/15/05  
 Court of Appeal 1<sup>st</sup> Appellate Court Dist. No. A114805  
 Court of Appeal, 1<sup>st</sup> Appellate Court Dist. No. A115841 (Attorneys' Fees)  
 Court of Appeal, 1<sup>st</sup> Appellate Court Dist. No. A115950 (Attorneys' Fees)

Taxpayer's Counsel

Amy L. Silverstein, Edwin Antolin  
 Silverstein & Pomerantz

FTB's Counsel

Marguerite Stricklin

Issue: Whether Revenue and Taxation Code section 17942, which imposes a tax upon the "total income from all sources reportable to this state" of LLC registered with the Secretary of State, violates the Due Process Clause and Commerce Clauses.

Years: 12/31/97 through 12/31/01 Amount \$25,067.00 Tax  
\$ 3,764.29 Penalty

Status: **Order filed on February 2, 2007, Motion to Consolidate with Ventas Finance I, LLC denied.**

**PARÉ, DAVID F. v. Franchise Tax Board**

San Diego Superior Court Docket No. IC872806 Filed – 09/21/06  
Taxpayer's Counsel FTB's Counsel  
 David F. Paré, In Pro Per Leslie Branman Smith

- Issues:
1. Whether the child of an individual who lives with the plaintiff qualifies the individual for head-of-household filing status.
  2. Whether the plaintiff has satisfied the requirements for bringing a suit for refund.

Years: 2000 through 2003 Amount \$5,185.00

Status: Trial Court hearing held on January 5, 2007. Demurrer sustained without leave to amend.

**PLAYMATES TOYS, INC. v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC344785 Filed – 12/19/05  
Taxpayer's Counsel FTB's Counsel  
 Craig J. Stein Joseph M. O'Heron  
 Gelfand, Stein & Wasson, LLP

Issue: Whether Defendant Franchise Tax Board properly computed the numerator of the taxpayer's California sales factor by assigning sales made from Hong Kong to California.

Years: 1988 through 1990 Amount \$1,582,288.00

Status: Final Status Conference scheduled for May 17, 2007; Motion to Continue Trial date to May 29, 2007, granted on November 30, 2006. Discovery proceeding.

**SHIMMON, Edward & Anneliese v. Franchise Tax Board**

Los Angeles Superior Court Docket No. BC363822

*Taxpayer's Counsel*

Charles P. Rettig, Sharyn M. Fisk

Hochman, Salkin, Rettig, Toscher & Perez, P.C.

Filed – 12/22/06

*FTB's Counsel*

Donald Currier

Issue: Whether a taxpayer filing under the first option of VCI was eligible for the interest suspension provided by section 19116.

Year: 1999 Amount \$0.00

Status: **Plaintiffs granted Defendant an Extension to file Answer to the Complaint on March 9, 2007.**

**SQUARE D COMPANY v. Franchise Tax Board**

San Francisco Superior Court Docket No. CGC05442465

*Taxpayer's Counsel*

Allan L. Schare, Kimberly M. Reeder

McDermott Will & Emery LLP

Palo Alto, Ca.

Richard A. Hanson

McDermott Will & Emery LLP

Chicago, IL

Filed – 06/21/05

*FTB's Counsel*

Paul Gifford

Issues:

1. Whether Palatine Hills Leasing, which invested in leverage lease transactions, was part of the unitary business conducted by Square D Company.
2. Whether the income of Palatine Hills Leasing constituted business income of the unitary business conducted by Square D Company.
3. How the proceeds from the short-term investment of funds should be reflected in the sales factor of the apportionment formula.

Years: 1985 through 1990 Amount \$5,635,087.40

Status: **Trial held on February 21, 2007.**

**SUNOCO, INC. v. Franchise Tax Board**

Sacramento Superior Court Docket No. 06AS03797

Taxpayer's Counsel

Eric J. Coffill

Morrison & Foerster, LLP

Filed – 09/07/06

FTB's Counsel

Jeffrey A. Rich

Issues: 1. Whether gain realized on sale of stock was properly characterized as business income.  
2. Whether sales were properly assigned to the California numerator of the sales factor.

Years: 1986 through 1990

Amount \$1,451,460.00

Status: Defendant's Answer to Plaintiff's Complaint filed on October 6, 2006.

**TOY'S "R" US, INC. & AFFILIATES v. Franchise Tax Board**

Sacramento Superior Court Docket No. 01AS04316

Court of Appeal, 4<sup>th</sup> Appellate Court No. C045386

California Supreme Court No. S143422

Taxpayer's Counsel

Eric J. Coffill

Carley A. Roberts

Morrison & Foerster, LLP

Filed - 07/17/01

FTB's Counsel

Michael J. Cornez

Issue: Whether gross receipts from the sale of short-term financial investment were properly excluded from the documentation of the sales factor.

Years: 1991 through 1994

Amount \$5,342,122.00

Status: Case is transferred to the Court of Appeal on November 15, 2006, with directions to vacate its decision and to reconsider the cause of action in light of Microsoft v. Franchise Tax Board (2006) 39 Cal.4<sup>th</sup> 750 and General Motors v. Franchise Tax Board (2006) 39 Cal.4<sup>th</sup> 773. (Cal. Rules of Court, rule 29.3(d).)

**VENTAS FINANCE I, LLC v. Franchise Tax Board**

San Francisco Superior Court Docket No. 05-440001

Court of Appeal, 1<sup>st</sup> Appellate Court No. A116277

Taxpayer's Counsel

Amy L. Silverstein, Edwin Antolin

Silverstein & Pomerantz, LLP

Filed – 04/01/05

FTB's Counsel

Marguerite Stricklin

Issue: Whether Revenue and Taxation Code section 17942, which imposes a tax based upon the "total income from all sources reportable to this state" of LLC registered with the Secretary of State, violates the Due Process Clause and Commerce Clause.

Years: 2001 through 2003

Amount \$29,580.00

Status: **Order filed on February 2, 2007, Motion to Consolidate with Northwest Energetic Services denied. Hearing held on February 8, 2007, Re: Motion for Reasonable Attorney's Fess and Costs.**