STATE OF CALIFORNIA
FRANCHISE TAX BOARD
Legal Department
P. O. Box 1720
Rancho Cordova, CA 95741-1720

JOHN CHIANG
Chair

BETTY T. YEE
Member

MICHAEL C. GENEST
Member

April 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 – April 2007

Case Name	**Court Number**
News America Incorporated	Los Angeles Superior Court No. BC350576
Sunoco, Incorporated	Sacramento Superior Court No. 06AS03797

FRANCHISE AND INCOME TAX
New Cases – April 2007

Case Name	**Court Number**
Abbott Laboratories	Los Angeles Superior Court Docket No. BC369808
Bakersfield Mall, LLC	San Francisco Superior Court No. CGC07462728
Mercury General Corp.	San Francisco Superior Court No. CGC 07462688

FRANCHISE AND INCOME TAX
MONTHLY REFUND LITIGATION ROSTER

April 2007

ABBOTT LABORATORIES & Affiliates v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC369808

Filed – 04/20/07

Taxpayer's Counsel	***FTB's Counsel***
J. Pat Powers	**Brian Wesley**
Baker & McKenzie, LLP	

Issue: **Whether Plaintiffs were entitled to a deduction under section 24402 after the statute was found to be unconstitutional.**

Years: **1999-2000** **Amount** **$715,735.00**

Status: **Plaintiffs' Summons and Complaint was filed on April 20, 2007 and served personally on Franchise Tax Board on April 23, 2007.**

BAKERSFIELD MALL, LLC v. Franchise Tax Board
San Francisco Superior Court Docket No. No. CGC07462728 **Filed – 04/25/07**

Taxpayer's Counsel	***FTB's Counsel***
Amy L. Silverstein, Edwin Antolin	**Marguerite Stricklin**
Silverstein & Pomerantz, LLP	

Issues:
1. **Whether the LLC fee imposed on an LLC doing business entirely within California by Rev. Tax. Code §17942 is unconstitutional under the due process, equal protection and commerce clauses of the U.S. Constitution.**
2. **Whether Rev. Tax. Code §17942 violates Article XIII, section 26 of the California Constitution.**
3. **Whether Rev. Tax. Code §17942 constitutes an invalid exercise of the states police power and is void.**

Years: **2000 through 2004** **Amount** **$56,537.00**

Status: **Plaintiff's Summons and Complaint filed on April 25, 2007, and served personally on the Franchise Tax Board on April 26, 2007.**

BLACKIE, GERALD v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC362241 Filed – 11/21/06

Taxpayer's Counsel	*FTB's Counsel*
Paul William Raymond	Anthony Sgherzi
Attorney at Law	

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: Initial Status Conference held on March 9, 2007. Trial scheduled for December 3, 2007.

BRAR, Kaldeep S. & Imelda A. & Professional Resource Enterprises, Inc. v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC365233 Filed – 01/24/07

Taxpayer's Counsel	*FTB's Counsel*
Robert F Klueger, Esq.	Mark P. Richelson
Boldra, Klueger & Stein, LLP	

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: Defendant's Demurrer filed on March 18, 2007. Hearing on Demurrer to be held on May 3, 2007.

BRATTON, KERRY M. v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC07461671 Filed – 03/23/07

Taxpayer's Counsel	*FTB's Counsel*
Mark T. Schieble	Paul Gifford
Foley & Lardner, LLP	
Attorneys At Law	

Issue: Whether the penalty for the promotion of an abusive tax shelter provided for in section 19177 was properly assessed to Plaintiff.

Year: 2003 Amount $3,996,235.94 Penalty

Status: Case Management Conference scheduled for August 24, 2007**. Hearing scheduled for May 3, 2007.**

CITY NATIONAL CORPORATION v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC334772 Filed – 06/10/05
Court of Appeal, 2nd Appellate District No. B189240
California Supreme Court No. S150563

Taxpayer's Counsel	*FTB's Counsel*
Kenneth R. Chiate, Mary S. Thomas	Donald R. Currier
Quinn, Emanuel, Urquhart, Oliver & Hedges, LLP	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 denied on April 11, 2007.**

CITY NATIONAL CORPORATION & Subs. v. Franchise Tax Board
Sacramento Superior Court Docket No. 06AS02275 Filed – 06/06/06

Taxpayer's Counsel
Kenneth R. Chiate
Quinn, Emanuel, Urquhart Oliver & Hedges, LLP

Sherrill Johnson
Offices of the General Counsel
City National Bank

FTB's Counsel
Michael J. Cornez

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.

COLGATE-PALMOLIVE, CO. & SUBSIDIARIES v. Franchise Tax Board
Sacramento Superior Court Docket No. 03AS00707 Filed - 02/07/03

Taxpayer's Counsel
Eric J. Coffill, Carley A. Roberts
Morrison & Foerster, LLP

FTB's Counsel
Steven J. Green

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 Filed – 06/22/06

Taxpayer's Counsel
Harry Gordon Oliver II
Attorney at Law

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 $954,800.00

Status: Discovery proceeding.

DICON FIBEROPTICS, INC. v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC367885 Filed – 03/13/07

Taxpayer's Counsel	*FTB's Counsel*
Paul S. Chan and Angela E. Oh	Mark Richelson
Bird, Marella, Boxer, Wolpert,	
Nessim, Drooks & Lincenberg, P.C.	

Issue: Whether Franchise Tax Board properly denied EZ Credits claimed by Plaintiff.

Year: Ending 03/31/07 Amount $1,104,992.00

Status: Case Management Conference scheduled for July 12, 2007. **Plaintiff's Summons and First Amended Complaint filed on April 17, 2007.**

DILTS, WALTER B. JR. AND PHYLLIS A. KAPPELER v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC04436496 Filed - 11/19/04

Taxpayer's Counsel	*FTB's Counsel*
R. Todd Luoma	Anne Michelle Burr
Law Office of Richard Todd Luoma	

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 Filed – 01/05/07

Taxpayer's Counsel	*FTB's Counsel*
Jeffrey M. Vesely	David Lew
Kerne H. O. Matsubara, Annie H. Huang	
Pillsbury, Winthrop, Shaw, Pittman, LLP	

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: **Discovery proceeding.**

FREIDBERG, Edward and Traci Reynolds v. Franchise Tax Board

Sacramento Superior Court Docket No. 07AM01181	Filed – 02/02/07
Taxpayer's Counsel	*FTB's Counsel*
Edward Freidberg, Suzanne M. Alves	Larry Keethe
Freidberg & Parker	Amy Winn

Issue: Whether Franchise Tax Board was required to credit the amount of a non-final judgment to satisfy Plaintiffs' self-assessed taxes for years subsequent to those involved in the judgment.

Years: 2003 and 2004 Amount $9,326.32 Penalty

Status: **Defendant's Answer to Complaint for Recovery of Void Tax Assessments filed on April 4, 2007.**

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

San Francisco Superior Court Docket No. CGC06456659	Filed – 10/02/06
Taxpayer's Counsel	*FTB's Counsel*
William J. McLean	Kristian Whitten
A Professional Law Corporation	

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: Discovery proceeding. Trial set for August 27, 2007. **Defendant's Reply Brief in Support of Motion to Strike Setting of Case for Jury Trial filed April 3, 2007.**

GENERAL ELECTRIC COMPANY AND SUBSIDIRIES v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC06-449157 Filed – 02/03/06
Court of Appeal, 1st Appellate Dist. Court No. A115530

Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silvertein	David Lew
Silverstein & Pomerantz, LLP	
Jeffrey M. Vesely	
Pillsbury, Winthrop, Shaw, Pittman, LLP	

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: Defendant/Respondent's Request for Oral Argument filed on March 7, 2007. Plaintiffs/Appellants' Request for Oral Argument filed on March 9, 2007.

GENERAL MILLS, INC. & SUBSIDIARIES v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC05-439929 Filed – 03/29/05

Taxpayer's Counsel	*FTB's Counsel*
Thomas H. Steele	Joyce Hee
Andres Vallejo, Jeffrey S. Terraciano	
Morrison & Foerster LLP	

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 $3,950,026.00

Status: **Trial continued to May 10, 2007**.

GENERAL MOTORS CORPORATION, et al. v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC269404 Filed - 03/06/02
Court of Appeal, 2nd Appellate District No. B165665
California Supreme Court No. S127086

Taxpayer's Counsel	*FTB's Counsel*
Charles R. Ajalat	Stephen Lew
Law Office of Ajalat, Polley & Ayoob	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: **Remittitur issued on April 9, 2007. Trial Setting Conference scheduled for May 23, 2007.**

GOLDEN WEST HEALTH PLAN, INC. v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC353849 Filed – 06/15/06

Taxpayer's Counsel	*FTB's Counsel*
Alan R. Maler	Marla Markman
Greenberg Traurig, LLP	

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. **Mandatory Settlement Conference scheduled for June 25, 2007.**

GONZALES, THOMAS J. II v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC06454297 Filed – 07/18/06

Taxpayer's Counsel	*FTB's Counsel*
Martin A. Schainbaum, Esq.	Paul D. Gifford
Martin A. Schainbaum, PLC	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.

HAMPTON, RICKEY, Estate of Irene Dorothy Hampton (deceased) v. Franchise Tax Board
Alameda Superior Court Docket No. WG07310386 — Filed – 02/09/07

Taxpayer's Counsel	*FTB's Counsel*
Bernard F. Cummins Attorney At Law	Randall P. Borcherding

Issue: Whether Plaintiffs are entitled to a refund of tax based on federal adjustments.

Year: 2003 — Amount $14,074.00

Status: **Defendant's Answer to Complaint for Refund of Overpayment Estate Tax filed on April 25, 2007.**

HARGIS, BOB & RUTH v. Franchise Tax Board
San Diego Superior Court Docket No. GIC 876431 — Filed – 12/05/06

Taxpayer's Counsel	*FTB's Counsel*
Kevin M. Bagley, Robert M. Shaughnessy Duckor, Stradling, Metzger & Wynne A Law Corporation	Domini Pham

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 — Filed – 06/21/06

Taxpayer's Counsel	*FTB's Counsel*
Richard K. Semeta A Professional Law Corporation	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 — Filed - 01/06/98
Nevada Supreme Court No. 47141

Taxpayer's Counsel	*FTB's Counsel*
Thomas L. Steffen & Mark A. Hutchison	James W. Bradshaw
Hutchison & Steffen, H. Bartow Farr III	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 — Filed - 04/09/01
Court of Appeal, 1st Appellate District Court No. A102915
California Supreme Court No. S136922

Taxpayer's Counsel	*FTB's Counsel*
Carley Roberts	Joyce Hee
Morrison & Foerster, LLP	
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: Defendant/Respondent's Reply to Plaintiffs/Appellants' Supplemental Brief filed on March 14, 2007. Plaintiff/Appellant's Supplemental Reply Brief filed on March 15, 2007.

MARKEN, DONALD W. & CLAUDINE H. v. Franchise Tax Board
San Francisco Superior Court Docket No. 302520 — Filed - 04/05/99
Court of Appeal, 1st Appellate Dist. No. A091644
California Supreme Court No. S 104529
Court of Appeal, 1st Appellate Dis. No. A109715
Court of Appeal, 1st Appellate District No. A110668 (Attorneys' Fees)

Taxpayer's Counsel	*FTB's Counsel*
William E. Taggart, Jr.	Marguerite Stricklin
Taggart & Hawkins	

Issue: Whether Plaintiffs were residents of California in 1993.

Year: 1993 — Amount $244,012.00

Status: **Unpublished Opinion filed on April 11, 2007, Judgment affirmed. Defendant/Respondent's Petition for Rehearing filed on April 26, 2007.**

MERCURY GENERAL CORPORATION v. Franchise Tax Board
San Francisco Superior Court Docket No. No. GCG07462688 — Filed – 04/25/07

Taxpayer's Counsel	***FTB's Counsel***
Roy E. Crawford, Roburt J. Waldow	**Julian Standen**
Heller, Ehrman, LLP	

Issues:
1. **Whether a portion of Plaintiff's insurance subsidiary management expenses was properly disallowed under Rev. & Tax. Code § 24425.**
2. **Whether the amnesty penalty under Rev. & Tax. Code § 19101 violates the due process clause of the U.S. Constitution, applies only retroactively, or attaches only after a liability becomes due and payable.**

Years: 12/31/93 through 12/31/96 — Amount $7,585,601.28

Status: Plaintiff's Summons and Complaint served personally on the Franchise Tax Board on April 26, 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	Domini Pham
Silverstein & Pomerantz, LLP	

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: 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 held on March 19, 2007, Trial set for July 23, 2007.

NORTHWEST ENERGETIC SERVICES, LLC v. Franchise Tax Board
San Francisco Superior Court Docket No.CGC05-437721 — Filed – 01/15/05
Court of Appeal 1st Appellate Court Dist. No. A114805
Court of Appeal, 1st Appellate Court Dist. No. A115841 (Attorneys' Fees)
Court of Appeal, 1st Appellate Court Dist. No. A115950 (Attorneys' Fees)

Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Edwin Antolin	Marguerite Stricklin
Silverstein & Pomerantz	

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 Fees**
$ 3,764.29 Penalty

Status: **Defendant/Appellant's Opening Brief filed on April 20, 2007.**

PARÉ, DAVID F. v. Franchise Tax Board
San Diego Superior Court Docket No. IC872806 — Filed – 09/21/06
Court of Appeal, 3rd Appellate Court No. A60614

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: Plaintiff's Notice Designating Record on Appeal filed on March 15, 2007. Plaintiff's Notice of Appeal/Cross-Appeal filed on March 15, 2007.

PLAYMATES TOYS, INC. v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC344785 Filed – 12/19/05

Taxpayer's Counsel	*FTB's Counsel*
Edward Gartenberg, Ellis G. Wasson and Kristin L. Sciarra	Joseph M. O'Heron
Gartenberg, Gelfand, Wasson & Selden, 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: Discovery proceeding. **Notice of Status Conference rescheduled to July 12, 2007.**

SHIMMON, Edward & Anneliese v. Franchise Tax Board
Los Angeles Superior Court Docket No. BC363822 Filed – 12/22/06

Taxpayer's Counsel	*FTB's Counsel*
Charles P. Rettig, Sharyn M. Fisk	Donald Currier
Hochman, Salkin, Rettig, Toscher & Perez, P.C.	

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

Year: 1999 Amount $515,422.00 Interest

Status: **Case Management Conference held on April 17, 2007.**

SQUARE D COMPANY v. Franchise Tax Board
San Francisco Superior Court Docket No. CGC05442465 Filed – 06/21/05

Taxpayer's Counsel	*FTB's Counsel*
Allan L. Schare, Kimberly M. Reeder	Paul Gifford
McDermott Will & Emery LLP	
Palo Alto, Ca.	
Richard A. Hanson	
McDermott Will & Emery LLP	
Chicago, IL	

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: **Statement of Decision in favor of Defendant Franchise Tax Board on April 11, 2007, Judgment entered in favor of Defendant Franchise Tax Board on April 30, 2007.**

TOY'S "R" US, INC. & AFFILIATES v. Franchise Tax Board
Sacramento Superior Court Docket No. 01AS04316 Filed - 07/17/01
Court of Appeal, 4th Appellate Court No. C045386
California Supreme Court No. S143422

Taxpayer's Counsel	*FTB's Counsel*
Eric J. Coffill	Michael J. Cornez
Carley A. Roberts	
Morrison & Foerster, LLP	

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 $5,342,117.00

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.4th 750 and General Motors v. Franchise Tax Board (2006) 39 Cal.4th 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 Filed – 04/01/05
Court of Appeal, 1st Appellate Court No. A116277

Taxpayer's Counsel	*FTB's Counsel*
Amy L. Silverstein, Edwin Antolin	Marguerite Stricklin
Silverstein & Pomerantz, LLP	

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: **Defendant/Appellant's Stipulation of Extension of time to file Opening Brief to May 8, 2007 filed. Extension granted by the Court on April 9, 2007. Plaintiff/Appellant's Opposition filed on April 10, 2007.**