



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

STEVE WESTLY
Chair

JOHN CHIANG
Member

MICHAEL C. GENEST
Member

December 16, 2006 through January 31, 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. This roster covers changes for December 16, 2006 through January 31, 2007, to complete year-end December 2006 and the beginning of year 2007.

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 – December 16, 2006 through December 31, 2006

Case Name

Court Number

None

FRANCHISE AND INCOME TAX
New Cases – December 16, 2006 through December 31, 2006

Case Name

Court Number

None

FRANCHISE AND INCOME TAX
Closed Cases – January 2007

Case Name

Court Number

Shafran, Allen Jerome & Toby

Los Angeles Superior Court No. BC316070

FRANCHISE AND INCOME TAX
New Cases – January 2007

Case Name

Court Number

Brar, Kaldeep S. and Imelda & PRE

Los Angeles Superior Court No. BC365233

Duffield, David A. & Cheryl D.

San Francisco Superior Court No. CGC-07-459331

Shimmon, Edward & Anneliese

Los Angeles Superior Court No. BC363822

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

December 16, 2006 through January 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, 2nd 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: **Published Opinion filed on January 16, 2007, reversing Trial Court's Sustaining of Demurrer.**

CITY NATIONAL CORPORATION & Subs. v. Franchise Tax Board

Sacramento Superior Court Docket No. 06AS02275

Taxpayer's Counsel

Kenneth R. Chiate

Quinn, Emanuel, Urquhart Oliver & Hedges, LLP

Sherrill Johnson

Offices of the General Counsel

City National Bank

Filed – 06/06/06

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: Plaintiff's Cross-Motion to Bifurcate or Sever denied on October 4, 2006. Defendant's Motion to Stay the case denied on October 4, 2006.

COLGATE-PALMOLIVE, CO. & SUBSIDIARIES v. Franchise Tax Board

Sacramento Superior Court Docket No. 03AS00707

Taxpayer's Counsel

Eric J. Coffill, Carley A. Roberts

Morrison & Foerster, LLP

Filed - 02/07/03

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

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

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: Summons and Complaint filed on January 5, 2007, and was served by mail on the Franchise Tax Board on January 16, 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: **Plaintiffs' Stipulation to Alternative Dispute Resolution filed on December 18, 2007. Plaintiffs' Demand for Jury Trial filed on December 22, 2007.**

GENERAL ELECTRIC COMPANY AND SUBSIDIARIES 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. Silvertin

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 Motion for Judicial Notice on Appeal filed on January 18, 2007. Defendant/Respondent's Opening Brief filed on January 22, 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

Marguerite Stricklin

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 \$3,550,367.00

Status: Trial scheduled for February 20, 2007. **Settlement Conference held on January 22, 2007.**

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

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

Filed - 03/06/02

Taxpayer's Counsel

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

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: **Case Management Conference held on January 8, 2007. Trial scheduled for July 11, 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, 2nd 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: Unpublished Opinion in favor of Franchise Tax Board filed on December 11, 2006.

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: **Answer to Complaint for Refund of Personal Income Tax filed on January 18, 2007. 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.

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, 1st Appellate District Court No. A102915

California Supreme Court No. S136922

Taxpayer's Counsel

Carley Roberts

Morrison & Foerster, LLP

Hollis L. Hyans

Morrison & Foerster, LLP

New York, NY

Filed - 04/09/01

FTB's Counsel

Joyce Hee

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 Supplemental Brief filed on January 4, 2007. Plaintiff/Appellant's Supplemental Brief filed on January 5, 2007.**

LUCAS, LADONNA v. Franchise Tax Board

Los Angeles Superior Court Docket No. BS102039

Taxpayer's Counsel

LaDonna Lucas, In Pro Per

Filed – 03/08/06

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, 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

William E. Taggart, Jr.

Taggart & Hawkins

Filed - 04/05/99

FTB's Counsel

Marguerite Stricklin

Issue: Whether Plaintiffs were residents of California in 1993.

Year: 1993 Amount \$244,012.00

Status: Plaintiffs/Appellants' Request for Oral Argument filed under A109715 on July 13, 2006.

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

San Diego Superior Court Docket No. GIC802767

Taxpayer's Counsel

Antolin, Pilar M. Sansone, Amy Silverstein

Silverstein & Pomerantz, LLP

Filed - 12/30/02

FTB's Counsel

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

Spencer T. Malysiak

Michael Cornez

Spencer T. Malysiak Law Corp.

- 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 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

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: **Defendant/Appellant's Motion to add A116277 to the consolidation filed on January 4, 2007.
Appellant/Respondent's Opposition to Motion to Consolidate filed on January 19, 2007.**

PARÉ, DAVID F. v. Franchise Tax Board

San Diego Superior Court Docket No. IC872806

Filed – 09/21/06

Taxpayer's Counsel

David F. Paré, In Pro Per

FTB's Counsel

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

Craig J. Stein
Gelfand, Stein & Wasson, LLP

FTB's Counsel

Joseph M. O'Heron

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: Summons and Complaint was filed on December 22, 2006, and served on the Franchise Tax Board personally on January 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: Defendant's Post Trial Brief filed on January 17, 2007. Plaintiff's Reply Trial Brief filed on January 31, 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

Filed - 07/17/01

Court of Appeal, 4th Appellate Court No. C045386

California Supreme Court No. S143422

Taxpayer's Counsel

Eric J. Coffill

Carley A. Roberts

Morrison & Foerster, LLP

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.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

Amy L. Silverstein, Edwin Antolin

Silverstein & Pomerantz, LLP

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: **Defendant/Appellant FTB's Notice of Appeal filed on January 3, 2007. Motion to add (Northwest Energetic Services, LLC) Court Nos. A114805, A115841 and A115950 to the consolidation filed on January 4, 2007. Plaintiff/Respondent's Opposition filed on January 19, 2007.**