



## **FTB NOTICE**

California Franchise Tax Board - Legal Branch

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### **FTB NOTICE 96-4**

October 3, 1996

### **SUBJECT: Financial Corporation Offset; Clarification of Legal Ruling 89-1**

#### **Purpose**

The purpose of this FTB Notice is to update and clarify that portion of Legal Ruling 89-1 relating to the impact of then pending litigation on whether financial corporations can offset amounts paid as business license taxes against the franchise tax.

#### **Discussion**

On June 6, 1989, the Franchise Tax Board issued Legal Ruling 89-1, Financial Corporation Offset. This Legal Ruling discussed an amendment to Revenue and Taxation (Rev. & Tax.) Code §23182 (AB 66 (Stats. 1979, Ch. 1150)). This amendment to Rev. & Tax. Code §23182 included financial corporations within the in-lieu provisions for income years beginning January 1, 1981, and thereafter, thereby exempting them from various local taxes formerly allowed as an offset under Rev. & Tax. Code §23184. Legal Ruling 89-1 also noted there was litigation pending regarding the application of Rev. & Tax. Code §23182 to business license taxes imposed by charter cities on financial corporations. The issue in litigation was to determine if charter cities were permitted to impose business license taxes upon financial corporations even though financial corporations were exempt from these taxes under state law.

Legal Ruling 89-1 also announced the withdrawal of Legal Ruling 331 and Legal Ruling 360. Legal Rulings 331 and 360 were clearly made obsolete by the amendment to Rev. & Tax. Code §23182.

After announcing the withdrawal of Legal Rulings 331 and 360, the remaining discussion in Legal Ruling 89-1 concluded that if the pending litigation determined that charter cities could impose business license taxes on financial corporations, Rev. & Tax. Code §23184 would again be

applicable. Assuming that the offsets would be available, Legal Ruling 89-1 then discussed the treatment of payments made by financial corporations in discharge of personal property taxes pursuant to lease agreements. The discussion and conclusions regarding the treatment of payments made by financial corporations in discharge of personal property taxes pursuant to lease agreements were only applicable if the pending litigation determined that charter cities could impose business license taxes.

In its decision in California Federal Savings and Loan Association v. City of Los Angeles, (1991) 54 Cal.3d 1, the California Supreme Court concluded that the taxation of both banks and financial corporations was a matter of statewide concern, and that in extending the in-lieu taxation to financial corporations, the California Legislature intended to occupy the field to the exclusion of conflicting rules and regulations promulgated by charter cities. Accordingly, charter cities were not permitted to impose business license taxes on financial corporations subject to the in-lieu taxes prescribed by Rev. & Tax. Code §23182.

## **Conclusion**

Since financial corporations were determined by the Supreme Court of California in California Federal Savings and Loan Association v. City of Los Angeles, *supra*, to be exempt from personal property taxes and business license taxes in accordance with the amendment to Rev. & Tax. Code §23182 (AB 66 (Stats. 1979, Ch. 1150)), there is no authority or requirement to provide an offset for payment of these taxes, including payments made by financial corporations in discharge of personal property taxes pursuant to lease agreements.

## **Effect on other Documents**

Legal Ruling 89-1 is clarified.

## **Drafting Information**

The principal author of this notice is Edward J. Kline of the Franchise Tax Board, Legal Branch. For further information regarding this ruling, contact Mr. Kline at the Franchise Tax Board Legal Branch, P.O. Box 1720, Rancho Cordova, CA 95741-1720.