



STATE OF CALIFORNIA  
**FRANCHISE TAX BOARD**  
PO Box 1720  
Rancho Cordova, CA 95741-1720  
Telephone (916) 845-3306  
FAX (916) 845-3648

STEVE WESTLY  
Chair

JOHN CHIANG  
Member

MICHAEL C. GENEST  
Member

**FTB NOTICE 2006 - 4**

**October 13, 2006**

**SUBJECT: Withdrawal of Legal Ruling 376**

On August 5, 1974, the Franchise Tax Board issued Legal Ruling 376, "Measure of the Tax - Deductible Dividends – Dividends Eliminated from Income." Legal Ruling 376 predominantly dealt with the treatment of California Revenue & Taxation Code section 24402 dividends, including determining whether such dividends are included in the measure of tax. However, Legal Ruling 376 is no longer viable because the California Court of Appeal has determined that California Revenue & Taxation Code section 24402 is unconstitutional. (See *Farmer Bros. Co. v. Franchise Tax Board* (2003) 108 Cal.App.4<sup>th</sup> 976; review denied, 2003 Cal. Lexis 6615; cert. denied 540 U.S. 1178 (2004).) Therefore, Legal Ruling 376 is withdrawn.

The principal author of this Notice is Craig Swieso of the Franchise Tax Board, Legal Department. For further information regarding this Notice, contact Mr. Swieso at the Franchise Tax Board, Legal Department, P. O. Box 1720, MS –A260, Sacramento, CA 95741-1720.