

Legal Division Guidance 2010-12-01

(Appeal of NASSCO Holdings, Inc. – 2010-SBE-001)

Q: How is the FTB applying the recent Board of Equalization decision in Appeal of NASSCO Holdings, Inc., to corporate and individual taxpayers?

A: As a result of the NASSCO decision issued by the Board of Equalization on November 17, 2010, 2010-SBE-001, FTB included the following language in the Form 100 Schedule P instructions for the 2010 tax year:

NASSCO AMT Reduction – The Board of Equalization recently ruled in the Appeal of NASSCO Holdings, Inc 2010-SBE-001, November 17, 2010, that a corporate taxpayer may use Enterprise Zone credits and/or the Manufacturing Investment Credit (MIC) to reduce corporate alternative minimum tax (AMT). Early in 2011, the Franchise Tax Board (FTB) will post information and filing guidelines. Go to **ftb.ca.gov** and search for **nassco** for additional information.

Subsequent to FTB's release of the Form 100 Schedule P, FTB concluded a revision of the form was appropriate. FTB plans to revise the Form 100 Schedule P in February of 2011. The NASSCO decision applies only to corporate taxpayers, and does not apply to personal income taxpayers, due in part to differences in how the corporate and personal income tax statutes are drafted. Consequently, personal income taxpayers may not claim the credits at issue in NASSCO in the manner that a corporation could. In addition, only the corporate tax credits at issue in NASSCO will be administered in the manner contemplated by the NASSCO decision. FTB's revision of Form 100 Schedule P will include changes to reflect these conclusions.