



*In the 1980s, large solar-powered thermal generating facilities were built in the California desert. Solar One solar furnace project, Daggett.*

## ● APPEALS

### **Property Taxes**

The elected Members of the Board of Equalization hear appeals of the assessed values of state-assessed properties, private railroad cars, and taxable properties owned by local governments which are located outside their boundaries. The Board also hears appeals of timber tax decisions and welfare exemption claim denials. While disputes may be resolved through discussion with staff, the Board Members make the ultimate decision on all property tax appeals. All Board decisions are final.

In 2000-01, the board received 86 property tax appeals:

- 80 petitions from state-assessed public utilities
- 6 applications for review, equalization, and adjustment for local government properties

### **Sales & Use Taxes and Special Taxes & Fees**

Taxpayers who disagree with staff decisions regarding the imposition of sales or use tax or special tax and fee program assessments may seek resolution through the Board's administrative appeals process. After a taxpayer files a written appeal (petition for redetermination), the dispute may be resolved quickly through discussion with a Board auditor, or it may progress through a series of steps to a hearing before the elected Members of the Board.

Petitions for redetermination filed this year included

- 2,117 sales and use tax appeals
- 468 special taxes appeals

Taxpayers whose appeals are denied by the Board may seek further remedy by filing a timely claim for refund and if that is denied, an action in

superior court. The agency also offers a settlement program for certain tax and fee disputes. For information on 2000-01 tax and fee settlements, please see [pages 32 and 44](#).

### Franchise and Personal Income Taxes

The elected Board Members serve as an administrative appeal body over final actions by the California Franchise Tax Board (FTB). In that capacity, the Board interprets and applies the state's franchise and income tax laws. The Board hears appeals filed under the

- Bank and Corporation Tax Law
- Personal Income Tax Law
- Senior Citizens Property Tax Assistance and Postponement Law
- Taxpayers' Bill of Rights Law

If a taxpayer disagrees with a determination by the FTB, the taxpayer may appeal that determination to the Board. The Board's Appeals Section evaluates the issues of law and fact for each appeal based on the information provided by each party. The Board reviews the staff evaluation and any additional information found in the written record or provided at a hearing and makes a final determination. If the Board denies a taxpayer's appeal, the taxpayer may pursue the matter further by filing an action in superior court.

In 2000-01, the Board issued 886 decisions on appeals filed under the Bank and Corporation Tax Law and the Personal Income Tax Law. The Board considered 98 of these cases at oral hearings and decided the remaining appeals based upon a review of the written record. Ninety-six of the appeals were petitions for rehearing.

While any taxpayer dissatisfied with a final action of the Franchise Tax Board may file an appeal with the Board, taxpayers who have paid their tax liability may choose instead to file an action in superior court following final action by the FTB. Consequently, these appeal statistics do not necessarily reflect the total number of California taxpayers who disputed a final action by the FTB in 2000-01.

### Significant Court Decisions

#### Corporate Deduction for Insurance Company Dividends

Revenue and Taxation Code section 24410, which allows California-domiciled corporations a deduction for dividends they received from subsidiary insurance companies, violates the commerce clause of the U.S. Constitution. It favors domestic corporations over foreign corporations because the dividend deduction is limited to California



*Wind power returned to California in the latter part of the 20th century. Wind farm near San Francisco.*

corporations and determined by a formula based on the insurer's California gross receipts, property, and payroll.

*Ceridian Corp. v. Franchise Tax Board (2000)*  
85 Cal.App.4th 875 [102 Cal.Rptr.2d 611]

### Corporate Pension Plan Income

A taxpayer's pension plan assets were "integral" to the taxpayer's business operations under the functional test of Revenue and Taxation Code section 25120, and income from those assets are therefore apportionable "business income" for California corporation franchise (income) tax. The assets were found to be interwoven into and inseparable from the taxpayer's employee retention and recruitment efforts. Since the income-producing asset—the pension plan and trust—served an

operational function of the taxpayer rather than an investment function, the income from the asset was apportionable to California without violating the federal due process or commerce clause.

*Hoechst Celanese Corp. v. Franchise Tax Board*  
(2001) 25 Cal.4th 508

## Regulations

### Rules of Practice

The Board updated its Rules of Practice to ensure accuracy and maximize consistency in appeals procedures for Board-administered tax and fee programs.

*Title 18, California Code of Regulations, section 5010 et seq.; effective July 6, 2001*