

Court Decisions

Property Taxes

The Timely Filing of a Claim for Refund Is a Prerequisite to Any Tax Refund Action

The Court of Appeal held that the clear language of Revenue and Taxation Code section 5097 requires the timely filing of a claim for refund as a prerequisite to any tax refund action under Revenue and Taxation Code section 5141 et seq. The Court stated that any other reading of the statute would be unreasonable and disagree with the legislative intent.

JPMorgan Chase Bank, N.A. v. City and County of San Francisco (2009) 174 Cal.App.4th1201.

Sales and Use Taxes

Compliance with Regulation 1585 by a Retailer Provides a “Safe Harbor” from Claims of Unfair Competition

In this case, the retailer advertised a cellular phone for sale at half the retail price if the purchaser also enrolled in a calling plan package. The purchaser bought the phone with the calling plan. The retailer imposed sales tax on the regular price of the phone, rather than on the discounted price, and the purchaser sued for a refund. The Court of Appeal found that the retailer’s sales invoice gave the purchaser proper notice of the amount of the sales tax imposed on the sale, and, under Civil Code section 1656.1, created a rebuttable presumption that the purchaser agreed to pay sales tax shown. California Code of Regulations, Title 18, section 1585, which required that the sales tax be imposed on the regular price, provided a “safe harbor” from the purchaser’s claims of unfair competition and false advertising.

Yabsley v. Cingular Wireless, LLC (2009) 176 Cal.App.4th1156.

Note: The BOE was involved in this as an Amicus Curiae or “friend of the court.”