

**M e m o r a n d u m**

To : Mrs. Janice Masterton, Chief                      MIC: 81                      Date: August 17, 1995  
Board Proceeding Division

From : Ani A. Kindall  
Staff Counsel

Subject: **Contribution Disclosure Opinion 95-9**

A limited partnership filing an appeal completes a "party" contribution disclosure statement. The general partner acting on behalf of the partnership files an "agent" contribution disclosure statement. Other general partners file "participant" contribution disclosure statements, but disclose contributions only if they have actively supported or opposed the matter before the board. The limited partners are not required to file contribution disclosure statements.

**Questions Presented:**

I am writing in response to your August 11, 1995, memorandum to Assistant Chief Counsel Lawrence A. Augusta wherein you asked whether a limited partnership filing an appeal from a denial of a claim for refund by the Franchise Tax Board is a party under Government Code section 15626. You also asked what filing obligations, if any, the general partner acting on behalf of the partnership and the limited partners have under section 15626.

**Conclusions:**

A limited partnership filing an appeal from a denial of a claim for refund by the Franchise Tax Board is a party and completes a "party" contribution disclosure statement. The general partner acting on behalf of the partnership files a contribution disclosure statement as an "agent." The limited partners are not required to file contribution disclosure statements. Additionally, any other general partners file "participant" contribution disclosure statements, but disclose contributions only if they have actively supported or opposed the matter before the board..

**Analysis:**

In a July 24, 1995 letter addressed to you, Franchise Tax Board Assistant Chief Counsel Kendall E. Kinyon stated the following:

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Section 23081 of the Revenue and Taxation Code ... imposes an annual tax in the amount of \$800 on certain limited partnerships. This tax is due and payable on the date the partnership return is required to be filed and is assessed by operation of law. There is no opportunity to protest or appeal this tax prior to payment. After payment the limited partnership may file a claim for refund and, if the Franchise Tax Board denies the claim, appeal to the Board of Equalization under Section 19324.

The tax is the obligation of the limited partnership. Although every general partner of a limited partnership is liable for the obligations of the partnership, the proper party to file a claim for refund and an appeal therefrom is the limited partnership. As a practical matter, the general partner acting on behalf of the partnership would file the claim for refund and any appeal. No partner in his or her individual capacity, whether general or limited, would be a party to the appeal.

In the above described situation, the limited partnership is a "party" under Government Code section 15626, and completes a "party" contribution disclosure notice disclosing the contributions of the limited partnership. The general partner acting on behalf of the limited partnership files an "agent" contribution disclosure notice disclosing his or her contributions. If the general partner acting on behalf of the partnership is also acting as an employee or member of a law, accounting, consulting or similar firm or entity, a contribution disclosure statement is also filed on behalf of that entity. (Section 15626, subdivision (h)(4); see generally, Contribution Disclosure Opinions 91-10 (a trust), 91-11 (conservatorship), 91-25 (partnership).) Additionally, any other general partners file "participant" contribution disclosure statements. However, these general partners do not disclose contributions unless they have actively supported or opposed the matter before the board. As we have previously advised, individual limited partners do not file contribution disclosure statements. (Contribution Disclosure Opinions 90-2 and 92-9.)

If you have any further questions, please call me at 324-2195.

*Ani Armo-Kendall*

cc: Contribution Disclosure Binder Distribution List.