LITIGATION ROSTER

SALES AND USE TAX

AUGUST 2010

Sales and Use Tax
August 2010

NEW CASES

Case Name	Court/Case Number
NONE	

CLOSED CASES

Case Name	Court/Case Number
NONE	

Please refer to the case roster for more detail regarding new and closed cases

SALES AND USE TAX

LITIGATION ROSTER

August 2010

ALAMEDA, CITY OF, et al. v. The California State Board of Equalization

San Francisco Superior Court Case No. CPF-09-509234 — Filed –04/21/09

Plaintiff's Counsel
Charles Coleman
Holland & Knight, LP

BOE's Counsel
Kris Whitten

BOE Attorney
John Waid

Issue(s): Whether BOE's characterization of transactions where the property sold is shipped to California customers from points out of state and the retailer has a business operation in Alameda as being subject to use tax is valid.

Audit/Tax Period: 1995 - Present — Amount: Unspecified

Status: The parties have stipulated and filed a motion to assign the *City of Alameda v. BOE, City of Brisbane v. BOE, and the City of South San Francisco v. BOE* to a single judge for all purposes. At the pretrial conference on June 23, 2010, the court took the June 28, 2010 trial on the issue of exhaustion of administrative remedies off calendar, and set a new pretrial conference date of September 29, 2010. The new date for trial on the merits is January 24, 2011.

ALHAMBRA, CITY OF, et al. v. California State Board of Equalization

Los Angeles Superior Court Case No. BS124978 — Filed – 02/19/10

Plaintiff's Counsel
Richard R. Terzian, Mark J. Mulkerin
Burke, Williams & Sorensen, LLP

BOE's Counsel
Marta Smith

BOE Attorney
John Waid

Issue(s): Whether BOE's reallocation of local sales tax away from the Los Angeles county-wide pool and directly to the City of Pomona for the period 1994-2009 violates public policy, due process, the statute of limitations, and the consistent and uniform administration of the law as required by Revenue and Taxation Code sections 7221 et seq.

Audit/Tax Period: — Amount: Unspecified

Status: At the hearing on April 8, 2010, the court granted petitioners' motions. The court ordered that BOE's administative decision issued January 15, 2010 is stayed pending the judgment of the court, filing of a notice of appeal from the judgment, or until the expiration of the time for filing such notice of appeal, whichever occurs first.

The court consolidated the following cases for all purposes: *City of Palmdale v. BOE* (LASC Case No. BS124919), *City of Los Angeles v. BOE* (LASC Case No. BS124950), and *City of Alhambra v. BOE* (LASC Case No. BS124978). *City of Palmdale* is designated as the lead case.

On August 30, 2010, the court issued its order ruling that BOE properly interpreted Revenue and Taxation Code section 7209. Hearing on the merits of all remaining issues is scheduled for October 4, 2010.

ASPECT SOFTWARE, INC. v. State Board of Equalization

San Francisco Superior Court Case No. CGC 07-468134	Filed –10/12/07
Court of Appeal, First Appellate District No. A127004	*BOE's Counsel*
Plaintiff's Counsel	Joyce Hee
James P. Kleier	*BOE Attorney*
Reedsmith LLP	Jeffrey Graybill

Issue(s): Whether tax applies to plaintiff's charges for what it alleges were intangible software license fees, and whether the charges should be excluded from tax as sales made pursuant to technology transfer agreements (Regulation 1502.)

Audit/Tax Period: 10/01/00-12/31/00 Amount: $804,778.84

Status: Trial court judgment in favor of BOE. Plaintiff filed an appeal on November 16, 2009. The case is currently being briefed in the Court of Appeal.

BRISBANE, CITY OF v. The California State Board of Equalization

San Francisco Superior Court Case No. CPF-09-509232	Filed –04/21/09
	BOE's Counsel
Plaintiff's Counsel	Kris Whitten
Charles Coleman	*BOE Attorney*
Holland & Knight, LP	John Waid

Issue(s): Whether BOE's characterization of transactions where the property sold is shipped to California customers from points out of state and the retailer has a business operation in Brisbane as being subject to use tax is valid.

Audit/Tax Period: 2001 - Present Amount: Unspecified

Status: The parties have stipulated and filed a motion to assign the *City of Alameda v. BOE, City of Brisbane v. BOE, and the City of South San Francisco v. BOE* to a single judge for all purposes. At the pretrial conference on June 23, 2010, the court took the June 28, 2010 trial on the issue of exhaustion of administrative remedies off calendar, and set a new pretrial conference date of September 29, 2010. The new date for trial on the merits is January 24, 2011.

D.R. SYSTEMS, INC. v. State of California; State Board of Equalization

San Diego County Superior Court Case No. 37-2009-00094087	Filed –
	BOE's Counsel
Plaintiff's Counsel	Leslie Branman Smith
Scott Savary	*BOE Attorney*
Savary, APC	Renee Carter

Issue(s): Did plaintiff file a timely Claim for Refund for self-help credits subsequently disallowed during an audit by the BOE's Sales & Use Tax Department?

Audit/Tax Period: 04/01/02 – 12/31/05 Amount: $283,410.00

Status: Plaintiff's First Amended Complaint was filed on January 19, 2010. At the hearing on May 28, 2010, BOE's Demurrer was sustained with ten days leave to amend. Plaintiff's Second Amended Complaint was served on June 8, 2010. BOE's Answer to the Second Amended Complaint was filed on July 2, 2010.

DAIMLERCHRYSLER CORPORATION v. State Board of Equalization

San Francisco Superior Court Case No. CGC 07-459702	Filed – 01/18/07
	BOE's Counsel
Plaintiff's Counsel	Kris Whitten
Jon D. Universal	*BOE Attorney*
Universal Shannon & Wheeler LLP	John Waid

Issue(s): Whether the plaintiff is owed a refund of use tax it refunded under Civil Code section 1793.25 to customers who leased vehicles that had defects that could not be repaired after a reasonable number of attempts.

Audit/Tax Period: 10/01/01-01/10/05 Amount: $2,000,000.00

Status: Settlement and Status Conference continued to November 10, 2010.

FILLMORE, CITY OF v. California State Board of Equalization

San Francisco Superior Court Case No. CPF-09-509234	Filed – 05/26/09
Court of Appeal, Second Appellate District No. B219483	*BOE's Counsel*
Plaintiff's Counsel	Stephen Lew
Jeffrey S. Baird, Joseph A. Vinatieri	*BOE Attorney*
Bewley, Lassleben & Miller, LLP	John Waid

Issue(s): Whether Revenue & Taxation Code section 7056 requires that consultants contracting with cities regarding local sales tax allocation must be authorized by resolution to represent the city and must meet certain criteria, including that they may not also represent retailers.

Audit/Tax Period: None Amount: Unspecified

Status: Judgment dismissing Fillmore's Petition for Writ of Mandate, and Intervenors' Petition and Complaint was entered August 13, 2009. Intervenors, City of Industry and City of Livermore, filed Notices of Appeal on October 1, 2009. Fillmore's Cross Appeal was filed on October 30, 2009, and dismissed on April 9, 2010, at Fillmore's request. The case is fully briefed. Oral argument is scheduled for October 12, 2010.

HOFSTADTER, DAVID, et al. v. The State Board of Equalization
(Class Action Complaint for Constructive Trust, etc.)
Los Angeles Superior Court Case No. BC376547 — Filed – 08/24/07

Plaintiffs' Counsel
Mitch Kalcheim
Kalcheim/Salah

BOE's Counsel
Bonnie Holcomb
BOE Attorney
John Waid

Issue(s): Whether Dell properly collected use tax from its customers measured by the amount of a mail-in rebate on the sales (Revenue and Taxation Code 6011; Regulation 1671).

Audit/Tax Period: None — Amount: Unspecified

Status: Status conference continued from April 15, 2010 to October 22, 2010.

HSBC RETAIL SERVICES, INC. v. State of California Board of Equalization
San Francisco Superior Court Case No. CGC 07-469572 — Filed – 11/28/07
Court of Appeal, First Appellate District No. A125995

Plaintiff's Counsel
Donald J. Querio, Erik Kemp
Severson & Werson

BOE's Counsel
Anne Michelle Burr
BOE Attorney
Jeffrey Graybill

Issue(s): Plaintiff is a lender who purchased receivables from retailers, and the debts have gone bad. Plaintiff asserts that it is entitled to take a bad debt deduction (Regulation 1642).

Audit/Tax Period: 10/01/97-12/31/02 — Amount: $9,158,743.00

Status: Trial court judgment in favor of BOE. Plaintiff filed an appeal. Briefing in the Court of Appeal is complete, and the case is awaiting the scheduling of oral argument.

INTAGLIO CORPORATION v. State Board of Equalization
Sacramento Superior Court Case No. 05AS02558 — Filed – 06/13/05

Plaintiff's Counsel
R. Todd Luoma
Law Offices of Richard Todd Luoma

BOE's Counsel
Steven J. Green
BOE Attorney
Jeffrey Graybill

Issue(s): Whether plaintiff can exempt from tax its charges for special printing aids (Regulation 1541).

Audit/Tax Period: 04/01/97-12/31/00 — Amount: $208,513.38

Status: Pending trial setting.

ISTRIN, JONATHAN v. Ralphs Grocery Company, California State Board of Equalization
(Class Action Complaint for Constructive Trust, etc.)
San Francisco Superior Court Case No. CPF-09-509234 — Filed – 03/20/09

Plaintiff's Counsel
Jordan L. Lurie, Joel E. Elkins
Weiss & Lurie

BOE's Counsel
Elisa Wolfe-Donato
BOE Attorney
John Waid

Issue(s): Plaintiff contends that Ralphs improperly collected sales tax reimbursement on sales of hot coffee to go. Plaintiff seeks an injunction against Ralphs. Plaintiff also seeks an order that Ralphs institute a system to accurately track tax on sales of hot coffee to go and to make refund applications to BOE, and an injunction ordering BOE to act on Ralphs' refund applications and to deposit moneys already collected with the court. BOE contends that the court lacks jurisdiction of this case because plaintiff lacks standing to bring a suit to adjudicate a sales tax dispute. Plaintiff may not use remedies not authorized by the Legislature.

Audit/Tax Period: None — Amount: Unspecified

Status: The court granted BOE's and Ralphs' Demurrers with 30 days leave to amend. Plaintiff's First Amended Complaint was filed on March 3, 2010. Stipulation for Stay pending the results in *Loeffler* was filed on June 2, 2010.

LOS ANGELES, CITY OF, et al. v. California State Board of Equalization
Los Angeles Superior Court Case No. BS124950 — Filed – 02/16/10

Plaintiff's Counsel
Carmen Trutanich, Pejmon Shemtoob
Office of the Los Angeles City Attorney

BOE's Counsel
Marta Smith
BOE Attorney
John Waid

Issue(s): Whether BOE's reallocation of local sales tax away from the Los Angeles county-wide pool and directly to the City of Pomona for the period 1994-2009 violates public policy, due process, the statute of limitations, and the consistent and uniform administration of the law as required by Revenue and Taxation Code sections 7221 et seq.

Audit/Tax Period: — Amount: Unspecified

Status: At the hearing on April 8, 2010, the court granted petitioners' motions. The court ordered that BOE's administative decision issued January 15, 2010 is stayed pending the judgment of the court, filing of a notice of appeal from the judgment, or until the expiration of the time for filing such notice of appeal, whichever occurs first.

The court consolidated the following cases for all purposes: *City of Palmdale v. BOE* (LASC Case No. BS124919), *City of Los Angeles v. BOE* (LASC Case No. BS124950), and *City of Alhambra v. BOE* (LASC Case No. BS124978). *City of Palmdale* is designated as the lead case.

On August 30, 2010, the court issued its order ruling that BOE properly interpreted Revenue and Taxation Code section 7209. Hearing on the merits of all remaining issues is scheduled for October 4, 2010.

LUCENT TECHNOLOGIES, INC., et al. v. State Board of Equalization
Los Angeles Superior Court Case No. BC402036 — Filed – 11/14/08

Plaintiff's Counsel
Jeffrey G. Varga
Paul, Hastings, Janofsky & Walker LLP

BOE's Counsel
Ronald Ito
BOE Attorney
Jeffrey Graybill

Issue(s): (1) Does the sale of software qualify for technology transfer agreement treatment; (2) have the plaintiffs established that the engineering and support charges are related to sales of tangible personal property; and (3) did plaintiffs use the prior agreement to calculate their tax liability for the subject quarter. (Revenue and Taxation Code sections 6012 and 6010.9; Regulations 1502 and 1507.)

Audit/Tax Period: 1/1/95 - 12/31/99 — Amount: $3,480,913.12

Status: Final status conference is continued to May 5, 2011, and the new trial date is May 11, 2011.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.
Cross Complaint: Albertson's Inc, et al. v. The California State Board of Equalization
Los Angeles Superior Court Case No. BC325272 — Filed – 02/24/06

Plaintiffs' Counsel
Philip J. Eskanazi, Lee A. Cirsch
Akin, Gump, Strauss, Haur & Feld LLP

BOE's Counsel
Bonnie Holcomb
BOE Attorney
John Waid

Issue(s): Whether sales tax reimbursement was illegally being collected on the sale of glucose test strips and skin puncture lancets which were exempt from sales tax (Regulation 1591.1).

Audit/Tax Period: None — Amount: Unspecified

Status: By order dated November 17, 2007, the trial court ruled in favor of defendants Sav-on Drugs, et al., that sales tax was properly applied to these transactions. Further issues not involving the BOE are still pending. Status conference continued to November 4, 2010, awaiting results in *Loeffler*.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.
Cross-Complaint: CVS, Inc. v. California State Board of Equalization
Los Angeles Superior Court Case No. BC325272 — Filed – 01/24/06

Plaintiffs' Counsel
Richard T. Williams
Holland & Knight LLP

BOE's Counsel
Bonnie Holcomb
BOE Attorney
John Waid

Issue(s): Whether sales tax reimbursement was illegally being collected on the sale of glucose test strips and skin puncture lancets which were exempt from sales tax (Regulation 1591.1).

Audit/Tax Period: None — Amount: Unspecified

Status: By order dated November 17, 2007, the trial ruled in favor of defendants Sav-on Drugs, et al., that sales tax was properly applied to these transactions. Further issues not involving the BOE are still pending. Status conference continued to November 4, 2010, awaiting results in *Loeffler*.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.
Cross-Complaint: Longs Drug Stores Corporation, et al. v. California State Board of Equalization

Los Angeles Superior Court Case No. BC325272	Filed – 01/24/06
	BOE's Counsel
Plaintiffs' Counsel	Bonnie Holcomb
Douglas A. Winthrop, Christopher Kao	*BOE Attorney*
Howard, Rice, Nemerovski, Canady, Falk & Rabkin	John Waid

Issue(s): Whether sales tax reimbursement was illegally being collected on the sale of glucose test strips and skin puncture lancets which were exempt from sales tax (Regulation 1591.1).

Audit/Tax Period: None Amount: Unspecified

Status: By order dated November 17, 2007, the trial ruled in favor of defendants Sav-on Drugs, et al., that sales tax was properly applied to these transactions. Further issues not involving the BOE are still pending. Status conference continued to November 4, 2010, awaiting results in *Loeffler*.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.
Cross-Complaint: Rite Aid v. The California State Board of Equalization

Los Angeles Superior Court Case No. BC325272	Filed – 01/24/06
	BOE's Counsel
Plaintiffs' Counsel	Bonnie Holcomb
Douglas C. Rawles	*BOE Attorney*
ReedSmith LLP	John Waid

Issue(s): Whether sales tax reimbursement was illegally being collected on the sale of glucose test strips and skin puncture lancets which were exempt from sales tax (Regulation 1591.1).

Audit/Tax Period: None Amount: Unspecified

Status: By order dated November 17, 2007, the trial ruled in favor of defendants Sav-on Drugs, et al., that sales tax was properly applied to these transactions. Further issues not involving the BOE are still pending. Status conference continued to November 4, 2010, awaiting results in *Loeffler*.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.
Cross-Complaint: Wal-Mart Stores, Inc. v. The California State Board of Equalization

Los Angeles Superior Court Case No. BC325272	Filed – 02/24/06
	BOE's Counsel
Plaintiffs' Counsel	Bonnie Holcomb
Gail E. Lees, Brian Walters	*BOE Attorney*
Gibson, Dunn & Crutcher LLP	John Waid

Issue(s): Whether sales tax reimbursement was illegally being collected on the sale of glucose test strips and skin puncture lancets which were exempt from sales tax (Regulation 1591.1).

Audit/Tax Period: None | Amount: Unspecified

Status: By order dated November 17, 2007, the trial ruled in favor of defendants Sav-on Drugs, et al., that sales tax was properly applied to these transactions. Further issues not involving the BOE are still pending. Status conference continued to November 4, 2010, awaiting results in *Loeffler*.

McCLAIN, MICHAEL, et al. v. Sav-On Drugs, et al.
Cross-Complaint: Walgreen Co. v. The California State Board of Equalization
Los Angeles Superior Court Case No. BC325272 | Filed – 02/24/06

	BOE's Counsel
Plaintiffs' Counsel	Bonnie Holcomb
Douglas C. Rawles	*BOE Attorney*
ReedSmith LLP	John Waid

Issue(s): Whether sales tax reimbursement was illegally being collected on the sale of glucose test strips and skin puncture lancets which were exempt from sales tax (Regulation 1591.1).

Audit/Tax Period: None | Amount: Unspecified

Status: By order dated November 17, 2007, the trial ruled in favor of defendants Sav-on Drugs, et al., that sales tax was properly applied to these transactions. Further issues not involving the BOE are still pending. Status conference continued to November 4, 2010, awaiting results in *Loeffler*.

MERCEDES-BENZ USA, LLC v. California State Board of Equalization
San Francisco Superior Court Case No. CGC 08-471310 | Filed – 01/23/08

	BOE's Counsel
Plaintiff's Counsel	Kris Whitten
Jon D. Universal	*BOE Attorney*
Universal, Shannon & Wheeler	John Waid

Issue(s): Whether the BOE has the authority to reimburse Mercedes Benz for payments it made to lessees of its cars as part of restitution payments made under the California Lemon Law that constituted returns of use tax payments the customers made on the leases.

Audit/Tax Period: None | Amount: $2,500,000.00

Status: Trial date taken off calendar. Settlement and Status Conference continued to November 10, 2010.

MOHAN, DIANE, et al. v. Dell, Inc., et al.
San Francisco Superior Court Case No. CGC 03-419192 | Filed – 11/01/04

	BOE's Counsel
Plaintiffs' Counsel	Julian O. Standen
Jason Bergmann	*BOE Attorney*
Paul, Hastings, Janofsky & Walker, LLP	John Waid

Issue(s): Whether Dell illegally collected use tax measured by the price of optional service contracts even though the contracts were not separately stated on the invoice (Revenue and Taxation Code 6011; Regulations 1546 and 1655).

Audit/Tax Period: None | Amount: Unspecified

Status: The trial court ruled that the service contracts were in fact optional and that the Dell entities should not have collected tax on their sales. Dell took up a writ of mandate on this issue to the First District Court of Appeal. In a published decision, the appeals court agreed with the trial judge. (*Dell, Inc. v. Sup. Ct.* (2008) 159 Cal.App.4th 911.) Plaintiffs' Unfair Competition Law claims are still pending. Settlement conference continued to December 10, 2010.

NORTEL NETWORKS INC. I v. State Board of Equalization of the State of California	
Los Angeles Superior Court Case No. BC341568	Filed – 10/17/05
Court of Appeal, Second Appellate District No. B213415	*BOE's Counsel*
Plaintiff's Counsel	Stephen Lew
Jeffrey Varga, Julian Decyk	*BOE Attorney*
Paul, Hastings, Janofsky & Walker LLP	Mike Llewellyn

Issue(s): 1) Whether Regulation 1507 is valid, 2) whether the software sold by Nortel is prewritten, and 3) whether the software sales agreements technology transferred agreements.

Audit/Tax Period: 01/01/94-12/31/97 (audit); 01/01/96-06/30/01 (refund) Amount: $36,520,136.70

Status: Judgment in favor of plaintiff was entered August 29, 2008. BOE's appeal was filed on January 8, 2009. Nortel's cross-appeal was filed January 13, 2009. The case has been fully briefed in the Court of Appeal. Oral argument is scheduled for October 21, 2010.

NORTEL NETWORKS INC. II v. State Board of Equalization of the State of California	
Los Angeles Superior Court Case No. BC375660	Filed – 08/09/07
	BOE's Counsel
Plaintiff's Counsel	Lew/Wolfe-Donato
Jeffrey G. Varga	*BOE Attorney*
Paul, Hastings, Janofsky & Walker LLP	Mike Llewellyn

Issue(s): Whether the engineering services rendered by Nortel were part of the sale of tangible personal property under Revenue and Taxation Code sections 6011(c)(10) and 6012(c)(10).

Audit/Tax Period: 01/01/94-12/31/97 | Amount: $1,054,020.00

Status: The case went to trial on the first cause of action, which included claims relating to charges by Nortel for systems application engineering and equipment application engineering charges. The remaining causes of action for different charges were bifurcated and stayed, pending the results of the judgment in the Nortel I case. Nortel prevailed on its claims at trial, and the court has entered a statement of decision on such claims. With the remaining claims stayed, the case will remain in this status until it either settles or until resolution of the Nortel I appeal.

PALMDALE, CITY OF, et al. v. State of California, Board of Equalization

Los Angeles Superior Court Case No. BS124919	Filed – 02/16/10
	BOE's Counsel
Plaintiff's Counsel	Marta Smith
Mitchell E. Abbott, Veronica S. Gunderson	*BOE Attorney*
Richards, Watson & Gershon	John Waid

Issue(s): Whether BOE's reallocation of local sales tax away from the Los Angeles county-wide pool and directly to the City of Pomona for the period 1994-2009 violates public policy, due process, the statute of limitations, and the consistent and uniform administration of the law as required by Revenue and Taxation Code sections 7221 et seq.

Audit/Tax Period: Amount: Unspecified

Status: At the hearing on April 8, 2010, the court granted petitioners' motions. The court ordered that BOE's administative decision issued January 15, 2010 is stayed pending the judgment of the court, filing of a notice of appeal from the judgment, or until the expiration of the time for filing such notice of appeal, whichever occurs first.

The court consolidated the following cases for all purposes: *City of Palmdale v. BOE* (LASC Case No. BS124919), *City of Los Angeles v. BOE* (LASC Case No. BS124950), and *City of Alhambra v. BOE* (LASC Case No. BS124978). *City of Palmdale* is designated as the lead case.

On August 30, 2010, the court issued its order ruling that BOE properly interpreted Revenue and Taxation Code section 7209. Hearing on the merits of all remaining issues is scheduled for October 4, 2010.

SAN MATEO, COUNTY OF v. State Board of Equalization, et al.

San Francisco Superior Court Case No. CGC 07-459514	Filed – 06/14/06
Court of Appeal, First Appellate District No. A124917	*BOE's Counsel*
Plaintiff's Counsel	Kris Whitten
John Nibbelin, David Silberman	*BOE Attorney*
San Mateo County Counsel	John Waid

Issue(s): Regulation 1699, Buying Companies, is invalid, because it allows cities to manipulate the local sales tax by letting local consumer to form buying companies to re-direct local sales tax to the location of the buying company from the locations of the vendors, and local sales taxes derived in question should be reallocated as if subdivision (h) never existed (Revenue and Taxation Code section 1699.)

Audit/Tax Period: None Amount: Unspecified

Status: BOE's Demurrer to plaintiff's First Amended Complaint was granted without leave to amend on November 19, 2008. Order Sustaining Demurrer was entered December 23, 2008. Plaintiff's Notice of Appeal was filed March 30, 2009. On April 28, 2010, the First District Court of Appeal issued its opinion affirming the decision of the trial court that plaintiff failed to exhaust its administrative remedies and granting BOE's demurrer without leave to amend. In its Order dated May 13, 2010, the Court denied BOE's request for publication of the opinion.

SONOMURA, AKIRA v. State Board of Equalization
San Diego Superior Court Case No. 37-2007-00074759-CU-MC-CTL — Filed – 05/30/08

Plaintiff's Counsel
Bob Mullen
Attorney at Law

BOE's Counsel
Leslie Smith
BOE Attorney
John Waid

Issue(s): (1) Whether BOE's issuance of a Notice of Determination pursuant to Revenue and Taxation Code section 6829 was proper; and (2) whether BOE's Notice of Determination was timely (Revenue and Taxation Code section 6487).

Audit/Tax Period: 04/01/1993 – 03/31/1996 (dual 04/25/2002) — Amount: $79,000.00

Status: BOE's Answer was filed July 8, 2008. BOE is conducting discovery.

SOUTH SAN FRANCISCO, CITY OF v. California State Board of Equalization, et al.
San Francisco Superior Court Case No. CPF-09-509231 — Filed – 02/20/09

Plaintiff's Counsel
Peter S. Hayes
Meyers, Nave, Roback, Silver & Wilson

BOE's Counsel
Kris Whitten
BOE Attorney
John Waid

Issue(s): Whether BOE's characterization of transactions where the property sold is shipped to California customers from points out of state and the retailer has a business operation in South San Francisco as being subject to use tax is valid.

Audit/Tax Period: 1996 - Present — Amount: Unspecified

Status: The parties have stipulated and filed a motion to assign the *City of Alameda v. BOE, City of Brisbane v. BOE, and the City of South San Francisco v. BOE* to a single judge for all purposes. BOE's Answer to plaintiff's First Amended Complaint was filed on March 23, 2010. At the pretrial conference on June 23, 2010, the court took the June 28, 2010 trial on the issue of exhaustion of administrative remedies off calendar, and set a new pretrial conference date of September 29, 2010. The new date for trial on the merits is January 24, 2011.

UNIVERSAL CITY STUDIOS LLLP v. State Board of Equalization of the State of California
San Francisco Superior Court Case No. CGC-10-498151 — Filed – 03/26/10

Plaintiff's Counsel
Jeffrey M. Vesely, Richard E. Nielsen
Pillsbury Winthrop Shaw Pittman LLP

BOE's Counsel
David Lew
BOE Attorney
Jeffrey Graybill

Issue(s): Whether plaintiff self reported the proper amount of taxable sales related to its lump sum charges for acess to its theme park attractions and meals and beverages (Sales and Use Tax Regulation 1603.)

Audit/Tax Period: 7/1/96 - 4/30/02 — Amount: $461,282.12

Status: BOE's Answer was filed May 17, 2010. Mandatory Settlement Conference is set for March 4, 2011. Trial is set to begin on March 21, 2011.

WOOSLEY, CHARLES PATRICK v. State Board of Equalization	
Los Angeles Superior Court Case No. CA000499	Filed – 06/20/78
Court of Appeal, Second Appellate District: B113661	*BOE's Counsel*
Plaintiff's Counsel	Diane Spencer-Shaw
James M. Gansinger	*BOE Attorney*
Gansinger, Hinshaw	Sharon Brady Silva

Issue(s): Whether the taxpayer is entitled to a refund of the vehicle license fee (Revenue and Taxation Code sections 10753 and 10758) and use tax imposed.

Audit/Tax Period: None

Amount: $1,492.00

Status: On July 21, 2010, the California Supreme Court denied Woosley's Petition for Review. As no further appeals may be taken from the appellate decision, the case will be remanded to the trial court to make further determinations in accordance with the appellate court's decision. Remittitur issued August 3, 2010.

SALES & USE TAX

CLOSED CASES

LITIGATION ROSTER

August 2010

No cases were closed during this period.

DISCLAIMER

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