

LITIGATION ROSTER

FRANCHISE AND INCOME TAX

AUGUST 2011

Franchise and Income Tax
AUGUST 2011

NEW CASES

Case Name

Court/Case Number

None

CLOSED CASES

Case Name

Court/Case Number

Maleksalehi, Nemat

Sacramento Superior No. 34-2009-80000365

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

Franchise and Income Tax
LITIGATION ROSTER
AUGUST 2011

NO PENDING CASES

FRANCHISE AND INCOME TAX
CLOSED CASES
LITIGATION ROSTER
AUGUST 2011

MALEKSALEHI, NEMAT, Maryam Maleksalehi v. State Board of Equalization

Sacramento County Superior Court No. 34-2009-80000365

Filed – 10/29/09

BOE's Counsel

Jill Bowers

BOE Attorney

Anthony Epolite

Plaintiff's Counsel

Barzin Barry Sabahat

Anchor Law Group, APC

Issue(s): Petitioners contend writ relief is necessary to correct the BOE's 'clearly erroneous' determination in petitioners' appeal. Petitioners further contend that the BOE erroneously: (1) denied petitioners' appeal; (2) assessed income taxes against the petitioners; and (3) is illegally collecting income taxes from petitioners. BOE contends a writ of mandate is not the proper and exclusive remedy provided under the California Constitution and Revenue and Taxation Code to litigate a disputed income tax; the proper and exclusive remedy is a tax refund suit. ([Cal. Const., art. XIII, section 32, Revenue & Taxation Code sections 19381, 19382](#), *Nast v. Board of Equalization* (1996) 46 Cal.App. 4th 343.) BOE is not a proper defendant in this action and no cause of action can be stated against BOE; the proper defendant in tax refund litigation is the FTB. (*Id.*) In addition, the complaint is not timely filed pursuant to [Revenue & Taxation Code section 19384](#), and is therefore time barred.

Audit/Tax Period: 2001

Amount: \$115,870.00

Disposition: Order Sustaining Demurrer by Respondent State Board of Equalization was filed April 29, 2011. Judgment of Dismissal as to Respondent State Board of Equalization was entered April 29, 2011. The Notice of Entry Judgment for Respondent State Board of Equalization was served on June 20, 2011. No appeal was filed.

DISCLAIMER

Every attempt has been made to ensure the information contained herein is valid and accurate at the time of publication. However, the tax laws are complex and subject to change. If there is a conflict between the law and the information found, decisions will be made based on the law.

Links to information on sites not maintained by the Board of Equalization are provided only as a public service. The Board is not responsible for the content and accuracy of the information on those sites.