

STATE BOARD OF EQUALIZATION



Appeal Name: Emmis Communications Corp.

Case ID: 547964 ITEM #: B2

Date: June 11, 2013 Exhibit No: 6.1

TP FTB DEPT PUBLIC COMMENT

Emmis FYE 2/2006 Income

Net Taxable Income **239,176,653**

Comprised of:

Income from station sales 342,835,255

Loss from other activities (103,658,602)

**100% of California Apportionable Income From
Station Sales, All of Which Were Outside California**

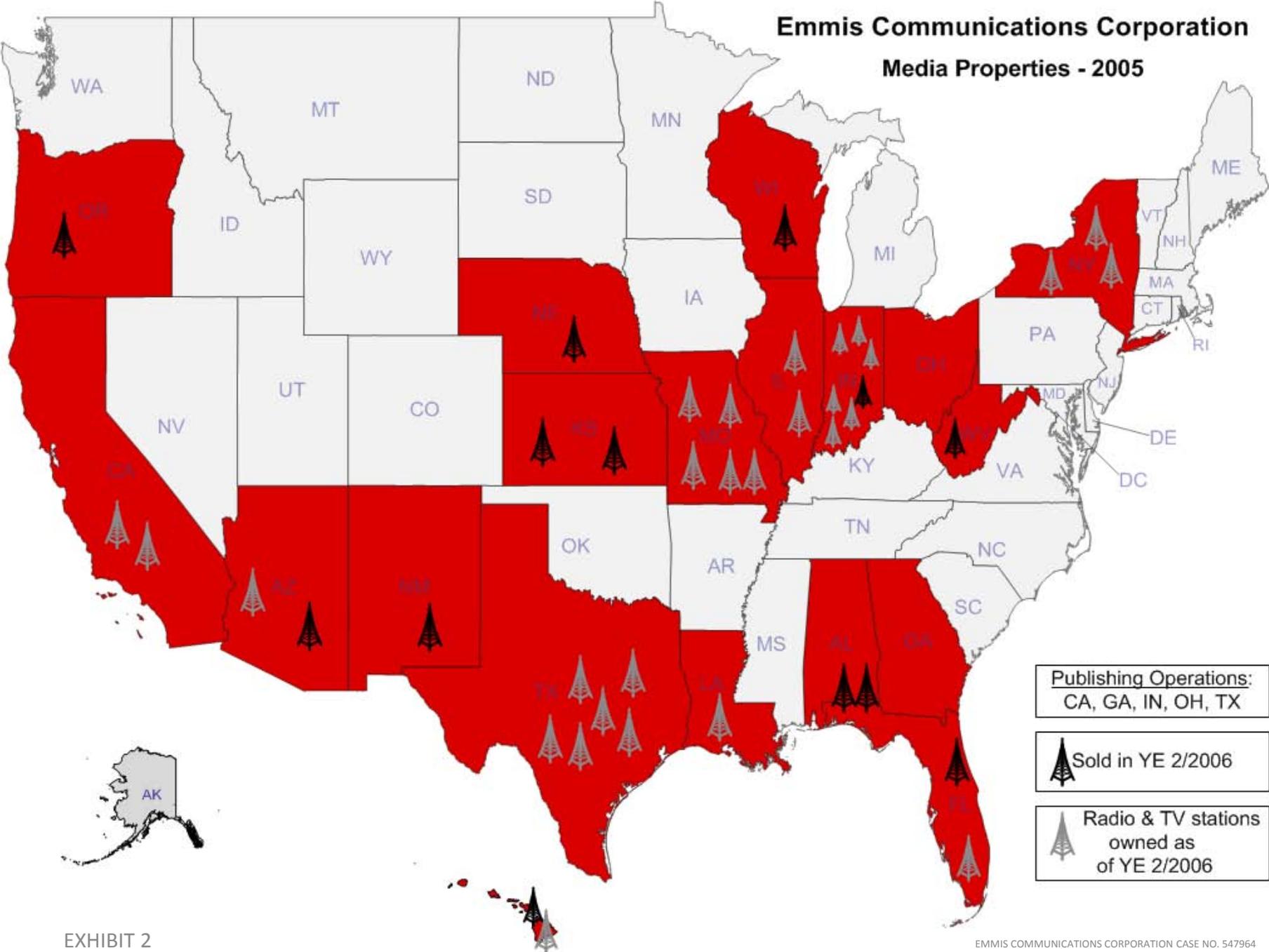
EXHIBIT 1

TAXPAYER EXHIBIT
B2
June 11, 2013
Emmis Communications Corp.
547964

EMMIS COMMUNICATIONS CORPORATION CASE NO. 547964

Emmis Communications Corporation

Media Properties - 2005



“Our strategy is to selectively acquire underdeveloped media properties in desirable markets and then to create value by developing those properties to increase their cash flow.”

- FYE 2/28/1999 Form 10-K

* 75 acquisitions / 48 dispositions since incorporation

“Occasional” defined in Reg. 25137(c)(1)(A)2

A sale is occasional if:

(1) “the transaction is outside of the taxpayer’s normal course of business

and

(2) occurs infrequently.” (Emph. added.)

Two requirements – both must be met

LEGEND
 Radio
 Television
 Publications

ACQUIRED 58 MEDIA PROPERTIES

WKKX-FM WALC-AM WXTM-FM WTLC-FM WTLC-AM Hungary- radio "Cincinnati Magazine" "Texas Monthly"	WLUK-TV WVUE-TV WALA-TV KHON-TV WFTX-TV WTHI-TV WTHI-AM WTHI-FM WVVR-FM WQCD-FM	WKCF-TV Argentina- radio (2 stations) "Country Sampler"	KOIN-TV KRQE-TV WSAZ-TV KSNW-TV KGMB-TV KGUN-TV KMTV-TV KSNT-TV KKFR-FM KXPK-FM WIL-FM WRTH-AM WVRV-FM KPNT-FM KXOK-FM KIHT-FM KZLA-FM KALC-FM "LA Magazine"	KTAR-AM KMVP-AM KKLT-FM			WBPB-TV Belgium- radio Austin- Radio (controlling interest - 6 stations)	WLUP-FM	Slovakia- radio Bulgaria- radio (controlling interest in 1 station)	Bulgaria- radio (controlling interest in 1 station)	Bulgaria radio (1 station) "Orange Coast"	
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2/1998	2/1999	2/2000	2/2001	2/2002	2/2003	2/2004	2/2005	2/2006	2/2007	2/2008	2/2009
WALC-AM	WTHI-AM		WIL-FM WRTH-AM WVRV-FM WKKX-FM	WTLC-AM	KXPK-FM KALC-FM		KTAR-AM KMVP-AM KKLT-FM Argentina- radio (2 stations)	WALA-TV WLUK-TV KRQE-TV WTHI-TV WBPB-TV KMTV-TV KGUN-TV WFTX-TV WSAZ-TV KOIN-TV KHON-TV KSNW-TV KSNT-TV	WKCF-TV KKFR-FM WRDA-FM	KGMB-TV	WVUE-TV

Note: Timeline runs from 3/1/1997 through 2/28/2009 (i.e., FYE 2/1998 – FYE 2/2009)

DISPOSED OF 32 MEDIA PROPERTIES

POST FYE 2/2009 ACTIVITY

LEGEND
Radio
Television
<i>Publications</i>

ACQUISITIONS

			WFNB-FM WFNF-AM	TV group bid (unsuccessful) TV group bid (pending) TV due diligence (ongoing)
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YTD

2/2010	2/2011	2/2012	2/2013	2/2014
Belgium-radio Hungary-radio		WKQX-FM WRXP-FM WLUP-FM	<i>"Country Sampler"</i> KXOS-FM Slovakia-radio Bulgaria-radio (3 stations)	

DISPOSITIONS

FTB's Transactional Test Argument in *Appeal of Comcast*

The reasoning of the court in *Atlantic Richfield* “applies equally – if not more – forcefully to Comcast’s situation. Comcast, like Richfield, regularly engaged in buying and selling cable systems, and Comcast was more active than Richfield in making acquisitions and dispositions.” (FTB’s *Comcast* Opening Brief, pp. 16-17 (emph. orig.))

Atlantic Richfield:	26 transactions over a 22-year period
Comcast:	30 transactions over a 15-year period
Emmis:	<u>90 transactions over a 12-year period</u>

The reasoning of the court in *Atlantic Richfield* and your Board in *Comcast* “applies equally – if not more – forcefully to [Emmis’] situation. [Emmis], like Richfield [and Comcast], regularly engaged in buying and selling [media properties], and [Emmis] was more active than Richfield [and Comcast] in making acquisitions and dispositions.”

“We find it troubling, however, that [FTB] appears to have advocated a position in *Adobe* [an unpublished BOE decision] that is directly contrary to the position it advances against plaintiff in the present case. Unfortunately, the inconsistency suggests a result-orientated bias...”

Microsoft Corp. v. FTB (2012) 212 Cal.App.4th 78, 94.

Quantitative Distortion Analysis

Profit Margin – “Nonoperational” v. Operational

	“Nonoperational”	Operational
Pacific Telephone	0.64%	16.5%
Microsoft	0.19%	31.0%
General Mills	Loss	6.5%
Limited Stores	0.10%	46.0%

- Negligible profit for each dollar received from “nonoperational” activity
- Emmis is the exact opposite

Emmis	36.82%	Loss
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Quantitative Distortion Analysis (Cont.)

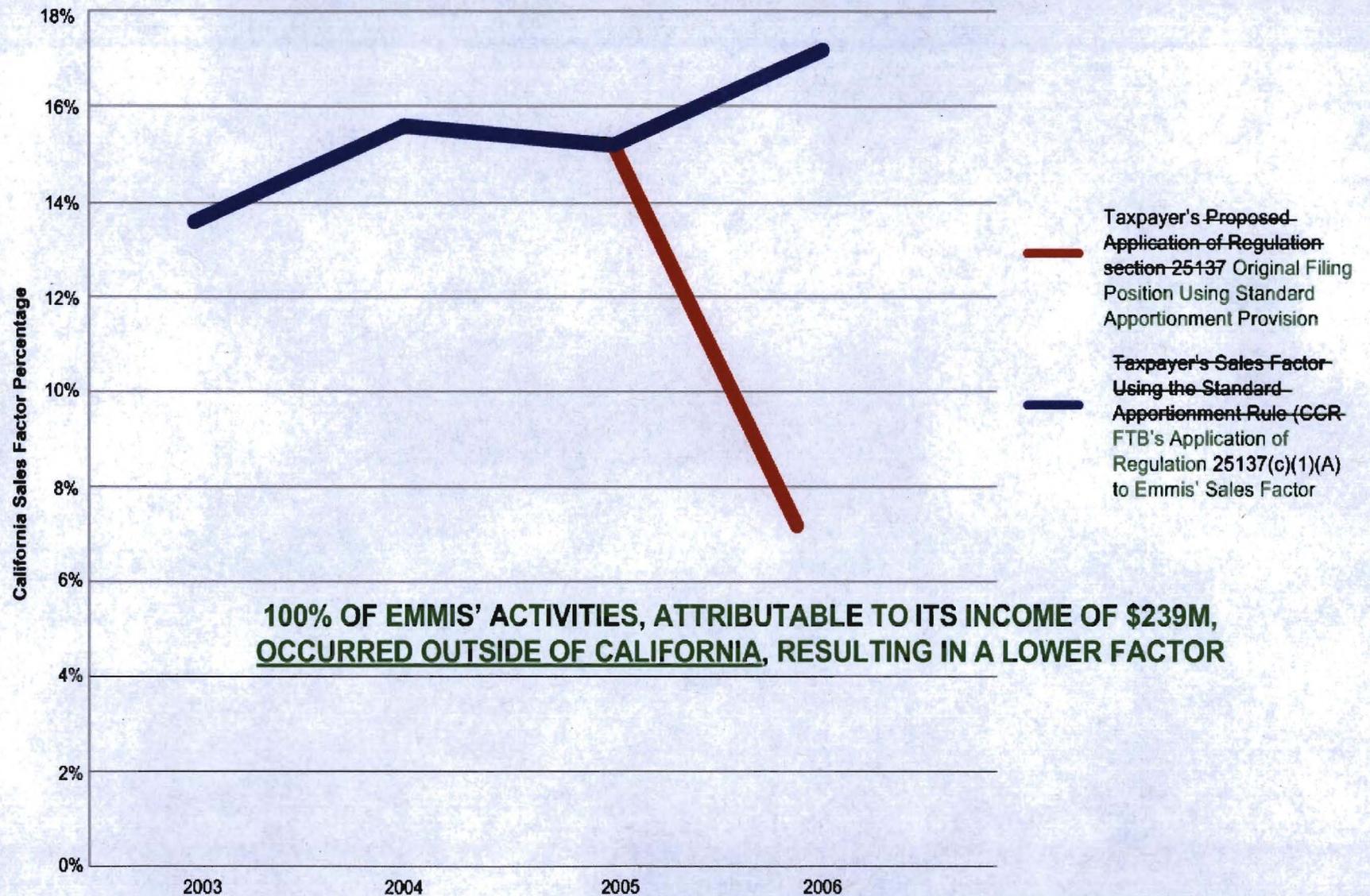
	Income*	Gross Receipts**	Activity
Pacific Telephone	< 2%	36%	Treasury GR
Microsoft	< 2%	73%	Treasury GR
General Mills	Loss	19%	Hedging
Limited Stores	< 1%	57%	Treasury GR

Emmis	100%	59%	Media Dispositions
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* Activity in question as a percentage of total income

** Activity in question as a percentage of total gross receipts

Distortion of Emmis Communications California Sales Factor Percentage



Percentage of Emmis' Activities Occurring in California

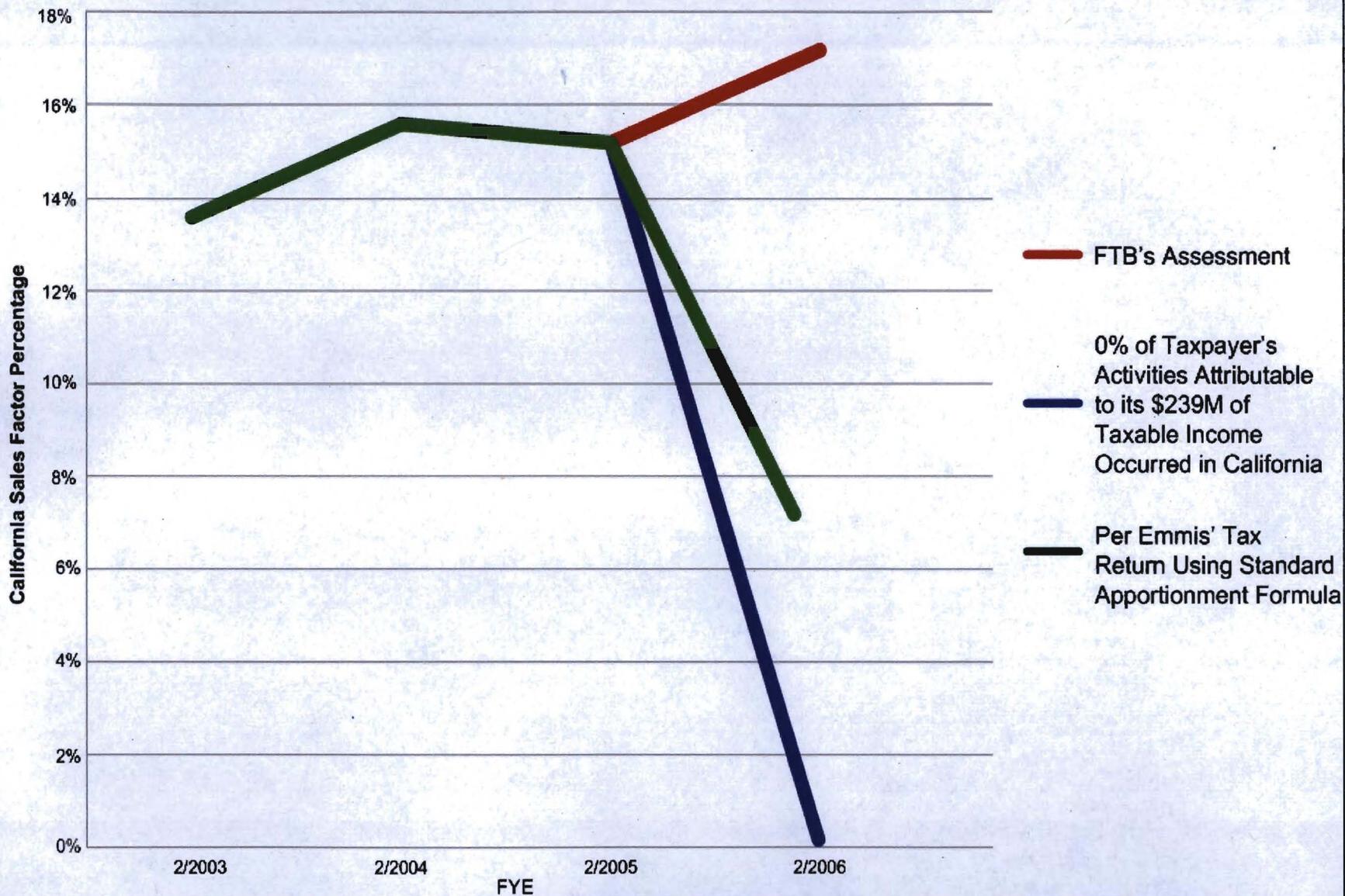


Exhibit 12