

TAXPAYER EXHIBIT

B1 a-e

March 22, 2011

Pacific Southwest Container, Inc, et al
473587, 474114, 474120, 474107, 474108

Pacific Southwest Container
State Board of Equalization Appeal
Board Hearing

March 22, 2011

STATE BOARD OF EQUALIZATION



Appeal Name: PACIFIC SOUTHWEST CONTAINER, INC., et al

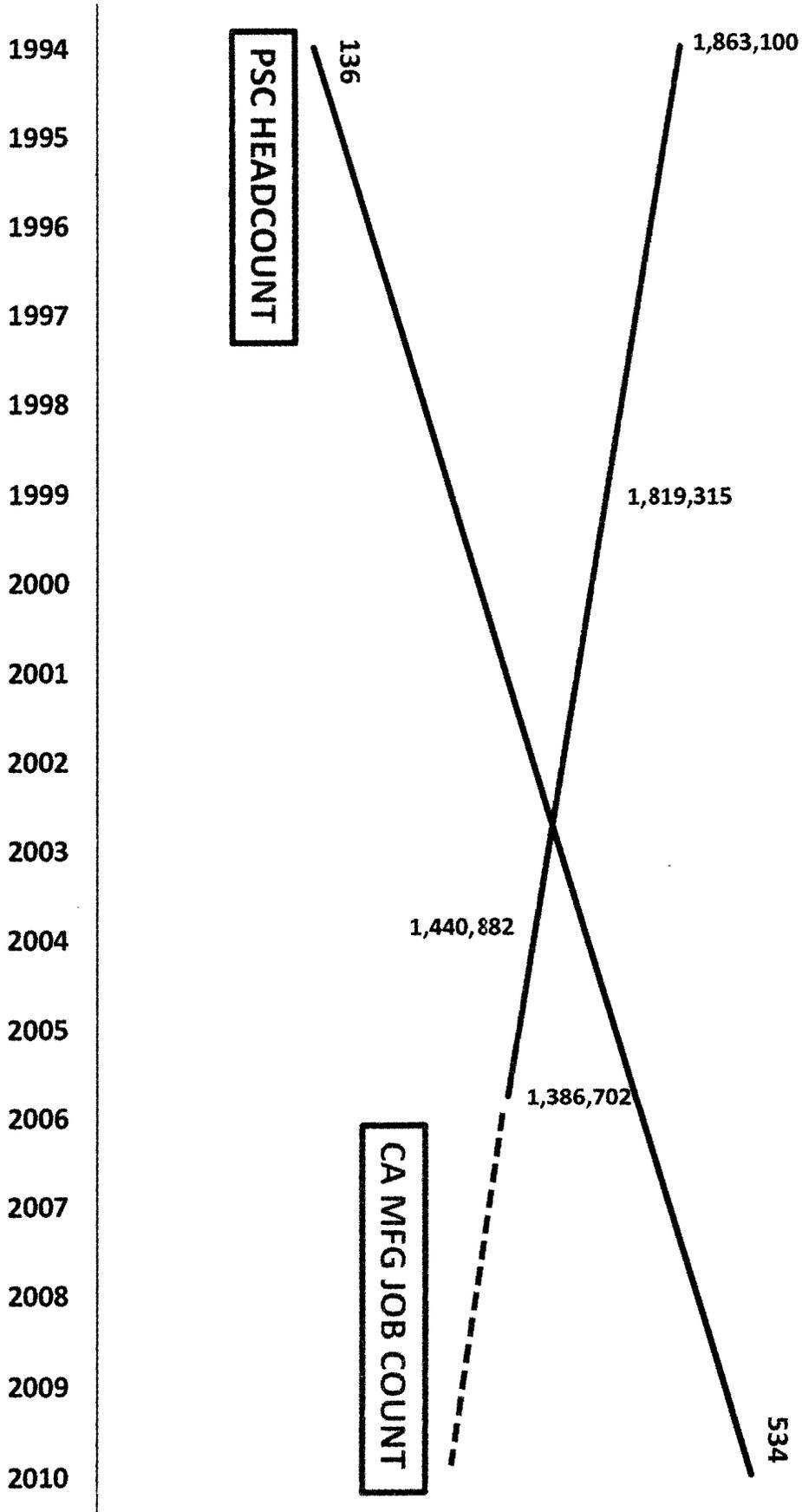
Case ID: 87, 474114, 474120, 474107, 474108 ITEM # B1

Date: MARCH 22, 2011 Exhibit No: _____

TP **FTB** **DEPT** _____

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PSC Employee Headcount vs. California Manufacturing Job Count (1994-2010)



PSC R & D STUDY METHODOLOGY – CAPTURING THE QREs

STEP 1

QUALIFIED RESEARCH PROJECTS

STEP 2

REVIEWING DOCUMENTATION

STEP 3

**IDENTIFYING QUALIFIED RESEARCH ACTIVITIES
(QRAs) PERFORMED ON QUALIFIED PROJECTS**

STEP 4

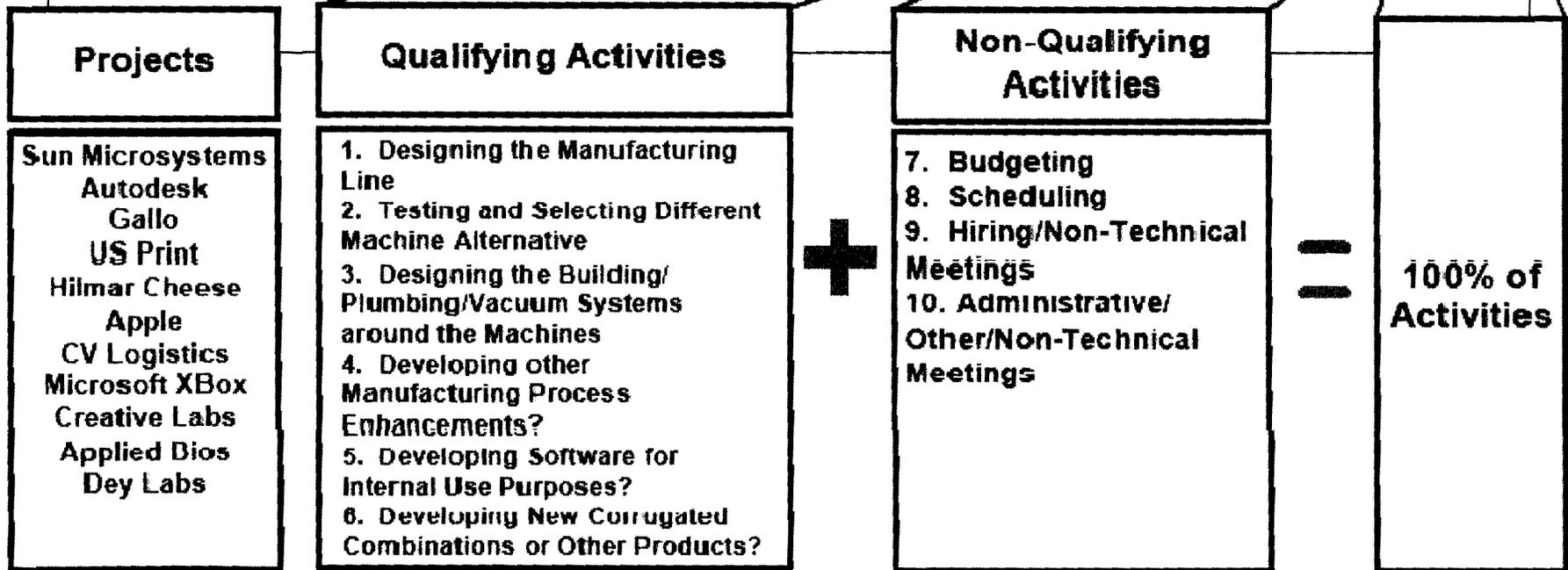
APPLYING TREAS. REG. SECTION 1.41-2(d)(1)

PSC R&D Study Wage Survey

Research & Development Tax Credit
 Wage Survey
 Year Ended December 31, 2005

Empd No.	Empd Name	Last Name	First Name	M Id Initial	Qualifying % by Activities					Non-Qualifying % by Activities									
					1	2	3	4	5	6	7	8	9	10					
051	Design	ASPINDEEN	CARRIE									100%							
051	Design	LYNDAV	TRUPE	A								100%							
051	Design	RODRIG	CELAHAM									100%							
051	Design	SPINDEEN	LEANE	W								100%							
051	Design	JONES	DEWITTAIN	M								100%							
051	Design	TIMPERT	MARY									100%							
051	Design	PERKINS	RYAN	B								100%							

Firm Name: LEONARD Signature: [Signature] Date: 07-29-06



PSC R&D Study Wage Survey

Wage Survey

Year ended December 31, 2001

Emp No.	Legal Name	Last Name	First Name	M Initial	Qualifying % by Activities					Non Qualifying % by Activities			
					1	2	3	4	5	6	7	8	
010	Address	ARMSTRONG	YVONNE								100	100%	
010	Address	AVILA	WILL								100	100%	
010	Address	BLUNT	ANDREW								100	100%	
010	Address	BRIDSON	KATHY								100	100%	
010	Address	BRON	MAURIN		15	20	8	25	9	13	7	100	100%
010	Address	WANGCHAI	LIS								100	100%	
010	Address	MITTS	VERONICA								100	100%	
010	Address	OSTER	CHRISTINE								100	100%	

Print Name: *D. P. W. Jones* Date: *7/19/03*

Projects

- Delicato "CD" Pack
- Garb Ice Bucket
- Ghirardelli Star
- Shafer Wine
- Hilmar Cheese
- Intuit Display
- Qualcomm
- Carton
- Galtmata

Qualifying Activities

1. Designing the Manufacturing Line
2. Testing and Selecting Different Machine Alternative
3. Designing the Building/ Plumbing/Vacuum Systems around the Machines
4. Developing other Manufacturing Process Enhancements?
5. Developing Software for Internal Use Purposes?
6. Developing New Corrugated Combinations or Other Products?



Non-Qualifying Activities

7. Budgeting
8. Scheduling
9. Hiring
10. Non-Technical Meetings/ Administrative/Other



100% of Activities

IRS AUDIT METHODOLOGY

“Audit adjustments based solely upon critiques of the taxpayer’s methodology and prepackaged submissions, in many cases, stand little chance of being sustained in Appeals or in court.”

(IRS R & D Audit Technique Guide (2002), Pg. 7, Section 2, Subsection C)

IRS AUDIT METHODOLOGY

“Section 41 does not contain a specific requirement that a taxpayer capture the costs of research under a particular approach or accounting methodology. However, § 41 requires the taxpayer to identify qualified research expenses (QREs) by business component (qualified activity).”

(IRS R & D Audit Technique Guide (2008), Chapter 1)

TREAS. REG. SECTION 1.41-2(d)(1)

“In the absence of another method of allocation that the taxpayer can demonstrate to be more appropriate, the amount of in-house research expense shall be determined **by multiplying the total amount of wages paid to or incurred for the employee during the taxable year by the ratio of the total time actually spent by the employee in the performance of qualified services for the taxpayer to the total time spent by the employee in the performance of all services for the taxpayer during the taxable year.**”

FTB Audit Determination

“Although PSC has stated it does not have complete project accounting of the R&D projects, PSC also has not provided acceptable alternative documentation from the time of the credit.”

FTB Final Audit Determination (August 12, 2008)

PSC Met IRS Audit Requirements

At the commencement of the audit, the examiner should discuss with the taxpayer the contemporaneous books and records available to substantiate the research credit claimed.

	IRS Audit Criteria (IRS R&D Audit Technique Guide (2002), Pg. 92, Sec. 7)	Provided by PSC During PwC Study	Provided by PSC During Audit
A	Chart of Accounts	Yes	Yes
B	Accounting and Finance Manuals	N/A	FTB did not request information
C	Organization Charts	Yes	Yes
D	Department Descriptions	Yes	Yes
E	Job Position Descriptions	Yes	Yes
F	Product Lists	Yes, description of product line and sample projects	Yes, description of product line and sample projects
G	Documentation of Experiments	Yes	Yes
H	Patent Applications	Yes	Yes
I	Workpapers Used to Compute QREs	Yes	Yes
J	Workpapers Used to Compute the Research Credit	Yes	Yes
K	Workpapers Used to Compute the Base Amount	Yes	FTB did not request information
L	Documentation on QRE/Gross Receipts from Acquired/Disposed Trades or Businesses	N/A	N/A

PSC Flow Chart of R & D Activity

Research and Development Activities under IRC § 41

