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7 **BOARD OF EQUALIZATION**  
8 **STATE OF CALIFORNIA**

10 In the Matter of the Appeal of: ) **HEARING SUMMARY<sup>2</sup>**  
11 ) **PERSONAL INCOME TAX APPEAL**  
12 **THOMAS E. RUBIN<sup>1</sup>** ) Case No. 461570

	<u>Year</u>	<u>Claim For Refund</u>
	2000	\$2,901,733

16 Representing the Parties:

18 For Appellant: James T. Bristol, Ellis, Bristol, Harmon & Marsh  
19 For Franchise Tax Board: Christopher Haskins, Tax Counsel III

21 **QUESTIONS:** (1) Whether the Board has jurisdiction to hear appellant's appeal.  
22 (2) Whether appellant has shown respondent erred in denying his claim for refund,  
23 based on an alleged flow-through loss and cancellation of bad debt.

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26 <sup>1</sup> Appellant resides in Los Angeles, California.

27 <sup>2</sup> This appeal was originally scheduled for the October 25, 2011 oral hearing calendar, and was rescheduled to allow taxpayer  
28 additional time to prepare for the hearing. In addition to this postponement, there was a lengthy series of extensions provided  
to appellant during the briefing process beginning in May of 2009 and concluding in April of 2011, due to appellant's limited  
availability.

1 HEARING SUMMARY

2 Background

3 Appellant filed a joint California return for 2000 on October 15, 2001, reporting a tax  
4 liability of \$3,187,583, total payments of \$2,933,489, and a balance due of \$254,094 plus interest.<sup>3</sup>  
5 (Resp. Op. Br., exhibit A.) The Franchise Tax Board (FTB or respondent) states that appellant has not  
6 remitted payment and there is a balance due of \$518,127.78 as of the filing of its opening brief.<sup>4</sup> (*Id.* at  
7 p. 1 & exhibit B.) Appellant filed an amended return on October 15, 2005, claiming a \$2,901,733  
8 refund based on \$47,452,896 in flow-through losses from Focus Media, Inc. (Focus Media), of which  
9 appellant was the former CEO and sole shareholder.<sup>5</sup> (*Id.* at exhibit C, C-1 & C-2.)

10 Focus Media was forced into involuntary bankruptcy proceedings in 2000 by its  
11 creditors. (Resp. Op. Br., exhibit E.) The company's bankruptcy court-appointed trustee filed a  
12 corporate tax return for that year in late 2001, listing several loans and distributions to appellant.<sup>6</sup> (*Id.* at  
13 exhibit F.) The return included a Schedule K-1 for appellant, which showed him as the 100 percent  
14 owner of the company's shares, having an ordinary loss from trade or business activities of \$8,803,852,  
15 and a non-dividend property distribution of \$30,437,050. (*Id.* at exhibit F-1, p. 1, ln. 1 & p. 2, ln. 20.)  
16 In contrast to the return and the Schedule K-1 filed by the court-appointed trustee, appellant submitted  
17 with his amended return copies of a pro forma California return for Focus Media and a pro forma

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20 <sup>3</sup> Appellant's wife passed away after the filing of the joint return and prior to the filing of the amended return.

21 <sup>4</sup> Respondent's internal records for appellant's 2000 tax year account show a total tax liability of \$3,187,583, as reported on  
22 appellant's original return. Tax withheld in the amount of \$30,000, plus estimated payments totaling \$2,903,489, combine to  
23 make total credits of \$2,933,489, leaving a tax liability of \$254,094, also as reported on appellant's return. The account  
24 shows penalties totaling \$99,155.84, not reported on the return, and interest in the amount of \$164,763.94 as of July 30, 2008  
(the total amount listed under the "debit" column appears to inexplicably be \$114.00 greater than the sum of all the  
individually-listed debit amounts, making the listed current balance due \$518,127.78 rather than \$518,013.78).

25 <sup>5</sup> Appellant attached a copy of his amended federal return for the 2000 tax year, filed October 20, 2004, to his amended state  
26 return. (Resp. Op. Br., exhibit C-3.) Respondent provides a copy of appellant's Individual Master File (IMF), showing his  
2000 tax year account at the federal level. (*Id.* at exhibit D.) The IMF, dated March 25, 2009, does not appear to show any  
refund allowed for appellant's 2000 tax year federal account.

27 <sup>6</sup> The corporate return notes that the books and records of the company are incomplete, and certain transactions were the  
28 subject of litigation, making it impossible to determine with reasonable accuracy the amount owed to and owed by the  
company; therefore, amended tax returns may be filed. (Resp. Op. Br., exhibit F, pp. 13, 14.)

1 amended Schedule K-1 prepared by appellant.<sup>7</sup> (*Id.* at exhibits G & C-2.) The pro forma return shows a  
2 net loss for 2000 of \$30,563,376, and the pro forma Schedule K-1 allocates the entire loss to appellant,  
3 asserting an increase in the ordinary loss from the \$8,803,852 originally reported on the Schedule K-1  
4 filed by the trustee. (*Id.* at exhibit G, p. 1, ln. 1 and p. 24, ln. 1.) On his amended personal California  
5 return, appellant reported an increased basis in the Focus Media stock of \$8,502,060 and a reduction in  
6 the distribution received from Focus Media of \$8,307,050, creating a \$16,809,110 decrease  
7 (i.e., \$8,502,060 + \$8,307,050) in income from distributions, and resulting in no California taxable  
8 income.<sup>8</sup> (*Id.* at p. 3; compare exhibit C-3, p. 5, lns. 8(d) & (e) with exhibit A-1, p. 5, lns. 8(d) & (e).)

9 Appellant was convicted of 25 counts of wire fraud, mail fraud, bankruptcy fraud, and  
10 money laundering in 2006, and was sentenced to five and a half years in prison. (Resp. Op. Br., exhibit  
11 H.) Appellant's scheme involved taking money paid by Focus Media's clients for advertisement  
12 placement and using it for his personal liabilities as well as conspiring with an attorney to commit  
13 bankruptcy fraud by funneling money out of the company after it was forced into involuntary  
14 bankruptcy. (*Ibid.*) Respondent reviewed appellant's amended return as a claim for refund, and denied  
15 his claim in full due to his failure to substantiate the increased flow-through losses or the reduction of  
16 the amount of the distribution received from Focus Media. (*Id.* at p. 3 & exhibit I.) This timely appeal  
17 followed. Respondent states that, as of the filing of its opening brief, appellant has not paid the tax  
18 liability reflected on his original California return for 2000.

### 19 Contentions

#### 20 Appellant's Contentions

21 Appellant asserts he filed an amended personal California tax return to report flow-  
22 through losses from Focus Media and an increased basis in his Focus Media stock. Appellant provides a  
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24 <sup>7</sup> The parties refer to these as "pro forma" documents, and respondent states the return and Schedule K-1 were never filed  
25 with the IRS or respondent. (Resp. Op. Br., p. 2 & exhibit C-2.) Since the term "pro forma" can mean different things  
26 depending on the relevant field (e.g., accounting, law, etc.), appellant and respondent should be prepared to clarify at the  
hearing why this term is used to describe these documents and what legal and tax-related significance these documents hold.

27 <sup>8</sup> The original corporate return, filed by the court-appointed trustee, reported income from Focus Media distributions of  
28 \$30,437,050 and basis of \$57,938 for a gain of \$30,379,112. (Resp. Op. Br., exhibit A-1, p. 5, lns. 8(d) & (e).) Appellant's  
pro forma amended corporate return adjusts this income amount to \$22,130,000 (a reduction of \$8,307,050), basis amount to  
\$8,559,998 (an increase of \$8,502,060), and gain to \$13,570,002 (a \$16,809,110 decrease). (*Id.* at exhibit C-3, p. 5, lns. 8(d)  
& (e).)

1 pro forma return for Focus Media, claiming bad debt losses and excluding a portion of cancellation of  
2 debt income (CODI), asserting the company was insolvent prior to the cancellation of indebtedness.  
3 (Appeal Letter, p. 1; citing Int.Rev. Code, § 108(a)(1)(B); *Gitlitz v. Commissioner* (2001) 531 U.S. 206  
4 [cited as 121 S. Ct. 701].)

5 Appellant contends the bad debt deduction should be allowed because accounts  
6 receivable were rendered uncollectible after a lawsuit was filed against Focus Media in March of 2000,  
7 and this position is supported by the subsequent actions of the court-appointed trustee. (Appeal Letter,  
8 p. 2.) Appellant asserts the likelihood of collection of trade accounts was very unlikely once court  
9 actions were taken against Focus Media in 2000. Appellant contends the increase in basis should be  
10 allowed because the cancellation of debt was based on events that occurred in 2000, including and  
11 culminating in the involuntary bankruptcy filing on October 6, 2000. Appellant asserts the exclusion of  
12 CODI under IRC section 108(a)(1)(B) increases his basis in the Focus Media stock pursuant to the  
13 ruling in *Gitlitz v. Commissioner, supra. (Ibid.)*

#### 14 Respondent's Contentions

15 Respondent first contends the Board does not have jurisdiction to hear this appeal.  
16 Respondent states the general rule is a taxpayer may not request a refund until after the full amount due  
17 is paid. (Citing Rev. & Tax. Code, §§ 19322, 19322.1, & 19324; *Shiseido Cosmetics (America), Ltd. v.*  
18 *FTB* (1991) 235 Cal.App.3d 478.) Respondent asserts that appellant must pay the outstanding balance  
19 for his 2000 tax year account to perfect his claim for refund, and until he does so, the Board does not  
20 have jurisdiction to decide the claim for refund issue in this case. (Resp. Op. Br., pp. 3-4.)

21 Respondent alternatively contends that should the Board find it has jurisdiction to decide  
22 the claim for refund issue in this case, that appellant has not supported his claim for refund. Respondent  
23 asserts appellant's contentions are based on the pro forma Schedule K-1 and return for Focus Media,  
24 which were prepared by appellant but not signed under penalty of perjury, never filed with the Internal  
25 Revenue Service (IRS) or respondent, and contradicted by the return filed by the court-appointed  
26 bankruptcy trustee who is charged with representing the company in all dealings with other entities and  
27 individuals. (Resp. Op. Br., pp. 4-6 & exhibit C-2.) Respondent contends these pro forma documents  
28 do not meet appellant's burden of producing uncontradicted, credible, competent and relevant evidence

1 showing that respondent's determinations are incorrect. (Citing *Appeal of Aaron and Eloise Magidow*,  
2 82-SBE-274, Nov. 17, 1982; *Appeal of Oscar D. and Agatha E. Seltzer*, 80-SBE-154, Nov. 18, 1980.)

3 Specifically, respondent asserts appellant has not substantiated the claimed increase in  
4 loss allocation from Focus Media or a reduction in his distribution amounts due to CODI. Respondent  
5 contends appellant's only substantiation for the claimed increase in flow-through losses is the pro forma  
6 return which is an unsupported exhibit, and is contradicted by the actual return prepared by the trustee  
7 which verifies that appellant's share of the 2000 flow-through losses from Focus Media was, at most,  
8 \$8,803,852, and not the over \$30,000,000 claimed by appellant in his claim for refund. (Resp. Op. Br.,  
9 p. 5.) Respondent asserts appellant is not entitled to his claimed reduction in the amount of the taxable  
10 distribution he received based on CODI in the amount of \$66,696,211. Respondent states that Focus  
11 Media was able to exclude the CODI from its income in 2000 since it met the Internal Revenue Code  
12 (IRC) section 108 insolvency exception, but appellant fails to show he is entitled to an increase in the  
13 basis of his shares in Focus Media stock. Respondent contends appellant has not provided any proof  
14 that the debts associated with the claimed CODI were discharged by the bankruptcy court during the  
15 2000 taxable year. Furthermore, respondent asserts that even if appellant shows he is entitled to an  
16 increase in basis based on the CODI exclusion, he has not explained or supported the reporting of a  
17 lesser distribution amount on the pro forma Schedule K-1 than was reported on the original Schedule  
18 K-1 filed by the trustee. (Resp. Op. Br., p. 6.)

### 19 Applicable Law

#### 20 Burden of Proof

21 Respondent's determination is presumed correct and it is a taxpayer's burden to prove  
22 entitlement to the refund. (*Appeal of Oscar D. and Agatha E. Seltzer, supra.*) Unsupported assertions  
23 are not sufficient to satisfy a taxpayer's burden of proof. (*Appeal of Aaron and Eloise Magidow, supra.*)  
24 When a taxpayer fails to present uncontradicted, credible, competent, and relevant evidence as to the  
25 issues in dispute, respondent's determination must be upheld. (*Appeal of Oscar D. and Agatha E.*  
26 *Seltzer, supra.*) Respondent's determination is not evidence to be weighed against evidence produced  
27 by the taxpayer. (*Appeal of Janice Rule*, 76-SBE-099, Oct. 6, 1976.)

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1                   Jurisdiction

2                   A claim for refund can only be filed after payment of the disputed amount. (*Shiseido*  
3 *Cosmetics (America), Ltd. v. FTB, supra.*)<sup>9</sup> A claim for refund that is otherwise valid, but made prior to  
4 the payment of taxes, shall only be a claim for purposes of tolling the statute of limitations for filing a  
5 claim for refund. (Rev. & Tax. Code, § 19322.1.) A return filed within four years from the last day  
6 prescribed for filing the return showing a credit allowable for withholding or estimated tax in excess of  
7 the tax due shall be considered a claim for refund of the excess. (Rev. & Tax. Code, § 19307.)

8                   Cancellation of Debt Income

9                   IRC section 61(a)(12), incorporated into California law by R&TC section 17071,  
10 specifically provides that gross income includes income from the discharge of indebtedness. Whether a  
11 debt has been discharged depends upon the substance of the transaction. (*Rivera v. Commissioner, T.C.*  
12 *Memo 1993-609.*) A debt is considered discharged at the point in time when it becomes clear that the  
13 debt will never be paid. (*Rivera v. Commissioner, supra.*) To determine when such moment occurs, it is  
14 necessary to consider the actions of the parties together with other facts and circumstances of the  
15 situation. (*Rivera v. Commissioner, supra.*) In determining when a debt has been canceled, any  
16 “identifiable event” which indicates that the debt will not be repaid may be considered. (*Rivera v.*  
17 *Commissioner, supra.*) The test is whether the debt as a practical matter will not have to be paid to the  
18 creditor. (*Rivera v. Commissioner, supra.*) The existence of a faint possibility that a debt may not be  
19 collected does not prevent the recognition of cancellation of debt income. (*Rivera v. Commissioner,*  
20 *supra.*) IRC section 108(a)(1)(B) provides that gross income does not include the amount that (but for  
21 that section) would be includible in gross income by reason of the discharge if the discharge occurs  
22 while the taxpayer is insolvent. IRC section 108(d)(3) defines the term “insolvency” as the excess of  
23 liabilities over the fair market value of assets immediately before the discharge of the indebtedness.

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26 <sup>9</sup> The *Shiseido* case focused on exhausting administrative remedies to determine state court jurisdiction, namely whether a  
27 claim for refund was timely. The court held that the company’s claim for refund was untimely, despite writing “paid under  
28 protest” on its checks, since a proper claim for refund first requires payment and then a refund claim. However, the *Shiseido*  
case focuses on the jurisdiction at the civil court level, which is governed by different laws than jurisdiction at this  
administrative level.

### Bad Debt Deduction

1                   IRC section 166(a)(1) allows a deduction for any debt that becomes worthless within the  
2 taxable year. The debt must arise from a bona fide debt, i.e., “a debtor-creditor relationship based on a  
3 valid and enforceable obligation to pay a fixed or determinable sum.” (Treas. Reg. § 1.166-1(c); *Appeal*  
4 *of Gordon and June K. Fraser*, 86-SBE-157, Sept. 10, 1986.) In such cases, the Tax Court asks the  
5 question:  
6

7                   Was there a genuine intention to create a debt, with a reasonable expectation of  
8 repayment, and did that intention comport with the economic reality of creating a debtor-  
9 creditor relationship?

10 (*Litton Business Systems, Inc. v. Commissioner* (1973) 61 T.C. 367, 377.) A gift or contribution to  
11 capital is not a debt. (Treas. Reg. § 1.166-1(c).)

12                   Regarding the timing of the bad debt deduction, the taxpayer must point to some  
13 identifiable event that occurred during the taxable year that formed a reasonable basis for abandoning  
14 hope of future recovery. (*Appeal of Fred and Barbara Baumgartner*, 76-SBE-084, Oct. 6, 1976; *Appeal*  
15 *of Myron E. and Daisy I. Miller*, 79-SBE-106, June 28, 1979; *Appeal of B & C Welding Inc.*, 83-SBE-  
16 222, Oct. 26, 1983.) No deduction is allowed for a particular year if the debt became worthless before  
17 or after that year. (*Appeal of Peter I. and Inga M. Kune*, 84-SBE-106, June 27, 1984.) The question of  
18 whether a debt is worthless depends on the facts and circumstances of each case. (Treas. Reg. § 1.166-  
19 2(a).) The standard for determining worthlessness is an objective standard. (*Appeal of Peter I. and Inga*  
20 *M. Kune, supra; Appeal of Myron E. and Daisy I. Miller, supra.*) While the financial condition of the  
21 debtor is a relevant factor, the mere nonpayment of a debt does not prove its worthlessness; the taxpayer  
22 must prove that reasonable steps were taken to enforce the collection of the debt or that those steps  
23 would have been futile. (*Appeal of Myron E. and Daisy I. Miller, supra; Appeal of B & C Welding Inc.,*  
24 *supra.*)

### Tax Effects of Illegal Activities

25                   Gross income for federal and state purposes includes income from illegal activities. (See  
26 generally, *Commissioner v. Glenshaw Glass Co.* (1955) 348 U.S. 426; *Appeal of David Leon Rose*, 76-  
27 SBE-027, Mar. 8, 1976.) The Board has confirmed in previous opinions that gains from illegal activities  
28 are included in taxable income. For example, in the *Appeal of Phillip and Winifred Purer*, the Board

1 concluded that the taxpayer, who pleaded nolo contendere to two counts of grand theft, was liable for  
2 taxes on the embezzled funds. (*Appeal of Phillip and Winifred Purer*, 77-SBE-123, Sept. 28, 1977.)  
3 Furthermore, in computing taxable income, no deductions shall be allowed on any gross income directly  
4 derived from illegal activities, or on any gross income derived from any other activities which directly  
5 tend to promote or further, or are directly connected or associated with, those illegal activities. (Rev. &  
6 Tax. Code, §§ 17281 & 17282; see, e.g., *Appeal of Dean R. Henderson*, 86-SBE-184, Nov. 19, 1986.)

7 STAFF COMMENTS

8 Jurisdiction

9 In this appeal, respondent asserts appellant has an outstanding tax liability of  
10 approximately \$518,127.78 with interest accruing, based on appellant's self-reported original return.  
11 Appellant contends with an amended return that, not only is the assessment of an outstanding liability  
12 incorrect, but that he is also entitled to a refund of taxes already paid in the amount of \$2,901,733.  
13 Respondent contends, however, that the Board lacks jurisdiction to hear this appeal because appellant  
14 has not yet paid the originally-reported outstanding tax liability.

15 As stated above, the general rule provides that a claim for refund may only be filed for  
16 amounts already paid. In this instance, appellant is claiming a refund of \$2,901,733. Appellant made  
17 estimated and withholding payments of \$2,933,489 during 2000, which is more than the amount  
18 requested on refund. While appellant cannot claim a refund for the \$518,127.78 of unpaid tax liability  
19 on his original return, he may claim a refund for the amounts already paid. R&TC section 19307  
20 specifically states a return filed within four years of the last day prescribed for filing a return showing a  
21 credit of withholding and estimated tax that exceeds the amount of tax due, shall be considered a claim  
22 for refund. Here, appellant's original 2000 tax year return was filed on October 15, 2001, within the  
23 automatic extension period, and his amended return was filed on October 15, 2005, within four years.  
24 Appellant's amended return asserts his total tax liability should be \$31,756, while his withholding and  
25 estimated tax payments totaled \$2,933,489. Appellant's claimed refund amount, \$2,901,733 is the  
26 difference of the amount of tax already paid and the tax liability reported on the amended return.  
27 Therefore, appellant's claim for refund appears to meet the statutory jurisdiction requirements and the  
28 Board should exercise its jurisdiction over this appeal from a denial of a claim for refund.

1           Cancellation of Debt Income and Increase in Basis

2           The United States Supreme Court in 2001 held in *Gitlitz, supra*, that shareholders of an  
3 S Corporation were entitled to increase their bases in their stock by the amount of the discharge of  
4 indebtedness excluded from income.<sup>10</sup> However, to gain this increase in basis, appellant must show that  
5 the corporate indebtedness was discharged in 2000, and that this occurred after the company had become  
6 insolvent. While the involuntary bankruptcy action was filed on October 6, 2000, appellant has not  
7 provided any indication that the corporation was yet decidedly insolvent, or that the \$66,696,211 of  
8 claimed discharge of indebtedness appellant wishes to exclude under IRC section 108(a)(1)(B) was  
9 discharged after the company became insolvent. Documents provided by the parties thus far do not  
10 appear to support appellant's theory, including court documents that indicate the trustee was not  
11 appointed by the court until November 30, 2000 (Resp. Op. Br., exhibit E, p. 5), and the bankruptcy  
12 action was ongoing through 2001 (*Id.* at exhibit E, p. 4), as well as the corporate return and Schedule  
13 K-1 which were filed by the trustee after the end of 2000 and did not include the CODI exclusion-based  
14 increase in shareholder basis (*Id.* at exhibit F). Appellant must provide credible, competent, and  
15 relevant evidence to support his positions on appeal. Here, appellant has provided an unsigned  
16 corporate return and Schedule K-1 that conflict with the court-appointed trustee's returns, and has not  
17 otherwise produced evidence showing entitlement to the claimed increase in basis. To date, appellant  
18 has likewise failed to provide evidence supporting his reporting of lower distribution amounts than were  
19 reported on the returns filed by the court-appointed trustee.

20           Bad Debt Deduction

21           Appellant asserts the bad debt deduction should be allowed because accounts receivable  
22 were rendered uncollectible after a lawsuit was filed against Focus Media in March of 2000. Although  
23 appellant contends there was a low likelihood that Focus Media would collect accounts receivable after  
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25 <sup>10</sup> Subsequently, Congress effectively removed this increase in basis benefit when passing the Job Creation and Worker  
26 Assistance Act of 2002, which amended IRC section 108(d)(7)(A). (See IRS Chief Counsel Advice Memorandum  
27 201114017.) Since the year at issue is 2000, the law that was in effect for that year is applicable to this decision. In 1999,  
28 after the tax year at issue in *Gitlitz, supra*, but prior to the tax year at issue in this appeal, a definition of "tax-exempt income"  
was added to Treasury Regulation section 1.1366-1(a)(2)(viii) which clarified that CODI is not tax-exempt income.  
Respondent may want to address whether this change in the law supports a different finding in this appeal than that of the  
*Gitlitz, supra*, decision.

1 the lawsuit, and that the actions of the court-appointed trustee confirm this finding, appellant's only  
2 evidence for this assertion is the self-completed and unsigned pro forma corporate return. Appellant  
3 must show that the debt existed and that some identifiable event formed a reasonable basis for  
4 abandoning hope of future recovery of that debt in tax year 2000. Appellant should show reasonable  
5 steps were taken to attempt collection of these accounts receivable, but were futile or would have been  
6 futile. Evidence appellant should provide to assert he is entitled to this deduction include documents  
7 from the bankruptcy action, company records and correspondence from 2000, and any documents  
8 prepared by the court-appointed trustee.

### 9 Tax Effects of Illegal Activities

10 Appellant, as the 100 percent shareholder of Focus Media, was found by the courts to  
11 have funneled approximately \$12 million from his clients to himself over the course of one year (in  
12 addition to his salary of up to \$1 million), defrauding his customers and other companies and apparently  
13 forcing his company into involuntary bankruptcy. (Resp. Op. Br., exhibit H.) Appellant was also found  
14 to have continued his fraudulent activities while the company was proceeding through bankruptcy action  
15 under a court-appointed trustee, siphoning an additional \$500,000 from the company. California law  
16 prohibits deductions on any gross income directly derived from illegal activities, or on any gross income  
17 derived from any other activities which directly tend to promote or further, or are directly connected or  
18 associated with, those illegal activities. (Rev. & Tax. Code, §§ 17281 & 17282.) Both parties should  
19 address appellant's asserted deductions, and determine whether these deductions fall under the  
20 provisions of these statutes, and should therefore be denied solely due to the gross income at issue being  
21 received through or associated with illegal activities.<sup>11</sup>

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26 <sup>11</sup> For example, appellant contends he is entitled to a bad debt deduction because his company could not collect on accounts  
27 receivable after lawsuits were filed against it. In addition to the fact that appellant asserts the deduction should apply to his  
28 gross income, which appears to largely be comprised of income derived from his fraudulent activity, the stated reason of why  
Focus Media could not collect on the accounts receivable are directly related to appellant's fraud. Appellant appears to be  
attempting to claim deductions and pass-through losses based on the failure of his company, which itself is apparently a result  
of his own illegal activity.