LITIGATION ROSTER

FRANCHISE AND INCOME TAX

APRIL 2010

Franchise and Income Tax
April 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

Franchise and Income Tax

LITIGATION ROSTER
April 2010

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

Sacramento County Superior Court No. 34-2009-80000365	Filed – 10/29/09
	BOE's Counsel
Plaintiff's Counsel	Jill Bowers
Barzin Barry Sabahat	*BOE Attorney*
Anchor Law Group, APC	Amy Kelly

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

Status: Hearing on BOE's Demurrer is scheduled for May 28, 2010.

SCHROEDER, DONNIE v. State Board of Equalization, et al.

Sacramento County Superior Court Case No. 34-2008-00023624	Filed – 10/02/08
Court of Appeal, Third Appellate District No. C062318	*BOE's Counsel*
Plaintiff's Counsel	Stephen Pass
Donnie Schroeder	*BOE Attorney*
In Pro Per	Kiren Chohan

Issue(s): Plaintiff contends that the State of California, by and through the Franchise Tax Board (FTB) and State Board of Equalization (BOE), made intentional settling determinations of plaintiff's tax liability during the period 1995 to the present. Further, FTB and BOE ignored plaintiff's rights to judicial review in violation of plaintiff's constitutional rights. FTB published personal and private information with the Sacramento County Recorder's Office, allowing public viewing of plaintiff's private information to the general public.

Audit/Tax Period: None Amount: Unspecified

Status: Judgment in favor of State defendants was entered May 14, 2009. Plaintiff's Notice of Appeal was served on June 22, 2009. The case is fully briefed – pending scheduling of oral argument.

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.

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