LITIGATION ROSTER

SALES AND USE TAX

JUNE 2025

Sales and Use Tax
LITIGATION ROSTER
JUNE 2025

NEW CASES

Case Name	Case Number
TASTE AMERICA FOODS GROUP, INC. v. OFFICE OF TAX APPEALS	25STCP01401

CLOSED CASES

Case Name	Case Number
HARD EIGHT NUTRITION LLC v. CDTFA	24STCV33330

Please refer to the Case roster for more detail regarding new and closed Cases

Sales and Use Tax
LITIGATION ROSTER
JUNE 2025

AJAY BERI CORPORATION v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Los Angeles County Superior Court: 24STCV23578
Filed – 09/12/2024

Plaintiffs' Counsel
David Jones Dunlap, Law Firm of David Dunlap Jones, APLC

CDTFA's Counsel
Laura Robbins

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff, an operator of Subway restaurants throughout Southern California, seeks a sales and use tax refund of $1,956,225.54 for the period of January 1, 2003 - December 31, 2010 (tax period), on the basis that CDTFA erroneously assessed tax, penalties and interest for the tax period. Plaintiff asserts that CDTFA's assessments were contrary to the law, untimely, and barred by a 2016 criminal plea agreement.

Audit/Tax Period: January 1, 2003 - December 31, 2010
Amount: $1,956,225.54

Status:

CDTFA was personally served with the Complaint on September 18, 2024. CDTFA's response is due October 18, 2024. On October 16, 2024, Plaintiff granted CDTFA an extension to file its response to the Complaint to November 1, 2024. CDTFA filed a Demurrer to the Complaint on November 1, 2024. The hearing on the Demurrer is set for April 8, 2025. The trial court related this action to the actions filed by Beri Restaurant Group, Inc. (Case No. 24STCV29960) and B&L Diner's Inc. (24STCV30171) and scheduled the hearings on CDTFA's Demurrers in these three actions for April 8, 2025. On April 8, 2025, the court sustained CDTFA's Demurrer without leave to amend.

DEAN ANDAL v. NICOLAS MADUROS, DIRECTOR AND THE CALIFORNIA DEPARTMENT OF FEE AND TAX ADMINISTRATION
Sacramento County Superior Court: 24CV017346
Filed – 09/03/2024

Plaintiffs' Counsel
Dean Andal

CDTFA's Counsel
Angela Zugman

CDTFA Attorney
Chris Kim

Issue(s):

Plaintiff Dean Andal, former Board Member at the Board of Equalization, filed this action for injunctive and declaratory relief pursuant to Government Code section 11350, asserting that the Department "has adopted an underground regulation that establishes a new 'genuine physical human interaction' test for allocation of the Bradley-Burns sales and use tax." Plaintiff contends that the "genuine physical human interaction' test, contained in a Department guide for retailers, is a rule of general application and represents a change from the Department's statutory and regulatory position and should be adopted through the rulemaking process set forth in the Administrative Procedure Act (APA).

Plaintiff also asserts that he petitioned the Office of Administrative Law (OAL) on April 21, 2024, for a determination that the test was an underground regulation under the APA; however, OAL declined to rule on the merits of his challenge.

Audit/Tax Period: None
Amount: Unspecified

Status:

Plaintiff filed the action on August 30, 2024, and served the Complaint on CDTFA on September 12, 2024. On September 30, 2024, Plaintiff filed a Verified First Amended Complaint for Declaratory and Injunctive Relief ("Complaint"), and CDTFA accepted service on October 8, 2024. Plaintiff granted CDTFA a 15-day extension to respond to the Complaint; CDTFA's response is due November 22, 2024. On November 22, 2024, CDTFA filed a Demurrer to Plaintiff's First Amended Complaint. The hearing on the Demurrer is set for May 2, 2025. Plaintiff's opposition is due April 21, 2025, and CDTFA's reply brief is due April 25, 2025. On March 18, 2025, Plaintiff filed a Motion for Leave to File a Verified Second Amended Complaint and Petition for Writ of Mandamus. Plaintiff's motion is set to be heard on April 14, 2025. CDTFA's

opposition to that motion is due on April 1, 2025, and Plaintiff's reply is due April 7, 2025. On April 1, 2025, CDTFA filed an opposition to Plaintiff's Motion for Leave to File a Verified Second Amended Complaint. On April 14, 2025, the court granted Plaintiff's motion. That same date, Plaintiff filed a Verified Second Amended Complaint for Declaratory and Injunctive Relief and Petition for Writ of Mandamus (SAC). CDTFA's response is due on May 19, 2025. On May 5, 2025, the parties entered into a stipulation to extend CDTFA's response to the Second Amended Complaint from May 19, 2025, to May 30, 2025. On May 30, 2025, CDTFA filed a Demurrer to Plaintiff's Second Amended Complaint. The hearing on the Demurrer is set for December 18, 2025. Plaintiff's opposition to the Demurrer is due December 5, 2025, and CDTFA's reply is due December 11, 2025.

B&L DINER'S INC. v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Los Angeles County Superior Court: 24STCV30171
Filed – 11/15/2024

Plaintiffs' Counsel
David Dunlap Jones, Law Firm of David Dunlap Jones, APLC

CDTFA's Counsel
Laura Robbins

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff, a dissolved California Corporation which operated Denny's restaurants in Southern California, seeks a refund of taxes, penalties and interest in the following amounts and periods: 1) $444,695.29 for the period of Oct. 1, 2005 - Sept. 30, 2008 (1st NOD); 2) $32,728.62 for the period of Oct. 1, 2008 - Dec. 31, 2009 (2nd NOD); 3) $372,897.98 for the period July 1, 2002 - Sept. 30, 2005 (3rd NOD). Plaintiff contends that CDTFA's assessments were contrary to the law, untimely, and barred by a criminal plea agreement.

Audit/Tax Period: July 1, 2002, through December 31, 2009
Amount: Unspecified

Status:

CDTFA was personally served with the Complaint on November 20, 2024. CDTFA's response is due December 20, 2024. CDTFA filed its Demurrer in this matter on December 26, 2024; the hearing on the Demurrer is set for December 5, 2025. The trial court related this action to the actions filed by Beri Restaurant

Group, Inc. (Case No. 24STCV29960) and Ajay Beri Corp. (24STCV23578) and scheduled the hearings on CDTFA's demurrers in these three actions for April 8, 2025. CDTFA filed a reply brief in support of its Demurrer on April 1, 2025. On April 8, 2025, the trial court sustained CDTFA's Demurrer as to the second, third, and fourth causes of action without leave to amend and ordered CDTFA to file an answer as to the first cause of action. On May 7, 2025, CDTFA filed an answer and cross complaint.

BERI DEVELOPMENT LLC v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Los Angeles County Superior Court: 25STCV00285
Filed – 01/06/2025

Plaintiffs' Counsel
David Dunlap Jones, Law Firm of David Dunlap Jones, APLC

CDTFA's Counsel
Laura Robbins

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff, an operator of a Subway restaurant in Los Angeles, seeks a refund in the amount of $66,780.60 in sales tax, interest and penalties, for an allegedly untimely notice of determination for the period January 1, 2010, to December 31, 2010.

Audit/Tax Period: None
Amount: Unspecified

Status:

CDTFA was served with the Complaint on January 15, 2025. CDTFA filed its Demurrer to Plaintiff's Complaint on February 14, 2025. The hearing is set for June 5, 2025. On April 8, 2025, the court continued the hearing on CDTFA's Demurrer to June 24, 2025. Plaintiff filed its opposition to CDTFA's Demurrer on June 10, 2025. CDTFA filed a reply brief in support of its Demurrer on June 13, 2025. The court continued the hearing on CDTFA's Demurrer from June 24, 2025, to August 20, 2025.

BERI ENTERPRISES LLC v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Los Angeles County Superior Court: 25STCV02434
Filed – 01/29/2025

Plaintiffs' Counsel
David Dunlap Jones, Law Firm of David Dunlap Jones, APLC

CDTFA's Counsel
Laura Robbins

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff, an operator of a Subway restaurant in Los Angeles, seeks a refund in the amount of $54,154.46 in sales tax, interest and penalties, for an allegedly untimely notice of determination for the period January 1, 2010, to December 31, 2010.

Audit/Tax Period: None
Amount: $54,154.46

Status:

Plaintiff filed the Complaint in this new action on January 29, 2025, and served CDTFA on February 3, 2025. CDTFA filed its Demurrer to Plaintiff's Complaint on February 26, 2025. The hearing is set for June 24, 2025. Plaintiff filed its opposition to CDTFA's Demurrer on June 10, 2025. CDTFA filed a reply brief in support of its Demurrer on June 13, 2025. The court continued the hearing on CDTFA's Demurrer from June 24, 2025, to August 20, 2025.

BERI RESTAURANT GROUP INC. v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Los Angeles County Superior Court: 24STCV29960
Filed – 11/14/2024

Plaintiffs' Counsel
David Dunlap Jones, Law Firm of David Dunlap Jones, APLC

CDTFA's Counsel
Laura Robbins

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff, a dissolved California Corporation which operated Subway restaurants in Southern California, seeks a sale and use tax refund of $760,261.00 for the period of January 1, 1998 - January 31, 2010. Plaintiff contends that CDTFA's assessment was contrary to the law, untimely, and barred by a criminal plea agreement.

Audit/Tax Period: January 1, 1998, through January 31, 2010
Amount: $760,261.00

Status:

CDTFA was personally served with the Complaint on November 20, 2024. CDTFA's response is due December 20, 2024. CDTFA received a 15-day extension to January 3, 2025, to file a response to Plaintiff's Complaint; CDTFA filed its Demurrer in this matter on December 26, 2024; the hearing on the Demurrer is set for April 3, 2025. The trial court related this action to the actions filed by B&L Diner's Inc. (24STCV30171) and Ajay Beri Corp. (24STCV23578) and scheduled the hearings on CDTFA's demurrers in these three actions for April 8, 2025. CDTFA filed a reply brief in support of its Demurrer on April 1, 2025. On April 8, 2025, the trial court sustained CDTFA's Demurrer without leave to amend.

BERI VENTURES LLC v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Los Angeles County Superior Court: 25STCV00261
Filed – 01/06/2025

Plaintiffs' Counsel
David Dunlap Jones, Law Firm of David Dunlap Jones, APLC

CDTFA's Counsel
Laura Robbins

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff, an operator of a Subway restaurant in Los Angeles, seeks a refund in the amount of $92,575.15 in sales tax, interest, and penalties, for an allegedly untimely notice of determination for the period January 1, 2010, to December 31, 2010.

Audit/Tax Period: None
Amount: Unspecified

Status:

CDTFA was served with the Complaint on January 15, 2025. CDTFA filed its Demurrer to Plaintiff's Complaint on February 14, 2025. The hearing is set for June 2, 2025. On April 8, 2025, the court continued the hearing on CDTFA's Demurrer to June 24, 2025. Plaintiff filed its opposition to CDTFA's Demurrer on June 10, 2025. CDTFA filed a reply brief in support of its Demurrer on June 13, 2025. The court continued the hearing on CDTFA's Demurrer from June 24, 2025, to August 20, 2025.

BODY WISE INTERNATIONAL, LLC v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Sacramento County Superior Court: 34-2023-00333398
Filed – 01/20/2023

Plaintiffs' Counsel
Daniel Kohls, Hansen, Kohls, Sommer & Jacob, LLP
Jesse McClellan, McClellan Davis, LLC

CDTFA's Counsel
John Keith

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff Body Wise International, LLC, a retailer of weight loss and nutritional supplements, seeks a refund of taxes, interest, and penalties paid in the approximate amount of $164,552.97, plus interest, for the period covering April 1, 2010, through June 30, 2013. Plaintiff challenges CDTFA's imposition of tax pursuant to based on its determination that Plaintiff collected excess tax reimbursement on its sales to out-of-state customers. Plaintiff asserts that CDTFA has no authority to demand payment of out-of-state taxes which were charged to customers outside California, but not remitted to the destination jurisdictions.

Audit/Tax Period: April 1, 2010, through June 30, 2013
Amount: $164,552.97

Status:

Plaintiff filed the Complaint for Refund of Taxes on January 20, 2023. On February 2, 2023, Plaintiff served CDTFA with the summons and complaint. On February 27, 2023, CDTFA filed its answer to the complaint. Trial has been set for July 28, 2025. The court approved the parties' request for a continuance of the trial. The trial is now scheduled for November 10, 2025.

BROADWAY 13017 SOUTH INVESTMENTS LLC v. STATE OF CALIFORNIA, CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Los Angeles County Superior Court: 24CMCV00763
Filed – 05/20/2024

Plaintiffs' Counsel
Omid Shirazi, K&S Law Group, PC

CDTFA's Counsel
Anna Barsegyan

CDTFA Attorney
Kimberly Willy

Issue(s):

Broadway 13017 South Investments LLC ("Plaintiff"), the owner of real property located in Los Angeles, California, brings an action under the Taxpayers' Bill of Rights (Rev. & Tax. Code, § 7099) and California Code of Civil Procedure section 526a against the Department and the State of California, seeking a claim for refund for sales and use taxes paid. Plaintiff alleges the Department improperly issued a jeopardy notice of determination to impute the sales and use tax liability of its tenant, and that, as the owner/landlord, it is not responsible for any alleged illegal cannabis sales that occurred on its property. Plaintiff further asserts that Department did not provide it a timely payoff amount, ignored its administrative appeal, failed to conduct a promised audit to determine its tax liability, and acted arbitrarily, capriciously and retaliatory when issuing an additional notice of determination for further taxes due. Plaintiff seeks a refund of $928,563.92, in tax, interest and penalties paid.

Audit/Tax Period: None
Amount: $928,563.92

Status:

On May 20, 2024, Plaintiff filed a Complaint for Refund of State Assessed Sales and Use Tax. CDTFA received Plaintiff's Complaint by mail on July 26, 2024. CDTFA acknowledged receipt of Plaintiff's Complaint on August 5, 2024. CDTFA's responsive pleading is due September 5, 2024. Plaintiff failed to appear at the Case Management Conference set for August 21, 2024. Due to Plaintiff's failure to appear, the court scheduled an Order to Show Cause hearing regarding dismissal for October 21, 2024. On September 13, 2024, CDTFA filed a Motion to Transfer the Action to the Stanley Mosk Courthouse of the Los Angeles County Superior Court. That motion is set to be heard on November 21, 2024. After Plaintiff's Counsel filed a Declaration of Good Cause Against Dismissal on October 11, 2024, the trial court vacated the dismissal hearing scheduled for

October 21, 2024. On November 7, 2024, the court issued an order continuing the hearing on CDTFA's Motion to Transfer Venue to December 19, 2024. The court continued the hearing on CDTFA's Motion to Transfer Venue to January 23, 2025. On January 23, 2025, the trial court granted CDTFA's motion to transfer the action to the Stanley Mosk Courthouse in the Central District of the Los Angeles County Superior Court. On January 29, 2025, the court issued a Notice of Case Reassignment to the Stanley Mosk Courthouse. CDTFA's response to Plaintiff's Complaint is now due February 24, 2025. On February 19, 2025, the parties filed a joint stipulation to stay the action pending the final outcome of Plaintiff's administrative appeals filed with CDTFA. On March 13, 2025, the court issued an order to stay the proceeding pending the final outcome of Plaintiff's administrative appeals.

CITY OF FILLMORE. v. OFFICE OF TAX APPEALS, ET AL.
San Francisco County Superior Court: CPF-25-519161
Ventura County Superior Court: 2024CUWM033442
Filed – 11/19/2024

Plaintiff's Counsel
Michael J. Cataldo, Cataldo Tax Law, P.C.

CDTFA's Counsel
John Keith

CDTFA Attorney
Chris Kim

Issue(s):

Petitioner and plaintiff City of Fillmore (Fillmore or Petitioner) filed a Verified Petition for Writ of Mandate, Administrative Mandate and Complaint for Injunctive and Declaratory Relief (Petition) seeking to (1) set aside, vacate or reverse the Office of Tax Appeal's (OTA) Opinion, dated June 19, 2023 (OTA Opinion), (2) an order enjoining CDTFA from implementing or enforcing the OTA Opinion, and (3) a declaration and judgment that the OTA Opinion did not comply with the Bradley-Burns Uniform Local Sales and Use Tax Law and that any reallocation for the period at issue are barred by law. Fillmore further seeks to stay the OTA Opinion and distribution by the CDTFA of the reallocated local sales tax, as well as an order enjoining CDTFA from implementing or enforcing the OTA Opinion. The OTA Opinion determined that local sales tax for the period of April 1, 2007, through December 31, 2007 (period at issue), should be reallocated as use tax away from Fillmore and to Real Parties in Interest, Cities of Los Angeles, Ontario, Palm Springs, San Diego and San Jose and County of Sacramento, because the unnamed jet fuel buying company (Retailer) could not establish an office in Fillmore though its agent, Inspired Development, LLC

(Inspired), and did not participate in the jet fuel sales at the Fillmore office. Fillmore also seeks an award of costs and attorney fees.

Audit/Tax Periods: None
Amount: Unspecified

Status:

Fillmore filed its Petition on December 20, 2024, and served CDTFA on December 30, 2024. On January 29, 2025, Respondents, OTA and CDTFA, filed a motion to transfer venue to San Francisco County Superior Court. Petitioner's opposition to the motion is due February 20, 2025, and Respondents' reply is due February 26, 2025. The hearing on CDTFA's Motion to Transfer Venue is set for March 5, 2025. The County of Sacramento and City of San Diego filed answers to the City of Fillmore's Petition. On February 4, 2025, the City of Los Angeles filed a notice of joinder to the OTA and CDTFA's Motion to Transfer Venue from Ventura County to San Francisco County. On February 7, 2025, Petitioner filed its opposition to the Motion to Transfer Venue. On February 26, 2025, Respondents, OTA and CDTFA, filed a reply in support of their Motion to Transfer venue to San Francisco County Superior Court. Cities of Los Angeles, San Diego and San Jose, and the County of Sacramento, filed notices of joinder in support of Respondents' Motion to Transfer. On March 5, 2025, Ventura County Superior Court granted CDTFA and OTA's Motion to Transfer Venue to San Francisco County. On June 26, 2025, the San Francisco County Superior Court provided notice of the transfer of venue from Ventura County Superior Court and issued a new case number: CPF-25-519161. CDTFA's response to the Petition is due July 28, 2025.

CITY OF LONG BEACH v. THE STATE OF CALIFORNIA, ET AL.
Sacramento County Superior Court: 25WM000047
Filed – 03/21/2025

Plaintiff's Counsel
Dawn McIntosh, City Attorney

CDTFA's Counsel
Caroline Lam

CDTFA Attorney
Chris Kim

Issue(s):

In this Petition for Writ of Mandate and Complaint for Declaratory Relief, Petitioner/Plaintiff, City of Long Beach ("Long Beach"), seeks a judicial declaration that Measure A, which was passed by the city voters on March 3,

2020, validly imposes a 1.0% transactions and use tax ("TUT") in the city for the period of April 1, 2025, to September 30, 2027. Long Beach further seeks a writ of mandate directing CDTFA to administer and collect a 1.0% TUT. CDTFA informed Long Beach that it was unable to increase the city's TUT from 0.75% to 1.0% for this period because the provisions of Article XIII C, section 2, subdivision (b), of the California Constitution and Revenue and Taxation Code section 7285.9 were not satisfied. Instead of approving a 1.0% TUT, the city council and voters approved an ordinance, which unambiguously provides that the city's TUT is 0.75% for April 1, 2025, to September 20, 2027, and will increase to 1.0% on October 1, 2027.

Audit/Tax Periods: None
Amount: Unspecified

Status:

CDTFA was served with this Petition for Writ of Mandate and Complaint for Declaratory Relief on April 1, 2025. On May 7, 2025, CDTFA and the City of Long Beach, as well as the Plaintiffs in the case of Long Beach Reform Coalition, et al. v. City of Long Beach, et al. (Long Beach Reform Coalition case), Case Number 25STCP00471, entered into a stipulation to transfer the Long Beach Reform Coalition case from the Superior Court of the County of Los Angeles to the Superior Court of the County of Sacramento, and coordinate the two matters. On May 12, 2025, pursuant to the parties' stipulation, the Sacramento County Superior Court ordered this matter transferred from Los Angeles County to Sacramento County, and issued an order coordinating this case with the related action, Long Beach Reform Coalition, et al. v. City of Long Beach (Long Beach Reform Coalition case), Sacramento County case number 25STCP00471. On May 15, 2025, the Los Angeles County Superior Court also issued an order transferring the matter to Sacramento County Superior Court, consistent with the May 12th order. On May 15, 2025, CDTFA filed an Answer to the Petition for Writ of Mandate and Complaint.

CITY OF SAN BRUNO, ET AL. v. CALIFORNIA DEPARTMENT OF TAX & FEE ADMINISTRATION, ET AL.
San Mateo County Superior Court: 23-CIV-05021
Filed – 10/20/2023

Plaintiff's Counsel
Trisha A. Ortiz, City of San Bruno

CDTFA's Counsel
Anna Barsegyan

CDTFA Attorney
Kimberly Willy

Issue(s):

Petitioners and Plaintiffs City of San Bruno (San Bruno) and Walmart.com USA, LLC (Walmart) (collectively, "Petitioners") filed a Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief (Petition) seeking: (1) a declaration and judgment that the reallocation notices issued by CDTFA dated April 17, 2023 (Reallocation Notices), are invalid; and, (2) an injunction restraining CDTFA from taking any action to implement or enforce such reallocations. Petitioners allege that Walmart properly allocated local sales and use taxes to San Bruno because its employees at that location participated in the sales transactions by directly engaging in sales merchandising, pricing and marketing activities for Walmart's online California sales, for the periods July 1, 2020, through December 31, 2022 (for seller's permit No. 100-170099) and January 1, 2021, through December 31, 2022 (for seller's permit No. 237-590656) (collectively, "Periods at Issue"). The sales at issue involve two distinct types of online California sales: (1) Walmart-owned inventory shipped from Walmart fulfillment centers to California customers; and (2) third-party inventory that was never owned or shipped by Walmart and was shipped from unknown locations by third-party sellers to California customers. Petitioners allege that the effect of the Reallocation Notices would be to incorrectly redistribute approximately $27,528,900 of local tax revenue from San Bruno to various other local California jurisdictions.

Audit/Tax Periods: July 1, 2020 - December 31, 2022 & January 1, 2021 - December 31, 2022
Amount: $27,528,900.00

Status:

CDTFA was served with the Complaint on October 26, 2023. Plaintiff agreed to extend CDTFA's deadline to file a responsive pleading to December 22, 2023. On December 22, 2023, CDTFA filed a Motion to Transfer Venue. The hearing

on the Motion is scheduled for March 18, 2024. Petitioners' opposition to the Motion to Transfer Venue is due March 5, 2024, and CDTFA's reply to any opposition filed is due March 11, 2024. On March 4, 2024, Petitioners filed their opposition to CDTFA's Motion to Transfer Venue. On March 11, 2024, CDTFA filed a reply brief in support of its Motion to Transfer Venue. On March 18, 2024, the trial court denied CDTFA's Motion to Transfer Venue. CDTFA's response to the Complaint is due April 25, 2024. On April 25, 2024, CDTFA filed a Demurrer to Petitioners' Verified Petition and Complaint. The hearing on the Demurrer is set for October 14, 2024. Petitioners' opposition is due October 1, 2024, and CDTFA's reply to any opposition is due October 7, 2024. On October 1, 2024, Petitioners filed an Opposition to CDTFA's Demurrer. CDTFA filed its reply brief in support of its Demurrer on October 7, 2024. On October 14, 2024, the court heard oral argument on CDTFA's Demurrer and, at the conclusion of the hearing, took the matter under submission. On October 15, 2024, the trial court issued an Amended Order sustaining CDTFA's Demurrer to San Bruno's Petition with leave to amend and overruling CDTFA's Demurrer to Walmart's Petition. CDTFA served notice of entry of the Amended Order on October 31, 2024. San Bruno must now file any amended pleading by November 12, 2024. On November 12, 2024, Petitioners filed a First Amended Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief. CDTFA's response is due December 13, 2024. On December 16, 2024, CDTFA filed a Demurrer to Plaintiffs' First Amended Verified Petition and Complaint and a Motion to Stay the Proceedings. The hearing is set for June 16, 2025. On June 9, 2025, CDTFA filed a Reply in Support of its Demurrer to Petitioner's First Amended Complaint and a Reply in Support of the Motion to Stay. On June 16, 2025, following oral argument, the court granted CDTFA's Demurrer. The court granted Walmart and San Bruno leave to amend to refile an amended petition.

DELCO ENTERPRISES INC. v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION (CDTFA)
Los Angeles County Superior Court: 25STCV05269
Filed – 02/25/2025

Plaintiff's Counsel
David Dunlap Jones, Law Firm of David Dunlap Jones, APLC

CDTFA's Counsel
Laura Robbins

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff, a dissolved corporation and former operator of Del Taco restaurants located in Southern California, seeks a refund in the amount of $77,860.86 for sales tax, interest and penalties, for the period May 1, 2006, through December 31, 2009 (period at issue). Plaintiff also requests declaratory relief for an order that CDTFA's assessment at issue is barred by the statute of limitations (or, alternatively, that Plaintiff's restitution payment in the amount of $35,337 made pursuant to a plea deal with the California Attorney General's Office is final, and there are no additional penalties and interest due or owing for the period at issue).

Audit/Tax Period: None
Amount: Unspecified

Status:

CDTFA filed a Demurrer on March 26, 2025. The hearing is set for May 8, 2025. On April 8, 2025, the court continued the hearing on CDTFA's Demurrer to June 24, 2025. Plaintiff filed its opposition to CDTFA's Demurrer on June 10, 2025. CDTFA filed a reply brief in support of its Demurrer on June 13, 2025. The court continued the hearing on CDTFA's Demurrer from June 24, 2025, to August 20, 2025.

LORENA DIAZ v. MERCEDES-BENZ FINANCIAL SERVICES USA, LLC, A DELAWARE CORPORATION; CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION (CDTFA)
San Diego County Superior Court: 37-2021-00046296-CU-BT-CTL
Filed – 10/29/2021

Plaintiff's Counsel
David Markham, The Markham Law Firm

CDTFA's Counsel
Andrea Schoor-West

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff Lorena Diaz filed a putative class action on October 29, 2021, alleging that Defendant Mercedes-Benz Financial Services, USA ("MBFS") violated California's Unfair Competition Law (Bus. Prof Code, §§ 17200, 17203) and Sales and Use Tax Regulation §1660(c)(1) by unlawfully charging sales tax on the disposition fee, which is imposed on leased vehicles at the end of a car lease term. CDTFA is named as a real-party in interest in this lawsuit because plaintiff alleges that it collected and continues to collect tax remitted by defendant MBFS to CDTFA.

Plaintiff seeks public injunctive relief requiring defendant MBFS to provide an accounting identifying each lease within the last three years where sales tax on the lease end disposition fee was collected and remitted to the defendant CDTFA, and how much was remitted in each instance; an order requiring defendant MBFS to file claims for refund with the defendant CDTFA and to place refund amounts received in a common fund for the benefit of affected California consumers; a judicial declaration that the collection of tax on lease end disposition fees is unlawful under Regulation 1660(c)(1), and an order halting MBFS' further collection and remission of the tax. Plaintiff also seeks a claim for refund for taxes overpaid.

Audit/Tax Period: None
Amount: Unspecified

Status:

CDTFA was served with the complaint on November 2, 2021. On December 17, 2021, CDTFA filed a demurrer to the plaintiff's complaint. Plaintiff's opposition is due March 18, 2022, and a hearing is scheduled for April 1, 2022. On March 18, 2022, plaintiff filed a First Amended Complaint. CDTFA's response is due by

April 18, 2022. On April 18, 2022, CDTFA filed a Demurrer to, and a Motion to Strike, the First Amended Complaint. The parties have agreed to stay the case pending the outcome of an appeal in a related case, *Stettner I*, involving the same underlying legal issue. On June 16, 2022, following the parties' filing of a joint stipulation to stay the case pending the outcome of an appeal in the related case of Stettner v. Mercedes Benz Financial Services USA, LLC, Sacramento County Superior Court Case No. 34-2020-00282700, the court vacated the hearing date set on June 24, 2022, for CDTFA's Demurrer and Motion to Strike the Complaint. A new hearing date has not been set. On July 1, 2024, Plaintiff filed her Second Amended Complaint. Pursuant to the Parties' Stipulation and Order regarding Dismissal, CDTFA has until August 15, 2024, to respond. CDTFA filed its answer to the Second Amended Complaint on July 23, 2024. On November 1, 2024, the trial court set the following dates: Last day to file and serve summary judgment motions: June 2, 2025; Trial Readiness Conference: October 17, 2025, and Trial: November 7, 2025. Pursuant to the parties' request for a ninety-day continuance of the trial date (and associated dates), the trial court set the following new dates: (1) September 2, 2025: deadline for parties to file and serve summary judgment motions; (2) February 6, 2026: Trial Readiness Conference; and (3) March 6, 2026: Trial.

RON DOSTER v. CDTFA
Sacramento County Superior Court: 24CV010645
Filed – 05/23/2024

Plaintiff's Counsel
Ron Doster, Pro Se

CDTFA's Counsel
Donny Le

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff Ron Doster, owner of Chapman's Auto Care, filed a complaint against CDTFA alleging a violation of the Taxpayers' Bill of Rights in connection with a November 2018 audit of his business. Plaintiff asserts that CDTFA's alleged mismanagement of its audit led to an incorrect tax assessment. Specifically, Plaintiff contends that CDTFA staff mishandled records, failed to provide timely notice within the statute of limitations, failed to follow standard administrative procedures, and improperly levied his personal bank account. Plaintiff seeks damages for financial losses, emotional distress, and reputational damages.

Audit/Tax Period: None
Amount: Unspecified

Status:

CDTFA was served with the complaint on June 11, 2024. On July 26, 2024, CDTFA filed a Demurrer to Plaintiff's Complaint. The hearing on the Demurrer is scheduled for December 27, 2024. Plaintiff filed a Motion for Preliminary Injunction on August 26, 2024; the hearing on this motion is set for December 10, 2024. CDTFA's opposition to Plaintiff's Motion for Preliminary Injunction was filed on November 21, 2024. On December 6, 2024, Plaintiff filed his reply to CDTFA's opposition to Plaintiff's Motion for Preliminary Injunction. Plaintiff filed his opposition to CDTFA's Demurrer and Motion to Strike on December 11, 2024. CDTFA filed a reply to Plaintiff's opposition on December 18, 2024. Plaintiff filed a response to CDTFA's reply on December 20, 2024. On December 27, 2024, the trial court sustained CDTFA's Demurrer to the Complaint and Motion to Strike Plaintiff's demand for a jury trial, with leave to amend. Plaintiff has until January 6, 2025, to file an amended complaint. Plaintiff filed and served his First Amended Complaint on January 6, 2025. CDTFA's response is due by February 5, 2025. CDTFA filed its Demurrer and Motion to Strike in response to Plaintiff's First Amended Complaint on February 6, 2025. The hearing is set for July 31, 2025. On June 5, 2025, Plaintiff served amendments to his First Amended Complaint (FAC), adding the Office of Tax Appeals (OTA) and employees of CDTFA and OTA as individual defendants. The newly added defendants' response to the FAC is due July 7, 2025.

EMERALD SEVEN, LLC, ET AL. v. STATE OF CALIFORNIA, ET AL.
Court of Appeal, Second Appellate District: B336073
Los Angeles County Superior Court: 22NWCV00135
Filed – 02/28/2022

Plaintiff's Counsel
Jeffrey Benice, Benice Law

CDTFA's Counsel
Anna Barsegyan

CDTFA Attorney
Kimberly Willy

Issue(s):

Plaintiff Emerald Seven, LLC, brings an action under the Taxpayers' Bill of Rights (Rev. & Tax. Code, § 7099) and California Code of Civil Procedure section 526a against CDTFA and the State of California for declaratory and injunctive relief. Plaintiff seeks a judicial declaration setting aside the CDTFA's determination that it is liable, as the taxpayer, for the sales and use taxes due from the alleged illegal cannabis sales that were conducted on its property during the period of January 1, 2018, through September 30, 2020, and a permanent injunction to set aside the sale of its real property. Plaintiff asserts CDTFA violated its established procedures, the Revenue and Taxation Code, and Plaintiff's due process rights by determining it to be the taxpayer, improperly serving the Notice of Jeopardy Determination, filing a notice of tax lien against Plaintiff's property, denying Plaintiff an administrative appeal, and proposing to sell its property at a sheriff's auction.

Audit/Tax Period: None
Amount: Unspecified

Status:

Plaintiff filed its Verified Complaint for Declaratory and Injunctive Relief on February 28, 2022. CDTFA filed a Demurrer and Motion to Strike Plaintiff's Complaint on April 13, 2022. The Demurrer and Motion to Strike was scheduled for hearing on December 13, 2022. On November 18, 2022, before the hearing on the Demurrer and Motion to Strike and without leave of court, Plaintiff filed its First Amended Verified Complaint. On December 12, 2022, following Plaintiff's filing an amended complaint, the court vacated as moot the December 13, 2022, hearing date on the Demurrer to the Complaint and Motion to Strike. On December 16, 2022, the court granted CDTFA's Ex Parte Application to Extend the Deadline to Respond to Plaintiff's First Amended Complaint. CDTFA's responsive pleading to the First Amended Complaint is due January 10, 2023. On

January 10, 2023, CDTFA filed a Demurrer to Plaintiff's First Amended Complaint and, in the alternative, a Motion to Strike. The hearing on CDTFA's Demurrer and Motion to Strike is scheduled for April 27, 2023. On April 14, 2023, Plaintiff filed an opposition to CDTFA's Demurrer to First Amended Complaint. On April 20, 2023, CDTFA filed a reply to Plaintiff's opposition. On April 27, 2023, following oral argument, the trial court sustained CDTFA's Demurrer to Plaintiff's First Amended Complaint in its entirety, with leave to amend. The court found that Plaintiff's action was barred by article XIII, section 32 of the California Constitution. The court also granted CDTFA's Motion to Strike, without leave to amend, striking Plaintiff's request for punitive damages and civil penalties for Labor Code violations. The court ordered Plaintiff to file and serve its Second Amended Complaint by June 6, 2023. On June 13, 2023, CDTFA filed an Ex Parte Application for Dismissal due to Plaintiff's failure to file a Second Amended Complaint by June 6, 2023. On the evening of June 13, 2023, Plaintiff filed an opposition to CDTFA's Ex Parte Application for Dismissal. Following oral argument on June 14, 2023, the trial court denied CDTFA's Ex Parte Application for Dismissal and extended the due date for the filing of Plaintiff's Second Amended Complaint to June 16, 2023. On June 16, 2023, Emerald Seven, LLC, and Jimmy Duong, the owner and manager of Emerald Seven, LLC, filed a Verified Second Amended Complaint. On June 20, 2023, the court rejected the filing of the Verified Second Amended Complaint on grounds that it was dated November 17, 2022, the same date the First Amended Complaint was filed. On June 20, 2023, Emerald Seven, LLC, and Jimmy Duong, re-filed a Verified Second Amended Complaint. CDTFA's responsive pleading to the Second Amended Complaint is due July 24, 2023. On July 24, 2023, CDTFA filed a Demurrer to Plaintiff's Second Amended Complaint and a Motion to Strike Plaintiff's request for civil penalties. The hearing on the Demurrer and Motion to Strike is set for January 11, 2024, and Plaintiff's opposition is due December 28, 2023. CDTFA's reply to any opposition filed is due January 4, 2024. On December 28, 2023, Plaintiff filed an opposition to CDTFA's Demurrer to the Second Amended Complaint. On January 4, 2024, CDTFA filed a reply in support of the Demurrer to Plaintiff's Second Amended Complaint. The hearing on the Demurer was held on January 11, 2024, and the matter was submitted. Plaintiff did not appear at the hearing to oppose the Demurrer. On January 11, 2024, the court issued an order granting CDTFA's Demurrer to the Second Amended Complaint without leave to amend. The order further held that CDTFA's Motion to Strike the Second Amended Complaint is moot. On January 22, 2024, the court entered the Judgment of Dismissal, in its entirety, with prejudice. On January 23, 2024, CDTFA served a Notice of Entry of Judgment of Dismissal. Plaintiff's deadline to file an appeal is March 25, 2024. On March 1, 2024, Plaintiff filed a Notice of Appeal of the superior court's judgment granting CDTFA's Demurrer. Plaintiff's opening appellate brief is due May 21, 2024. On May 21, 2024, the parties filed a stipulation extending Emerald Seven LLC's deadline to file its Appellant's opening brief to June 27, 2024. The Court of Appeal approved an extension for Plaintiff to file its Appellant's Opening Brief to July 18, 2024. On July 19, 2024, the Second District Court of Appeal issued a notice of default to Plaintiff due to its failure to file its Opening Brief. The default

provides that Plaintiff must file its opening brief by August 5, 2024. Plaintiff filed its Opening Brief with the Court of Appeal on August 5, 2024. CDTFA's Respondent's Brief is due September 4, 2024. On August 20, 2024, the parties filed a Stipulation extending CDTFA's time to file its Respondent's Brief to November 1, 2024. On October 31, 2024, the Court of Appeal granted CDTFA a 15-day extension to file its Respondent's Brief; CDTFA's brief is now due November 15, 2024. On November 15, 2024, CDTFA filed and served its Respondent's Brief with the Court of Appeal. Petitioner's Reply Brief is due December 5, 2024. Petitioner did not file a reply brief with the Court of Appeal and the matter is now considered fully briefed. On January 27, 2025, the Court of Appeal scheduled oral argument for February 26, 2025. The Second District Court of Appeal issued a tentative ruling in CDTFA's favor on February 19, 2025. The parties submitted on the tentative ruling and waived oral argument. The case is now submitted. On March 3, 2025, the Second District Court of Appeal issued its decision affirming the trial court's judgment in favor of CDTFA. The Court of Appeal concluded that Plaintiff failed to exhaust its administrative remedies on the refund actions by paying the tax. The Court of Appeal also concluded that the tort claims are barred because Plaintiff did not file a timely government claim with the Department of General Services as required by the Government Claims Act (Gov. Code, § 900 et seq.) before filing suit. On April 7, 2025, Emerald Seven, LLC, filed a Petition for Review with the California Supreme Court. On April 11, 2025, CDTFA filed a letter informing the Court that it does not intend to file an answer to the petition unless one is requested by the Court. On May 14, 2025, the California Supreme Court denied Emerald Seven LLC's petition for review of the Second District Court of Appeal's decision in favor of CDTFA. On May 15, 2025, the Court of Appeal certified that its March 3, 2025, decision has now became final and issued the remittitur transferring the matter back to the Superior Court. This case is now closed and will be removed from the next report.

HALIBURTON INTERNATIONAL FOODS, INC. v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Los Angeles County Superior Court: 23STCV06297
Filed – 03/21/2023

Plaintiff's Counsel
Mardiros Dakessian, Dakessian Law, LTD

CDTFA's Counsel
Kara Siegel

CDTFA Attorney
Kiren Chohan

Issue(s):

On January 23, 2009, the State Board of Equalization issued a Notice of Determination to Plaintiff for $38,722.18 in use tax, plus interest, for the period January 1, 2005, through December 31, 2005 (Period at Issue), for Plaintiff's ex-tax purchases of liquid nitrogen used as a manufacturing aid in its manufacturing process to flash freeze processed food products. Plaintiff asserts that its use of the liquid nitrogen is exempt because it serves to preserve the food products and is converted into nitrogen gas, which remains in the packaged food products until the packages are opened by the consumers. Plaintiff seeks a refund of use tax, plus interest, for the Period at Issue.

Audit/Tax Period: January 1, 2005 - December 31, 2005
Amount: $38,722.18

Status:

CDTFA was served with this complaint on March 23, 2023. CDTFA's responsive pleading is due April 24, 2023. On April 21, 2023, CDTFA filed its answer to the complaint, and filed a cross complaint for unpaid interest applicable to CDTFA's use tax determination for the period at issue. The court scheduled the trial date for September 16, 2024. On October 24, 2023, the parties filed a stipulation in which the parties agreed that CDTFA would file an amended answer within 15 days after the court enters an order granting CDTFA leave to do so. On November 8, 2023, the court granted the parties' stipulated request for CDTFA to file an amended answer by November 27, 2023. On November 13, 2023, CDTFA filed an amended answer to the complaint. CDTFA filed its Motion for Summary Judgment on May 31, 2024. The hearing on the Motion for Summary Judgment is September 3, 2024. Plaintiff filed its opposition to CDTFA's Motion for Summary Judgment on August 20, 2024. CDTFA filed its reply in support of its Motion for Summary Judgment on August 29, 2024; and its trial brief on August 30, 2024. Trial is scheduled for September 16, 2024. On September 3, 2024, the

court denied CDTFA's Motion for Summary Judgment. The trial was held from September 16, 2024, to September 18, 2024. The court ordered post-trial briefing as follows: Plaintiff's opening brief is due November 1, 2024; CDTFA's opening brief is due November 22, 2024; and Plaintiff's reply is due December 6, 2024. On November 1, 2024, Plaintiff filed its closing brief. CDTFA filed its closing trial brief on November 22, 2024. On December 6, 2024, Plaintiff filed its reply to CDTFA's closing trial brief. On January 3, 2025, following the trial and post-trial briefing, the court issued a tentative Statement of Decision in favor of CDTFA. The court found that Haliburton did not meet its burden of demonstrating that either all of its use of liquid nitrogen in 2005 qualified as tax exempt under Regulation 1630, or, at least, what percentage of its use of liquid nitrogen qualified for the exemption. On January 21, 2025, CDTFA filed a response to the court's Tentative [Proposed] Statement of Decision, and [Proposed] Judgment; Plaintiff also filed an objection to the [Proposed] Judgment. On February 3, 2025, Haliburton filed an objection to CDTFA's proposed judgment, noting that the judgment must address CDTFA's cross-complaint for unpaid interest to resolve the entire case. On February 4, 2025, Haliburton also filed a request for reconsideration of the Final Statement of Decision, stating that the court appears to have overlooked Haliburton's response to the Tentative Statement of Decision. On February 5, 2025, CDTFA filed a response to Haliburton's objection and an amended proposed judgment, reflecting interest due. On February 10, 2025, the court issued a minute order setting a status conference for March 13, 2025, to discuss the parties' submissions. On March 13, 2025, the court entered judgment in favor of CDTFA and against Haliburton on its sole claim for refund, and in favor of CDTFA on its cross-claim for interest. Notice of entry of judgment was provided on March 26, 2025; and the deadline to file an appeal of the judgment is May 27, 2025. On April 17, 2025, Haliburton filed an appeal of the trial court judgment in favor of CDTFA.

K1 SPEED, INC. v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Sacramento County Superior Court: 24CV015968
Filed – 08/12/2024

Plaintiff's Counsel
Carley A. Roberts, Pillsbury Winthrop Shaw Pittman LLP

CDTFA's Counsel
Jennifer Henderson

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff, K1 Speed, Inc. ("K1") filed a verified complaint seeking a refund of sales taxes paid, the exact amount to be determined by the court, for the tax period April 1, 2009, to June 30, 2009. K1 alleges its sales of go-kart races are nontaxable sales of amusement services pursuant to Rev. & Tax. Code §§ 6006, 6015, and Regulation 1501 and the rental of go-carts do not constitute a lease of tangible personal property pursuant to Rev. & Tax. Code § 6006 and Regulation 1660. K1 also alleges even if the rental of go-carts are determined to be leases of tangible personal property, the leases meet the conditions necessary for exclusion under Regulation 1660(e)(1). Finally, Plaintiff contends that CDTFA mischaracterizes K1's sales of annual membership/license fees as includable in gross receipts.

Audit/Tax Period: April 1, 2009, through March 31, 2012
Amount: Unspecified

Status:

CDTFA was served with this Complaint on August 19, 2024. CDTFA's responsive pleading is due September 18, 2024. The court has approved an extension of time for CDTFA to respond to the complaint; CDTFA's new deadline to file its response is November 4, 2024. CDTFA filed its Answer to Plaintiff's Complaint on November 4, 2024. Plaintiff filed a Motion for Summary Judgment on April 18, 2025. CDTFA's opposition is due June 19, 2025, and the hearing is set for July 9, 2025. CDTFA filed its opposition to Plaintiff's Motion for Summary Judgment (MSJ) on June 18, 2025. On June 27, 2025, Plaintiff K1 Speed filed a reply brief in support of its MSJ.

MEDTRONIC USA INC., ET AL. v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION, ET AL.
Court of Appeal, First Appellate District: A169290
San Francisco County Superior Court: GCG-22-599205
Filed –04/15/2022

Plaintiff's Counsel
G. Michelle Ferreira, Greenberg Traurig, LLP
Bradley R. Marsh, Greenberg Traurig, LLP
Nathaniel Garrett, Jones Day
Brian D. Hershman, Jones Day

CDTFA's Counsel
Jack Nick

CDTFA Attorney
Kimberly Willy

Issue(s):

On April 15, 2022, Plaintiff filed its Complaint alleging that, for the period of October 1, 2012, through September 30, 2015, CDTFA erroneously and illegally determined its sales of Reveal XT insertable cardiac monitor (ICM) and Reveal/Linq ICM devices were not exempt sales of medicine under Revenue and Taxation Code section 6369 and California Code of Regulations, title 18, section 1591. Plaintiff seeks a refund of $3,329,195.79 in tax, plus interest and costs of suit.

Audit/Tax Period: None
Amount: $3,329,195.79

Status:

Plaintiff filed its Verified Complaint against CDTFA on April 15, 2022, and served CDTFA electronically on April 20, 2022. CDTFA's deadline to file its first responsive pleading is May 20, 2022. Plaintiff granted CDTFA an extension to June 6, 2022, to file its response to the Complaint. On June 10, 2022, plaintiff filed and served its First Amended Verified Complaint. CDTFA's responsive pleading is due July 11, 2022. On July 11, 2022, CDTFA filed an Answer to Plaintiff's First Amended Verified Complaint for Refund of Sales and Use Taxes Paid. On September 2, 2022, the court issued a notice and order setting the matter for trial on April 3, 2023, and cancelling the September 14, 2022 case management conference. On September 9, 2022, after holding a meet and confer with plaintiff, CDTFA filed a notice of objection to the trial date and requested that the parties appear at the September 14, 2022, case management conference to set a trial later than April 3, 2023. On September 14, 2022, the court vacated the

trial date and set a case management conference for December 14, 2022. The court issued an order setting the trial date for October 30, 2023, and cancelling the December 14, 2022, case management conference. Discovery has commenced and is ongoing. On July 12, 2023, CDTFA filed a Motion for Summary Judgment. The hearing on CDTFA's Motion for Summary Judgment is set for September 29, 2023, and Plaintiff's opposition to that motion is due September 15, 2023. On September 15, 2023, Plaintiff filed an opposition to CDTFA's Motion for Summary Judgment. On September 22, 2023, CDTFA filed a reply to Plaintiff's Opposition. On September 29, 2023, following oral argument, the trial court granted CDTFA's Motion for Summary Judgment. On October 16, 2023, the court entered judgment in favor of CDTFA and against Plaintiff. On October 18, 2023, CDTFA filed and served its notice of entry of judgment. Plaintiff's deadline to file an appeal is December 18, 2023. On December 8, 2023, Plaintiff filed a Notice of Appeal. On January 31, 2024, Medtronic filed a Stipulation for Extension of Time to file its Appellant's Opening Brief with the Court of Appeal. Medtronic's opening brief is now due April 26, 2024. On April 26, 2024, Medtronic filed its Opening Brief with the Court of Appeal. CDTFA's Respondent's Brief is due May 28, 2024. On May 2, 2024, the parties entered into a stipulation extending CDTFA's deadline to file its Respondent's Brief to July 26, 2024. On July 26, 2024, CDTFA filed its Respondent's Brief. Appellant's Reply Brief is due August 15, 2024. On August 5, 2024, the parties filed a stipulation extending Plaintiff's deadline to file its Reply Brief in the Court of Appeal to September 16, 2024. On September 16, 2024, Medtronic filed its Reply Brief. On February 3, 2023, the Court of Appeal set oral argument on February 24, 2025. Oral argument before the First District Court of Appeal was heard on February 24, 2025, and the case was submitted. On April 16, 2025, the First District Court of Appeal issued its opinion affirming summary judgment in favor of CDTFA. The Appellate Court found that Medtronic's Reveal ICM and Reveal/Linq ICM devices are not exempt sales of medicines under Revenue and Taxation Code section 6369 and California Code of Regulations, title 18, section 1591. On June 17, 2025, the Court of Appeal certified that its April 16, 2025, decision has now become final and issued the remittitur transferring the matter back to the Superior Court. This case is now closed and will be removed from the next report.

MMD, INC. v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Los Angeles County Superior Court: 24STCV20196
Filed –08/09/2024

Plaintiff's Counsel
Faith A. Devine, Attorney at Law

CDTFA's Counsel
Hutchison Meltzer

CDTFA Attorney
Kiren Chohan

Issue(s):

In this action, Plaintiff MMD, Inc. seeks a refund of sales tax in the amount of $364,980.38, plus statutory interest, for the period January 1, 2010, through December 31, 2012, for its audited understatement of reported taxable sales at its medical cannabis dispensary located in Los Angeles, California.

Audit/Tax Period: January 1, 2010, through December 31, 2012
Amount: $364,980.38

Status:

Plaintiff filed the Complaint in the Los Angeles County Superior Court on August 9, 2024. On October 10, 2024, CDTFA executed an Acknowledgment of Receipt of Service, accepting service of the Complaint. CDTFA filed its answer to Plaintiff's Complaint on November 12, 2024. The court set the trial date for October 6, 2025.

OHAD MOSHKOVITZ, ET AL. v. AMERICAN HONDA FINANCE CORPORATION, ET AL.
Los Angeles County Superior Court: 22STCV12659
Filed –04/14/2022

Plaintiff's Counsel
David Markham, The Markham Law Firm

CDTFA's Counsel
Andrea Schoor-West

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff Ohad Moshkovitz filed a putative class action on or about April 14, 2022, alleging that Defendant American Honda Finance Corporation dba Honda Financial Services ("Honda") violated California's Unfair Competition Law (Bus. Prof Code, §§ 17200, 17203) and Sales and Use Tax Regulation §1660(c)(1)(D) by unlawfully charging sales tax on the disposition fee, which is imposed on leased vehicles at the end of a car lease term. CDTFA is named as a real-party in interest in this lawsuit because plaintiff alleges that it collected and continues to collect tax remitted by defendant Honda to CDTFA.

Plaintiff seeks public injunctive relief requiring that defendant Honda provide an accounting identifying each lease within the last three years where sales tax on the lease end disposition fee was collected and remitted to the defendant CDTFA, and how much was remitted in each instance; an order requiring defendant Honda to file claims for refund with the defendant CDTFA and to place refund amounts received in a common fund for the benefit of affected California consumers; a judicial declaration that the collection of tax on lease end disposition fees is unlawful under Regulation 1660(c)(1)(D); a judicial declaration as to the validity of Regulation 1660(c)(1)(D) in accordance with Gov. Code section 11350; and an order halting Honda's further collection and remission of the tax. Plaintiff also seeks a claim for refund for taxes overpaid.

Audit/Tax Period: None
Amount: Unspecified

Status:

CDTFA was served on April 18, 2022. On May 5, 2022, the court (Judge David S. Cunningham III) issued an Order deeming this case non-complex. On May 18, 2022, Plaintiff filed his Objection to Non-Complex Designation. The parties have agreed to stay the case pending the outcome of an appeal in a related case,

Stettner I, involving the same underlying legal issue. On December 12, 2024, the trial court dismissed Defendant Honda from the litigation. On December 18, 2024, Plaintiff filed his First Amended Complaint (FAC). CDTFA's deadline to respond to the FAC is February 3, 2025. CDTFA has requested and received a 15-day extension to respond to the First Amended Complaint, moving the deadline to February 18, 2025. CDTFA filed its Answer to the First Amended Complaint on February 6, 2025.

OLYMPUS AMERICA INC. v. CALIFORNIA DEPARTMENT OF TAX & FEE ADMINISTRATION
San Francisco County Superior Court: CGC-23-607195
Filed –06/21/2023

Plaintiff's Counsel
Amy L. Silverstein, Silverstein & Pomerantz LLP

CDTFA's Counsel
Elizabeth Vann

CDTFA Attorney
Kiren Chohan

Issue(s):

Plaintiff, a distributor, retailer, and repairer of endoscopes and other medical devices, seeks a refund of use tax, negligence penalty and interest in the total amount of $9,758,452.41, plus interest, for the period April 1, 2008, through September 30, 2011, asserting that its use of parts to repair non-California customers' equipment pursuant to optional maintenance contracts at a repair facility located in California, is excluded from use tax under Revenue and Taxation Code section 6009.1. In the alternative, plaintiff contends that it is entitled to relief under section 6596 because it reasonably relied on written advice provided by the Department during three prior audits for the following periods: (1) April 1, 1996, through March 31, 1999; (2) April 1, 1999, through December 31, 2002; and (3) January 1, 2003, to December 31, 2007. Plaintiff also seeks attorneys' fees and costs of suit.

Audit/Tax Period: April 1, 2008 - September 30, 2011
Amount: $9,758,452.41

Status:

Plaintiff filed a Verified Complaint for Refund of Taxes on June 27, 2023, and served CDTFA with the Complaint on July 3, 2023. CDTFA's response to the Complaint is due August 2, 2023. The parties agreed to extend CDTFA's

deadline to respond to the Complaint to September 15, 2023. On September 15, 2023, CDTFA filed its answer to the Complaint. On November 9, 2023, the court issued an order scheduling the trial date for January 13, 2025. On August 5, 2024, the parties filed a joint application asking the court to extend the trial date to July 14, 2025, which was granted by the court on August 6, 2024. The parties filed a joint ex-parte application asking the court for a new trial date. At the ex-parte application hearing held on March 6, 2025, the court set the following deadlines: (1) Cross Motions for Summary Judgment (MSJ) due: May 9, 2025; (2) Oppositions to MSJ due: June 20, 2025; (3) Replies in support of MSJ due: July 18, 2025; (4) Hearing on Cross MSJs: August 15, 2025; and (5) Trial: February 23, 2026. On May 9, 2025, CDTFA and Plaintiff filed their respective Motions for Summary Judgment. On June 20, 2025, CDTFA and Plaintiff filed their respective opposition briefs on the parties' cross-motions for summary judgment.

P.L.A.C.T. BROS., LLC v. CALIFORNIA DEPARTMENT OF TAX & FEE ADMINISTRATION
Los Angeles County Superior Court: 25STCV05080
Filed –02/24/2025

Plaintiff's Counsel
Michael A. O'Connor, Esq.

CDTFA's Counsel
Brendan Porter

CDTFA Attorney
Blake Bandy

Issue(s):

Plaintiff, a business in the City of Los Angeles, County of Los Angeles, California, have filed suit against CDTFA challenging CDTFA's issuance of a Notice of Determination and aspects of a criminal plea agreement to which two individuals associated with the Plaintiff entity were parties. Plaintiff specifically alleges that: 1) CDTFA has breached the terms of a criminal plea agreement the two individuals entered into with California's Dept. of Justice, providing for restitution payments to CDTFA totaling $809,621.00, by issuing a subsequent billing to the Plaintiff entity totaling $146,685.63; 2) CDTFA made an inaccurate calculation of the sales tax percentage in the plea agreement, which should have been 8% rather than the 15% CDTFA used; and 3) CDTFA failed to comply with the Marketplace Facilitator Act by targeting Plaintiffs instead of the parties responsible for collecting the applicable sales tax, eBay and PayPal. Plaintiffs seek: 1) general damages, 2) special damages, 3) statutory damages, 4) costs, 5) attorneys' fees, and 6) other relief the Court deems just and proper.

Audit/Tax Period: None
Amount: Unspecified

Status:

This new action was filed on February 24, 2025. The parties stipulated to a 15-day extension for CDTFA to file a response to the complaint. CDTFA filed its Demurrer to Plaintiff's Complaint on May 5, 2025. On May 27, 2025, CDTFA filed its reply brief in support of its Demurrer, noting that Plaintiff failed to file a brief in opposition. The hearing is set for June 3, 2025. On June 3, 2025, Plaintiff's counsel made an appearance at the Demurrer hearing and requested an opportunity to respond to the Demurrer and proffer proposed amendments. The court continued the Demurrer hearing to August 26, 2025. Plaintiff's opposition is now due on August 13, 2025.

STAN PASQUAL v. CALIFORNIA DEPARTMENT OF TAX & FEE ADMINISTRATION
Los Angeles County Superior Court: 25STCP01662
Orange County Superior Court: 30-2024-01440620-CU-WM-CJC
Filed –11/14/2024

Plaintiff's Counsel
Stan Pasqual, Pro Per

CDTFA's Counsel
Douglas Beteta

CDTFA Attorney
Kiren Chohan

Issue(s):

Petitioner, Stan Pasqual, filed this action challenging a dual determination issued against him for sales tax liabilities for the period January 1, 2014, through December 31, 2017 (Period at Issue), for unreported taxable retail sales at cannabis dispensaries operating in Costa Mesa. Petitioner asserts that he was not the owner of the dispensaries, and that the dispensaries ceased their operations on or about March 2012. As such, petitioner alleges that no sales were made at the dispensaries during the Period at Issue. Petitioner seeks a writ of mandate and declaratory relief to discharge his liabilities for the Period at Issue as well as a court order to stay all collection activities while the litigation is pending.

Audit/Tax Period: January 1, 2014, through December 31, 2017
Amount: Unspecified

Status:

CDTFA was served with the Complaint on November 26, 2024. On December 6, 2024, Petitioner filed an ex parte request for stay of collection proceedings against him by CDTFA. On December 10, 2024, CDTFA filed its opposition brief to Petitioner's request for stay. On December 12, 2024, the court denied Petitioner's ex parte application for stay. On December 10, 2024, CDTFA filed a Motion to Transfer the case to Los Angeles County Superior Court. The hearing on CDTFA's Motion to Transfer is set for June 2, 2025. The parties stipulated to transfer this matter to Los Angeles County Superior Court, subject to court approval; CDTFA's response to the petition will be due 30 days from the date this matter is transferred to Los Angeles County Superior Court. At the court's request, the parties filed a revised stipulation on February 18, 2025, to transfer the case to Los Angeles County Superior Court. On February 20, 2025, the court issued a minute order approving the stipulation and ordered the case to be transferred. CDTFA's response to the petition is due within 30 days from the date the case is accepted by the Los Angeles County Superior Court. The transfer of venue to Los Angeles County Superior Court became effective on May 6, 2025; CDTFA's response to the Complaint is due June 5, 2025. On June 5, 2025, Petitioner filed a request for dismissal with prejudice, which the court entered on June 9, 2025. The case has now been dismissed and will be removed from the next report.

RELIANCE RESTAURANTS LLC v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Los Angeles County Superior Court: 25STCV00280
Filed – 01/06/2025

Plaintiffs' Counsel
David Dunlap Jones, Law Firm of David Dunlap Jones, APLC

CDTFA's Counsel
Laura Robbins

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff, an operator of a Subway restaurant in Los Angeles, seeks a refund in the amount of $78,268.98 in sales tax, interest, and penalties, for an allegedly untimely notice of determination for the period January 1, 2010, to December 31, 2010.

Audit/Tax Period: None
Amount: Unspecified

Status:

CDTFA was served with the Complaint on January 15, 2025. CDTFA filed its Demurrer to Plaintiff's Complaint in this matter on February 14, 2025. The hearing is set for June 3, 2025. On April 8, 2025, the court continued the hearing on CDTFA's Demurrer to June 24, 2025. Plaintiff filed its opposition to CDTFA's Demurrer on June 10, 2025. CDTFA filed a reply brief in support of its Demurrer on June 13, 2025. The court continued the hearing on CDTFA's Demurrer from June 24, 2025, to August 20, 2025.

MARC RIEDEL v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Placer County Superior Court: SCV0051688
Filed –12/01/2023

Plaintiff's Counsel
Bruce Riedel

CDTFA's Counsel
Lauren Freeman

CDTFA Attorney
Kiren Chohan

Issue(s):

In this tort action, Plaintiff alleges that CDTFA acted negligently and fraudulently in issuing a responsible person determination under Revenue and Taxation Code section 6829 against Plaintiff for the outstanding sales and use tax liability of Ciao Restaurants, LLC. Plaintiff seeks compensatory damages and punitive damages of at least $125,000.

Audit/Tax Period: None
Amount: Unspecified

Status:

The Complaint was filed on December 1, 2023. CDTFA was served with the Complaint on March 7, 2024. Plaintiff agreed to a 15-day extension for CDTFA to file a response to the Complaint. CDTFA's response is now due April 22, 2024. On April 15, 2024, CDTFA filed a Motion to Transfer Venue to Sacramento County Superior Court. The hearing on this motion is scheduled for May 16, 2024. On May 7, 2024, CDTFA filed a Notice in Lieu of reply in support of its

Motion to Transfer Venue, notifying the court that Plaintiff did not file and serve an opposition to CDTFA's Motion to Transfer Venue within the required period. On May 16, 2024, the court granted CDTFA's Motion to Transfer Venue to Sacramento County. On May 20, 2024, CDTFA served a Notice of Ruling of the trial court's decision granting CDTFA's Motion to Transfer Venue. After CDTFA's filing of a Motion to Dismiss due to Plaintiff's failure to pay the court's transfer fees and costs, Plaintiff paid the transfer fees and costs. This case will now be transferred to Sacramento County Superior Court.

SA RECYCLING LLC v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
San Diego County Superior Court: 25CU007640C
Filed –02/13/2025

Plaintiff's Counsel
Leighton Anderson, BEWLEY, LASSLEBEN & MILLER LLP

CDTFA's Counsel
Matt Heyn

CDTFA Attorney
Kiren Chohan

Issue(s):

Plaintiff, a scrap metal recycling company, filed this use tax refund action against the Department for the period October 1, 2016, through June 30, 2019, in the amount of $3,070,585, plus interest, claiming that its purchases and use of tangible personal property qualify for the partial exemption from use tax for property used in manufacturing under Revenue and Taxation Code section 6377.1.

Audit/Tax Period: October 1, 2016, through June 30, 2019
Amount: Unspecified

Status:

Plaintiff filed a First Amended Complaint for a Tax Refund on February 13, 2025, and served CDTFA with the Complaint on February 25, 2025. On March 19, 2025, the parties filed a stipulation to extend CDTFA's deadline to respond to the First Amended Complaint to April 25, 2025; court approval is required for the extension. CDTFA filed its answer to the First Amended Complaint on April 22, 2025.

MONICA SALAZAR, ON BEHALF OF HERSELF AND THE GENERAL PUBLIC v. BMW FINANCIAL SERVICES NA, LLC; CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION (CDTFA); AND DOES 1 THROUGH 10, INCLUSIVE
Sacramento County Superior Court: 34-2022-00314532
Filed – 01/25/2022

Plaintiff's Counsel
David Markham, The Markham Law Firm

CDTFA's Counsel
Andrea Schoor-West

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff Monica Salazar filed a putative class action on January 25, 2022, alleging that Defendant BMW Financial Services NA, LLC ("BMW") violated California's Unfair Competition Law (Bus. Prof Code §§ 17200, 17203) and Sales and Use Tax Regulation §1660(c)(1)(D) by unlawfully charging sales tax on the disposition fee, which is imposed on leased vehicles at the end of a car lease term. CDTFA is named as a real-party in interest in this lawsuit because plaintiff alleges that it collected and continues to collect tax remitted by defendant BMW to CDTFA.

Plaintiff seeks public injunctive relief requiring defendant BMW to provide an accounting identifying each lease within the last three years where sales tax on the lease end disposition fee was collected and remitted to the defendant CDTFA, and how much was remitted in each instance; an order requiring defendant BMW to file claims for refund with the defendant CDTFA and to place refund amounts received in a common fund for the benefit of affected California consumers; a judicial declaration that the collection of tax on lease end disposition fees is unlawful under Regulation 1660(c)(1)(D), and an order halting BMW's further collection and remission of the tax. Plaintiff also seeks a claim for refund for taxes overpaid.

Audit/Tax Period: None
Amount: Unspecified

Status:

CDTFA was served with the complaint on February 15, 2022. On March 11, 2022, the trial court issued a Minute Order ruling that this case was not related to Stettner II (Sacramento Superior Court: 34-2021-00305976) and Diaz (San Diego

County Superior Court: 37-2021-00046296-CU-BT-CTL), two other actions challenging the imposition of tax on vehicle turn-in fees. CDTFA was granted an extension to file its response to the complaint to April 1, 2022. On March 30, 2022, plaintiff filed a First Amended Complaint. CDTFA's response to the complaint is due April 29, 2022. CDTFA's Demurrer to the Complaint was filed on April 29, 2022. The hearing is set for July 12, 2022. On May 9, 2022, the court entered an order staying the case as to BMW until the court rules on CDTFA's Demurrer. The parties have agreed to stay the case pending the outcome of an appeal in a related case, *Stettner I*, involving the same underlying legal issue. On March 28, 2025, the court approved the stipulation in this matter dismissing BMW as a Defendant and providing Plaintiff five days to file her amended complaint and CDTFA 45 days thereafter to respond. Plaintiff filed a Second Amended Complaint on April 3, 2025. CDTFA's response is due May 19, 2025. CDTFA filed its answer to Plaintiff's Second Amended Complaint for Tax Refund on May 9, 2025.

SOUTHWEST JET FUEL CO. v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Court of Appeal, Fifth Appellate District: F087656
Fresno County Superior Court: 22CECG01224
Filed – 04/25/2022

Plaintiff's Counsel
Edwin Antolin, Antolin Agarwal LLP

CDTFA's Counsel
Douglas Beteta

CDTFA Attorney
Kiren Chohan

Issue(s):

On April 25, 2022, Southwest Jet Fuel Co. (Plaintiff) filed its Complaint seeking a refund for the period July 1, 2017, to September 30, 2020 (Period at Issue), of county sales taxes in the amount of $10,797,689.31, plus interest, CDTFA collected on behalf of the following seven counties: San Bernardino, Los Angeles, Orange, Alameda, Santa Clara, Sacramento, and San Diego, for its sales of jet fuel to Southwest Airlines Co., in alleged violation of Proposition 62 by collecting county sales tax on 100 percent of the gross receipts of its fuel sales rather than 20 percent of its gross receipts. Plaintiff also seeks a judicial declaration that the subject counties imposed an increased tax during the Period at Issue in excess of that allowed by each county and without complying with the requirements of Proposition 62 and/or collected in excess of that which is actually imposed under the county's sales tax ordinance.

Audit/Tax Period: None
Amount: $10,797,689.31

Status:

Plaintiff filed its complaint on April 25, 2022, and served CDTFA on April 28, 2022. CDTFA's deadline to file a responsive pleading is May 28, 2022. On May 10, 2022, the parties filed a stipulated request to extend CDTFA's deadline to respond to Plaintiff's Complaint to June 30, 2022, which was approved by the court. On June 30, 2022, CDTFA filed a Demurrer for Failure to Join Necessary Parties, namely, the counties whose ordinances are being challenged (specifically, San Bernardino, Los Angeles, Orange, Alameda, Santa Clara, Sacramento, and San Diego counties (the Counties)), and the cities and counties whose revenue is at issue (specifically, Los Angeles, Oakland, San Jose, San Diego, and Ontario (the Cities), and the Counties). The hearing on this Demurrer is scheduled for December 20, 2022. The court continued the case management conference previously set for August 24, 2022, to February 23, 2023. Plaintiff filed a First Amended Complaint on October 3, 2022, adding seven counties (County of San Bernadino, County of Los Angeles, County of Orange, County of Alameda, County of Santa Clara, County of Sacramento, and County of San Diego) as defendants. CDTFA's deadline to respond to the First Amended Complaint is November 4, 2022. On November 4, 2022, CDTFA filed its answer to Plaintiff's First Amended Complaint. On November 10, 2022, Orange County, San Bernardino County and Sacramento County each filed a Demurrer to Plaintiff's First Amended Complaint. The hearing on the demurrers filed by Orange County and Sacramento County is set for March 30, 2023. The hearing on the demurrer filed by San Bernardino County is scheduled for April 4, 2023. On November 18, 2022, County of Santa Clara filed a Demurrer to Plaintiff's First Amended Complaint, with the hearing scheduled for May 3, 2023. On December 6, 2022, Alameda County filed a Demurrer to the First Amended Complaint. The hearing on this demurrer is scheduled for May 18, 2023. Los Angeles County filed a Demurrer to the First Amended Complaint on December 13, 2022. The hearing on this demurrer is scheduled for May 3, 2023. On March 13, 2023, Plaintiff filed requests for dismissals of all named county defendants: Orange County, Sacramento County, San Bernardino County, Santa Clara County, Los Angeles County, Alameda County, and San Diego County. The court dismissed the Counties from the action and all hearings scheduled for demurrers filed by these counties were taken off calendar. On May 23, 2023, Plaintiff filed its Motion for Summary Judgment; the hearing on this motion is August 10, 2023. CDTFA's deadline to file an opposition brief is July 27, 2023. On June 29, 2023, the San Bernardino County Transportation Authority and the City of Ontario filed an ex parte motion to intervene in the case. The court set a hearing on this motion for August 10, 2023, and any opposition to the motion is due July 28, 2023. The court continued the hearing on Plaintiff's Motion for Summary Judgment to September 21, 2023, and CDTFA's opposition to the MSJ is due September 7, 2023. The hearing on CDTFA's Motion for Judgment on the Pleadings is set for August 31, 2023, and CDTFA's MJP is due August 7, 2023. On August 7, 2023, CDTFA

filed its Motion for Judgment on the Pleadings. The hearing on this motion is scheduled for August 31, 2023. On August 10, 2023, the court granted the Application by San Bernardino County Transportation Authority and the City of Ontario for Leave to Intervene in the action. On August 18, 2023, Southwest Jet Fuel filed its opposition to CDTFA's Motion for Judgment on the Pleadings. On August 24, 2023, CDTFA filed its reply brief in support of its Motion for Judgment on the Pleadings. On August 31, 2023, following oral argument, the court denied CDTFA's motion. On September 7, 2023, CDTFA filed its opposition to Southwest Jet Fuel's Motion for Summary Judgment. The hearing on this motion is scheduled for September 21, 2023. On September 20, 2023, the court continued the hearing on Plaintiff's Motion for Summary Judgment to October 26, 2023. On October 25, 2023, the court continued the hearing on Petitioner's Motion for Summary Judgment to December 14, 2023. On December 14, 2023, the trial court granted Plaintiff's Motion for Summary Judgment. Judgment was entered against CDTFA on January 3, 2024; and Notice of Entry of Judgment was served on January 10, 2024. CDTFA's deadline to file an appeal is March 11, 2024. On February 23, 2024, CDTFA filed a Notice of Appeal of the superior court decision in favor of Southwest Jet Fuel. On June 28, 2024, the parties filed a stipulation extending the time for CDTFA to file its opening appellate brief from July 23, 2024, to September 20, 2024. Interveners/ Appellants San Bernardino County Transportation Authority and City of Ontario filed their Appellants' Opening Brief on September 20, 2024. CDTFA filed its Appellant's Opening Brief on October 9, 2024. On October 16, 2024, Plaintiffs-Respondents filed a stipulation with the Court of Appeal to extend their deadline to file their Respondents' Brief to January 7, 2025. Plaintiff filed its Respondent's Brief with the Court of Appeal on January 9, 2025. On January 10, 2025, the parties filed a stipulation extending CDTFA's deadline to file its Reply Brief to March 28, 2025. On March 20, 2025, Appellants, including CDTFA, filed a request for a 31-day extension to file their reply brief. The Court of Appeal approved the request on March 21, 2025, making the new deadline April 28, 2025. CDTFA filed its reply brief with the Court of Appeal on April 29, 2025. Intervenors and Appellants San Bernardino County Transportation Authority and City of Ontario filed their reply brief on April 28, 2025. Intervenors and Appellants San Bernardino County Transportation Authority and City of Ontario filed their reply brief on April 28, 2025. CDTFA filed its reply brief with the Court of Appeal on April 29, 2025. On May 15, 2025, the County of Los Angeles and the County of Sacramento filed an Amicus Brief with the Court of Appeal in support of CDTFA, City of Ontario, and San Bernadino County Transportation Authority. On May 21, 2025, Southwest Jet Fuel filed its answer to the amicus brief filed by the County of Los Angeles and County of Sacramento in support of CDTFA.

STETTNER, ET AL. v. MERCEDES-BENZ FINANCIAL SERVICES USA, ET AL.(II)
Sacramento County Superior Court: 34-2021-00305976
Filed – 08/10/2021

Plaintiff's Counsel
David Markham, The Markham Law Firm

CDTFA's Counsel
Andrea Schoor-West

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiffs allege that defendant Mercedes-Benz Financial Services USA, LLC. ("Mercedes-Benz") violated California's Unfair Competition Law (Bus. Prof Code §§ 17200, 17203) and Sales and Use Tax Regulation §1660(c)(1) by unlawfully charging sales tax on a lease disposition fee, which is imposed on leased vehicles at the end of a vehicle's lease term. Plaintiffs assert that CDTFA is a real party in interest in this lawsuit because it collected and continues to collect the tax remitted by Mercedes-Benz to CDTFA.

Plaintiffs seek public injunctive relief requiring defendants to conduct an accounting of taxes paid and ordering Mercedes-Benz to seek a refund of the paid amount from CDTFA with recovered amounts to be placed in a common fund for the benefit of affected California consumers. Plaintiffs also seek an order requiring Mercedes-Benz to stop collecting tax on lease disposition fees. (Although Plaintiffs assert that the tax at issue is a "sales tax" paid by the lessor (Mercedes-Benz), automobile leases are generally subject to use tax, not sales tax. (18 Cal. Code Regs., §1660.))

The complaint contains the same underlying substantive allegations as another action brought by plaintiffs (Sacramento County Superior Court Case No. 34-2020-00282700), which is currently pending before the Third District Court of Appeal. The trial court granted judgment in favor of CDTFA in that action on the ground that plaintiffs did not exhaust their administrative remedies. Plaintiffs appealed that judgment and also filed this new action, asserting that they have now exhausted their administrative remedies.

Audit/Tax Period: None
Amount: Unspecified

Status:

CDTFA was served with the complaint on September 20, 2021. On October 22, 2021, the parties filed a stipulation to stay the case pending the resolution of Plaintiffs' appeal in their related case involving the same substantive allegations, which is currently before the Third District Court of Appeal (Case No. C094345). On November 1, 2021, the court signed the parties' proposed order staying this action pending the result in the appeal of Stettner I. Plaintiffs filed their First Amended Complaint (FAC) on November 8, 2024; CDTFA's response to the FAC is due December 23, 2024. CDTFA filed its answer to the First Amended Complaint in this matter on December 16, 2024. The court set the trial date for March 8, 2027. The mandatory settlement conference is scheduled for January 19, 2027.

TASTE AMERICA FOODS GROUP, INC. v. OFFICE OF TAX APPEALS
Los Angeles County Superior Court: 25STCP01401
Filed – 04/16/2025

Plaintiff's Counsel
Aman Beri, Pro Per

CDTFA's Counsel
Brendan Porter

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiffs filed this action to challenge CDTFA's notices of determination (NOD) and the Office of Tax Appeals' opinions issued on June 27, 2024, and February 2, 2025, denying the petitions for redetermination and petitions for rehearing, respectively, filed by the following entities disputing their sales and use tax liabilities with respect to their operations of Subway restaurants located in California: (1) Partnership of A. Beri and V. Beri, NOD dated May 26, 2016, for the period January 1, 2003, through December 31, 2003; (2) Ava Beri Restaurants Group, Inc., NOD dated May 13, 2016, for the period January 1, 2004, through June 30, 2005; NOD dated October 20, 2010, and NOD dated July 1, 2016, for the period July 1, 2005 through December 31, 2009; NOD dated May 13, 2016, for the period January 1, 2010, through December 31, 2010; (3) Taste of America Food Groups, Inc., NOD dated May 13, 2016, for the period January 1, 2004, through December 31, 2010.

Audit/Tax Period: None
Amount: Unspecified

Status:

CDTFA was personally served with the Verified Complaint on June 2, 2025. On June 27, 2025, CDTFA and the Office of Tax Appeals filed a Demurrer to Plaintiffs' Complaint. A hearing on the Demurrer is set for September 18, 2025.

THE VAN NUYS GROUP, LLC v. CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION
Los Angeles County Superior Court: 25STCV08569
Filed – 03/25/2025

Plaintiff's Counsel
Faith A. Devine, Attorney at Law

CDTFA's Counsel
Elizabeth Vann

CDTFA Attorney
Chris Kim

Issue(s):

Plaintiff, The Van Nuys Group, LLC ("Van Nuys"), filed a Verified Complaint seeking a refund of $477,400.21 for the period of October 1, 2012, to September 30, 2015, for taxes, interest and penalties paid. Plaintiff alleges the department's audit was improperly conducted and flawed. Plaintiff further alleges that department's practices are unreasonable towards small businesses, fails to provide a fair process for resolution of taxpayer audits, and the department refused to acknowledge exculpatory evidence.

Audit/Tax Period: October 1, 2012, to September 30, 2015
Amount: $477,400.21

Status:

CDTFA was personally served on March 27, 2025. CDTFA filed its Answer to the Complaint on April 24, 2025.

YOGURT TIME, LLC v. OFFICE OF TAX APPEALS AND CDTFA
Court of Appeal, First Appellate District: A172144
San Francisco County Superior Court: CPF-24-518653
Sonoma County Superior Court: 23CV00692
Filed – 09/25/2023

Plaintiff's Counsel
Amin Kazemini, Law Office of Amin Kazemini

CDTFA's Counsel
John Keith

CDTFA Attorney
Kiren Chohan

Issue(s):

Petitioner Yogurt Time, LLC ("Petitioner") seeks the court's review of an Office of Tax Appeals (OTA) decision, dated January 18, 2023, in favor of the Department, and OTA's subsequent June 27, 2023, decision denying Petitioner's request for a rehearing. Petitioner requests the court to review its appeals before OTA for the periods of January 1, 2008, through March 31, 2011, and July 1, 2011, through June 30, 2014, as to the disallowed claimed exempt food sales and unreported ex-tax purchases of fixed assets subject to use tax as well as its requests for relief of the negligence penalties and interest.

Audit/Tax Period: None
Amount: Unspecified

Status:

CDTFA was served with the Complaint on October 18, 2023. Petitioner agreed to a 15-day extension for CDTFA to file its response to the Petition; CDTFA's deadline to file a responsive pleading is now December 4, 2023. On December 4, 2023, CDTFA and OTA filed an Unopposed Motion to Transfer Venue to San Francisco County Superior Court. CDTFA's Motion to Transfer Venue to the Superior Court of Los Angeles was granted on January 31, 2024. On February 7, 2024, the court issued an order granting CDTFA's and OTA's joint motion to transfer the case from the County of Sonoma to San Francisco County. In the Notice of Filing and Transmittal dated August 5, 2024, the San Francisco County Superior Court acknowledged that this case had been transferred to it by Sonoma County. CDTFA's response to the Complaint is due September 9, 2024. CDTFA filed a Demurrer to the Complaint on September 6, 2024. Plaintiff filed its Opposition to the Demurrer on September 23, 2024. CDTFA filed a Reply in support of its Demurrer on September 30, 2024. The hearing on the Demurrer is scheduled for October 15, 2024. On October 15, 2024, following oral argument,

the trial court sustained CDTFA's Demurrer to Plaintiff's Complaint, without leave to amend, on the ground that Plaintiff failed to exhaust its administrative remedies prior to filing suit. On October 16, 2024, CDTFA filed a Notice of Entry of Order Sustaining Without Leave to Amend CDTFA's Demurrer. Petitioner filed a Notice of Appeal on December 13, 2024. The trial court entered a Judgment of Dismissal on January 10, 2025. CDTFA filed and served a Notice of Entry of Judgment on January 13, 2025. Plaintiff previously filed an appeal in this matter, which is pending with the First District Court of Appeal. On March 12, 2025, the Court of Appeal notified the parties that the record on appeal is complete; Petitioner-Appellant's Opening Brief is due April 21, 2025. Petitioner-Appellant filed its Opening Brief on April 21, 2025. However, the Court of Appeal returned the brief to Appellant due to non-conformance with the Rules of Court. On April 25, 2025, the Court of Appeal notified Appellant of its failure to timely file an Opening Brief, and Appellant now has 15 days to file its brief. On May 8, 2025, Petitioner-Appellant filed its opening appellate brief. CDTFA's Respondent's Brief is due June 9, 2025. On June 4, 2025, CDTFA filed the parties' stipulation extending CDTFA's time to file its Respondent's Brief to July 9, 2025.

ZOUSMER v. CDTFA, ET AL.
Sacramento County Superior Court: 34-2022-00326173
Filed – 09/02/2022

Plaintiff's Counsel
David Markham, The Markham Law Firm

CDTFA's Counsel
Andrea Schoor-West

CDTFA Attorney
Andrew Amara

Issue(s):

Plaintiff alleges that Mercedes Benz's business practice of charging a "sales tax" on the disposition fee when a leased car is returned at the end of a car-lease term (labeled in the lease contract as the "Vehicle Turn-In Fee"), violates California's Use Tax Regulation 1660(c)(1), covering leases of tangible personal property.

Plaintiff seeks a determination of the validity of Regulation 1660(c)(1) pursuant to Government Code section 11350, a judicial declaration that the collection of tax on lease disposition fees is unlawful under Regulation 1660(c)(1)(D), and a judicial declaration determining whether the tax collected on lease disposition fees is a sales tax or a use tax. Plaintiff also seeks a refund on behalf of herself and all other members of the general public who paid the tax.

Audit/Tax Period: None
Amount: Unspecified

Status:

Plaintiff served CDTFA with the Summons and Complaint on October 24, 2022. CDTFA's deadline to file a response, absent an extension, is November 23, 2022. The parties stipulated to stay this matter pending the outcome of the Stettner I appeal, and the court granted the parties' request to stay the case on November 15, 2022.

Sales and Use Tax
LITIGATION ROSTER
JUNE 2025

CLOSED CASES

Case Name	Case Number
HARD EIGHT NUTRITION LLC v. CDTFA	24STCV33330

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