

Income/Franchise:

California Superior Court Declares Franchise Tax Board's P.L. 86-272 Guidance Invalid

Case No. CGC-22-601363, Cal. Super. Ct. (12/13/23). In a lawsuit involving an industry trade association challenging the validity of the California Franchise Tax Board's (FTB) Technical Advice Memorandum (TAM) 2022-01 [see previously issued Multistate Tax Alert for more details on this FTB memo] and related FTB publication (Publication 1050) addressing the application of P.L. 86-272 to activities conducted via the internet [see *State Tax Matters*, Issue 2022-34, for more details on the industry trade association's original filed complaint], a California superior court recently granted the trade association's motion for summary judgment, concluding that TAM 2022-01 and Publication 1050 were void because they constituted regulations that were required to be adopted, but were not adopted, in compliance with the California Administrative Procedure Act (APA).

URL: <https://webapps.sftc.org/ci/CaseInfo.dll?&SessionID=2DE66B2EDCB2C94338466ACA8127855C105ABBC1>

URL: <https://www.ftb.ca.gov/tax-pros/law/technical-advice-memorandums/2022-01.pdf>

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/california-franchise-tax-board-guidance-application-pl86272-activities-conducted-internet.pdf>

URL: https://dhub.deloitte.com/Newsletters/Tax/2022/STM/220826_1.html

See recently issued Multistate Tax Alert for more details on this ruling, as well as some related taxpayer considerations, and please contact us with any questions.

URL: <https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-california-court-declares-franchise-tax-board-pl-86-272-guidance-invalid.pdf>

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