

STATE OF CALIFORNIA  
OFFICE OF TAX APPEALS

In the Matter of:

Conrad E. Dandridge                    )  
Appeal Hearing                            )  
\_\_\_\_\_                                  )

Case No.: 18042751

FRANCHISE AND INCOME TAX APPEALS HEARING

OFFICE OF TAX APPEALS HEARINGS

HEARING ROOM

400 R. STREET

SACRAMENTO, CALIFORNIA 95811

TUESDAY, JANUARY 29, 2019

9:00 A.M.

Reported by:

Gigi Lastra

APPEARANCES

ADMINISTRATIVE LAW JUDGES

Amanda Vassigh, Lead

Tommy Leung

Jeff Angeja

CLERK

APPEARING FOR FRANCHISE TAX BOARD

David Kowalczyk, Tax Counsel

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APPEARING FOR TAXPAYER

Conrad Dandridge, Taxpayer

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P R O C E E D I N G S

9:11 A.M.

SACRAMENTO, CALIFORNIA

TUESDAY, JANUARY 29, 2019

LEAD ADMIN. LAW JUDGE VASSIGH: Good morning,  
thank you for coming here today. I'm going to ask for  
the case to be called.

CLERK: This case is Conrad E. Dandridge, Case  
No. 18042751.

LEAD ADMIN. LAW JUDGE VASSIGH: All right. My  
name is Amanda Vassigh. I'm the lead judge in this case.  
I'm here with my co-panelists, Jeff Angeja and Tommy  
Leung. I would like to have the parties introduce  
themselves, please. State and spell your name.

MR. DANDRIDGE: Conrad E. Dandridge, C-o-n-r-a-  
d. Last name is D as in David a-n-d-r-i-d-g-e.

LEAD ADMIN. LAW JUDGE VASSIGH: Thank you.

MR. KOWALCZYK: David Kowalczyk, for the  
Franchise Tax Board, D-a-v-i-d K-o-w-a-l-c-z-y-k.

MS. PARKER: Nancy Parker for Respondent.

LEAD ADMIN. LAW JUDGE VASSIGH: And Mr.  
Dandridge, I'd like to confirm you have no witnesses  
today?

MR. DANDRIDGE: I have no witnesses.

1           LEAD ADMIN. LAW JUDGE VASSIGH: Okay. Well,  
2 before we go on the record, which means that our court  
3 reporter will be transcribing our hearing I'd like to  
4 briefly emphasize a few highlights. This is an informal  
5 hearing and the judges on the panel have read all the  
6 documents the parties provided in advance, are aware that  
7 we have some new documents this morning to look at.

8           Our goal here today is to provide the parties  
9 with a fair and efficient hearing. To that end we'll be  
10 following certain guidelines to ensure that we establish  
11 a proper record on which a decision may be based and to  
12 conduct an orderly hearing.

13           We've gone over what to expect today at our  
14 prehearing conference. As a reminder, Mr. Dandridge has  
15 elected to present an opening statement. Does the FTB  
16 intend on presenting an opening statement, as well?

17           MR. KOWALCZYK: No.

18           LEAD ADMIN. LAW JUDGE VASSIGH: Okay. And when  
19 we do go on the record, we'll begin with Mr. Dandridge's  
20 opening statement. And then Mr. Dandridge, you'll have  
21 ten minutes to present your testimony portion. FTB will  
22 have ten minutes to question you. And then the parties  
23 will have ten minutes each for closings. And Mr.  
24 Dandridge, you'll have five minutes at the end if you  
25 have any rebuttals or final remarks.

1           Myself and my fellow panelists may ask  
2 questions from time to time. We try to do it in a way  
3 that doesn't break up the flow of the presentations, but  
4 we just want to make sure that we understand exactly what  
5 you're saying.

6           Fair warning, I may interrupt you if we get out  
7 of order or become counterproductive. My role is to just  
8 keep us on track and create a clean and efficient hearing  
9 record. If at any time you need clarification or you  
10 have a question, please direct your questions towards the  
11 panel. Do we have any questions before we go on the  
12 record? Okay.

13           MR. DANDRIDGE: One question. Can I stand?

14           LEAD ADMIN. LAW JUDGE VASSIGH: You can stand.  
15 You can do whatever you feel more comfortable with.

16           And FTB, you took a little bit of time to look  
17 at some new documents that Mr. Conrad [sic] would like  
18 to enter. Do you have any objections to that?

19           MR. KOWALCZYK: No objections.

20           LEAD ADMIN. LAW JUDGE VASSIGH: Okay. We are  
21 now going to go on the record. We are opening the record  
22 in the appeal of Conrad Dandridge before the Office of  
23 Tax Appeals in Case No. 180142751. Today is January 29,  
24 2019. And the time is 9:16 a.m. This hearing is being  
25 convened in Sacramento, California.

1 Today's case is being heard by a panel of three  
2 judges. My name is Amada Vassigh and I will be acting as  
3 Lead Judge for the purpose of conducting the hearing.  
4 Tommy Leung and Jeff Angeja will also be participating in  
5 the hearing. We have read the briefs and examined the  
6 exhibits that were produced beforehand. All three judges  
7 will be tasked with making a decision in this matter as  
8 equal participants. Although I may conduct the hearing  
9 any judge on the panel may ask questions and otherwise  
10 participate to ensure that we have all of the information  
11 needed to make a fair decision.

12 So let's have the parties state their  
13 appearances for the record. Mr. Dandridge, please state  
14 your name.

15 MR. DANDRIDGE: Conrad E. Dandridge.

16 LEAD ADMIN. LAW JUDGE VASSIGH: And I already  
17 asked you to spell it, but I'm going to ask you again for  
18 the record. I apologize.

19 MR. DANDRIDGE: Conrad. It's C-o-n-r-a-d.  
20 Dandridge, D-a-n-d-r-i-d-g-e.

21 LEAD ADMIN. LAW JUDGE VASSIGH: Thank you.  
22 And representing the FTB?

23 MR. KOWALCZYK: David Kowalczyk.

24 LEAD ADMIN. LAW JUDGE VASSIGH: And I'm going  
25 to ask you to spell it again. I'm sorry.

1 MR. KOWALCZYK: D-a-v-i-d K-o-w-a-l-c-z-y-k.

2 LEAD ADMIN. LAW JUDGE VASSIGH: Thank you.

3 MS. PARKER: And Nancy Parker for Respondent,  
4 N-a-n-c-y P-a-r-k-e-r.

5 LEAD ADMIN. LAW JUDGE VASSIGH: The issue on  
6 appeal is whether Appellate, Mr. Dandridge, is entitled  
7 to claim a deduction for the mortgage insurance premium  
8 for the 2012 tax year.

9 It's my understanding, based on a prehearing  
10 conference, that there were no objections to the  
11 exhibits, previously submitted, and there are no  
12 objections to the exhibits Mr. Dandridge would like to  
13 submit this morning; is that correct?

14 MR. KOWALCZYK: Correct.

15 LEAD ADMIN. LAW JUDGE VASSIGH: And Mr.  
16 Dandridge, you have no objections to the FTB's exhibits?

17 MR. DANDRIDGE: No.

18 LEAD ADMIN. LAW JUDGE VASSIGH: Okay. So we  
19 have Respondent's Exhibits A through E listed in the  
20 exhibit log before you. And Mr. Dandridge, you also have  
21 what was presented to us as two packages. Are these --

22 MR. DANDRIDGE: They're going to -- I'll  
23 identify them as I go through today.

24 LEAD ADMIN. LAW JUDGE VASSIGH: Okay. But  
25 we'll need to identify them now. We'll make them now as



1 F and G?

2 MR. DANDRIDGE: Correct.

3 LEAD ADMIN. LAW JUDGE VASSIGH: Okay. So F is  
4 the personal income tax booklet for 2012?

5 MR. DANDRIDGE: Correct.

6 LEAD ADMIN. LAW JUDGE VASSIGH: And Exhibit G  
7 is this package. How would you describe this package,  
8 Mr. Dandridge?

9 MR. DANDRIDGE: They're information on  
10 definitional terms and also clarifications to the law.

11 LEAD ADMIN. LAW JUDGE VASSIGH: Okay. So your  
12 research package?

13 MR. DANDRIDGE: Yes.

14 LEAD ADMIN. LAW JUDGE VASSIGH: Okay. So  
15 Exhibit G is your research package. So Mr. Dandridge, if  
16 you can take a second to look at the revised exhibit log  
17 and the copies of the Exhibits F and G before you and  
18 just confirm that this is what you expect to see in the  
19 record.

20 MR. DANDRIDGE: Yes.

21 LEAD ADMIN. LAW JUDGE VASSIGH: And FTB, can  
22 you confirm for the record there are no objections to any  
23 of these exhibits?

24 MR. KOWALCZYK: No objections.

25 LEAD ADMIN. LAW JUDGE VASSIGH: Thank you.

1 Exhibits A through G are now admitted into the record.

2 (Respondent's Exhibits A through G are admitted  
3 into evidence.)

4 I referred to those initially as Respondent's  
5 Exhibits. They were Appellant's Exhibits. Then we have  
6 Respondent's Exhibits 1 through 3. Mr. Kowalczyk, does  
7 this reflect what you expect to see in the record?

8 MR. KOWALCZYK: 1 through 3 is actually  
9 Appellant's Exhibits.

10 LEAD ADMIN. LAW JUDGE VASSIGH: You're right,  
11 so let me make a correction to Appellant's Exhibits.  
12 That would have been 1 through 3, previously submitted; 4  
13 is the 2012 booklet and 5 will be the research package.

14 So Exhibits 1 through 5 are now admitted into  
15 the record.

16 (Respondent's Exhibits A through G are admitted  
17 into evidence.)

18 And Respondent's Exhibits are A through E.  
19 [sic] Mr. Kowalczyk, does that reflect what you expect to  
20 see in the record?

21 MR. KOWALCZYK: Yes.

22 LEAD ADMIN. LAW JUDGE VASSIGH: Thank you for  
23 the correction, by the way.

24 And Mr. Dandridge, can you confirm for the  
25 record that there are no objections to these exhibits?

1 MR. DANDRIDGE: No objections from me.

2 LEAD ADMIN. LAW JUDGE VASSIGH: Exhibits A  
3 through E are now admitted into the record.

4 We'll now begin with Mr. Conradge's [sic]  
5 opening statement. As discussed previously you'll have  
6 five minutes for that opening. Please keep your opening  
7 to an explanation of what you intend to prove during the  
8 evidentiary portion of the hearing. Mr. Dandridge, I'm  
9 going to swear you in, now. And you'll remain under oath  
10 until the hearing is over. So please stand and raise  
11 your right hand.

12 CONRAD E. DANDRIDGE  
13 Appellant, having been first duly sworn by the  
14 Administrative Law Judge, was examined and testified as  
15 follows:

16 MR. DANDRIDGE: I do.

17 LEAD ADMIN. LAW JUDGE VASSIGH: Thank you.  
18 Please begin when you are ready.

19 MR. DANDRIDGE: Good morning. I'm walking into  
20 this hearing room with a little bit of -- I'm a taxpayer,  
21 so let me give you a little background about myself real  
22 quickly: At 13 years old I spoke out against Prop 13 in  
23 front of 10,000 teachers at the Oakland Coliseum with  
24 Willie Brown and Grey Davis in attendance. I went to  
25 college at the University of California Berkeley, served

1 in the Air Force Reserves, and then went on to work for  
2 the Department of Justice with the Drug Enforcement  
3 Administration doing a detail at the National Security  
4 Administration where I briefed President Clinton three  
5 times on narcoterrorism.

6 I came back. After working in the U.S.  
7 Attorney's Office I worked for the Contra Costa County  
8 Administrator's Office. I did some teaching, worked for  
9 the County Office of Ed, worked for the Bureau of Census  
10 and the last 17 years I've been an analyst with either  
11 TSA or presently I'm with Custom's and Border Protection.  
12 And yes, I just returned to work yesterday.

13 And what I want to cover here is that what I'm  
14 looking for is for you to affirm that I'm entitled to the  
15 deduction of my mortgage insurance premium that was paid  
16 to the Federal Housing Administration.

17 There are a lot of errors here. I have a lot  
18 of questions. You're going to have a lot of questions,  
19 because we need to figure out who is correct. Who is  
20 making a mistake, because somebody's made a mistake here.

21 In one of the pieces of paper, the Notice of  
22 Action that was sent to me by the Franchise Tax Board, it  
23 reads that the taxpayer's are required to follow the law  
24 and not the instructions. Wow! If every resident in the  
25 State of California was required to know every little bit

1 of the law why do we need the Franchise Tax Board to put  
2 out a tax booklet? Just send out the State Constitution  
3 and you have to go from there.

4           And I get it. They represent that this tax  
5 booklet, from 2012, 68 pages, is an authoritative law.  
6 But as a taxpayer, as a public servant, we are required  
7 to give a duty of care and I expect a duty of care from  
8 the Franchise Tax Board.

9           We need to look at the law, the instructions  
10 and legislative intent. We're going to look at things  
11 from the Franchise Tax Board making mistakes in their  
12 brief, in their responses to me, and the publications of  
13 the prep -- public. We're going to talk about the  
14 failure to follow state law, if they failed -- did they  
15 fail, maybe they didn't fail -- failure to do their duty  
16 of care to us. I looked at their brief and their brief  
17 prints out tax information about me, but it wasn't from  
18 when they did the audit. It was from 2018. Where's the  
19 2016 documents that they used to determine what was  
20 wrong?

21           All residents of the State of California have a  
22 responsibility to follow the law, but they also are owed  
23 a duty of care from public servants. Panel, I've raised  
24 my hand and took an oath to defend the Constitution,  
25 since I was 18 years old. In my job with Customs and

1 Border Protection we are the second largest revenue-  
2 collecting agency in the country. And our history is  
3 based on those revenues that customs states. If I give  
4 the wrong information, the wrong information is blamed on  
5 me as the deliverer, as the public servant, as the  
6 professional.

7           We're going to cover certain terms today,  
8 things like legislative grace, which is thrown about, but  
9 let's talk about legislative grace. Let's look at the  
10 fact that in my testimony, in my documents you see, that  
11 I've done everything timely, on time, not making any  
12 mistakes. My tax return is done by hand and it's  
13 legible. And why would I make a mistake? I'm audited  
14 every year from the IRS, because I have a national  
15 security clearance. The IRS doesn't come after me.

16           What I look for at the end of this hearing is  
17 to give you information so that you can make a fair and  
18 balanced decision that I followed the rules and I'm  
19 entitled to the deduction for the mortgage insurance  
20 premium I pay to the federal government, because in my  
21 documentation for ten years the Franchise Tax Board  
22 refers to the term "private mortgage insurance". And in  
23 my exhibits, I show from 2001 through 2016 they knew the  
24 difference between what was private and what wasn't.  
25 They don't define what is private. They depend on the

1 Internal Revenue Service to do that. And U.S. Code 26  
2 defines what is private and what isn't private.

3 Now they bandy around terms, some of the  
4 exhibits I just gave you are -- and I'll refer to that is  
5 where the terms get mixed up -- but what is private is  
6 pretty much a bright line. Private is pretty much a  
7 bright line. Private is not public or government. What  
8 my insurance was, was insurance that was ordinary and  
9 necessary for me to have a mortgage through the Federal  
10 Housing Administration, which was created in 1939.

11 Until recently the Franchise Tax Board's  
12 instructions have not changed. So who's making a  
13 mistake? Who's following the law? We're going to look  
14 at those things. We're going to have a lot of questions.  
15 And a lot of the information I have for you is going to  
16 bear out the points that I'm making.

17 Who I am? I'm a public servant. I come from  
18 parents who were public servants, a family of public  
19 servants. By statute, I am to pay my taxes. I am not to  
20 break the law.

21 At the end, we're going to have to look at  
22 certain types of ethical choices, whether sins of  
23 commission, sins of omission? Or maybe there's just  
24 misunderstanding of what the law is.

25 Did the Franchise Tax Board actually define

1 what the law was, because that's their job to do for the  
2 Legislature. Did they do it? Maybe they didn't make a  
3 mistake in a book. Maybe the mistake was made by the  
4 folks that were looking at my tax returns. Maybe I did  
5 everything right. All I know is that I followed the  
6 instructions, because that was what the information was.  
7 The information says to check the conformity website, to  
8 check the conformity booklet. And in the conformity  
9 booklet, the 101, the 1001 booklet, which is part of the  
10 exhibit, the term private mortgage insurance is used.

11 I'm here today as a public servant pointing out  
12 a mistake. My last job, that I was sworn into, my boss -  
13 - I won't use the exact language he used -- was "I have  
14 three rules. Don't foul up. Don't foul up. Don't foul  
15 up. If you do something because you're trying to do  
16 something the correct way, I will back you 100 percent.  
17 But if you do something because you're trying to avoid it  
18 or you're trying to omit it or you're trying to get away  
19 with it, I will drop kick you into the next century."

20 So standing before you is not an ordinary  
21 taxpayer. It's a taxpayer, who is a public servant and  
22 understands the duty of care owed by public servants,  
23 like all of us, to the residents of the State of  
24 California. Thank you.

25 LEAD ADMIN. LAW JUDGE VASSIGH: Thank you Mr.



1 Dandridge.

2           We will now move on the evidentiary portion of  
3 today's hearing and we will begin again with Mr.  
4 Dandridge. I'm going to invite you to testify and  
5 explain your position.

6           MR. DANDRIDGE: I received a letter in 2016  
7 stating that I had failed to follow the tax instructions.  
8 So I provided information stating that I had followed the  
9 tax instructions. And the first response I got back was  
10 a misstatement of California law. And I went to that  
11 law, Revenue and Tax Code 17225. In the response from  
12 the Franchise Tax Board it says, "Under California law,  
13 mortgage insurance premiums are not treated as interest  
14 paid on acquisition and indebtedness of a qualified  
15 resident and not deductible."

16           After this time I reached out to my local  
17 members of the state Legislature who provided me with  
18 Senator Bill Dodd, Assemblyman Tim Grayson and at the  
19 time Board of Equalization Member Fiona Ma. And they  
20 provided me some information. I also spoke with the  
21 Franchise Tax Board Representative with the Board of  
22 Equalization, and he pointed out that there may have been  
23 some communication or miscommunication about what  
24 mortgage insurance is and looking to the federal law.

25           So in looking at the brief -- oh, and in the

1 Notice of Action they point out that deductions are a  
2 matter or legislative grace and the burden is on the  
3 taxpayer to prove expenses are within the terms of the  
4 statute. So, being a novice, I had to go look up what  
5 legislative grace is. And legislative grace is actually  
6 defined by the Supreme Court as "any tax relief provided  
7 to taxpayers as a result of specific acts of Congress  
8 must be strictly applied and interpreted. All income is  
9 received as taxable unless there's a specific provision  
10 that can be found in the tax law that excludes the income  
11 from taxation. Deductions must be approached with the  
12 philosophy that nothing is deductible unless there is a  
13 provision in the tax law that allows the deduction."

14 Now, please understand --

15 LEAD ADMIN. LAW JUDGE VASSIGH: Mr. Dandridge,  
16 sorry, are you referring to one of your exhibits right  
17 now?

18 MR. DANDRIDGE: Oh, yes. It's in the research  
19 packet.

20 LEAD ADMIN. LAW JUDGE VASSIGH: Okay.

21 MR. DANDRIDGE: It should be marked with an A1.

22 LEAD ADMIN. LAW JUDGE VASSIGH: Thank you.

23 MR. DANDRIDGE: Now, understand that that  
24 concept refers to the term "legislative grace." Let's  
25 look to the Franchise Tax Board's brief. They site two

1 Supreme Court cases -- I'm not sure why they support  
2 them, they cite them -- or one Supreme Court case and one  
3 Board Equalization case when they talk about legislative  
4 grace. The Supreme Court case deals with business  
5 expenses from 1992, looking at the concept of ordinary  
6 and necessary business expenses. We're not talking about  
7 business expenses. We're talking about mortgage interest  
8 deduction.

9 LEAD ADMIN. LAW JUDGE VASSIGH: Which case is  
10 that?

11 MR. DANDRIDGE: This is the *INDOPCO, Inc. v.*  
12 *Commissioner*, which is cited under the Franchise Tax  
13 Board's position in their brief. They also cite an  
14 appellate case before the State Board of Equalization,  
15 that deals with again business expenses. Then they go on  
16 to cite two more Supreme Court cases, *Welch v. Helvering*,  
17 which really deals with that ordinary, that concept as  
18 Justice Cardozo said, the concept of "ordinary and  
19 necessary business expenses" and then another appeal case  
20 that deals again with business expenses. So I'm not  
21 quite sure what they meant, but I think what they were  
22 trying to say is the legislative grace. Legislative  
23 grace was a concept first coined by the Supreme Court.  
24 It refers to Congress, because Congress has an express  
25 and absolute right to create tax law in the United States

1 given to it by Article 1 Section 8 of the Constitution  
2 and the 16th Amendment. Where it says, "Congress shall  
3 have the power" -- shall have the power -- "to lay and  
4 collect taxes on income from whatever source derived,  
5 without apportionment among the several States, and  
6 without regard to any census or enumeration."

7           Just in *White v. U.S.* the Supreme Court said  
8 this is an absolute power. During a battle over the  
9 Affordable Care Act they stated, in a brief from the  
10 Washington Legal Foundation that the IRS has relied on  
11 the legislative grace canon to deny taxpayers deductions,  
12 credits and exemptions whenever it is unclear that the  
13 tax code prevents it.

14           So these are all cases at the federal level.  
15 What about the State of California? Does the California  
16 Legislature have absolute authority over tax matters? No  
17 they don't. The Constitution, which is included in their  
18 packet, Article 13 of the California State Constitution  
19 Section 26(a) states, "Taxes on or measured by income may  
20 be imposed on persons, corporations or other entities,  
21 prescribed by law." Compare that to the Supreme -- or  
22 U.S. Constitution with the word "shall." "May" or  
23 "shall," but something else popped up. Who else in  
24 California has the right to offer up law? We, the  
25 residents of the State of California. In my research

1 packet is an article or a piece from the California State  
2 Attorney General's Office that says, "Ballot initiatives  
3 can be offered up, bypassing the Governor and the  
4 Legislature, going directly to the people to create law."  
5 Proposition 13, perfect example.

6           So the canon of legislative grace is not an  
7 absolute one. At the federal level, yes; at the state  
8 level, no. Even the California Supreme Court in some of  
9 their rulings have stated that there's some question on  
10 where that legislative grace canon lies.

11           So let's look at some of the other mistakes.  
12 Saying that mortgage insurance premiums are not  
13 deductible. Look in my earlier exhibits, I offered up  
14 information from 2001 an Assembly bill, AB 273, where  
15 they were talking about private mortgage insurance. And  
16 then they said, "Oh, we have people that have things that  
17 aren't private mortgage insurance: VA, FHA, Rural  
18 Housing." And they amended the analysis. The bill  
19 didn't go anywhere. Private mortgage insurance had never  
20 been deductible off your federal income taxes until the  
21 passage of the Homeowners Protection Act, which defines  
22 what private mortgage insurance is. Please understand,  
23 the Franchise Tax Board and the state Legislature does  
24 not define these terms. They rely on the federal  
25 government to define the terms.

1           In the research packet you'll find articles on  
2 what FHA insurance is, what VA insurance is and what  
3 Rural, which is now referred to as USDA. The differences  
4 between private in mortgage, which is one of the articles  
5 I provided to you earlier in one of my packets -- an  
6 article on private mortgage insurance -- and what is a  
7 qualified mortgage insurance. These are all discussions  
8 I had with the Franchise Tax Board representative in body  
9 with the Board of Equalization.

10           Now, going to the brief from the Franchise Tax  
11 Board there's some contradictions. In the brief under  
12 the position he states, "To reconcile the difference  
13 between federal treatments of the MIP expense" -- I'm not  
14 sure where the MIP expense is described in any of the tax  
15 booklets -- "you are required to subtract your MIP  
16 expense on line 41 of Schedule A." I'm not quite sure  
17 where it says that.

18           The actual language in the tax booklet, which  
19 you guys have in your exhibits states if I had private  
20 mortgage insurance, PMI, the right line, private mortgage  
21 insurance -- private, meaning not of public, not of  
22 government. Then he goes on to state, "Even though the  
23 schedule A instructions specified that only taxpayers who  
24 paid private mortgage insurance should add the amount of  
25 premiums on line 41 the FTB can appreciate the language

1 in the Schedule A instructions was not as broad as it  
2 should have been." Not as broad as it should have been:  
3 2007, 2008, 2009, 2010, '11, '12, '13, '14, '15, '16.  
4 They used the same language, private mortgage insurance,  
5 PMI, is not needs to be removed from line 47. The same  
6 language.

7           Hold on. When you go to the book that they put  
8 out, the instruction book, and they tell you this is the  
9 actual 2012 book they have all this information on what  
10 new and important information in 2012. They talk about  
11 the Mortgage Forgiveness Debt Relief extended. They talk  
12 about the mortgage credit, but they don't say anything  
13 about the mortgage insurance premium. They tell you that  
14 you need to figure out what's the difference in  
15 conformity. You go to the website. I pulled the  
16 website. It's part of the exhibit. They tell you to go  
17 and look in the booklet that describes the differences in  
18 detail between federal and state law: 2008, '09, '10,  
19 '11, '12, '13, '14, '15 and '16. That booklet refers to  
20 private mortgage insurance and tells you to go back to  
21 the instructions in this booklet to figure out anything  
22 else.

23           The booklet is their representation of the law.  
24 Sure, it's not authoritative law. So let's look at the  
25 law. The law says, "Mortgage insurance premiums

1 according to the IRS section quoted shall not be not be  
2 treated as interest." But the law also says that the  
3 Franchise Tax Board has to present an analysis of that  
4 law prior to that law becoming law. And in the analysis  
5 of the law by the Franchise Tax Board themselves they  
6 used the term "private mortgage insurance." "The  
7 extension of private mortgage insurance will not  
8 conform." Not mortgage insurance premiums, not qualified  
9 mortgage insurance, private mortgage insurance.

10           Go back, 2007, summary of income tax changes.  
11 They talk about the extension and treatment of -- that  
12 mortgage insurance premiums is interest. They talk about  
13 qualified mortgage insurance. They -- this is their  
14 work -- mortgage insurance provided by the veteran  
15 (indiscernible) federal housing and rural and private  
16 mortgage insurance, as defined under Section 2 of the  
17 Homeowners Protection Act of 1998.

18           They also use the term "qualified mortgage  
19 insurance," but then they go on to talk about the federal  
20 law, extending the deduction for private mortgage  
21 insurance. They don't say that the law extended to  
22 deduction for anything else, private mortgage insurance.

23           Then they go on and they start talking in the  
24 conformity tables: extension of private mortgage  
25 insurance conform with objection. So the Franchise Tax



1 Board is objecting to the conformation. They make a  
2 typo. They say two objections. Allowing the deduction  
3 for personal, they meant private, mortgage insurance  
4 subsidizing taxpayers who choose this type of mortgage.  
5 And two, PMI should not be allowed as a deduction as it  
6 is one of the contributing factors that lead to the  
7 foreclosure crisis. Well, that's the same language they  
8 used in 2001 when debating whether to have private  
9 mortgage insurance deducted off of state taxes.

10 All in the record that I've provided to you in  
11 the exhibits; it's all there.

12 The federal stature makes a clear bright line  
13 definition of what they consider to be mortgage  
14 insurance. In the public law, which is in one, it is in  
15 my original exhibit packet and two, it is in the research  
16 packet, because I went back and found the actual law from  
17 2006 and 2007. It states that mortgage insurance,  
18 qualified mortgage insurance, is mortgage insurance  
19 provided by the Veterans Administration, the Federal  
20 Housing Administration and the Rural Housing  
21 Administration. Two, private mortgage insurance is  
22 defined by Section 2 of the Homeowner's Act.

23 Now, what does the law say? What is the  
24 interpretation of the law? Well the Franchise Tax Board,  
25 in 2013 actually published -- because this morning I

1 found -- I decided that I was going to go back and find  
2 the actual tax documents, because those actual tax  
3 documents were not provided by the Franchise Tax Board,  
4 by the IRS. So you have got a copy of them. You have a  
5 copy of my schedule A. You have a copy of the  
6 information from Wells Fargo on my 1098. And at the  
7 bottom it says, "Recent passage of the American  
8 Taxpayer's Relief Act may provide additional savings to  
9 homeowners and they've extended the mortgage insurance  
10 premiums." So now, I'm like okay. Let me do some more  
11 research.

12           The booklet says private mortgage insurance.  
13 The law is referring to mortgage insurance premiums  
14 treated as interest, because that's the title of the IRS  
15 code section, which goes into detail. On the tax STRS  
16 form (phonetic) it says "qualified mortgage insurance."  
17 So what are we talking about? What are the definitions?  
18 That's why I provided you the research packet, because  
19 they used to give you a clear idea that MIP, PMI. But  
20 PMI is regulated by the State of California. Civil Code  
21 Division 3, Part 4, Title 14, Chapter 2, Article 2, "The  
22 State of California regulates private mortgage  
23 insurance." Do they regulate VA, FHA, RHA? No, they  
24 don't.

25           I provided you exhibits. I provided you some

1 definitions of what is qualified mortgage insurance,  
2 qualified mortgage insurance is that insurance that's  
3 paid to the federal government. Private mortgage  
4 insurance is paid to a private company. There are  
5 certain rules and regulations.

6           If we take the Franchise Tax Board's two  
7 Supreme Court cases, and you look at the arguments of  
8 ordinary and necessary, mortgage insurance is ordinary  
9 and necessary to have a VA loan. It's called funding  
10 fees. For FHA it's called mortgage insurance premiums.  
11 For RHA -- because those programs were set up to foster  
12 homeownership throughout the United States by those wise  
13 538 people on the Hill who had absolute right to do so.

14           California's trying to conform. State law says  
15 that California Franchise Tax Board -- and this is one of  
16 the exhibits that I provided early on -- states that it  
17 is the responsibility that they have to do it. They  
18 don't even have a choice. They have to provide a final  
19 analysis of the law and it has to be sent to the public  
20 and to the state Legislature. We have a copy of their  
21 final analysis. Those terms are used, "private mortgage  
22 insurance."

23           But in 2013 something else happened. What  
24 happened in 2013? Oh, the Taxpayer's Act. And when  
25 there's a change in federal law that may affect

1 conformity the Franchise Tax Board is required to report  
2 to the State Legislature. And they did so and the  
3 language that they used in that document reads as this,  
4 "Private mortgage insurance, federal law, the provision  
5 extends a deduction for private mortgage insurance  
6 premiums for two years." Then they go on to state,  
7 "California law, the personal income tax law specifically  
8 does not conform to the federal deduction for private  
9 mortgage insurance premiums. As a result, private  
10 mortgage insurance premiums are not deductible under  
11 California law." This is a document from the Franchise  
12 Tax Board.

13           Controller Chiang submitted this to the  
14 Legislature. In my interviews with Steve Felanges,  
15 (phonetic) a Legislative Aide to Senator Bill Dodd he's  
16 like, "We make sure we're going over this. The lawyers  
17 are going over this. They're making sure everything's  
18 right."

19           In 2013, the Franchise Tax Board stated  
20 clearly, bright line, specifically private mortgage  
21 insurance is not deductible. That matches what is in  
22 their booklets, in their instructions, in their analysis.  
23 Then all of a sudden in 2016 they come back and say, "Mr.  
24 Dandridge, you can't deduct the mortgage insurance  
25 premium." My response is because private mortgage

1 insurance isn't deductible. I didn't have private  
2 mortgage insurance. I had a mortgage insurance that was  
3 qualified, because it was part of the deal the federal  
4 government made to assist me in purchasing my first home  
5 and the rules and regulations that I had to follow, the  
6 lenders that I had to do specified by federal law.

7           It wasn't private. It wasn't because I chose  
8 not to put down 20 percent. I was a first-time  
9 homeowner. I was having a kid. I was a public servant.  
10 So the questions are what is qualified mortgage  
11 insurance? The state doesn't define it, but the federal  
12 government does. They define it clear and bright line,  
13 because that's their job. Their job is Congress makes  
14 tax law.

15           I reached out to a friend of mine I went to  
16 college with. She was a Deputy Counsel for the Senate  
17 Finance Committee during this time. She now works for  
18 the IRS and the IRS part that looks over state taxes.  
19 And she basically said, "Conrad, you're right. It's  
20 private mortgage insurance, because it's defined by the  
21 federal government and in the state documents as being  
22 defined by the Homeowners Protection Act."

23           It's not mortgage insurance premiums. Now, the  
24 whole title of the section is defined as mortgage  
25 insurance premiums, but the Franchise Tax Board has

1 already come out and said no, it's private mortgage  
2 insurance. And they've said that multiple times: 2001  
3 bill analysis, 2007, 2010. In the final analysis to the  
4 State Senate, 2013, after there was another federal law  
5 change, because they were meeting the terms that the  
6 State Legislature puts out that says they must do this  
7 for the public.

8           He has a residence? I'm doing my taxes. I'm  
9 doing my due diligence. I have the tax booklets. I  
10 wonder how many residents in the State of California  
11 still have their 2012 tax booklet? Not many, but I do,  
12 because I keep all that stuff. And when I flip to it,  
13 which you have a copy of it, it says line 41 -- they have  
14 a lot of information in here -- mortgage interest credit,  
15 business expenses, investment income, gambling losses,  
16 health savings account, private mortgage insurance -- if  
17 you took the debt deduction on federal Schedule A, Form  
18 1040, line 13, then subtract the same amount, line 41.

19           Fact, I do not have private mortgage insurance.  
20 Fact, the Franchise Tax Board has deemed that private  
21 mortgage insurance is not deductible. They didn't say  
22 "qualified mortgage insurance." They didn't say mortgage  
23 insurance premiums. Legislative grace, it applies, but  
24 it's not an absolute.

25           The State Legislature depends on the Franchise

1 Tax Board to provide them the correct information in the  
2 analysis of the bill. Senator Dodd's office said if  
3 that's what they said in their analysis that was the  
4 legislative intent. "Look to the law," he said to me.  
5 His Chief of Staff said it to me. His Legislative  
6 Analyst helped me find the actual state law to make sure  
7 I was finding what I needed to fine. That's what the law  
8 says.

9           The Franchise Tax Board's interpretation of it  
10 has now changed from 2013 to 2018. Does the State  
11 Legislature know that it's changed? Have they done a new  
12 analysis of it, because all the evidences say private  
13 mortgage insurance? Why? Because private mortgage  
14 insurance was bad.

15           Federal, qualified mortgage insurance, you've  
16 got the packets on the history of the FHA, the VA, and  
17 the USDA. Why they were created, what they were used  
18 for. They weren't done to help people get away with  
19 stuff. They were done to help residents and citizens buy  
20 a home.

21           This may come down to definitions of  
22 legislative intent. But the Franchise Tax Board has been  
23 pretty clear from a bright line standpoint of what was  
24 deductible and what wasn't. And now to come back and say  
25 whoa, legislative grace means the burden's on me. Okay,

1 if we were doing with federal tax law, darn straight.  
2 But to demand? All of us could to get together. We  
3 could write a tax law. We could send it to the Attorney  
4 General's Office. We could get enough signatures and we  
5 could create tax law in the State of California, which  
6 means the Legislature does not have exclusive claim to  
7 tax laws. The State Constitution uses the word "may,"  
8 not "shall," not "must."

9           The legislative grace? It may apply. It may  
10 not. The cases that the Franchise Tax Board have put in  
11 their brief don't apply, but their contradiction stands  
12 out. Where does it say I was required? Who said you are  
13 required to subtract your MIP expense? Where does it say  
14 that?

15           Then it jumps down and says -- and I don't know  
16 which is worse -- the statement "taxpayers are required  
17 to follow the law," and that's the instructions. So if  
18 I'm driving down the road and I see a speed limit sign  
19 and it says 65 and I'm doing 60 and I get pulled over  
20 doing 60 in a 55 what's going to happen? The speed limit  
21 sign said 65.

22           Or the Franchise Tax Board can appreciate the  
23 language in the Schedule C instructions was not as broad  
24 as it should have been. Maybe that was a mistake for one  
25 year? But remember ten years. You've got them. You've



1 got a copy of the statement. You see the revision dates.  
2 Some of the revision dates are after they were issued.  
3 You've got the copies of the publication 1001 that says  
4 at the top the differences between state and federal law.  
5 Does it say mortgage insurance premium? It says private  
6 mortgage insurance.

7 Are you're telling me that lawyers weren't  
8 looking over these publications? That this went  
9 unchecked for ten years, because if that's the case Holy  
10 Toledo, we've got to start looking at everything with a  
11 microscope. Because I know if my boss was in charge  
12 somebody's head, somebody's you know what be kicked into  
13 the next century.

14 And maybe they got it right and they're getting  
15 it wrong now. That's the decision that you guys need to  
16 make.

17 LEAD ADMIN. LAW JUDGE VASSIGH: Thank you, Mr.  
18 Dandridge. We went over time a little bit. I just  
19 wanted to give you the opportunity to present your whole  
20 position. We'll go to the FTB now and then you will have  
21 a brief rebuttal opportunity, but we'll keep that one  
22 within the time limit.

23 Mr. Kowalczyk, whenever you're ready.

24 MR. KOWALCZYK: Okay. Good morning. The issue  
25 before us today is whether Conrad Dandridge met his

1 burden of proof to establish he is entitled to claim a  
2 deduction for mortgage insurance premiums for tax year  
3 2012.

4           After Mr. Dandridge timely filed his 2012 tax  
5 return the Franchise Tax Board received information from  
6 the Internal Revenue Service showing that he reported a  
7 \$6,730 deduction for mortgage insurance premiums. The  
8 Franchise Tax Board then proposed to assess additional  
9 tax, because Mr. Dandridge did not subtract out this  
10 deduction on a Schedule CA.

11           The Revenue and Taxation Code Section 17225  
12 clearly states that California does not conform to  
13 Internal Revenue Code Section 163(h)(3)(A) that allows a  
14 deduction for mortgage insurance premiums.

15           Mr. Dandridge argues he relied on the Franchise  
16 Tax Board's instructions that stated taxpayers must  
17 subtract out only private mortgage insurance on the  
18 Schedule CA. The instructions did not state whether he  
19 must subtract other forms of mortgage insurance.

20           However, the State Board of Equalization and  
21 the Office of Tax Appeals have both held that when the  
22 Franchise Tax Board's instructions are alleged to be  
23 unclear or misleading, the taxpayers must follow the law  
24 and not the instructions. Taxpayers should not regard  
25 tax instruction pamphlets as authoritative law. In this

1 case, California law simply doesn't allow taxpayers to  
2 deduct mortgage insurance premiums.

3           Accordingly, Mr. Dandridge has not met his  
4 burden of proof to establish he's entitled to claim a  
5 deduction for mortgage insurance premiums and the  
6 Franchise Tax Board's action must be sustained. Thank  
7 you.

8           LEAD ADMIN. LAW JUDGE VASSIGH: Do my co-  
9 panelists have any questions for the parties?

10           ADMIN. LAW JUDGE ANGEJA: No.

11           LEAD ADMIN. LAW JUDGE VASSIGH: No. Mr. Leung?

12           ADMIN. LAW JUDGE LEUNG: Yeah, I guess I do.  
13 This to both parties. Is there somewhere either in the  
14 Internal Revenue code or the Rev and Tax code or some  
15 authority that defines what mortgage insurance premiums  
16 are, as contrasted with private mortgage insurance, PMI?

17           MR. DANDRIDGE: Yes.

18           ADMIN. LAW JUDGE LEUNG: Then Mr. Dandridge,  
19 you can go first.

20           MR. DANDRIDGE: In my original packet under the  
21 Homeowners Protection Act they define what private  
22 mortgage insurance is. And they state -- let me find it  
23 here -- it's hard to read on the copy, let me find my  
24 original. Private mortgage insurance, private mortgage  
25 insurance is insurance that protects lenders from the

1 risk of default and foreclosure. It allows perspective  
2 buyers who can act or chose not to provide significant  
3 down payments to obtain mortgaging and financing at  
4 affordable rates.

5           It also goes on to state that this Act does not  
6 apply to mortgage insurance made available under the  
7 National Housing Act Title 38 of the United State Code or  
8 Title 5 of the Housing Act of 1949. This includes  
9 mortgage insurance on loans made by the Federal Housing  
10 Administration, and guarantees on mortgage loans made by  
11 the Veterans.

12           When you go and also look at Title 26 of U.S.  
13 Code, the IRS -- or not the IRS -- they break down that  
14 they say qualified mortgage insurance. The term  
15 qualified mortgage insurance means one, mortgage  
16 insurance provided by the Veterans Administration, the  
17 Federal Housing Administration and the Rural Housing  
18 Administration. And, two, private mortgage insurance as  
19 defined by Section 8 -- Section 2 of the Homeowners  
20 Protection Act of 1989.

21           And then again in state information they define  
22 the same thing in the analysis done of AB 273 where they  
23 define what private mortgage insurance is. And they  
24 define what is insurance offered by the federal  
25 government.

1           ADMIN. LAW JUDGE LEUNG: So Mr. Dandridge, in  
2 your mind, mortgage insurance premium includes PMI or is  
3 it anything but PMI?

4           MR. DANDRIDGE: It depends on how it's being  
5 used. It's been used interchangeable. The head of the  
6 Franchise Tax Board in 2013 clearly pointed out that it  
7 was private mortgage insurance that was excluded from  
8 deductions.

9           ADMIN. LAW JUDGE LEUNG: Okay.

10          MR. DANDRIDGE: So the federal statute at the  
11 title of the section says mortgage insurance as --  
12 treated as interest and that's what all the sections in  
13 the analysis does. But then they go down to break it  
14 down very, very clearly what it is. Because, before 19 -  
15 - before 2000 -- FHA loans and VA loans\ that interest  
16 was -- my parents had an FHA loan, so that interest was  
17 always deductible. They were adding to that homeowners  
18 insurance. In 2001 the state was looking at -- not  
19 homeowners, but private mortgage insurance.

20                 In 2001 if you look at the analysis of the  
21 Senate -- Assembly Bill 273 -- they were looking at first  
22 at okay we're going to have a deduction for private  
23 mortgage insurance. And then they went okay we need to  
24 distinguish private from VA, FHA. And these were all  
25 documents created by the Franchise Tax Board.

1           ADMIN. LAW JUDGE LEUNG: So also in your mind  
2 the mortgage insurance offered by the public entities  
3 like the VA and FHA were always deductible as mortgage  
4 insurance under the Internal Revenue Code?

5           MR. DANDRIDGE: Yes. Up until 2017 when they  
6 changed it.

7           ADMIN. LAW JUDGE LEUNG: Okay. Franchise Tax  
8 Board, is that your understanding also?

9           MR. KOWALCZYK: So just to be clear the  
10 Internal Revenue Code(h) (4) (E) clearly states that  
11 qualified mortgage insurance includes both private  
12 mortgage insurance and mortgage insurance provided by the  
13 Department of Veteran Affairs, Federal Housing  
14 Administration, or the Rural Housing Service.

15           California specifically adopted Revenue and  
16 Taxation Code 17225 that it will not conform to allowing  
17 deduction for qualified mortgage insurance, which  
18 includes all the previously stated forms of mortgage  
19 insurance.

20           ADMIN. LAW JUDGE LEUNG: Well, let's go back to  
21 my original question. In your mind what is the  
22 difference between mortgage insurance premium and private  
23 mortgage insurance? Are they one in the same? Are they  
24 subsets of each other? Or are they -- or is mortgage  
25 insurance premiums is everything other than PMI?

1           MR. KOWALCZYK: PMI is a form of mortgage  
2 insurance. It just depends on who provides it. It, in  
3 this case it's separate from the Department of Veteran  
4 Affairs, Federal Housing Administration or the Rural  
5 Housing Services versus private entities who provide  
6 mortgage insurance. So they're all one and the same.  
7 They're all forms of mortgage insurance. It just depends  
8 on who provides it.

9           ADMIN. LAW JUDGE LEUNG: So when your 17225  
10 says, "The State of California will not conform to --  
11 will conform to the 2010 Tax Act except for Section  
12 163(h)(3) relating to mortgage insurance premiums you're  
13 saying "all" mortgage insurance products?

14           MR. KOWALCZYK: Correct, whether private or  
15 public.

16           ADMIN. LAW JUDGE LEUNG: Okay. So now I'm sort  
17 of confused, because Mr. Dandridge was saying that before  
18 the 2010 Act publicly provided mortgage insurance was  
19 always treated as interest, deductible as an itemized  
20 deduction.

21           MR. KOWALCZYK: Yes, on the federal level.

22           ADMIN. LAW JUDGE LEUNG: On the federal, so  
23 California never conformed to that?

24           MR. KOWALCZYK: Correct. California uses  
25 specified dates when referring to the Internal Revenue

1 Code and specified dates basically free of the Internal  
2 Revenue Code as it existed on a certain date. So this  
3 would prevent California from adopting changes in the  
4 Internal Revenue Code that occurred after the specified  
5 date.

6 ADMIN. LAW JUDGE LEUNG: Correct.

7 MR. KOWALCZYK: In this case for tax year 2005  
8 through 2009 California adopted the Internal Revenue Code  
9 as of January 1st, 2005. The provision at issue was  
10 Internal Revenue Code Section 163(h)(3)(E) was codified  
11 in 2006, which is one year after the specified date.

12 Now, for tax years 2010 through 2014 California  
13 adopted a specified date of January 1st, 2009. This  
14 would include the Internal Revenue Code at issue, but the  
15 Legislature also adopted Internal Revenue Code Section  
16 17225 to prevent California to  
17 conforming to that provision. So California never  
18 allowed a deduction for mortgage insurance premiums  
19 whether provided by private mortgage insured or by public  
20 agencies.

21 ADMIN. LAW JUDGE LEUNG: So what about prior to  
22 2005? I mean he -- Mr. Dandridge is saying that this FHA  
23 and VA and now USDA type mortgage insurance products were  
24 deductible interest on the federal side, at least, prior  
25 to 2005. So in the 2005 Conformity bill, did the



1 Franchise Tax Board adopt those deductions?

2 MR. KOWALCZYK: Well, first off the Internal  
3 Revenue Code never adopted IRC 163 before 2006. It was  
4 officially codified on -- give me one second -- it was on  
5 December in 2006. That was the first time Congress  
6 allowed that deduction. Before that the IRC never  
7 allowed it, and California never followed it. And the  
8 conformity decision tables in the bills he's referring  
9 to, especially the 2007 conformity decisions tables, it  
10 appears that those are from interested parties meetings  
11 in order to determine whether California would adopt  
12 163(h)(3)(E) but it was never officially adopted.

13 ADMIN. LAW JUDGE LEUNG: Okay. Thank you.

14 JUDGE VASSIGH: Okay. Do you have any more  
15 questions, Judge Leung? Judge Angeja?

16 (No audible response.)

17 LEAD ADMIN. LAW JUDGE VASSIGH: All right. We  
18 will now provide closing statements. Mr. Dandridge, we  
19 had agreed to an estimate of ten minutes.

20 MR. DANDRIDGE: I won't need that long.

21 LEAD ADMIN. LAW JUDGE VASSIGH: I'll hold you  
22 to that.

23 MR. DANDRIDGE: What is at stake here is some  
24 definitions. Working for the U.S. Attorney's office, as  
25 an analysis, I look to the documents created by the

1 entity. The Franchise Tax Board is the expert here. The  
2 Franchise Tax Board has analyses signed off by  
3 individuals working for the Franchise Tax Board.

4 In 2001 it says, "Current federal and state  
5 laws do not allow a deduction for private mortgage  
6 insurance." They acknowledge that there is a difference  
7 between private mortgage insurance and that of federal  
8 paid to the VA, the FHA, or the Rural. Clear bright  
9 line. They say private is different than this other.  
10 The Internal Revenue Code says the same thing.

11 The reason they can't find anything in the  
12 Internal Revenue Code is, is because prior to 1998 there  
13 was no question about private mortgage insurance.  
14 Private mortgage insurance came about as an issue in the  
15 Homeowners Protection Act. Remember, I read you that  
16 act. It said it didn't apply to the VA or the FHA or the  
17 Rural Housing Administration.

18 They want to come back and say that these  
19 analyses look to be like interested parties. These are  
20 out of the booklets published by the Franchise Tax Board.  
21 I gave you the cover sheet summary of federal income  
22 changes. Franchise Tax Board: John Chiang, Judy Chu,  
23 Michael Genest, members; their documents, their analysts  
24 and their lawyers. They are stating clearly in here what  
25 qualified mortgage insurance is: VA, FHA, Rural and

1 private mortgage insurance.

2 Do they use the term "qualified mortgage  
3 insurance," which would be everything. Because that's  
4 what that U.S. code says. No. They focus on the use of  
5 the word "private mortgage insurance."

6 In 2010, in the final analysis of the bill that  
7 changes the tax code, Revenue and Tax section, they're  
8 talking about private mortgage insurance. They don't say  
9 qualified mortgage insurance, private mortgage insurance.

10 Then when the federal law is changed again,  
11 another Franchise Tax document: John Chiang, Jerome  
12 Horton, Michael Cohen. They say clearly and specifically  
13 without any ambiguity federal law. The provision says  
14 new federal law, IRC Section 163, "The provision extends  
15 the deduction for private mortgage insurance premiums for  
16 two years, through 2013. Thus the provision applies to  
17 amounts paid or accrued in 2012 or 2013." Effective  
18 date, December 31st, 2011; California law, Revenue and  
19 Tax Code Section 17225.

20 The personal income tax specifically does not  
21 conform to the federal deduction for private mortgage  
22 insurance premiums. Not qualified mortgage insurance  
23 premiums, private mortgage insurance premiums. As a  
24 result private mortgage insurance premiums are not  
25 deductible under California law and taxpayers who deduct

1 that premium on their federal tax returns deduct for  
2 federal purposes must show that as an adjustment on the  
3 California Schedule CA.

4           2013 matches what the book says in 2007, 2008,  
5 2009, because if it doesn't somebody has you know whated.  
6 (phonetic) Those two lines appear over ten years. And  
7 when you go hey, they're right. Their instructions are  
8 not authoritative law, but they give you where to go to  
9 find the information. They tell you go to look under  
10 conformity. So I went and looked under conformity. And  
11 they have a whole publication. And you've got copies of  
12 it has a whole list of what those changes on it. And at  
13 the very bottom it says private mortgage insurance. Not  
14 mortgage insurance premiums. Not qualified mortgage  
15 insurance, private mortgage insurance.

16           So, if they know what the law is they are not  
17 fulfilling their duty of care to the residents of the  
18 State of California to let us know. If their response is  
19 it's my job if there's an ambiguity, how is this  
20 ambiguity? I've looked through all the information.  
21 There's no public announcement from the Franchise Tax  
22 Board on the changes. They got all the other  
23 announcements of all the other changes, but they don't  
24 have this one. It's the same line, private mortgage  
25 insurance. That's a bright-line definition. Private,

1 not government, paid to a private company.

2 Own it, but I'm responsible for the law. Well,  
3 if that's the case, folks let's just get rid of the  
4 Franchise Tax Board. Let's save the taxpayers a whole  
5 lot of money, because we don't need them because they're  
6 not fulfilling their duty of care to let us know what the  
7 law is. But the Franchise Tax Board, themselves state  
8 "private mortgage insurance."

9 They know what the difference is, because they  
10 state it in their analysis. They state it in their  
11 documentation. They state it in all their information  
12 they gave to the Legislature. And the Legislature tells  
13 them that they must perform that final analysis on any  
14 changes. That they must publish it to the public and  
15 they must publish it to the State Legislature, the  
16 Assembly and the Senate.

17 And guess what? I can't find anything with the  
18 help of a State Senator's Office and a State  
19 Assemblyman's Office that anything was ever done. I  
20 reached out to a friend of mine who worked for the Senate  
21 Majority Leader's Office. And she looked. And she  
22 couldn't find anything.

23 So now they want to come back and say guess  
24 what Mr. Dandridge, you screwed up. You owe, because you  
25 didn't follow the law. Yeah, I did. I followed the law.

1 I did what I was supposed to do. And I do it every time.  
2 Because remember I'm a public servant. And remember I've  
3 got to give information to people. And when I screw up  
4 it's on me. I had to raise my hand and I took an oath to  
5 protect and serve and defend the Constitution of the  
6 United States just like they did.

7           Are you trying to tell me, this Franchise Tax  
8 Board is trying to tell me, hey we made a mistake that  
9 all these publications that we spent millions of dollars  
10 publicizing, all this work of lawyers and analysts  
11 looking over these documents over and over and over and  
12 arguing them and debating them, that this was missed?  
13 Oops. Guess what? I always thought of California as  
14 being a great place to live, because we were smarter than  
15 the federal government. But we didn't define these  
16 terms? The federal government did, qualified mortgage  
17 insurance.

18           As a representative from Franchise Tax Board  
19 who was embedded with the Board of Equalization said to  
20 me, he said, "You're just going to have to get to a level  
21 that can adjudicate this, because no one at the Franchise  
22 Tax Board is going to admit they made a mistake."

23           I make mistakes every day, because I'm a human  
24 being. And God help me that I don't make a mistake that  
25 kills somebody. Because in my 25 years of serving this

1 country, I've had to put people in harms' way and I've  
2 had to go into the Whitehouse and brief the President of  
3 the United States. And you want to talk about someone  
4 who knows something? William Jefferson Clinton asked  
5 some serious questions. And if I didn't have the answer  
6 I didn't give him some half-cooked remark. I'm asking  
7 you to find that I did what I was supposed to do. That I  
8 was entitled to my mortgage insurance premium paid to the  
9 Federal Housing Administration, because it was not  
10 documented as being state law. Thank you.

11 LEAD ADMIN. LAW JUDGE VASSIGH: Thank you.

12 Mr. Kowalczyk? Does FTB have any closing?

13 MR. KOWALCZYK: No. That was my closing.

14 Thank you.

15 LEAD ADMIN. LAW JUDGE VASSIGH: All right.

16 Well, Mr. Dandridge, I was going to give you  
17 the opportunity to respond to FTB's statements, but I  
18 think you just did.

19 MR. DANDRIDGE: I have two more things I'd like  
20 to say if possible.

21 LEAD ADMIN. LAW JUDGE VASSIGH: Can you do it  
22 in two minutes?

23 MR. DANDRIDGE: I can do it in two minutes,  
24 ma'am.

25 LEAD ADMIN. LAW JUDGE VASSIGH: All right.

1                   MR. DANDRIDGE: At 13 years old my social  
2 science teacher came to me and asked me what I thought  
3 about Proposition 13. My father and I, I'm a 13-year-old  
4 young man and my father and I argued about what Prop 13  
5 would mean to my school, my future, the future of my  
6 kids.

7                   I sat on a stage with Willie Brown who was then  
8 the Speaker of the Assembly and Gray Davis, who was Chief  
9 of Staff to then Governor Brown. And I delivered a ten-  
10 minute speech about what the impact of Prop 13 would be.  
11 I learned a lesson that day that the unique thing about  
12 California is that the people can make law. The people  
13 can make changes, when those people charged with making  
14 the changes can't.

15                   We do what we can to follow the rules. We  
16 depend on public servants to give us that information. I  
17 followed the rules. I followed the instructions. When  
18 told that I didn't follow the instructions I immediately  
19 stopped and went back. I didn't say "Oh, you're wrong."  
20 I went back to find out if I was wrong. And I couldn't  
21 find any evidence of that. Any person that I've ever  
22 worked for, over the last 25 years, will tell you that if  
23 I'm wrong in an analysis, if I'm wrong on a mistake, I  
24 will be the first one to point it out. Here I'm not. I  
25 was entitled to my deduction, because the state law and



1 the Franchise Tax Board's interpretation of that state  
2 law irregardless of legislative grace, was that private  
3 mortgage insurance was not deductible. Thank you.

4 LEAD ADMIN. LAW JUDGE VASSIGH: Thank you.

5 I'd like to thank the parties for providing  
6 information and argument today. I'd like to also thank  
7 our stenographer and my co-panelists for their  
8 contributions to this hearing.

9 The record is now closed to further evidence  
10 and argument. This concludes our hearing. The judges  
11 will meet and we aim to send both parties our written  
12 decision no later than 100 days from today. The hearing  
13 is now concluded. Thank you.

14 (The hearing concluded at 10:17 a.m.)

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**REPORTER'S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of February, 2019.



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Eduwiges Lastra  
CER-915

**TRANSCRIBER'S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of February, 2019.



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Myra Severtson  
Certified Transcriber  
AAERT No. CET\*\*D-852