



State of California  
Office of Tax Appeals

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**Agenda**

Office of Tax Appeals Hearings  
Tuesday, April 30, 2019, 10:00 a.m.  
400 R Street  
Hearing Room  
Sacramento, CA 95811

Agenda updated as of 05/29/19, 11:05 a.m.

**Franchise and Income Tax Appeals Hearings**

~~Michael A. Gorin, 18010985~~

~~Panel Lead: \_\_\_\_\_ Jeff Angeja~~

~~Panel Members: \_\_\_\_\_ Neil Robinson~~

~~\_\_\_\_\_ Alberto Rosas~~

~~Appearing for Taxpayer: \_\_\_\_\_ Michael A. Gorin, Taxpayer~~

~~Appearing for Franchise Tax Board: \_\_\_\_\_ Gi Nam, Tax Counsel~~

~~\_\_\_\_\_ Maria Brosterhous, Tax Counsel~~

~~Issues: Whether FTB's assessment is barred by the statute of limitations; and whether appellant has demonstrated error in the proposed assessment, which is based on a federal determination.~~

Ricky T. Burningham, 18010865

Panel Lead: Alberto Rosas

Panel Members: Tommy Leung

Jeff Angeja

Appearing for Taxpayer: Rick Burningham, Taxpayer

Appearing for Franchise Tax Board: David Kowalczyk, Tax Counsel

Natasha Page, Tax Counsel

Issues: Whether FTB's proposed assessment is erroneous; and, whether appellants' failure to timely file a 2013 tax return was due to reasonable cause and not due to willful neglect.



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David Gray, 18011723

Panel Lead: \_\_\_\_\_ Jeffrey Margolis

Panel Members: \_\_\_\_\_ Amanda Vassigh

\_\_\_\_\_ Michael Geary

Appearing for Taxpayer: \_\_\_\_\_ David Gray, Taxpayer

\_\_\_\_\_ Kenneth Curry, Representative

Appearing for Franchise Tax Board: \_\_\_\_\_ Brian Miller, Tax Counsel

\_\_\_\_\_ Ron Hofsdal, Tax Counsel

Issues: Whether appellant was a California resident during 2012; and, whether appellant was absent from California for at least 546 consecutive days under an employment-related contract so as to qualify for the "safe harbor" provision of R&TC § 17014(d).

**1:00 p.m. Session**

**Franchise and Income Tax Appeals Hearings**

Earle A. Malm and Evelyn A. Malm, 18011703

Panel Lead: \_\_\_\_\_ Alberto Rosas

Panel Members: \_\_\_\_\_ Grant Thompson

\_\_\_\_\_ Sara Hosey

Appearing for Taxpayer: \_\_\_\_\_ Earle Malm, Taxpayer

\_\_\_\_\_ Timothy Mulgrew, Representative

Appearing for Franchise Tax Board: \_\_\_\_\_ David Hunter, Tax Counsel

\_\_\_\_\_ David Gemmingen, Tax Counsel

Issues: Was it erroneous of FTB to recharacterize the claimed pass-through ordinary losses as passive losses; and, should the accuracy-related penalty for any of the tax years at issue be abated.

The following cases were removed from this agenda:

Ann Thomas, 18083523

Taxpayer requested a postponement

Michael A. Gorin, 18010985

Taxpayer requested a postponement

David Gray, 18011723

Taxpayer waived hearing



## State of California Office of Tax Appeals

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The hearing location is accessible to people with disabilities. Please contact Claudia Lopez at (916)206-4772, or email [Claudia.Lopez@ota.ca.gov](mailto:Claudia.Lopez@ota.ca.gov) if you require special assistance.

Note: The above case description is intended simply to inform the public and the press as to the general subject matter of the case. The description does not necessarily define the specific issues that will be addressed at the hearing.