

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF:)
)
DIRECTV INC.,) OTA NO. 20096628
)
) APPELLANT.
)

CERTIFIED COPY

TRANSCRIPT OF PROCEEDINGS

Cerritos, California

Thursday, February 16, 2023

Reported by:

SHELBY K. MAASKE
Hearing Reporter

Job No. :
40542 OTA(C)

1 BEFORE THE OFFICE OF TAX APPEALS

2 STATE OF CALIFORNIA

3
4
5 IN THE MATTER OF THE APPEAL OF:)
6 DIRECTV INC.,) OTA NO. 20096628
7)
8) APPELLANT.
9)
10)
11)
12)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

15 TRANSCRIPT OF PROCEEDINGS, taken at
16 12900 Park Plaza Drive, Suite 300, Cerritos,
17 California, commencing at 1:00 p.m. and
18 concluding at 2:33 p.m. on Thursday,
19 February 16, 2023, reported by Shelby K. Maaske,
20 Hearing Reporter.

1 APPEARANCES:

2
3 Panel Lead:

HON. MICHAEL GEARY

4
5 Panel Members:

HON. JOSH ALDRICH
HON. OVSEP AKOPCHIKYAN

6
7 For the Appellant:

WADE DOWNEY
STEVE BIXLER

8
9
10 For the Respondent:

JARRELL NOBLE
Hearing Representative

11
12 SCOTT CLAREMON
Tax Counsel

13
14 JASON PARKER
Hearing Representative

I N D E X

E X H I B I T S

(Appellant's Exhibits were received at pages 8)

(CDTFA's Exhibits were received at page 8)

| OPENING STATEMENTS | PAGE |
|--------------------|------|
|--------------------|------|

| | |
|---------------|----|
| By Mr. Downey | 11 |
|---------------|----|

| | |
|--------------|----|
| By Mr. Noble | 43 |
|--------------|----|

| WITNESSES | PAGE |
|-----------|------|
|-----------|------|

| | |
|--------------|----|
| Jose Manzano | 33 |
|--------------|----|

1 Cerritos, California; Thursday, February 16, 2023

2 1:00 p.m.

3
4 ADMINISTRATIVE LAW JUDGE GEARY: On the record.
5 Will the parties please identify themselves by stating
6 their names, who they represent, and to the extent they
7 want titles represented or indicated on our opinion,
8 starting with Appellants.

9 MR. DOWNEY: Wade Downey with Downey Smith &
10 Fier, representing DIRECTV, Inc.

11 MR. BIXLER: Steve Bixler with Downey Smith &
12 Fier, representing DIRECTV Inc.

13 MR. MANZANO: Jose Manzano with AT&T representing
14 DIRECTV.

15 ADMINISTRATIVE LAW JUDGE GEARY: Thank you.

16 And the CDTFA, please.

17 MR. NOBLE: Jarrell Noble representing CDTFA.

18 MR. CLAREMON: Scott Claremon representing CDTFA.

19 MR. PARKER: Jason Parker with CDTFA.

20 ADMINISTRATIVE LAW JUDGE GEARY: Thank you.

21 It's my understanding that Appellant will be
22 calling Mr. Manzano to testify today; is that correct?

23 MR. DOWNEY: Yes, that is correct.

24 ADMINISTRATIVE LAW JUDGE GEARY: And I take it,
25 Mr. Downey, you will be doing most of the presentation

1 today?

2 MR. DOWNEY: I will present Issue 1, Steve will
3 present Issue 2, and then I will present Issue 3, and Jose
4 will be between Issues 2 and 3.

5 ADMINISTRATIVE LAW JUDGE GEARY: Respondent, do
6 you plan to call any witnesses today?

7 MR. NOBLE: No, sir.

8 ADMINISTRATIVE LAW JUDGE GEARY: The exhibits
9 marked for identification in this appeal consist of
10 Appellant's exhibits marked 1 through 18 for
11 identification and Respondent's exhibits marked A through
12 H for identification. The parties have provided copies of
13 the exhibits to each other and OTA and they have had
14 plenty of time to consider the information.

15 Did Respondent have any objection to the
16 admission of Appellant's Exhibits 1 through 18?

17 MR. NOBLE: No, we do not. Thank you.

18 ADMINISTRATIVE LAW JUDGE GEARY: Thank you.

19 Does Appellant have any objection to the
20 admission of Respondent's Exhibits A through H?

21 MR. DOWNEY: Yes. There's a couple of schedules
22 in Exhibit A that need to be clarified by the Department.

23 ADMINISTRATIVE LAW JUDGE GEARY: Go ahead and
24 explain what you mean.

25 MR. DOWNEY: I don't want to misrepresent. I

1 don't think I have it right in front of me.

2 MR. NOBLE: It's Exhibit A, pages 315 to 316. It
3 appears to be an audit schedule, and there's a date on the
4 audit schedule that indicates this was provided in 2016.
5 That's not correct. The comments that were Exhibit A,
6 that particular Exhibit A was provided for, was created in
7 September of 2019. The Department staff at the time used
8 the schedule from the audit as an example and then wrote
9 their comments in. It was provided in response during the
10 Department's own appeals process. So just to clarify,
11 Exhibit A, pages 315 and 316, were not created
12 contemporaneous with the audit. It was after.

13 ADMINISTRATIVE LAW JUDGE GEARY: All right. Does
14 that satisfy Appellant as far as clarification is
15 concerned?

16 MR. DOWNEY: The only thing I would add is
17 Mr. Manzano will testify as to the content of the
18 document. Some of the statements aren't consistent or
19 accurate.

20 ADMINISTRATIVE LAW JUDGE GEARY: That doesn't go
21 to admissibility. Do you have any objection to the
22 admission?

23 MR. DOWNEY: No.

24 ADMINISTRATIVE LAW JUDGE GEARY: Then all of the
25 exhibits of both parties are admitted.

1 (All exhibits were received in evidence.)

2 ADMINISTRATIVE LAW JUDGE GEARY: We have had some
3 discussion about the issues that are being presented in
4 this hearing for consideration by the Panel, and I believe
5 we have an agreement that the issues are as following:
6 One, did Respondent incorrectly offset time barred state
7 or district taxes for the period April 1, 2006, through
8 December 31, 2011.

9 Issue 2, is Appellant entitled to credit interest
10 on the refund granted for the period of April 1, 2006,
11 through December 31, 2011. And, 3, is Appellant entitled
12 credit interest on the refund granted for the fourth
13 quarter of 2011 -- that claim and that refund are not at
14 issue here -- but only Appellant's entitlement to credit
15 interest.

16 Mr. Downey, do you agree that those are the
17 issues that we will be addressing?

18 MR. DOWNEY: Issue 1 and Issue 2 commenced
19 January 1, 2006, not April. So the copy I have, one says
20 July and one says January, so both of them should be
21 January through December 31, '11.

22 ADMINISTRATIVE LAW JUDGE GEARY: All right. I've
23 made those changes.

24 Mr. Noble, any disagreement that those periods
25 are supposed to run from January 1st?

1 MR. NOBLE: No sir.

2 ADMINISTRATIVE LAW JUDGE GEARY: Thank you.

3 Time estimates, as we discussed in our prehearing
4 conference, it was agreed that Appellant would have
5 approximately 45 minutes for its opening argument and its
6 examination of the witness, Mr. Manzano.

7 Let me ask, because there's been some discussion,
8 Mr. Downey, about who will be speaking and when. I take
9 it you have an idea in mind for structuring Appellant's
10 presentation. Tell me what that structure will be.

11 MR. DOWNEY: The target is 20 minutes to present
12 Issue 1; and then 5 to 10 minutes for Issue 2; and 5 to 10
13 minutes for Mr. Manzano; and then a couple of minutes for
14 Issue 3.

15 ADMINISTRATIVE LAW JUDGE GEARY: All right. So I
16 take it, then, you are going to be providing -- there's
17 going to be argument provided first and then the testimony
18 from Mr. Manzano?

19 MR. DOWNEY: Correct.

20 ADMINISTRATIVE LAW JUDGE GEARY: With no
21 testimony to follow the testimony of Mr. Manzano -- no
22 argument by Appellant following the testimony of
23 Mr. Manzano.

24 MR. DOWNEY: Correct.

25 ADMINISTRATIVE LAW JUDGE GEARY: All right. Then

1 Mr. Bixler is going to do Issue 2?

2 MR. DOWNEY: Correct.

3 ADMINISTRATIVE LAW JUDGE GEARY: You let me know
4 when you are ready to call Mr. Manzano and I will
5 administer an oath or affirmation to him at the time.

6 MR. DOWNEY: And when we go to present Issue 2,
7 we will switch the charts.

8 ADMINISTRATIVE LAW JUDGE GEARY: That's fine. At
9 the conclusion of Mr. Manzano's testimony, then, which
10 will include opportunities for both Respondent and members
11 of the Panel to ask questions, then we will have
12 Respondent's argument. And I believe Respondent requested
13 and was granted approximately 25 minutes for its argument.

14 Is that correct, Mr. Noble?

15 MR. NOBLE: I believe so. Thank you.

16 ADMINISTRATIVE LAW JUDGE GEARY: Thank you.

17 And then following Respondent's argument,
18 Appellant will have an opportunity for a brief rebuttal,
19 and if it chooses to take that opportunity, of
20 approximately five minutes. If any party finds that they
21 need additional time, if it's more than a minute or two,
22 try to let me know in advance so I can take that into
23 consideration.

24 Appellant, any questions before we go on the
25 record and begin?

1 MR. DOWNEY: No.

2 ADMINISTRATIVE LAW JUDGE GEARY: We are already
3 on the record.

4 Appellants, you may proceed when ready.

5
6 OPENING STATEMENT

7 MR. DOWNEY: Perfect. Wade Downey with Downey
8 Smith & Fier representing the Appellant, DIRECTV. Thank
9 you for the opportunity to present our appeal. We look
10 forward to this Panel's independent review of the issues
11 and statutory authority applied in the supplemental
12 decision, as the decision is not consistent with the
13 statute and misinterprets the authority.

14 As information and separate from the issues being
15 decided here, we've asked the Taxpayers Rights Bureau to
16 listen to this appeal and to review the complete record to
17 address potential violations of the taxpayer's rights and
18 adherence to the Department's audit policies and
19 regulatory requirement.

20 Issue 1, we'd like to first review the facts.
21 The CDTFA prepared and issued an audit report based on an
22 open statute. The statute expired prior to being billed.
23 No changes were made to the audit report or verification
24 comments based on the closed statute. The Department
25 asserts that California Revenue and Taxation Code Chapter

1 5, Determinations, Article II, Deficiency Determinations,
2 Section 6043, Offsets, allows the CDTFA or Department to
3 issue deficiency determinations for time barred periods.
4 This conclusion is flawed as it misrepresents the language
5 in the statute and ignores the protections provided by
6 Section 6487, the limitation period.

7 Section 6483 states in making a determination
8 that is a deficiency determination -- let me stop there.
9 Because every period in this audit was time barred when,
10 under Section 6487, the waivers extending the limitation
11 periods expired, all nine of them.

12 Furthermore, the supplemental decision concludes
13 that the fiduciary role of the CDTFA with respect to
14 administering separately imposed taxes through a single
15 notice of determination voids the fact that the periods
16 are time barred.

17 The decision then asserts that California Revenue
18 and Taxation Code 6483 allows offsets to unrelated tax
19 authorities that have adopted their own statutes and
20 ordinance. This is contrary to the requirement that each
21 tax authority must adopt separate ordinance equivalent to
22 the referenced California state statutes.

23 No where -- no where in California statutes where
24 each district tax authority statute does it provide for
25 the commingling or offset between these separately imposed

1 taxes.

2 This flawed logic in the supplemental opinion
3 then leads to the conclusion that Annotation 802.0090 was
4 incorrect. The CDTFA has deleted the annotation, but the
5 annotation's supporting opinion are worthy of review by
6 this Panel, and are insightful, and provide comprehensive
7 analysis of the construction of these statutes and the
8 sales and use tax system.

9 Our Exhibit 12 provides a comprehensive list of
10 the annotation including the deletion information. We
11 would also point out the fact that there had been no
12 changes in the imposition of these taxes, no changes in
13 the CDTFA's contracting and fiduciary responsibility to
14 the special district authorities, and there's been no
15 change in the methods of issuing notice of determination
16 since these rulings were issued. The underlining letters
17 provide a comprehensive legal analysis that is still
18 applicable today.

19 For the record, I'd like to read an excerpt from
20 Gary Jugum's 1995 memorandum. For the younger crowd, Gary
21 was a Harvard grad, was the BOE attorney advising the
22 former Board of Equalization during the time when I served
23 as the sergeant at arms. He has actively one of the most
24 knowledgeable attorneys to work for the board, and a
25 pioneer in California Sales and Use Tax Policy, so his

1 words should not be diminished or easily dismissed.

2 I quote, "District taxes are the nature of trust
3 fund taxes which the Board administers on behalf of each
4 levying district. Each fund must therefore be
5 specifically administered for the benefit of the entity
6 imposing the tax. Any use of one agency's fund for the
7 benefit of another agency would be a breach of this
8 fiduciary duty and could make the Board liable to suit.

9 More importantly, the Board administers and
10 enforces each district's tax under a contract executed
11 between the Board and the district. Section 7270. The
12 Board is thus subject to a fiduciary duty of good faith
13 and fair dealings to ensure that the districts get the
14 revenue properly due while at the same time preserving the
15 economic advantage to the district of having its taxes
16 administered by the State," end quote.

17 When the CDTFA failed to issue timely
18 determinations for the 125 separately-imposed district tax
19 authorities that they allowed the waiver to expire and
20 they alone failed to fulfill their contract. It is
21 disingenuous now to claim that as long as we redistribute
22 the revenue, everything is fine, we've done our job. That
23 is not how it should work.

24 That is not acceptable administration on behalf
25 of these taxing authorities that contracted with the

1 State, neither Sprint nor the State statute 6483 support
2 commingling of offsets between separately-imposed taxes.

3 Throughout the appeals process and after our
4 claim was filed, the Department has attempted to dismiss,
5 delete, and conclude that Gary's underlying opinion and
6 legal analysis is not applicable or valid as it only
7 addresses interest or the reverse of Sprint.

8 The hearing officer, in her initial opinion
9 granting the refund, concluded the following, and I quote,
10 "We find unpersuasive BTFD's argument that Annotation
11 802.0090 does not apply here because the facts considered
12 in the annotation are reversed from the facts of Sprint.
13 The annotation is not distinguishable on the basis given
14 that its findings apply equally here where the BTFD offset
15 one taxing jurisdiction's tax against another entity's
16 tax," end quote.

17 The Department's OTA brief makes a statement that
18 the Appellant appears to argue that the CDTFA is required
19 to issue a single notice of determination for each local
20 or district taxes. Let us be clear, we don't care how the
21 CDTFA bills tax that is due. We just want to ensure that
22 they have a legal basis to do so.

23 Now, we'll review the audit specifics. The audit
24 of DIRECTV started in 2009 and covered a period of January
25 1, 2006 through December 31, 2011. During the audit,

1 DIRECTV cooperated fully to address the issues and even
2 performed a managed audit for a portion. From
3 September 2009 to June 2016, DIRECTV executed nine waivers
4 of limitations extending the time allowed for the CDTFA to
5 complete its work. The extensions ranged from two years
6 to as little as one month, the final extension. Every
7 request for extension for additional time was granted by
8 the taxpayer.

9 The audit was completed by the Culver City
10 district office in June of 2016, reviewed and approved by
11 the district reviewer for accuracy, and transmitted to
12 headquarters for billing in early July 2016. The audit
13 included two claim for refunds covering the periods from
14 January 1, 2006, to June 30, 2006, what we will refer to
15 as Claim 1; and July 1, 2006, through December 31, 2011,
16 Claim 2. There was a third overpayment and unapplied
17 credit handle by headquarters where the prepayments
18 exceeded the final tax due on their return.

19 Once the audit report was received by the Audit
20 and Determination and Refund section in Sacramento, they
21 delayed and did not issue the notice of determination
22 until September 28, which was 28 days after the waiver
23 extending the statute expired. At that time, the entire
24 audit period was time barred.

25 As a former auditor, representative of clients

1 for the last 30 years, this represents a mammoth event,
2 especially considering the sizable underpayments that were
3 identified in this audit.

4 So let's think about it for a second. Once the
5 statute expires and every period is time barred, there is
6 no longer one audit period as the audit report indicates,
7 rather, it becomes two separate claim for refunds
8 independent of each other.

9 Now, we acknowledge and do not dispute that
10 Sprint must be considered thereafter by applying the
11 requirements of the limitations established in the Audit
12 Manual Section 434.00 and 434.30. We have provided a
13 complete copy of the Audit Manual Section in Exhibit 11.
14 The current copy on the CDTFA's website is not accurate.
15 One of the charts is misplaced.

16 So the Department purports that they were aware
17 that the statute expired before the notice was issued, but
18 their actions indicate otherwise. Did the update auditor
19 reporter comment based on the expired statute? No. Did
20 he separate the claim results or prepare offset schedules
21 as required per the audit manual, the application of
22 overpayments to expire by abilities within a claim period?
23 No.

24 Did they review the audit report or did they
25 return the audit report to the district to update the

1 report or evaluate impact? No. Did they have any
2 reviewer look at the impact? No. Did they notify the
3 taxpayer? No. Did they notify us? No. Did they
4 document anything anywhere in the report to reflect this
5 significant change and potential impact? No. They
6 proceeded to issue the notice of determination unchanged.

7 Now, in all fairness, an August 31st waiver
8 extension is an odd date. Generally they expire at the
9 end of the quarter. So in all fairness, we want to
10 believe that they were unaware that this statute expired.
11 Okay. Otherwise, if the Department was aware that the
12 statute expired and proceeded, ignoring the substantial
13 change, they would have been in deliberate violation of
14 the taxpayer's rights to receive an accurate audit report
15 and an explanation of its basis.

16 Upon receipt of the final notice, I immediately
17 contacted Steve Sissy in the Audit Determination section
18 to discuss the fact that the notice was not timely and the
19 statute period had expired. Based on the conversation and
20 the nonresponse, DIRECTV filed its December 2nd, 2016,
21 claim for fund.

22 For a little over two years, the Department
23 ignored our follow up and the claim. If you review our
24 Exhibit 7, it provides a comprehensive list of the
25 contacts that we had with the Department and the progress

1 that this took. In December 2018, the Department issued a
2 two-sentence response attached as Exhibit 9, and I quote,
3 "We believe the amounts determined in the notice of
4 determination are correct. Our position is that your
5 claim for refund should be denied."

6 The taxpayer immediately sought clarification.
7 The Department issued a supplemental response on
8 January 22, 2019 -- copies also included with Exhibit 9 --
9 and I quote, "A review of the work papers disclosed they
10 were prepared according to the guidance provided by Audit
11 Manual Section 43400 through 43432 in the Sprint decision.
12 In addition, because the audit was transmitted while the
13 periods were within the statute, there was not a need to
14 address the circumstances outlined in Sprint case at
15 issue."

16 The statements conflict. The audit report
17 clearly did not address Sprint. There's not a single
18 comment related to Sprint or any offset or other
19 verification or schedules. Since the audit report was
20 prepared and reviewed based on the open waiver and open
21 statute, there would have been a need, so this is not a
22 surprise.

23 The transmit date is irrelevant. Furthermore,
24 what is frustrating is that the Department, throughout
25 this appeal, has not acknowledged the change or presented

1 a single supplemental analysis schedule to address Sprint.
2 The periods are time barred, and Sprint must be
3 considered. And there are limitations related to
4 allowable offsets, especially when there's multiple
5 claims, as the case here, and when there's multiple tax
6 authorities.

7 We've provided Exhibit 1 and Exhibit 2. And
8 maybe we can turn to those. So we have provide Exhibit 1
9 and Exhibit 2 to illustrate the allowable offsets and
10 limitation when Sprint is applied consistent with the
11 Audit Manual. DIRECTV does not dispute the holding of
12 Sprint, and we never have. Exhibits 1 and 2 -- and it's
13 the blue arrows on the diagrams with the As -- identified
14 tax due and allowable offsets, nearly \$9.9 million of
15 state tax, \$1.8 million of local and county tax, and over
16 \$950,000.00 of Los Angeles County Transportation and Metro
17 Authority.

18 These amounts represent the totals from the tax
19 due row on the exhibit. So if you total up across the
20 row, you will be able to get to those numbers. The issue
21 involves two components, the aggregation of two state
22 claims resulting in a net refund paid, and ignoring the
23 separate imposition and ordinance adopted by each special
24 district tax authority that have a statute of limitation
25 equivalent 6487 provision.

1 Exhibit 2 demonstrates how Sprint applies to the
2 state tax claim or state tax overpayment. DIRECTV's claim
3 for July 1st, 2006, through December 31, 2007, resulted in
4 a deficiency that would have been limited to zero. The
5 deficiency should not have been netted with Claim 1 for
6 the first two quarters of 2006.

7 You can see at the bottom of the diagram there's
8 a gray arrow with an X. The liability, on the right side
9 of the diagram can't be applied to reduce the refund on
10 the left side. Those are separate claims. They are
11 separate state claims. The right side is time barred.

12 The CDTFA's Exhibit C shows a state tax refund of
13 \$813,000.00 was paid for both claim periods as part of the
14 September 28th notice. The schedules net the two periods.
15 Audit Manual Section 0434.30, on the top of the diagram,
16 clearly states that each claim period must be treated
17 separately. The overpayment from Claim 1, \$892,000.00
18 should have been paid, and the Claim 2 deficiency should
19 have been time barred or limited to zero as offsets can
20 only be applied to debits using credits within the same
21 claim period.

22 There are two columns -- just for clarification.
23 There are two columns on the right side and that
24 represents the 6 percent rate and then the period of time
25 where the state rate was 7 percent. So both of these were

1 state tax and they should be aggregated when considering
2 the offset. So we have also applied another offset at the
3 bottom to say here is another amount of state tax that
4 should not be refunded because of tax due.

5 If we turn to Exhibit 1. Exhibit 1 examines the
6 audit results with respect to each separate district tax
7 authority. Page 1 provides a visual illustration of the
8 Claim 2 results with an example for one of the time-barred
9 deficiency issued on behalf CCTA, the red box. There are
10 another 124 of these districts where an assessment was
11 issued.

12 The green columns represents the overpayment that
13 was approved for the Los Angeles County Transportation
14 Commission, 2 half percents, and the Los Angeles County
15 Metro Transit Authority, 1. Again, the blue arrows,
16 similar to the state analysis, show the appropriate
17 offsets that are not disputed, and the gray with an X
18 illustrates offsets not supported by the statute.

19 The approved refund, after allowable Sprint
20 offsets, is \$955,718.00. You can see this on page 2 of
21 the exhibit in the last column, and it represents three
22 overpayments that were illustrated in the green squares on
23 page 1.

24 On the top left of the schedule is the amount of
25 district tax refund that was paid of \$685,122.00. In the

1 bottom on the right, you can see the \$403,870.00 of
2 district tax assessments unrelated to our refund that were
3 billed under deficiency determinations.

4 So the entire Claim 2 period has not been paid.
5 The remaining pages of the exhibit, if you click, provide
6 a Sprint analysis to each and every one of the districts
7 with the final column representing the tax deficiency that
8 was issued by the state with the total representing the
9 \$400,000.00 at issue in this appeal.

10 In closing, we recognize that this presentation
11 included too much detail, but that is what is required
12 when all periods become otherwise time barred and Sprint
13 must be applied. The Department, throughout the appeal,
14 has claimed that 6483, the state statute, allows them to
15 aggregate all results which masks the Sprint issues that
16 we just reviewed.

17 The Department's request for reconsideration
18 issued after the claim was initially granted and resulted
19 in the misinterpretation of the statute in the
20 supplemental decision, Exhibit 6, and I quote, "Simply
21 put, the CDTFA may and does offset taxpayer's overpayment
22 and underpayments among different taxing programs as long
23 as the revenues are redistributed."

24 This statement may be true if the periods are
25 open under the statute of limitation, but that is not the

1 case here, as the Department has allowed the waiver to
2 expire. Thus, the need for offset schedules to apply
3 Sprint, which has not been done. The unpaid refunds due
4 from the state portion in Exhibit 2 and Los Angeles County
5 on Exhibit 1 should be granted.

6 Are there any questions on these charts or what's
7 illustrated there at this point, or do you want us to
8 continue?

9 ADMINISTRATIVE LAW JUDGE GEARY: I would like you
10 just to continue, please.

11 Mr. Downey, did you want to change the chart out?

12 MR. DOWNEY: Thank you.

13 MR. BIXLER: Regarding the denial of credit
14 interest, DIRECTV strongly believes that credit interest
15 should be allowed as the overpayments were not similar to
16 those documented in the prior audits and the CDTFA has not
17 satisfied the requirements for carelessness under the
18 amended regulation 1703.

19 The CDTFA's basis for denying credit interest has
20 evolved during this appeals process. The initial general
21 audit comments, Schedule 4414(a)(b)(6), provided that
22 credit interest is not recommended because the current tax
23 refund is attributable to the similar refund errors that
24 the taxpayer incurred during the prior audit in addition
25 to the recurrence of similar errors, the frequencies and

1 the volume of the errors multiplied nearly three times the
2 errors in the prior audit. And we will address those
3 comments shortly.

4 And then during the appeal, the auditor prepared
5 additional comments submitted as attachment 3, support for
6 credit interest denial, which is pages 315 to 316 of
7 Respondent's Exhibit A, and also the document discussed at
8 the beginning regarding the misstating of the schedule.

9 The comments were prepared more than three years
10 after the audit completion as previously mentioned, and we
11 will have Jose Manzano testify regarding their accuracy.
12 The auditor also referenced annotations 320.0047 dated
13 4/12 of 94, and 320.0050, dated June 2nd of '78 in support
14 of her denial.

15 The appeals conference decision concluded, "We
16 find from the above that claimant's overpayments at issue
17 were the result of recurring clerical or computational
18 errors or repeated errors in similar transactions, which
19 claimant failed to correct in successive quarters. Thus,
20 we find the overpayments were the result of carelessness
21 and claimant is not entitled to credit interest."

22 Now, this decision appears to rely on the
23 annotation 320.0047 provided by the auditor to deny credit
24 interest. And the opinion states, "Failure to correct
25 overpayments in successive quarters consistent with the

1 annotation," however the annotation was created in '94,
2 prior to the amendments to the credit interest
3 regulations that established the definition of
4 carelessness and established two requirements.

5 At the time the annotation was written,
6 notification was not a requirement. The appeal decision
7 does not address the written notification requirement and
8 the revised definition of carelessness. The Department,
9 in its March 18, 2022 OTA reply brief, asserts that
10 notification was provided on or about April 7, 2004, as
11 part of the results of the prior audit of '97 to 2000.

12 Now, Downey Smith and Fier was also DIRECTV's
13 representative during this '97 to 2000 audit period, and
14 the review of the audit comments related to credit
15 interest, there was no written or discussion related to
16 denial of credit interest for future audit periods.

17 The auditor's actual comments state that, "The
18 taxpayer instituted changes to prevent future errors of
19 the same type," which they did. Furthermore, the
20 notification conclusion, or treatment of this audit period
21 as notification, is inconsistent with the treatment of the
22 subsequent refund audit period of 10/01/2000, to
23 12/31/2005, and also an FBO for the period of 01/01/2006
24 through 06/30 of 2007 where credit interest was also
25 allowed.

1 Both claims were processed after the alleged
2 notice to the taxpayer on April 7th of 2004. Now,
3 presumably, the amendments to Regulation 1703 establishing
4 a clear definition of carelessness including the written
5 notification was to make it clear and obvious to the
6 taxpayer that a credit interest would no longer be granted
7 on similar errors in subsequent periods. And we believe
8 the Department has not satisfied both requirements that
9 conclude that overpayments were the result of
10 carelessness.

11 As it relates to the second prong, similar and
12 reoccurring errors, this has been DIRECTV's main focus
13 during the appeals process, and we have provided
14 significant support which are part of the record.
15 DIRECTV, we're not going to get into the detail there, but
16 the exhibits are included.

17 DIRECTV continues to disagree with the conclusion
18 that the overpayments are recurring or similar to prior
19 audit periods. Now, yes, all of DIRECTV's audits will and
20 continue to include use tax overpayments just based on the
21 volume and the complexity of their business. That's just
22 a fact, and it's common for most businesses.

23 But the fact that there's a use tax overpayment
24 alone does not support enough to establish that such
25 overpayment is similar and reoccurring. DIRECTV reports

1 use tax for many different systems and sources. Now, if
2 you look at Exhibit 16, it's breakdown between the prior
3 audit, 2000 to 2005. And you can see at the beginning of
4 the audit period for 2006, there was a large spike, and
5 that related to a single software license purchase.

6 As we know, software, especially during this
7 time, can be a difficult type of purchase to understand
8 whether tax applies to that transaction or not.
9 Ultimately, they had accrued conservatively and ultimately
10 it was determined it was not subject to tax. And then you
11 can see that their compliance drops way back down and is
12 very good.

13 And then around -- looks about the second quarter
14 or so of 2008, they've implemented a new system, and this
15 was intended to try to automate use tax accruals -- and
16 Jose can touch upon this in a little more detail. And
17 based on GO decisions, in order to improve their
18 compliance in their efficiency in accruing use tax.

19 And, of course, when you implement a new system,
20 there is going to be some hiccups along the way. And,
21 obviously, there were. But you can see the downward trend
22 from when the new system was implemented, you can see
23 there is steady improvement with respect to the
24 overpayments.

25 Finally, credit interest is calculated on net

1 refund results. And, now, the chart that is in front of
2 you is actually a visual display of Exhibit 15. And what
3 that points out is DIRECTV's audit history along the way
4 beginning from '97 through the 2011 audit period.

5 And the trends, you can see -- well, going back
6 to auditor's comment that the refund was three times the
7 size of the '00 to '05 audit period. You can clearly see
8 it had gone down from that period and was actually about a
9 third or 70 percent less than the overpayments in the
10 prior audit period.

11 The other thing to note from this chart is the
12 significant growth that DIRECTV experienced over this
13 audit period. You can see that from the '97 to 2000
14 period, there was approximately \$30 million of taxable
15 California measure. And from that point to this audit
16 period at issue, the total taxable measure had gone up to
17 \$4.5. That's exponential growth.

18 Obviously, when a business grows that fast, there
19 are going to be mistakes both ways. But compliance was
20 definitely a high priority at DIRECTV and Jose can expand
21 on that as well.

22 ADMINISTRATIVE LAW JUDGE GEARY: Mr. Bixler, can
23 I interrupt you for just a second?

24 MR. BIXLER: Sure.

25 ADMINISTRATIVE LAW JUDGE GEARY: The chart of

1 Exhibit 15 includes the growth numbers that you talked
2 about -- I don't see growth numbers on -- am I missing
3 them? Are they somehow shown on our Exhibit 15 also?

4 MR. DOWNEY: I can answer that. On page 2 of
5 Exhibit 15, you see the comparison in the second column,
6 the increase in population is 15 times from the first to
7 the second, and then it's 50 times from the first, and
8 it's three times from the second.

9 ADMINISTRATIVE LAW JUDGE GEARY: Okay.

10 MR. DOWNEY: Do you see those?

11 ADMINISTRATIVE LAW JUDGE GEARY: Yes, thank you.
12 Go ahead.

13 MR. BIXLER: That concludes my piece.

14 ADMINISTRATIVE LAW JUDGE GEARY: Thank you,
15 Mr. Bixler.

16 Mr. Downey, would you like me to administer the
17 oath or affirmation to the witness? Are you ready for
18 that or are you going to give more argument?

19 MR. DOWNEY: Can I just add a couple of comments
20 to the credit interest?

21 ADMINISTRATIVE LAW JUDGE GEARY: Sure.

22 MR. DOWNEY: So the original audit report was
23 delivered to DIRECTV and it included, on the face of the
24 report, credit interest. So when it was transmitted, we
25 didn't recognize that there were embedded comments within

1 that report because the numbers matched what was discussed
2 and there was credit interest that we had not discussed
3 would the auditor, and the report was transmitted to
4 headquarters.

5 We don't dispute, there was an internal embedded
6 comment that said denied credit interest, and everything
7 that Steve said is summarized in that. That is the reason
8 we are here. Shortly after that, because of all of the
9 delays with this, we said we don't want to delay this any
10 further and we will file an appeal, et cetera, and we
11 expected to do that, and then the waiver expired and all
12 of the other things happened so it got grouped in here.

13 But in the exhibits, there are comments for
14 discussions with the principal auditor where we know it's
15 not an intentional overpayment and we know it's not this,
16 there were some implied comments that the credit interest
17 was denied because there was a whole lot of district tax
18 schedules that needed to be prepared, and who is going to
19 pay for them to be prepared? That's not appropriate.
20 That's not a basis for denying credit interest.

21 And if you look at the way this taxpayer has been
22 treated over all of these years -- they have 99 percent
23 compliance in reporting \$1.5 billion in measure. That is
24 significantly accurate. And we will talk about the
25 exhibit that this Exhibit 3, that -- it's Exhibit A, pages

1 315 to 316. And, you know, it references a lot of things
2 that go beyond anything that was said or discussed at the
3 end of the audit. I think that is the point that I wanted
4 to make. So we will deal with the rest of it as we talk
5 to Jose. Thank you.

6 ADMINISTRATIVE LAW JUDGE GEARY: Thank you.

7 Are you now ready for me to administer the oath
8 or affirmation?

9 Mr. DOWNEY: Yes.

10 ADMINISTRATIVE LAW JUDGE GEARY: Mr. Manzano,
11 raise your right hand, please.

12
13 JOSE MANZANO,
14 called as a witness, and having been first duly sworn, was
15 examined and testified as follows:

16
17 THE WITNESS: I do.

18 ADMINISTRATIVE LAW JUDGE GEARY: Thank you.

19 Who's actually going to be conducting the
20 examination?

21 MR. DOWNEY: I am.

22 ADMINISTRATIVE LAW JUDGE GEARY: Okay. You can
23 proceed.

24 MR. DOWNEY: Okay.

25 ///

1 DIRECT EXAMINATION

2 BY MR. DOWNEY:

3 Q Jose, can you just briefly give us your role at
4 DIRECTV?

5 A Yes. My name is Jose Manzano. I'm currently
6 employed by AT&T, who acquired DIRECTV in 2015. My
7 primary role is to assist in the audits of jurisdiction
8 state, county, and local. But I've also been involved in
9 the use tax department in determining taxability to
10 purchases coming into our systems.

11 Q And, Jose, how long have you been with DIRECTV?

12 A With DIRECTV, I've been involved going back to
13 consulting days from, probably, you know, 2003 to 2004. I
14 started coming in on a regular basis as a daily consultant
15 in 2014, and then in 2016, I become an employee of AT&T
16 which is basically post-acquisition of DIRECTV.

17 Q Okay. And can you talk briefly about the growth
18 of DIRECTV and the changes in business models that impact,
19 you know, use tax reporting?

20 A Obviously, we are talking about going back to
21 1997. At that point, I think is when DIRECTV was
22 considered a start-up company and they were launching
23 their direct-to-home satellite television subscription
24 services. So, obviously, with that comes in different
25 type of business models. There was a model where

1 customers would actually go and buy their own equipment to
2 set top box from your brick and mortars -- Circuit City
3 and Best Buy. And then we transitioned over to the
4 customer being able to buy that equipment from DIRECTV,
5 and then we went to a lease model where we actually
6 brought the equipment in house and we would charge the
7 customer on a monthly basis.

8 Obviously, with that comes the growth of
9 expanding into, you know, multiple jurisdictions all over
10 the country. So to the height of it, I mean, DIRECTV got
11 to having 25 million subscribers across the country. And
12 with compliance issues and jurisdictions, you can imagine
13 how many localities and state agencies.

14 Q How large was the tax department?

15 A At DIRECTV, when I started coming in on a regular
16 basis, about 30 staff.

17 Q So the auditor in Exhibit A asserts that there
18 was no review of any used tax report, it just got remitted
19 and there were no changes or anything, what would you say
20 to that?

21 A That's not accurate. Obviously, with the growth
22 comes the expenditure side of the business where it's
23 obviously noticeable that the sales tax that we paid to
24 vendors and the use that was accrued becomes a major
25 issues to review from a company perspective because it

1 does affect balance sheet and income statements. So we
2 obviously -- the goal has always been to be as accurate as
3 possible, but the size of the company has its limitations.

4 But there was consistent review of the systems
5 and there was consistent review of setting up the proper
6 taxability matrixes for purchases coming in based on
7 general ledger and also on the accrual side. Because as
8 the growth of the company increased, so did our
9 self-assessment of use tax.

10 So in order to try and save that out-of-pocket
11 expense, there was periodic review of all of the use tax
12 being accrued in the system.

13 Q So in this exhibit, also, the auditor refers to
14 some Delta software that was doing accrual. Is there a
15 software named Delta software?

16 A No.

17 Q Can you elaborate on that.

18 A The Delta, ironically, was set up to try and
19 capture additional tax as a result of prior audits. So
20 the Delta is really the difference between the tax that a
21 vendor charges DIRECTV and the tax that our system
22 determines is due. So if the vendor charges \$100.00, but
23 our system says we owe \$150.00, that \$50.00 is the delta
24 or the difference that would be accrued within the system.

25 That was a program that was implemented as part

1 of the ERP which, at the time, was SAP. So SAP in
2 conjunction with the way that the vendor submit their
3 invoices based on the purchase orders and the general
4 ledger accounts, would make the tax determination and any
5 difference that was identified is the delta.

6 Q So the auditor -- it's in comments, "The system
7 automatically accrues tax for preprogrammed vendors
8 without internal review." Does DIRECTV has any software
9 that reviews based on vendor?

10 A No. The taxability determination of use tax at
11 DIRECTV and even at AT&T and many large corporations is
12 based on, you know, the -- it's in conjunction with other
13 third-party software. For example, we use Vertex.
14 Vertex provides us the taxability of a particular
15 description of a good, service, or product for a
16 particular jurisdiction.

17 So in conjunction with that, then our ERP system,
18 SAP, merges with that determination and then we pass that
19 information along to the purchasing side. So once a
20 particular transaction is contemplated and the PO is
21 generated, then the general ledger is going to dictate the
22 taxability based on destination of the product. So that's
23 basically the automated portion of it. There's to no such
24 thing as we identify a vendor because we know they are
25 always going to be taxable or not. It's driven by the

1 purchase transaction and the general ledger that is
2 assigned to that particular transaction.

3 ADMINISTRATIVE LAW JUDGE GEARY: Mr. Downey, let
4 me interrupt you just for a second to remind you that you
5 are asking questions sometimes which appear to be
6 present-tense inquiries, and Mr. Manzano is responding in
7 present-tense terms that that is what we do, this is what
8 we do. I'm sure you both -- keep in mind that we're
9 talking about prior period so that we are focused on what
10 was happening at the time. Maybe Mr. Manzano was talking
11 about what was happening at that time, but you might want
12 to clean that up a bit.

13 MR. DOWNEY: Yes.

14 THE WITNESS: Just to clarify, everything I've
15 been stating is what happened during that contemporary
16 period.

17 MR. DOWNEY: We are only talking about the audit
18 period. All of the comments are relative to the audit
19 period, not their current systems.

20 ADMINISTRATIVE LAW JUDGE GEARY: Okay.

21 MR. DOWNEY: And we are addressing these
22 comments -- these questions correlate directly to the
23 representations that are provided in this document that
24 was created some three years after the audit. Okay.

25 ///

1 BY MR. DOWNEY:

2 Q And I think we've talked about, you know, not all
3 use tax is the same. There is a lot of sources that you
4 have. But I wanted to ask you -- there's a comment in
5 here -- and there's been a lot of comments about the
6 system just makes these back-and-forth adjustments in and
7 out, and the auditor says there is an automated system
8 making adjustments. Is there any automated system making
9 adjustments?

10 A No. Any adjustment that happened at the time
11 during the audit period would have to have been reviewed
12 by a tax member -- a tax employee.

13 Q Thank you. So does DIRECTV maintain internal
14 controls as a public company during this audit period for
15 sales and use tax reporting and compliance?

16 A Yes, as a public company, DIRECTV did. We have
17 internal and external auditors on the internal control
18 side that sales and use tax operations was part of the
19 calendared items that were reviewed by our internal audit
20 group.

21 Q Okay. And I guess my final comment relative to
22 this is -- so the auditor says in her final conclusion
23 that, "there were similar errors in past numerous audits
24 that lasted over the decades and continues into the
25 current and into subsequent audit periods." The DIRECTV

1 audit permit, this account was closed December 31, 2011;
2 correct?

3 A That is correct.

4 Q And that is the end date of this audit period?

5 A Yes.

6 Q And the entity that it was merged into was
7 audited for the subsequent period?

8 A That is correct.

9 Q And it was a deficiency; correct?

10 A Yes, there was no net refund for that period.

11 Q So the auditor concludes that the overpayments
12 are caused by over accrual of use tax from DIRECTV's
13 failure to assume to observe proper standard of care in
14 reporting use tax. How would you respond to this?

15 A That is simply not accurate. The company's main
16 objective, obviously, from our perspective during that
17 period was to comply. And then the system implemented was
18 to improve our compliance. So the issue, obviously, is
19 the growth and the volume of transactions the came in
20 through our AP system during that audit period was just
21 phenomenal growth, so there was bound to be errors, but
22 they were not due to carelessness. The company, again,
23 really strived to minimize our out-of-pocket expenditures,
24 and use tax is directly out of pocket.

25 MR. DOWNEY: I have no further questions. Thank

1 you.

2 ADMINISTRATIVE LAW JUDGE GEARY: Thank you.

3 Department, would you like to ask this witness
4 any questions?

5 MR. NOBLE: No, thank you.

6 ADMINISTRATIVE LAW JUDGE GEARY: Okay. Let me
7 ask my co-panelists.

8 Judge Aldrich, any questions?

9 ADMINISTRATIVE LAW JUDGE ALDRICH: No questions
10 for the witness.

11 ADMINISTRATIVE LAW JUDGE GEARY: Any questions?

12 ADMINISTRATIVE LAW JUDGE AKOPCHIKYAN: No
13 questions.

14 ADMINISTRATIVE LAW JUDGE GEARY: Thank you.

15 I have no question questions for the witness.

16 Mr. Downey, does that conclude your primary
17 presentation? Do you have Issue 3 you want to discuss
18 still? How much time do you expect to take, because
19 you --

20 MR. DOWNEY: I'll make it quick.

21 ADMINISTRATIVE LAW JUDGE GEARY: Proceed.

22 MR. DOWNEY: All right. So the third issue
23 involves the fourth quarter overpayment. And so DIRECTV
24 made two prepayments for fourth quarter in November and
25 December, and then reviewed the information and tax they

1 were reporting, adjusted and filed a final return that was
2 accurate and was substantially accepted in the audit.

3 So there was an overpayment of excess between
4 what they had paid in as a deposit through the prepayments
5 and the final return that they filed. Generally, when
6 this happens -- I have had it happen with clients all of
7 the time -- ADRS calls the taxpayer and say, "What do you
8 want to do with it? Do you want us to sent it back to you
9 or would you like us to apply it to your next quarter?"
10 We can just apply it to the next quarter. And we do that.

11 I've had clients where it's been a couple of
12 quarters because we have had things that have changed.
13 And in this audit, or in this situation with fourth
14 quarter '11, the refund -- overpayment was sent to the
15 district and they held the funds for 57 months, didn't ask
16 a single question throughout the completion of the audit,
17 and then when it was wrapped up, wrote a comment to send
18 it back to Sacramento to pay the refund. Headquarters
19 processed it as part of final notice that you see as part
20 of the exhibits in Exhibit A.

21 And so there is a lot of detail in these
22 overpayments within the submissions that have been
23 provided as exhibit, but that's the highlight, so thank
24 you.

25 ADMINISTRATIVE LAW JUDGE GEARY: And does that

1 conclude your primary presentation? Thank you.

2 My plan would be to hold questions, unless one of
3 my panelists wants to ask questions. No. They indicated
4 that they are okay. We will hold questions until after
5 the Department gives its presentation, but usually before
6 Appellant will give its final rebuttal or closing.

7 Mr. Noble, are you ready?

8 MR. NOBLE: I am. Thank you.

9 ADMINISTRATIVE LAW JUDGE GEARY: You may proceed.
10

11 OPENING STATEMENT

12 MR. NOBLE: Appellant filed three timely claims
13 for refund for the period of January 1st, 2006, through
14 December 31, 2011, asserting that it over reported use tax
15 on various transactions. The claims were verified by
16 audit which found deficiencies of tax of approximately
17 \$13 million in total overpayments of tax of approximately
18 \$14.9 million, resulting in a refund of approximately \$1.7
19 million.

20 As stated in the July 28, 2016, revised audit
21 report, credit interest on these overpayments was denied
22 pursuant to Regulation 1700, Subdivision (b)(6)(b).
23 Petitioner claims that they refund should include an
24 additional \$402,390.00, which represents overpayments of
25 district tax to three jurisdictions that were offset

1 against underpayments of district taxes to other
2 jurisdictions.

3 Petitioner also claims that it is entitled to
4 credit interest on the refund amount. There is no dispute
5 that the applicable statute of limitations at issue and
6 determination for the final quarter of the claim period
7 expired on August 13, 2016, prior to the September 28th,
8 2016 notice of refund.

9 As will be discussed in greater detail, the
10 overpayments in dispute were offset against other district
11 liabilities based on the Court's holding in Sprint
12 Communications v. The State Board of Equalization.

13 As indicated in Section 7202, subdivision (d) and
14 7270, state, local, and district taxes form a uniform and
15 integrated sales and use tax system which are generally
16 reported and paid by taxpayers as a single amount on a
17 single return and for which the CDTFA performs all
18 administration functions including, for example,
19 rulemaking, permitting, auditing, and collecting.

20 When the CDTFA audits a taxpayer, it encompasses
21 an examination of all of the taxing programs within its
22 purview. Section 6483 provides that in making a
23 determination, CDTFA may offset overpayments for a period
24 or periods together with interest on the overpayments
25 against underpayments for another period or periods.

1 As we noted in the supplemental decision under
2 Section 6486, CDTFA can, and invariably does, issue a
3 single notice of determination to cover all the taxes a
4 taxpayer owes for the period covered. Accordingly, the
5 CDTFA may offset overpayments against underpayments of any
6 tax covered by the NOD.

7 With respect to periods that become time barred
8 in which to issue the NOD, in the Sprint case, the Court,
9 in applying the doctrine of equitable setoff, holds that
10 the Department may issue billings to offset an
11 underpayment of tax against a taxpayer's overpayment in
12 another reporting period so long as the reporting periods
13 are covered by a claim for refund, even though the statute
14 of limitations otherwise bars the issuance of a timely
15 deficiency determination for the same period.

16 In making this finding, the Court notes several
17 key points based on well-settled case law. First, they
18 sued for refund of taxes governed by equitable principles,
19 and a taxpayer who challenges the validity of a tax may
20 recover only if it can be shown that more has been exacted
21 than equity in good conscience, should have been paid.

22 Second, that in making the equitable
23 determination of whether the taxes paid were in excess of
24 the amount due, the Department is not confined to the
25 isolated transactions on which the refund is based.

1 Instead, a refund case throws open the taxpayer's entire
2 tax liability for the period in question.

3 And, third, that while there is no statutory
4 basis for permitting the Department to setoff a tax
5 deficiency against a refund to after the statute of
6 limitations has expired, the broad, equitable principle
7 that a taxpayer is not entitled to a refund unless they
8 have, in fact, overpaid its taxes, nevertheless, allows
9 for such setoffs.

10 There's nothing in Sprint remotely indicating
11 that such setoffs cannot be made between the numerous
12 districts and local taxes administered by CDTFA. In fact,
13 the assertion that Appellant should be able to retain any
14 overpayments despite the existence of underpayments in any
15 of these integrated sales and use taxes during the same
16 period is directly contrary to the equitable principles
17 underlying the decision in the Sprint case.

18 Consistent with Sprint, Appellant's claim for
19 refund throws open its entire liability for the period in
20 question, and Appellant is only entitled to a refund to
21 the extent it actually overpaid its taxes. Therefore,
22 offsetting Appellant's overpayments in some districts by
23 its underpayments in other districts is clearly
24 appropriate under Sprint.

25 Appellant's position in this appeal is directly

1 at odds with its arguments regarding the Department being
2 a fiduciary that administers the tax under each contract
3 for each individual jurisdiction. The CDTFA is acting as
4 the fiduciary and ensuring that each individual
5 jurisdiction receives the tax revenues to which it is
6 entitled for the period at issue.

7 The Department is not using the funds of one
8 jurisdiction to benefit another as Appellant alleges. The
9 funds at issue are overpayments, and regardless of the
10 outcome in this appeal, will not remain with the three
11 districts that receive the overpayment. The issue here is
12 whether Appellant should retain the payments at the
13 expense of the districts to which it was underpaid during
14 the same period. Again, under Sprint, the taxpayer is
15 only entitled to a refund to the extent it actually
16 overpaid its taxes.

17 Former Annotation 802.0090 similarly conflated
18 the separate issues of offsetting between local
19 jurisdictions and districts and offsetting between the
20 taxpayer's underpayments and overpayments of tax. While
21 the backup letter mentions Sprint, the actual conclusion
22 in that letter appears to broadly conclude that
23 overpayments in one local jurisdiction or district can
24 never be offsetting against underpayments in another.
25 Even to the extent it meant to limit this conclusion to

1 Sprint offsets, such a conclusion is incorrect for the
2 same reason that Appellant's arguments are incorrect here.

3 As I have already discussed, that each local
4 jurisdiction and district must receive the revenues
5 properly due is actually supported by the Department's
6 ability to offset a taxpayer's underpayments and
7 overpayment.

8 As an aside, the annotation essentially provides
9 that the Department must actually allocate tax revenue to
10 the jurisdiction where it is properly due, and vice versa
11 that the Department cannot make allocations that is to the
12 detriment of other jurisdictions.

13 The annotation was never intended to address
14 refunding overpayments in one jurisdiction when
15 underpayments exist in others. This is why the annotation
16 was a local and district tax annotation rather than a
17 general sales and use tax annotation.

18 In summary, Section 6483 and the Sprint case
19 allow the Department to offset Appellant's overpayment of
20 district tax with underpayments in other districts. I
21 think the Court summed it up best when it stated that
22 Sprint, in seeking equity by requesting a refund of taxes,
23 must be prepared to do equity by allowing its tax
24 liability for the same period to be corrected because of
25 errors through which it has profited.

1 Similarly, Appellant cannot seek the equity of
2 recovering its overpayments while attempting to avoid the
3 equity of its underpayments. With respect to credit
4 interest as relevant here, Regulation 1703 provides that
5 no credit interest will be allowed where the overpayment
6 has been made by reason of carelessness.

7 Carelessness occurs when a taxpayer makes an
8 overpayment as the result of a clerical error such as
9 including receipts for periods other than that for which
10 the return is intended or failing to take allowable
11 deductions and the overpayment is made after the taxpayer
12 has been notified in writing of the same or similar errors
13 on one or more previous returns.

14 Audit Manual Section 0217.13 provides some
15 examples of carelessness such as knowingly overpaying the
16 tax liability, recurring overpayments caused by clerical
17 or computational errors in an audit situations where
18 there's a net refund but a negligence penalty would have
19 been assessed if there had been a deficiency.

20 And, lastly, where there are overpayments caused
21 by repeated errors in similar transactions. Appellant was
22 previously audited for the period October 1, 1997 through
23 September 30, 2000. The April 7, 2004 reported field
24 audit, which has been provided as Exhibit G, shows a total
25 refund of \$810,000.00 for use tax accrued and reported in

1 error.

2 The verification comments note that the
3 overpayments result from the accounting department
4 erroneously accruing use tax on nontaxable labor,
5 periodicals, and construction contracts in an effort to
6 correct errors found in a prior audit.

7 In addition, Appellant filed a claim for refund
8 for that prior period dated May 19, 2003. This means no
9 later than May of 2003, Appellant knew that it was over
10 reporting its use tax liabilities and on or about
11 April 7th, 2004, Appellant was notified in writing that it
12 was over reporting its use tax liabilities.

13 Turning to the present period as summarized in
14 Exhibit A, pages 315 to 316, audit staff found that
15 approximately 95 percent of the refund was due to over
16 accruing and reporting use tax in error. For example,
17 audit schedule 12(h) which accounts for approximately
18 82 percent of the refund resulted from Appellant accruing
19 use tax on exempt services on property that was shipped
20 outside of California.

21 Audit schedule 12(s), overpayments result from
22 continuous over accruals and under accruals of use tax
23 that ended up and as net overpayments. Audit schedules
24 12(i) and 12(j) result from reliance on their accounting
25 program. Audit staff found that the software was set up

1 to accrue a tax on full invoice amounts even if the
2 invoice was only partially taxable. Audit staff also
3 found that Appellant did not internally review or monitor
4 how the program taxed various invoices.

5 Even if as alleged Appellant that an employee
6 made adjustments, we note that the continued debits and
7 credits to the use tax accruals are the same issue seen in
8 the prior audit. Lastly, according to audit schedules
9 12(d) and 12(e) which represents about three percent of
10 the overpayments, those resulted from unclaimed tax paid
11 purchases, resold credits, and excess tax reimbursement
12 that ended up being refundable to Appellant which was
13 carried over from a prior audit.

14 In short, audit schedules 12(f) through 12(j)
15 shows that the overwhelming majority of the overpayments
16 in the current appeal result from accruing use tax in
17 error on nontaxable transactions and continuously
18 adjusting some of those accruals back and forth in an
19 effort to correct them.

20 Furthermore, the fact that Appellant adjusted the
21 use tax accruals back and forth show that Appellant knew
22 it was not accurately reporting its use tax liabilities.
23 This establishes that the overpayments at issue occurred
24 because of recurring clerical or computational errors and,
25 thus, the overpayments were a result of carelessness.

1 These errors are similar to the errors that occurred as
2 far back as the audit period ending in September of 2003.
3 Therefore, Appellant is not entitled to credit interest
4 for this appeal. Thank you.

5 ADMINISTRATIVE LAW JUDGE GEARY: Thank you. I'm
6 going to open it up to questions from my co-panelists.

7 Judge Aldrich, do you have any questions of
8 either party?

9 ADMINISTRATIVE LAW JUDGE ALDRICH: Yes. This is
10 Judge Aldrich. I have a couple of questions. This is for
11 Appellant. So regarding the chart for Exhibit 15, there's
12 three separate periods, and I believe the witness
13 indicated that there was a shift in business models, one
14 where they could purchase from a third-party retailer, to
15 DIRECTV selling directly to the customer, and three,
16 there's leasing of the customers.

17 so to be clear, the three separate periods, do
18 they correspond with the changes in the business model
19 or -- I guess at what point did those occur?

20 MR. DOWNEY: So I think we reflected some of
21 those changes on a prior chart earlier. I think they
22 transitioned to a free-free somewhere around the end of
23 the 2000 to 2005 audit. And then during this period, they
24 transitioned to a lease model, and part of the tax due was
25 relative to the lease of the boxes to customers who were

1 using them. So some of those changes occurred at the tail
2 end of the '00 to '05 five audit, and some of these
3 changes occurred in the middle of this current audit.

4 ADMINISTRATIVE LAW JUDGE ALDRICH: Thank you.

5 And back to Department. So the Department's
6 position regarding the same or similar errors, could you,
7 I guess -- so it sounds like the errors are similar in the
8 sense that they're use tax largely, or --

9 MR. NOBLE: To a certain extent they are all
10 related to use tax. But look at the audit that ended in
11 2000, and we are seeing accruing tax on exempt services
12 and nontaxable labor, periodicals, and construction
13 contracts. Look at schedule 12(h) in the current audit
14 period. So see line items for accruing tax on services
15 such as translation services or other things that are also
16 nontaxable. So when seeing those, that's what I believe
17 audit staff and myself saw that appeared to be similar.

18 ADMINISTRATIVE LAW JUDGE ALDRICH: Okay. Thank
19 you. I'm going to refer it back to Judge Geary.

20 ADMINISTRATIVE LAW JUDGE GEARY: Thank you.

21 Judge Akopchikyan, do you have any questions for
22 either party?

23 ADMINISTRATIVE LAW JUDGE AKOPCHIKYAN: I have a
24 question for the Department. Does the percentage of error
25 factor into carelessness in the Department's position?

1 MR. NOBLE: I would say it's not a bright line
2 rule, but it would be one of the factors we would like at.
3 And I would note that while the refund amount in the
4 current audit period went down to \$1.6 million compared to
5 the \$5.5 million in the immediate preceding audit period,
6 that actual total refund was \$14.5 million, representing a
7 measure of approximately \$165 million. The refund amount
8 went down because of the underpayments that were around
9 \$13 million.

10 ADMINISTRATIVE LAW JUDGE AKOPCHIKYAN: Thank you.

11 ADMINISTRATIVE LAW JUDGE GEARY: And I have no
12 questions.

13 Mr. Downey, are you ready to give a final short
14 rebuttal?

15 MR. DOWNEY: I don't know how to do anything
16 short, but I'll try to be short.

17 ADMINISTRATIVE LAW JUDGE GEARY: Thank you.

18 MR. DOWNEY: First, the Department presents this
19 Issue 1 as us filing a claim and trying to ask for some
20 money that wasn't due -- or that was due, but we don't
21 want to repay. That's not the case. The claim for
22 refunds and the overpayments that were in this were
23 documented during the audit process, while the audit was
24 in process, in working with the auditor.

25 So there was nothing that was us filing a claim

1 trying to sneak something past somebody. So the
2 presentation of that is a little bit backwards. It
3 started with the audit and the extensions that were
4 provided by the taxpayer.

5 They raise an issue of integrated sales and use
6 tax. There's no concept of an integrated sales and use
7 tax. If you look at Sprint, Sprint discusses tax
8 authority. It's undisputed that each district represents
9 a tax authority that has adopted its own set of statutes,
10 its own set of rules, its own Section 6483, equivalent to
11 that of the State.

12 And then the second thing is the Department has
13 -- and I'm not an attorney. I'm an accountant. But the
14 -- where is 6483? The Department references 6483 is
15 providing them the ability to do this unrestricted offset,
16 throws everything open, et cetera. So 6483, first thing,
17 predated Sprint, so if that's the case, why did we have a
18 Sprint? If they can just do what they want whenever they
19 want, why do we have Sprint?

20 So 6483 is actually in the deficiency
21 determination section. The periods are time barred.
22 There is no deficiency. That ship had sailed a long time
23 ago. If you look at what 6483 is saying, it's addressing
24 a cumulative audit report where they audited a claim for
25 four quarters. In the first quarter, they overpay and

1 they pay interest on that amount for that quarter and the
2 next quarter, and then in the third quarter they underpay,
3 and it absorbs the entire overpayment and the interest on
4 the overpayment and now there is starting to be an
5 underpayment and there is starting to be interest
6 calculated on that.

7 It's basically saying that you can aggregate all
8 of those periods together in one notice. You don't have
9 to send them the refund and then go collect their payment.
10 You put them together. You offset them. It starts with
11 in making a deficiency determination. We are not making a
12 deficiency determination. There is no basis for this to
13 provide any offset to this audit.

14 And you will note in reading 6483 that it says,
15 "May offset overpayments for a period or periods," -- and
16 I'm going to skip the interest -- "against underpayments
17 for another period" -- not the same period. Another
18 period -- "with the interest and penalties that apply on
19 that." Just as I explained, in an audit when one quarter
20 is a refund and one quarter is an assessment, you can
21 aggregate those together.

22 If you look at report, that's exactly what they
23 do in accumulative interest. This section is not talking
24 about you don't have to consider the statute of
25 limitations or that time barred periods aren't time

1 barred.

2 So we seek a refund to tax authorities and
3 jurisdiction where we've overpaid. Okay? We do not seek
4 a refund, we have not sought a refund, and don't have a
5 refund, and if we did, we've offset it in every other
6 jurisdiction where they said to issue a deficiency
7 determination under the state statute, when they should be
8 looking at the district statute because they have an
9 equivalent 6483. Those are separate. There are two sets
10 of statutes. It's not one statute. There is not one 6483
11 that applies to everything.

12 With respect to credit interest. Not all use tax
13 is the same. We report on a lot of different things.
14 Giving you a report that pays you a refund doesn't, to me,
15 fit the bill of giving a taxpayer notice that you will
16 deny interest or that they need to do something or that
17 they are doing something deliberate and they need to
18 correct it, et cetera. Notice would be you would be aware
19 that you were issued a notice.

20 The 1997 to 2000 audit was raised on March 18th
21 of 2022. We filed our claim in 2016. It's the first time
22 there is any reference to we gave you notice in this other
23 period. So I think that is disingenuous. I think when
24 they look at the summary of recap, it's, you know, you
25 over reported use tax and this is use tax. I know in '97

1 to 2000, they reported on DIRECTV TV guide. Okay. Their
2 newsletter. They didn't recognize that that was a
3 periodical and it was exempt from tax, and that
4 represented a significant portion of that item.

5 The creative art things or the giveaways or
6 things that they relate to how we acquire customers, and
7 that changes all of the time, from 2000 to whatever, we
8 have had 100 different programs of incentives we provide
9 to acquire customers. These aren't clerical errors as
10 referenced in the Audit Manual either, or in the other
11 where someone just added something wrong and paid an
12 amount and you put \$10,000.00 instead of \$1,000.00. These
13 aren't clerical errors. They're not in the nature of
14 that. I think that's all I have got.

15 ADMINISTRATIVE LAW JUDGE GEARY: Thank you,
16 Mr. Downey.

17 MR. DOWNEY: Thank you.

18 ADMINISTRATIVE LAW JUDGE GEARY: Mr. Downey, does
19 your client submit the matter?

20 MR. DOWNEY: We do submit the matter.

21 ADMINISTRATIVE LAW JUDGE GEARY: All right.
22 Department, submitted?

23 MR. NOBLE: Yes, sir.

24 ADMINISTRATIVE LAW JUDGE GEARY: This case is
25 submitted on February 16, 2023, at 2:33 p.m. The record

1 in this matter is now closed and this hearing is now
2 concluded. I want to thank everyone for participating
3 today. In the coming weeks, the Panel will meet to
4 consider the matter, and OTA will send you a written
5 opinion within 100 days. This also concludes OTA's
6 afternoon calendar for the day. Thank you.

7 (The hearing concluded at 2:33 p.m.)
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

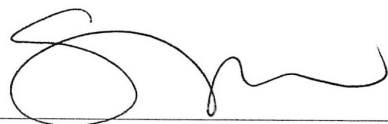
1 HEARING REPORTER'S CERTIFICATE

2
3 I, Shelby K. Maaske, Hearing Reporter in and for
4 the State of California, do hereby certify:

5 That the foregoing transcript of proceedings was
6 taken before me at the time and place set forth, that the
7 testimony and proceedings were reported stenographically
8 by me and later transcribed by computer-aided
9 transcription under my direction and supervision, that the
10 foregoing is a true record of the testimony and
11 proceedings taken at that time.

12 I further certify that I am in no way interested
13 in the outcome of said action.

14 I have hereunto subscribed my name this 14th day
15 of March, 2023.

16
17
18 
19 _____
Shelby Maaske,
Hearing Reporter

20 SHELBY K. MAASKE
21
22
23
24
25

| <hr/> \$ <hr/> | <hr/> (<hr/> | | |
|------------------------------|---|---|---|
| \$1,000.00 57:12 | (b)(6)(b) 42:22 | 12900 2:16 | 2009 15:24 16:3 |
| \$1.5 31:23 | (d) 43:13 | 13 43:7 | 20096628 2:6 |
| \$1.6 53:4 | | 15 29:2 30:1,3,5,6 51:11 | 2011 8:8,11,13 15:25 16:15 29:4 39:1 42:14 |
| \$1.7 42:18 | <hr/> 0 <hr/> | 16 2:19 5:1 28:2 57:25 | 2014 33:15 |
| \$1.8 20:15 | 00 29:7 52:2 | 1700 42:22 | 2015 33:6 |
| \$10,000.00 57:12 | 01/01/2006 26:23 | 1703 24:18 27:3 48:4 | 2016 7:4 16:3,10, 12 18:20 33:15 42:20 43:7,8 56:21 |
| \$100.00 35:22 | 0217.13 48:14 | 18 6:10,16 26:9 | 2018 19:1 |
| \$13 42:17 53:9 | 0434.30 21:15 | 18th 56:20 | 2019 7:7 19:8 |
| \$14.5 53:6 | 05 29:7 52:2 | 19 49:8 | 2022 26:9 56:21 |
| \$14.9 42:18 | 06/30 26:24 | 1995 13:20 | 2023 2:19 5:1 57:25 |
| \$150.00 35:23 | | 1997 33:21 48:22 56:20 | 22 19:8 |
| \$165 53:7 | <hr/> 1 <hr/> | 1:00 2:17 5:2 | 25 10:13 34:11 |
| \$30 29:14 | 1 6:2,10,16 8:7,10, 18,19 9:12 11:20 15:25 16:14,15 20:7,8,12 21:5,17 22:5,7,15,23 24:5 48:22 53:19 | 1st 8:25 21:3 42:13 | 28 16:22 42:20 |
| \$4.5 29:17 | | <hr/> 2 <hr/> | 28th 21:14 43:7 |
| \$400,000.00 23:9 | 10 9:12 | 2 6:3,4 8:9,18 9:12 10:1,6 16:16 20:7, 9,12 21:1,18 22:8, 14,20 23:4 24:4 30:4 | 2:33 2:18 57:25 58:7 |
| \$402,390.00 42:24 | 10/01/2000 26:22 | 20 9:11 | 2nd 18:20 25:13 |
| \$403,870.00 23:1 | 100 57:8 58:5 | 2000 26:11,13 28:3 29:13 48:23 51:23 52:11 56:20 57:1,7 | <hr/> 3 <hr/> |
| \$5.5 53:5 | 11 4:12 8:21 17:13 41:14 | 2003 33:13 49:8,9 51:2 | 3 6:3,4 8:11 9:14 25:5 31:25 40:17 |
| \$50.00 35:23 | 12 13:9 | 2004 26:10 27:2 33:13 48:23 49:11 | 30 16:14 17:1 34:16 48:23 |
| \$685,122.00 22:25 | 12(d) 50:9 | 2005 28:3 51:23 | 300 2:16 |
| \$810,000.00 48:25 | 12(e) 50:9 | 2006 8:7,10,19 15:25 16:14,15 21:3,6 28:4 42:13 | 31 8:8,11,21 15:25 16:15 21:3 39:1 42:14 |
| \$813,000.00 21:13 | 12(f) 50:14 | 2007 21:3 26:24 | 315 7:2,11 25:6 32:1 49:14 |
| \$892,000.00 21:17 | 12(h) 49:17 52:13 | 2008 28:14 | 316 7:2,11 25:6 32:1 49:14 |
| \$9.9 20:14 | 12(i) 49:24 | | 31st 18:7 |
| \$950,000.00 20:16 | 12(j) 49:24 50:14 | | 320.0047 25:12, 23 |
| \$955,718.00 22:20 | 12(s) 49:21 | | |
| | 12/31/2005 26:23 | | |
| | 124 22:10 | | |
| | 125 14:18 | | |

320.0050 25:13

33 4:16

4

4/12 25:13

43 4:13

434.00 17:12

434.30 17:12

43400 19:11

43432 19:11

4414(a)(b)(6)
24:21

45 9:5

5

5 9:12 12:1

50 30:7

57 41:15

6

6 21:24 23:20

6043 12:2

6483 12:7,18 15:1
23:14 43:22 47:18
54:10,14,16,20,23
55:14 56:9,10

6486 44:2

6487 12:6,10
20:25

7

7 18:24 21:25
26:10 48:23

70 29:9

7202 43:13

7270 14:11 43:14

78 25:13

7th 27:2 49:11

8

8 4:5,6

802.0090 13:3
15:11 46:17

82 49:18

9

9 19:2,8

94 25:13 26:1

95 49:15

97 26:11,13 29:4,
13 56:25

99 31:22

A

abilities 17:22

ability 47:6 54:15

absorbs 55:3

acceptable 14:24

accepted 41:2

account 39:1

accountant
54:13

accounting 49:3,
24

accounts 36:4
49:17

accrual 35:7,14
39:12

accruals 28:15
49:22 50:7,18,21

accrue 50:1

accrued 28:9
34:24 35:12,24
48:25

accrues 36:7

accruing 28:18
49:4,16,18 50:16
52:11,14

accumulative
55:23

accuracy 16:11
25:11

accurate 7:19
17:14 18:14 31:24
34:21 35:2 39:15
41:2

accurately 50:22

acknowledge
17:9

acknowledged
19:25

acquire 57:6,9

acquired 33:6

acting 46:3

actions 17:18

actively 13:23

actual 26:17
46:21 53:6

add 7:16 30:19

added 57:11

addition 19:12
24:24 49:7

additional 10:21
16:7 25:5 35:19
42:24

address 11:17
16:1 19:14,17
20:1 25:2 26:7
47:13

addresses 15:7

addressing 8:17
37:21 54:23

adherence 11:18

adjusted 41:1
50:20

adjusting 50:18

adjustment
38:10

adjustments
38:6,8,9 50:6

administer 10:5
30:16 32:7

administered
14:5,16 45:12

administering
12:14

administers
14:3,9 46:2

administration
14:24 43:18

ADMINISTRATIVE
E 5:4,15,20,24 6:5,
8,18,23 7:13,20,
24 8:2,22 9:2,15,
20,25 10:3,8,16
11:2 24:9 29:22,
25 30:9,11,14,21
32:6,10,18,22
37:3,20 40:2,6,9,
11,12,14,21 41:25
42:9 51:5,9 52:4,
18,20,23 53:10,
11,17 57:15,18,
21,24

admissibility
7:21

admission 6:16,
20 7:22

admitted 7:25

adopt 12:21

adopted 12:19
20:23 54:9

ADRS 41:7

advance 10:22

advantage 14:15

advising 13:21

affect 35:1

affirmation 10:5

- 30:17 32:8
afternoon 58:6
agencies 34:13
agency 14:7
agency's 14:6
aggregate 23:15
 55:7,21
aggregated 22:1
aggregation
 20:21
agree 8:16
agreed 9:4
agreement 8:5
ahead 6:23 30:12
Akopchikyan 3:5
 40:12 52:21,23
 53:10
Aldrich 3:5 40:8,9
 51:7,9,10 52:4,18
alleged 27:1 50:5
alleges 46:8
allocate 47:9
allocations 47:11
allowable 20:4,9,
 14 22:19 48:10
allowed 14:19
 16:4 24:1,15
 26:25 48:5
allowing 47:23
amended 24:18
amendments
 26:2 27:3
amount 22:3,24
 43:4,16 44:24
 53:3,7 55:1 57:12
amounts 19:3
 20:18 50:1
analysis 13:7,17
 15:6 20:1 22:16
 23:6
Angeles 20:16
 22:13,14 24:4
annotation 13:3,
 4,10 15:10,12,13
 25:23 26:1,5
 46:17 47:8,13,15,
 16,17
annotation's
 13:5
annotations
 25:12
AP 39:20
appeal 2:5 6:9
 11:9,16 19:25
 23:9,13 25:4 26:6
 31:10 45:25 46:10
 50:16 51:4
appeals 2:1 7:10
 15:3 24:20 25:15
 27:13
APPEARANCES
 3:1
appeared 52:17
appears 7:3
 15:18 25:22 46:22
Appellant 2:7 3:7
 5:21 6:19 7:14
 8:9,11 9:4,22
 10:18,24 11:8
 15:18 42:6,12
 45:13,20 46:8,12
 48:1,21 49:7,9,11,
 18 50:3,5,12,20,
 21 51:3,11
appellant's 4:5
 6:10,16 8:14 9:9
 45:18,22,25 47:2,
 19
Appellants 5:8
 11:4
applicable 13:18
 15:6 43:5
application 17:21
applied 11:11
 20:10 21:9,20
 22:2 23:13
applies 21:1 28:8
 56:11
apply 15:11,14
 24:2 41:9,10
 55:18
applying 17:10
 44:9
approved 16:10
 22:13,19
approximately
 9:5 10:13,20
 29:14 42:16,17,18
 49:15,17 53:7
April 8:7,10,19
 26:10 27:2 48:23
 49:11
argue 15:18
argument 9:5,17,
 22 10:12,13,17
 15:10 30:18
arguments 46:1
 47:2
arms 13:23
arrow 21:8
arrows 20:13
 22:15
art 57:5
Article 12:1
asserting 42:14
assertion 45:13
asserts 11:25
 12:17 26:9 34:17
assessed 48:19
assessment
 22:10 55:20
assessments
 23:2
assigned 37:2
assist 33:7
assume 39:13
AT&T 5:13 33:6,
 15 36:11
attached 19:2
attachment 25:5
attempted 15:4
attempting 48:2
attorney 13:21
 54:13
attorneys 13:24
attributable
 24:23
audit 7:3,4,8,12
 11:18,21,23 12:9
 15:23,25 16:2,9,
 12,19,24 17:3,6,
 11,13,21,24,25
 18:14,17 19:10,
 12,16,19 20:11
 21:15 22:6 24:21,
 24 25:2,10 26:11,
 13,14,16,20,22
 27:19 28:3,4 29:3,
 4,7,10,13,15
 30:22 32:3 37:17,
 18,24 38:11,14,
 19,25 39:1,4,20
 41:2,13,16 42:16,
 20 48:14,17,24
 49:6,14,17,21,23,
 25 50:2,8,13,14
 51:2,23 52:2,3,10,
 13,17 53:4,5,23
 54:3,24 55:13,19
 56:20 57:10
audited 39:7
 48:22 54:24
auditing 43:19
auditor 16:25
 17:18 25:4,12,23
 31:3,14 34:17
 35:13 36:6 38:7,
 22 39:11 53:24
auditor's 26:17
 29:6
auditors 38:17

audits 24:16
27:19 33:7 35:19
38:23 43:20

August 18:7 43:7

authorities 12:19
13:14 14:19,25
20:6 56:2

authority 11:11,
13 12:21,24
20:17,24 22:7,15
54:8,9

automate 28:15

automated 36:23
38:7,8

automatically
36:7

avoid 48:2

aware 17:16
18:11 56:18

B

back 28:11 29:5
33:12,20 41:8,18
50:18,21 51:2
52:5,19

back-and-forth
38:6

backup 46:21

backwards 54:2

balance 35:1

barred 8:6 12:3,9,
16 16:24 17:5
20:2 21:11,19
23:12 44:7 54:21
55:25 56:1

bars 44:14

based 11:21,24
17:19 18:19 19:20
27:20 28:17 35:6
36:3,9,12,22
43:11 44:17,25

basically 33:16
36:23 55:7

basis 15:13,22
18:15 24:19 31:20
33:14 34:7,16
45:4 55:12

begin 10:25

beginning 25:8
28:3 29:4

behalf 14:3,24
22:9

believes 24:14

benefit 14:5,7
46:8

bill 56:15

billed 11:22 23:3

billing 16:12

billings 44:10

billion 31:23

bills 15:21

bit 37:12 54:2

Bixler 3:8 5:11
10:1 24:13 29:22,
24 30:13,15

blue 20:13 22:15

board 13:22,24
14:3,8,9,11,12
43:12

BOE 13:21

bottom 21:7 22:3
23:1

bound 39:21

box 22:9 34:2

boxes 51:25

breach 14:7

breakdown 28:2

brick 34:2

briefly 33:3,17

bright 53:1

broad 45:6

broadly 46:22

brought 34:6

BTFD 15:14

BTFD's 15:10

Bureau 11:15

business 27:21
29:18 33:18,25
34:22 51:13,18

businesses
27:22

buy 34:1,3,4

C

calculated 28:25
55:6

calendar 58:6

calendared 38:19

California 2:2,17
5:1 11:25 12:17,
22,23 13:25 29:15
49:20

call 6:6 10:4

called 32:14

calling 5:22

calls 41:7

capture 35:19

care 15:20 39:13

carelessness
24:17 25:20 26:4,
8 27:4,10 39:22
48:6,7,15 50:25
52:25

carried 50:13

case 19:14 20:5
24:1 44:8,17 45:1,
17 47:18 53:21
54:17 57:24

caused 39:12
48:16,20

CCTA 22:9

CDTFA 5:16,17,

18,19 11:21 12:2,
13 13:4 14:17
15:18,21 16:4
23:21 24:16
43:17,20,23 44:2,
5 45:12 46:3

CDTFA's 4:6
13:13 17:14 21:12
24:19

Cerritos 2:16 5:1

cetera 31:10
54:16 56:18

challenges 44:19

change 13:15
18:5,13 19:25
24:11

changed 41:12

Chapter 11:25

charge 34:6

charges 35:21,22

chart 24:11 29:1,
11,25 51:11,21

charts 10:7 17:15
24:6

chooses 10:19

Circuit 34:2

circumstances
19:14

City 16:9 34:2

claim 8:13 14:21
15:4 16:13,15,16
17:7,20,22 18:21,
23 19:5 21:2,5,13,
16,17,18,21 22:8
23:4,18 43:6
44:13 45:18 49:7
53:19,21,25 54:24
56:21

claimant 25:19,21

claimant's 25:16

claimed 23:14

claims 20:5,22
21:10,11 27:1

| | | | |
|--|---|---|---|
| 42:12,15,23 43:3 | 38:5 49:2 | conclusion 10:9 12:4 13:3 26:20 27:17 38:22 46:21,25 47:1 | continued 50:6 |
| Claremon 3:11 5:18 | commingling 12:25 15:2 | conducting 32:19 | continues 27:17 38:24 |
| clarification 7:14 19:6 21:22 | Commission 22:14 | conference 9:4 25:15 | continuous 49:22 |
| clarified 6:22 | common 27:22 | confined 44:24 | continuously 50:17 |
| clarify 7:10 37:14 | Communication s 43:12 | conflated 46:17 | contract 14:10,20 46:2 |
| clean 37:12 | company 33:22 34:25 35:3,8 38:14,16 39:22 | conflict 19:16 | contracted 14:25 |
| clear 15:20 27:4,5 51:17 | company's 39:15 | conjunction 36:2,12,17 | contracting 13:13 |
| clerical 25:17 48:8,16 50:24 57:9,13 | compared 53:4 | conscience 44:21 | contracts 49:5 52:13 |
| click 23:5 | comparison 30:5 | conservatively 28:9 | contrary 12:20 45:16 |
| client 57:19 | complete 11:16 16:5 17:13 | consideration 8:4 10:23 | control 38:17 |
| clients 16:25 41:6,11 | completed 16:9 | considered 15:11 17:10 20:3 33:22 | controls 38:14 |
| closed 11:24 39:1 58:1 | completion 25:10 41:16 | consist 6:9 | conversation 18:19 |
| closing 23:10 42:6 | complexity 27:21 | consistent 7:18 11:12 20:10 25:25 35:4,5 45:18 | cooperated 16:1 |
| co-panelists 40:7 51:6 | compliance 28:11,18 29:19 31:23 34:12 38:15 39:18 | construction 13:7 49:5 52:12 | copies 6:12 19:8 |
| Code 11:25 12:18 | comply 39:17 | consultant 33:14 | copy 8:19 17:13, 14 |
| collect 55:9 | components 20:21 | consulting 33:13 | corporations 36:11 |
| collecting 43:19 | comprehensive 13:6,9,17 18:24 | contacted 18:17 | correct 5:22,23 7:5 9:19,24 10:2, 14 19:4 25:19,24 39:2,3,8,9 49:6 50:19 56:18 |
| column 22:21 23:7 30:5 | computational 25:17 48:17 50:24 | contacts 18:25 | corrected 47:24 |
| columns 21:22, 23 22:12 | concept 54:6 | contemplated 36:20 | correlate 37:22 |
| commenced 8:18 | concerned 7:15 | contemporaneo us 7:12 | correspond 51:18 |
| commencing 2:17 | conclude 15:5 27:9 40:16 42:1 46:22 | contemporary 37:15 | Counsel 3:12 |
| comment 17:19 19:18 29:6 31:6 38:4,21 41:17 | concluded 15:9 25:15 58:2,7 | content 7:17 | country 34:10,11 |
| comments 7:5,9 11:24 24:21 25:3, 5,9 26:14,17 30:19,25 31:13,16 36:6 37:18,22 | concludes 12:12 30:13 39:11 58:5 | continue 24:8,10 27:20 | county 20:15,16 22:13,14 24:4 33:8 |
| | concluding 2:18 | | couple 6:21 9:13 |

30:19 41:11 51:10
Court 44:8,16
47:21
Court's 43:11
cover 44:3
covered 15:24
44:4,6,13
covering 16:13
created 7:6,11
26:1 37:24
creative 57:5
credit 8:9,12,14
16:17 24:13,14,
19,22 25:6,21,23
26:2,14,16,24
27:6 28:25 30:20,
24 31:2,6,16,20
42:21 43:4 48:3,5
51:3 56:12
credits 21:20
50:7,11
crowd 13:20
Culver 16:9
cumulative 54:24
current 17:14
24:22 37:19 38:25
50:16 52:3,13
53:4
customer 34:4,7
51:15
customers 34:1
51:16,25 57:6,9

D

daily 33:14
date 7:3 18:8
19:23 39:4
dated 25:12,13
49:8
day 58:6
days 16:22 33:13

58:5
deal 32:4
dealings 14:13
debits 21:20 50:6
decades 38:24
December 8:8,
11,21 15:25 16:15
18:20 19:1 21:3
39:1 40:25 42:14
decided 11:15
decision 11:12
12:12,17 19:11
23:20 25:15,22
26:6 44:1 45:17
decisions 28:17
deductions
48:11
deficiencies
42:16
deficiency 12:1,
3,8 21:4,5,18 22:9
23:3,7 39:9 44:15
45:5 48:19 54:20,
22 55:11,12 56:6
definition 26:3,8
27:4
delay 31:9
delayed 16:21
delays 31:9
delete 15:5
deleted 13:4
deletion 13:10
deliberate 18:13
56:17
delivered 30:23
delta 35:14,15,18,
20,23 36:5
demonstrates
21:1
denial 24:13 25:6,
14 26:16

denied 19:5 31:6,
17 42:21
deny 25:23 56:16
denying 24:19
31:20
department 6:22
7:7 11:24 12:2
15:4 17:16 18:11,
22,25 19:1,7,24
23:13 24:1 26:8
27:8 33:9 34:14
40:3 42:5 44:10,
24 45:4 46:1,7
47:9,11,19 49:3
52:5,24 53:18
54:12,14 57:22
Department's
7:10 11:18 15:17
23:17 47:5 52:5,
25
deposit 41:4
description
36:15
destination
36:22
detail 23:11 27:15
28:16 41:21 43:9
determination
12:7,8,15 13:15
15:19 16:20,21
18:6,17 19:4 36:4,
10,18 43:6,23
44:3,15,23 54:21
55:11,12 56:7
determinations
12:1,3 14:18 23:3
determined 19:3
28:10
determines
35:22
determining 33:9
detriment 47:12
diagram 21:7,9,
15

diagrams 20:13
dictate 36:21
difference 35:20,
24 36:5
difficult 28:7
diminished 14:1
DIRECT 33:1
direct-to-home
33:23
directly 37:22
39:24 45:16,25
51:15
DIRECTV 2:6
5:10,12,14 11:8
15:24 16:1,3
18:20 20:11 24:14
27:15,17,25
29:12,20 30:23
33:4,6,11,12,16,
18,21 34:4,10,15
35:21 36:8,11
38:13,16,25 40:23
51:15 57:1
DIRECTV's 21:2
26:12 27:12,19
29:3 39:12
disagree 27:17
disagreement
8:24
disclosed 19:9
discuss 18:18
40:17
discussed 9:3
25:7 31:1,2 32:2
43:9 47:3
discusses 54:7
discussion 8:3
9:7 26:15
discussions
31:14
disingenuous
14:21 56:23
dismiss 15:4

dismissed 14:1
display 29:2
dispute 17:9
 20:11 31:5 43:4,
 10
disputed 22:17
distinguishable
 15:13
district 8:7 12:24
 13:14 14:2,4,11,
 15,18 15:20
 16:10,11 17:25
 20:24 22:6,25
 23:2 31:17 41:15
 42:25 43:1,10,14
 46:23 47:4,16,20
 54:8 56:8
district's 14:10
districts 14:13
 22:10 23:6 45:12,
 22,23 46:11,13,19
 47:20
doctrine 44:9
document 7:18
 18:4 25:7 37:23
documented
 24:16 53:23
Downey 3:7 4:12
 5:9,11,23,25 6:2,
 21,25 7:16,23
 8:16,18 9:8,11,19,
 24 10:2,6 11:1,7
 24:11,12 26:12
 30:4,10,16,19,22
 32:9,21,24 33:2
 37:3,13,17,21
 38:1 39:25 40:16,
 20,22 51:20
 53:13,15,18
 57:16,17,18,20
downward 28:21
Drive 2:16
driven 36:25
drops 28:11

due 14:14 15:21
 16:18 20:14,19
 22:4 24:3 35:22
 39:22 44:24 47:5,
 10 49:15 51:24
 53:20
duly 32:14
duty 14:8,12

E

earlier 51:21
early 16:12
easily 14:1
economic 14:15
efficiency 28:18
effort 49:5 50:19
elaborate 35:17
embedded 30:25
 31:5
employed 33:6
employee 33:15
 38:12 50:5
encompasses
 43:20
end 14:16 15:16
 18:9 32:3 39:4
 51:22 52:2
ended 49:23
 50:12 52:10
ending 51:2
enforces 14:10
ensure 14:13
 15:21
ensuring 46:4
entire 16:23 23:4
 45:1,19 55:3
entitled 8:9,11
 25:21 43:3 45:7,
 20 46:6,15 51:3
entitlement 8:14

entity 14:5 39:6
entity's 15:15
Equalization
 13:22 43:12
equally 15:14
equipment 34:1,
 4,6
equitable 44:9,
 18,22 45:6,16
equity 44:21
 47:22,23 48:1,3
equivalent 12:21
 20:25 54:10 56:9
ERP 36:1,17
erroneously 49:4
error 48:8 49:1,16
 50:17 52:24
errors 24:23,25
 25:1,2,18 26:18
 27:7,12 38:23
 39:21 47:25
 48:12,17,21 49:6
 50:24 51:1 52:6,7
 57:9,13
essentially 47:8
establish 27:24
established
 17:11 26:3,4
establishes
 50:23
establishing
 27:3
estimates 9:3
evaluate 18:1
event 17:1
evidence 8:1
evolved 24:20
exacted 44:20
examination 9:6
 32:20 33:1 43:21

examined 32:15
examines 22:5
examples 48:15
exceeded 16:18
excerpt 13:19
excess 41:3
 44:23 50:11
executed 14:10
 16:3
exempt 49:19
 52:11 57:3
exhibit 6:22 7:2,5,
 6,11 13:9 17:13
 18:24 19:2,8 20:7,
 8,9,19 21:1,12
 22:5,21 23:5,20
 24:4,5 25:7 28:2
 29:2 30:1,3,5
 31:25 34:17 35:13
 41:20,23 48:24
 49:14 51:11
exhibits 4:5,6 6:8,
 10,11,13,16,20
 7:25 8:1 20:12
 27:16 31:13 41:20
exist 47:15
existence 45:14
expand 29:20
expanding 34:9
expect 40:18
expected 31:11
expenditure
 34:22
expenditures
 39:23
expense 35:11
 46:13
experienced
 29:12
expire 14:19
 17:22 18:8 24:2
expired 11:22

12:11 16:23
17:17,19 18:10,
12,19 31:11 43:7
45:6
expires 17:5
explain 6:24
explained 55:19
explanation
18:15
exponential
29:17
extending 12:10
16:4,23
extension 16:6,7
18:8
extensions 16:5
54:3
extent 5:6 45:21
46:15,25 52:9
external 38:17

F

face 30:23
fact 12:15 13:11
18:18 27:22,23
45:8,12 50:20
factor 52:25
factors 53:2
facts 11:20 15:11,
12
failed 14:17,20
25:19
failing 48:10
failure 25:24
39:13
fair 14:13
fairness 18:7,9
faith 14:12
fast 29:18

FBO 26:23
February 2:19 5:1
57:25
fiduciary 12:13
13:13 14:8,12
46:2,4
field 48:23
Fier 5:10,12 11:8
26:12
file 31:10
filed 15:4 18:20
41:1,5 42:12 49:7
56:21
filing 53:19,25
final 16:6,18 18:16
23:7 38:21,22
41:1,5,19 42:6
43:6 53:13
Finally 28:25
find 15:10 25:16,
20

finding 44:16
findings 15:14
finds 10:20
fine 10:8 14:22
fit 56:15
flawed 12:4 13:2
focus 27:12
focused 37:9
follow 9:21 18:23
form 43:14
forward 11:10
found 42:16 49:6,
14,25 50:3
fourth 8:12 40:23,
24 41:13
free-free 51:22
frequencies
24:25

front 7:1 29:1
frustrating 19:24
fulfill 14:20
full 50:1
fully 16:1
functions 43:18
fund 14:3,4,6
18:21
funds 41:15 46:7,
9
future 26:16,18

G

Gary 13:20
Gary's 15:5
gave 56:22
Geary 3:3 5:4,15,
20,24 6:5,8,18,23
7:13,20,24 8:2,22
9:2,15,20,25 10:3,
8,16 11:2 24:9
29:22,25 30:9,11,
14,21 32:6,10,18,
22 37:3,20 40:2,6,
11,14,21 41:25
42:9 51:5 52:19,
20 53:11,17
57:15,18,21,24
general 24:20
35:7 36:3,21 37:1
47:17
generally 18:8
41:5 43:15
generated 36:21
give 30:18 33:3
42:6 53:13
giveaways 57:5
giving 56:14,15
goal 35:2
good 14:12 28:12
36:15 44:21

governed 44:18
grad 13:21
granted 8:10,12
10:13 16:7 23:18
24:5 27:6
granting 15:9
gray 21:8 22:17
greater 43:9
green 22:12,22
group 38:20
grouped 31:12
grows 29:18
growth 29:12,17
30:1,2 33:17 34:8,
21 35:8 39:19,21
guess 38:21
51:19 52:7
guidance 19:10
guide 57:1

H

half 22:14
hand 32:11
handle 16:17
happen 41:6
happened 31:12
37:15 38:10
happening 37:10,
11
Harvard 13:21
headquarters
16:12,17 31:4
41:18
hearing 2:20
3:10,13 8:4 15:8
58:1,7
height 34:10
held 41:15

hiccups 28:20

high 29:20

highlight 41:23

history 29:3

hold 42:2,4

holding 20:11
43:11

holds 44:9

HON 3:3,5

house 34:6

I

idea 9:9

identification
6:9,11,12

identified 17:3
20:13 36:5

identify 5:5 36:24

ignores 12:5

ignoring 18:12
20:22

II 12:1

illustrate 20:9

illustrated 22:22
24:7

illustrates 22:18

illustration 22:7

imagine 34:12

immediately
18:16 19:6

impact 18:1,2,5
33:18

implement 28:19

implemented
28:14,22 35:25
39:17

implied 31:16

importantly 14:9

imposed 12:14,
25

imposing 14:6

imposition 13:12
20:23

improve 28:17
39:18

improvement
28:23

incentives 57:8

include 10:10
27:20 42:23

included 16:13
19:8 23:11 27:16
30:23

includes 30:1

including 13:10
27:4 43:18 48:9

income 35:1

inconsistent
26:21

incorrect 13:4
47:1,2

incorrectly 8:6

increase 30:6

increased 35:8

incurred 24:24

independent
11:10 17:8

indicating 45:10

individual 46:3,4

information 6:14
11:14 13:10 36:19
40:25

initial 15:8 24:20

initially 23:18

inquiries 37:6

insightful 13:6

instituted 26:18

integrated 43:15
45:15 54:5,6

intended 28:15
47:13 48:10

intentional 31:15

interest 8:9,12,15
15:7 24:14,19,22
25:6,21,24 26:2,
15,16,24 27:6
28:25 30:20,24
31:2,6,16,20
42:21 43:4,24
48:4,5 51:3 55:1,
3,5,16,18,23
56:12,16

internal 31:5 36:8
38:13,17,19

internally 50:3

interrupt 29:23
37:4

invariably 44:2

invoice 50:1,2

invoices 36:3
50:4

involved 33:8,12

involves 20:21
40:23

ironically 35:18

irrelevant 19:23

isolated 44:25

issuance 44:14

issue 6:2,3 8:9,14,
18 9:12,14 10:1,6
11:20 12:3 14:17
15:19 16:21 18:6
19:15 20:20 23:9
25:16 29:16 39:18
40:17,22 43:5
44:2,8,10 46:6,9,
11 50:7,23 53:19
54:5 56:6

issued 11:21
13:16 17:17 19:1,
7 22:9,11 23:8,18

56:19

issues 6:4 8:3,5,
17 11:10,14 16:1
23:15 34:12,25
46:18

issuing 13:15

item 57:4

items 38:19 52:14

J

January 8:19,20,
21,25 15:24 16:14
19:8 42:13

Jarrell 3:10 5:17

Jason 3:13 5:19

job 14:22

Jose 4:16 5:13 6:3
25:11 28:16 29:20
32:5,13 33:3,5,11

JOSH 3:5

Judge 5:4,15,20,
24 6:5,8,18,23
7:13,20,24 8:2,22
9:2,15,20,25 10:3,
8,16 11:2 24:9
29:22,25 30:9,11,
14,21 32:6,10,18,
22 37:3,20 40:2,6,
8,9,11,12,14,21
41:25 42:9 51:5,7,
9,10 52:4,18,19,
20,21,23 53:10,
11,17 57:15,18,
21,24

Jugum's 13:20

July 8:20 16:12,15
21:3 42:20

June 16:3,10,14
25:13

jurisdiction 33:7
36:16 46:3,5,8,23
47:4,10,14 56:3,6

jurisdiction's
15:15

jurisdictions
34:9,12 42:25
43:2 46:19 47:12

K

key 44:17
knew 49:9 50:21
knowingly 48:15
knowledgeable
13:24

L

labor 49:4 52:12
language 12:4
large 28:4 34:14
36:11
largely 52:8
lasted 38:24
lastly 48:20 50:8
launching 33:22
law 5:4,15,20,24
6:5,8,18,23 7:13,
20,24 8:2,22 9:2,
15,20,25 10:3,8,
16 11:2 24:9
29:22,25 30:9,11,
14,21 32:6,10,18,
22 37:3,20 40:2,6,
9,11,12,14,21
41:25 42:9 44:17
51:5,9 52:4,18,20,
23 53:10,11,17
57:15,18,21,24
Lead 3:3
leads 13:3
lease 34:5 51:24,
25
leasing 51:16
ledger 35:7 36:4,
21 37:1
left 21:10 22:24

legal 13:17 15:6,
22
letter 46:21,22
letters 13:16
levying 14:4
liabilities 43:11
49:10,12 50:22
liability 21:8 45:2,
19 47:24 48:16
liable 14:8
license 28:5
limit 46:25
limitation 12:6,10
20:10,24 23:25
limitations 16:4
17:11 20:3 35:3
43:5 44:14 45:6
55:25
limited 21:4,19
list 13:9 18:24
listen 11:16
local 15:19 20:15
33:8 43:14 45:12
46:18,23 47:3,16
localities 34:13
logic 13:2
long 14:21 23:22
33:11 44:12 54:22
longer 17:6 27:6
Los 20:16 22:13,
14 24:4
lot 31:17 32:1
38:3,5 41:21
56:13

M

Maaske 2:19
made 8:23 11:23
40:24 45:11 48:6,
11 50:6

main 27:12 39:15
maintain 38:13
major 34:24
majority 50:15
make 14:8 27:5
32:4 36:4 40:20
47:11
makes 15:17 38:6
48:7
making 12:7 38:8
43:22 44:16,22
55:11
mammoth 17:1
managed 16:2
manual 17:12,13,
21 19:11 20:11
21:15 48:14 57:10
Manzano 4:16
5:13,22 7:17 9:6,
13,18,21,23 10:4
25:11 32:10,13
33:5 37:6,10
Manzano's 10:9
March 26:9 56:20
marked 6:9,10,11
masks 23:15
matched 31:1
matrixes 35:6
matter 2:5 57:19,
20 58:1,4
means 49:8
meant 46:25
measure 29:15,
16 31:23 53:7
meet 58:3
member 38:12
members 3:5
10:10
memorandum
13:20

mentioned 25:10
mentions 46:21
merged 39:6
merges 36:18
methods 13:15
Metro 20:16 22:15
MICHAEL 3:3
middle 52:3
million 20:14,15
29:14 34:11
42:17,18,19 53:4,
5,6,7,9
mind 9:9 37:8
minimize 39:23
minute 10:21
minutes 9:5,11,
12,13 10:13,20
**misinterpretatio
n** 23:19
misinterprets
11:13
misplaced 17:15
misrepresent
6:25
misrepresents
12:4
missing 30:2
misstating 25:8
mistakes 29:19
model 33:25 34:5
51:18,24
models 33:18,25
51:13
money 53:20
monitor 50:3
month 16:6
monthly 34:7
months 41:15

mortars 34:2
multiple 20:4,5
34:9
multiplied 25:1

N

named 35:15
names 5:6
nature 14:2 57:13
needed 31:18
negligence 48:18
net 20:22 21:14
28:25 39:10 48:18
49:23
netted 21:5
newsletter 57:2
Noble 3:10 4:13
5:17 6:7,17 7:2
8:24 9:1 10:14,15
40:5 42:7,8,12
52:9 53:1 57:23
NOD 44:6,8
nonresponse
18:20
nontaxable 49:4
50:17 52:12,16
note 29:11 49:2
50:6 53:3 55:14
noted 44:1
notes 44:16
notice 12:15
13:15 15:19 16:21
17:17 18:6,16,18
19:3 21:14 27:2
41:19 43:8 44:3
55:8 56:15,18,19,
22
noticeable 34:23
notification 26:6,
7,10,20,21 27:5

notified 48:12
49:11
notify 18:2,3
November 40:24
numbers 20:20
30:1,2 31:1
numerous 38:23
45:11

O

oath 10:5 30:17
32:7
objection 6:15,19
7:21
objective 39:16
observe 39:13
obvious 27:5
occur 51:19
occurred 50:23
51:1 52:1,3
occurs 48:7
October 48:22
odd 18:8
odds 46:1
office 2:1 16:10
officer 15:8
offset 8:6 12:25
15:14 17:20 19:18
22:2 23:21 24:2
42:25 43:10,23
44:5,10 47:6,19
54:15 55:10,13,15
56:5
offsets 12:2,18
15:2 20:4,9,14
21:19 22:17,18,20
47:1
offsetting 45:22
46:18,19,24
open 11:22 19:20
23:25 45:1,19

51:6 54:16
opening 4:10 9:5
11:6 42:11
operations 38:18
opinion 5:7 13:2,
5 15:5,8 25:24
58:5
opportunities
10:10
opportunity
10:18,19 11:9
order 28:17 35:10
orders 36:3
ordinance 12:20,
21 20:23
original 30:22
OTA 2:6 6:13
15:17 26:9 58:4
OTA's 58:5
out-of-pocket
35:10 39:23
outcome 46:10
outlined 19:14
overpaid 45:8,21
46:16 56:3
overpay 54:25
overpaying
48:15
overpayment
16:16 21:2,17
22:12 23:21
27:23,25 31:15
40:23 41:3,14
44:11 46:11 47:7,
19 48:5,8,11 55:3,
4
overpayments
17:22 22:22 24:15
25:16,20,25 27:9,
18,20 28:24 29:9
39:11 41:22
42:17,21,24
43:10,23,24 44:5

45:14,22 46:9,20,
23 47:14 48:2,16,
20 49:3,21,23
50:10,15,23,25
53:22 55:15

overwhelming
50:15
OVSEP 3:5
owe 35:23
owes 44:4

P

p.m. 2:17,18 5:2
57:25 58:7
pages 4:5 7:2,11
23:5 25:6 31:25
49:14
paid 20:22 21:13,
18 22:25 23:4
34:23 41:4 43:16
44:21,23 50:10
57:11
Panel 3:3,5 8:4
10:11 13:6 58:3
Panel's 11:10
panelists 42:3
papers 19:9
Park 2:16
Parker 3:13 5:19
part 21:13 26:11
27:14 35:25 38:18
41:19 51:24
partially 50:2
participating
58:2
parties 5:5 6:12
7:25
party 10:20 51:8
52:22
pass 36:18
past 38:23 54:1

pay 31:19 41:18
55:1
payment 55:9
payments 46:12
pays 56:14
penalties 55:18
penalty 48:18
percent 21:24,25
29:9 31:22 49:15,
18 50:9
percentage
52:24
percents 22:14
Perfect 11:7
performed 16:2
performs 43:17
period 8:7,10
12:6,9 15:24
16:24 17:5,6,22
18:19 21:16,21,24
23:4 26:13,20,22,
23 28:4 29:4,7,8,
10,13,14,16 37:9,
16,18,19 38:11,14
39:4,7,10,17,20
42:13 43:6,23,25
44:4,12,15 45:2,
16,19 46:6,14
47:24 48:22 49:8,
13 51:2,23 52:14
53:4,5 55:15,17,
18 56:23
periodic 35:11
periodical 57:3
periodicals 49:5
52:12
periods 8:24
12:3,11,15 16:13
19:13 20:2 21:13,
14 23:12,24 26:16
27:7,19 38:25
43:24,25 44:7,12
48:9 51:12,17
54:21 55:8,15,25

permit 39:1
permitting 43:19
45:4
perspective
34:25 39:16
Petitioner 42:23
43:3
phenomenal
39:21
piece 30:13
pioneer 13:25
plan 6:6 42:2
Plaza 2:16
plenty 6:14
PO 36:20
pocket 39:24
point 13:11 24:7
29:15 32:3 33:21
51:19
points 29:3 44:17
policies 11:18
Policy 13:25
population 30:6
portion 16:2 24:4
36:23 57:4
position 19:4
45:25 52:6,25
post-acquisition
33:16
potential 11:17
18:5
preceding 53:5
predated 54:17
prehearing 9:3
prepare 17:20
prepared 11:21
19:10,20 25:4,9
31:18,19 47:23
prepayments
16:17 40:24 41:4

preprogrammed
36:7
present 6:2,3
9:11 10:6 11:9
49:13
present-tense
37:6,7
presentation
5:25 9:10 23:10
40:17 42:1,5 54:2
presented 8:3
19:25
presents 53:18
preserving 14:14
prevent 26:18
previous 48:13
previously 25:10
48:22
primary 33:7
40:16 42:1
principal 31:14
principle 45:6
principles 44:18
45:16
prior 11:22 24:16,
24 25:2 26:2,11
27:18 28:2 29:10
35:19 37:9 43:7
49:6,8 50:8,13
51:21
priority 29:20
proceed 11:4
32:23 40:21 42:9
proceeded 18:6,
12
PROCEEDINGS
2:15
process 7:10
15:3 24:20 27:13
53:23,24
processed 27:1
41:19

product 36:15,22
profited 47:25
program 35:25
49:25 50:4
programs 23:22
43:21 57:8
progress 18:25
prong 27:11
proper 35:5 39:13
properly 14:14
47:5,10
property 49:19
protections 12:5
provide 12:24
13:6,17 20:8 23:5
55:13 57:8
provided 6:12
7:4,6,9 9:17 12:5
17:12 19:10 20:7
24:21 25:23 26:10
27:13 37:23 41:23
48:24 54:4
providing 9:16
54:15
provision 20:25
public 38:14,16
purchase 28:5,7
36:3 37:1 51:14
purchases 33:10
35:6 50:11
purchasing
36:19
purports 17:16
pursuant 42:22
purview 43:22
put 23:21 55:10
57:12

Q

quarter 8:13 18:9

28:13 40:23,24
41:9,10,14 43:6
54:25 55:1,2,19,
20

quarters 21:6
25:19,25 41:12
54:25

question 40:15
41:16 45:2,20
52:24

questions 10:11,
24 24:6 37:5,22
39:25 40:4,8,9,11,
13,15 42:2,3,4
51:6,7,10 52:21
53:12

quick 40:20

quote 14:2,16
15:9,16 19:2,9
23:20

R

raise 32:11 54:5

raised 56:20

ranged 16:5

rate 21:24,25

read 13:19

reading 55:14

ready 10:4 11:4
30:17 32:7 42:7
53:13

reason 31:7 47:2
48:6

rebuttal 10:18
42:6 53:14

recap 56:24

receipt 18:16

receipts 48:9

receive 18:14
46:11 47:4

received 4:5,6 8:1
16:19

receives 46:5

recognize 23:10
30:25 57:2

recommended
24:22

reconsideration
23:17

record 5:4 10:25
11:3,16 13:19
27:14 57:25

recover 44:20

recovering 48:2

recurrence 24:25

recurring 25:17
27:18 48:16 50:24

red 22:9

redistribute
14:21

redistributed
23:23

reduce 21:9

refer 16:14 52:19

reference 56:22

referenced 12:22
25:12 57:10

references 32:1
54:14

refers 35:13

reflect 18:4

reflected 51:20

refund 8:10,12,13
15:9 16:20 19:5
20:22 21:9,12
22:19,25 23:2
24:23 26:22 29:1,
6 39:10 41:14,18
42:13,18,23 43:4,
8 44:13,18,25
45:1,5,7,19,20
46:15 47:22
48:18,25 49:7,15,
18 53:3,6,7 55:9,
20 56:2,4,5,14

refundable 50:12

refunded 22:4

refunding 47:14

refunds 16:13
17:7 24:3 53:22

regular 33:14
34:15

regulation 24:18
27:3 42:22 48:4

regulations 26:3

regulatory 11:19

reimbursement
50:11

relate 57:6

related 19:18 20:3
26:14,15 28:5
52:10

relates 27:11

relative 37:18
38:21 51:25

relevant 48:4

reliance 49:24

rely 25:22

remain 46:10

remaining 23:5

remind 37:4

remitted 34:18

remotely 45:10

reoccurring
27:12,25

repay 53:21

repeated 25:18
48:21

reply 26:9

report 11:21,23
16:19 17:6,24,25
18:1,4,14 19:16,
19 30:22,24 31:1,
3 34:18 42:21
54:24 55:22

56:13,14

reported 2:19
42:14 43:16
48:23,25 56:25
57:1

reporter 2:20
17:19

reporting 31:23
33:19 38:15 39:14
41:1 44:12 49:10,
12,16 50:22

reports 27:25

represent 5:6
20:18

representations
37:23

representative
3:10,13 16:25
26:13

represented 5:7
57:4

representing
5:10,12,13,17,18
11:8 23:7,8 53:6

represents 17:1
21:24 22:12,21
42:24 50:9 54:8

request 16:7
23:17

requested 10:12

requesting 47:22

required 15:18
17:21 23:11

requirement
11:19 12:20 26:6,
7

requirements
17:11 24:17 26:4
27:8

resold 50:11

respect 12:13
22:6 28:23 44:7
48:3 56:12

respond 39:14
Respondent 3:10
6:5,15 8:6 10:10,
12
Respondent's
6:11,20 10:12,17
25:7
responding 37:6
response 7:9
19:2,7
responsibility
13:13
rest 32:4
result 25:17,20
27:9 35:19 48:8
49:3,21,24 50:16,
25
resulted 21:3
23:18 49:18 50:10
resulting 20:22
42:18
results 17:20
22:6,8 23:15
26:11 29:1
retailer 51:14
retain 45:13 46:12
return 16:18
17:25 41:1,5
43:17 48:10
returns 48:13
revenue 11:25
12:17 14:14,22
47:9
revenues 23:23
46:5 47:4
reverse 15:7
reversed 15:12
review 11:10,16,
20 13:5 15:23
17:24 18:23 19:9
26:14 34:18,25
35:4,5,11 36:8
50:3

reviewed 16:10
19:20 23:16
38:11,19 40:25
reviewer 16:11
18:2
reviews 36:9
revised 26:8
42:20
rights 11:15,17
18:14
role 12:13 33:3,7
row 20:19,20
rule 53:2
rulemaking
43:19
rules 54:10
rulings 13:16
run 8:25

S

Sacramento
16:20 41:18
sailed 54:22
sales 13:8,25
34:23 38:15,18
43:15 45:15 47:17
54:5,6
SAP 36:1,18
satellite 33:23
satisfied 24:17
27:8
satisfy 7:14
save 35:10
schedule 7:3,4,8
20:1 22:24 24:21
25:8 49:17,21
52:13
schedules 6:21
17:20 19:19 21:14
24:2 31:18 49:23
50:8,14

Scott 3:11 5:18
section 12:2,6,7,
10 14:11 16:20
17:12,13 18:17
19:11 21:15
43:13,22 44:2
47:18 48:14
54:10,21 55:23
seek 48:1 56:2,3
seeking 47:22
self-assessment
35:9
selling 51:15
send 41:17 55:9
58:4
sense 52:8
separate 11:14
12:21 17:7,20
20:23 21:10,11
22:6 46:18 51:12,
17 56:9
separately 12:14,
25 21:17
**separately-
imposed** 14:18
**separately=
imposed** 15:2
September 7:7
16:3,22 21:14
43:7 48:23 51:2
sergeant 13:23
served 13:22
service 36:15
services 33:24
49:19 52:11,14,15
set 34:2 35:18
49:25 54:9,10
setoff 44:9 45:4
setoffs 45:9,11
sets 56:9
setting 35:5

sheet 35:1
Shelby 2:19
shift 51:13
ship 54:22
shipped 49:19
short 50:14 53:13,
16
shortly 25:3 31:8
show 22:16 50:21
shown 30:3 44:20
shows 21:12
48:24 50:15
side 21:8,10,11,23
34:22 35:7 36:19
38:18
significant 18:5
27:14 29:12 57:4
significantly
31:24
similar 22:16
24:15,23,25 25:18
27:7,11,18,25
38:23 48:12,21
51:1 52:6,7,17
similarly 46:17
48:1
simply 23:20
39:15
single 12:14
15:19 19:17 20:1
28:5 41:16 43:16,
17 44:3
sir 6:7 9:1 57:23
Sissy 18:17
situation 41:13
situations 48:17
sizable 17:2
size 29:7 35:3
skip 55:16
Smith 5:9,11 11:8
26:12

| | | | |
|--|---|---|--|
| sneak 54:1 | 47:21 | subscription 33:23 | talk 31:24 32:4 33:17 |
| software 28:5,6 35:14,15 36:8,13 49:25 | statement 11:6 15:17 23:24 42:11 | subsequent 26:22 27:7 38:25 39:7 | talked 30:1 38:2 |
| sought 19:6 56:4 | statements 4:10 7:18 19:16 35:1 | substantial 18:12 | talking 33:20 37:9,10,17 55:23 |
| sounds 52:7 | states 12:7 21:16 25:24 | substantially 41:2 | target 9:11 |
| sources 28:1 38:3 | stating 5:5 37:15 | successive 25:19,25 | tax 2:1 3:12 12:18, 21,24 13:8,25 14:6,10,18 15:15, 16,21 16:18 20:5, 14,15,18,24 21:2, 12 22:1,3,4,6,25 23:2,7 24:22 27:20,23 28:1,8, 10,15,18 31:17 33:9,19 34:14,18, 23 35:9,11,19,20, 21 36:4,7,10 38:3, 12,15,18 39:12, 14,24 40:25 42:14,16,17,25 43:15 44:6,11,19 45:2,4 46:2,5,20 47:9,16,17,20,23 48:16,25 49:4,10, 12,16,19,22 50:1, 7,10,11,16,21,22 51:24 52:8,10,11, 14 54:6,7,9 56:2, 12,25 57:3 |
| speaking 9:8 | stature 12:5 | sued 44:18 | taxability 33:9 35:6 36:10,14,22 |
| special 13:14 20:23 | statute 11:13,22, 24 12:24 15:1 16:23 17:5,17,19 18:10,12,19 19:13,21 20:24 22:18 23:14,19,25 43:5 44:13 45:5 55:24 56:7,8,10 | suit 14:8 | taxable 29:14,16 36:25 50:2 |
| specifically 14:5 | statutes 12:19, 22,23 13:7 54:9 56:10 | Suite 2:16 | Taxation 11:25 12:18 |
| specifics 15:23 | statutory 11:11 45:3 | summarized 31:7 49:13 | taxed 12:14 50:4 |
| spike 28:4 | steady 28:23 | summary 47:18 56:24 | taxes 8:7 13:1,12 14:2,3,15 15:2,20 43:1,14 44:3,18, 23 45:8,12,15,21 46:16 47:22 |
| Sprint 15:1,7,12 17:10 19:11,14, 17,18 20:1,2,10, 12 21:1 22:19 23:6,12,15 24:3 43:11 44:8 45:10, 17,18,24 46:14,21 47:1,18,22 54:7, 17,18,19 | Steve 3:8 5:11 6:2 18:17 31:7 | summed 47:21 | taxing 14:25 15:15 23:22 43:21 |
| squares 22:22 | stop 12:8 | support 15:1 25:5,13 27:14,24 | taxpayer 16:8 18:3 19:6 24:24 26:18 27:2,6 |
| staff 7:7 34:16 49:14,25 50:2 52:17 | strived 39:23 | supported 22:18 47:5 | |
| standard 39:13 | strongly 24:14 | supporting 13:5 | |
| start-up 33:22 | structure 9:10 | supposed 8:25 | |
| started 15:24 33:14 34:15 54:3 | structuring 9:9 | surprise 19:22 | |
| starting 5:8 55:4, 5 | subdivision 42:22 43:13 | switch 10:7 | |
| starts 55:10 | subject 14:12 28:10 | sworn 32:14 | |
| state 2:2 8:6 12:22 14:16 15:1 20:15,21 21:2,11, 12,25 22:1,3,16 23:8,14 24:4 26:17 33:8 34:13 43:12,14 54:11 56:7 | submissions 41:22 | system 13:8 28:14,19,22 35:12,21,23,24 36:6,17 38:6,7,8 39:17,20 43:15 | |
| stated 42:20 | submit 36:2 57:19,20 | systems 28:1 33:10 35:4 37:19 | |
| | submitted 25:5 57:22,25 | <hr/> T <hr/> | |
| | subscribers 34:11 | tail 52:1 | |

31:21 41:7 43:20
44:4,19 45:7
46:14 48:7,11
54:4 56:15

taxpayer's 11:17
18:14 23:21 44:11
45:1 46:20 47:6

taxpayers 11:15
43:16

television 33:23

terms 37:7

testified 32:15

testify 5:22 7:17
25:11

testimony 9:17,
21,22 10:9

thing 7:16 29:11
36:24 54:12,16

things 31:12 32:1
41:12 52:15 56:13
57:5,6

third-party 36:13
51:14

throws 45:1,19
54:16

Thursday 2:18
5:1

time 6:14 7:7 8:6
9:3 10:5,21 12:3,
9,16 13:22 14:14
16:4,7,23,24 17:5
20:2 21:11,19,24
23:12 26:5 28:7
36:1 37:10,11
38:10 40:18 41:7
44:7 54:21,22
55:25 56:21 57:7

time-barred 22:8

timely 14:17
18:18 42:12 44:14

times 25:1 29:6
30:6,7,8

titles 5:7

today 5:22 6:1,6
13:18 58:3

top 21:15 22:24
34:2

total 20:19 23:8
29:16 42:17 48:24
53:6

totals 20:18

touch 28:16

transaction 28:8
36:20 37:1,2

transactions
25:18 39:19 42:15
44:25 48:21 50:17

TRANSCRIPT
2:15

Transit 22:15

transitioned 34:3
51:22,24

translation 52:15

transmit 19:23

transmitted
16:11 19:12 30:24
31:3

Transportation
20:16 22:13

treated 21:16
31:22

treatment 26:20,
21

trend 28:21

trends 29:5

true 23:24

trust 14:2

turn 20:8 22:5

Turning 49:13

TV 57:1

two-sentence
19:2

type 26:19 28:7
33:25

U

ultimately 28:9

unapplied 16:16

unaware 18:10

unchanged 18:6

unclaimed 50:10

underlining
13:16

underlying 15:5
45:17

underpaid 46:13

underpay 55:2

underpayment
44:11 55:5

underpayments
17:2 23:22 43:1,
25 44:5 45:14,23
46:20,24 47:6,15,
20 48:3 53:8
55:16

understand 28:7

understanding
5:21

undisputed 54:8

uniform 43:14

unpaid 24:3

unpersuasive
15:10

unrelated 12:18
23:2

unrestricted
54:15

update 17:18,25

V

valid 15:6

validity 44:19

vendor 35:21,22

36:2,9,24

vendors 34:24
36:7

verification
11:23 19:19 49:2

verified 42:15

versa 47:10

Vertex 36:13,14

vice 47:10

violation 18:13

violations 11:17

visual 22:7 29:2

voids 12:15

volume 25:1
27:21 39:19

W

Wade 3:7 5:9 11:7

waiver 14:19
16:22 18:7 19:20
24:1 31:11

waivers 12:10
16:3

wanted 32:3 38:4

ways 29:19

website 17:14

weeks 58:3

well-settled
44:17

witnesses 4:15
6:6

words 14:1

work 13:24 14:23
16:5 19:9

working 53:24

worthy 13:5

wrapped 41:17

writing 48:12

49:11

written 26:5,7,15
27:4 58:4

wrong 57:11

wrote 7:8 41:17

Y

years 16:5 17:1
18:22 25:9 31:22
37:24

younger 13:20