



State of California  
Office of Tax Appeals

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**Agenda**

Office of Tax Appeals Hearings  
Wednesday, June 14, 2023, 9:00 a.m.  
400 R Street  
Hearing Room  
Sacramento, CA 95811

(Agenda updated as of 06/12/23, 2:27 p.m.)

**Franchise and Income Tax Appeals Hearings**

Electronic Data Systems Corporation & Subsidiaries, 19125643

Panel Lead: John Johnson

Panel Members: Sara Hosey  
Amanda Vassigh

Appearing for Taxpayer: Michael Jacobs, Attorney  
Yoni Fix, Attorney  
Lee Zoeller, Attorney  
Timothy Lee, Attorney

Appearing for Franchise Tax Board: Jason Riley, Tax Counsel  
Ellen Swain, Tax Counsel

Issue: Whether Respondent's Notice of Proposed Assessment for the 1998 tax year is barred by the statute of limitations.

Electronic Data Systems Corporation & Subsidiaries, 19014166, 19125644, 22039829

Panel Lead: Sara Hosey

Panel Members: Cheryl Akin  
Joshua Lambert

Appearing for Taxpayer: Michael Jacobs, Attorney  
Yoni Fix, Attorney  
Lee Zoeller, Attorney  
Timothy Lee, Attorney

Appearing for Franchise Tax Board: Jason Riley, Tax Counsel  
Ellen Swain, Tax Counsel

Issues: Whether OTA has jurisdiction to hear Electronic Data Systems Corporation & Subsidiaries' (EDS) appeal that was filed on December 10, 2018, and supplemented with an opening brief on May 22, 2019, involving EDS's claim for refund based on its entitlement to California regular incremental research credit for the 2003-2008B tax years;



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whether OTA has jurisdiction to hear EDS's appeal that was filed on February 25, 2022, involving EDS's claim for refund based on its entitlement to California regular incremental research credit for the 2005-2008B tax years; whether for the 2003-2008B taxable years EDS has substantiated a total of \$115.2 million in California qualified wages; whether for the 2003-2008B taxable years EDS is entitled, under the Cohan rule, to estimate a portion of its California qualified research expenses; whether EDS has substantiated its fixed-base percentage, California R&TC section 23609(h)(3) gross receipts from the sale of property, average annual gross receipts, and base amount for each of the Tax Years; whether EDS is allowed to use the maximum statutory fixed-base percentage of 16 percent when computing its California regular incremental research credit for the Tax Years; whether EDS's California average annual gross receipts for each of the Tax Years were large enough to produce a calculated base amount greater than the statutory minimum base amount (i.e., 50% of QREs); whether the Duty of Consistency applies to EDS's fixed-base percentage, average annual gross receipts, and base amount for each of the Tax Years; whether the Enterprise Zone credit statute should be interpreted to allow EDS's June 2012 claim utilizing its Enterprise Zone credits against income earned in a single, collective "zone"; and, whether Section 25137 is applicable to the Enterprise Zone credit.

The hearing location is accessible to people with disabilities. Please contact Nia Vaughan at (916)926-3048, or email [Nia.Vaughan@ota.ca.gov](mailto:Nia.Vaughan@ota.ca.gov) if you require special assistance.

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