

## Legal Updates & News

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#### **Morrison & Foerster's State and Local Tax Group Wins Influential Sales Factor Case at the California Court of Appeal**

April 2009  
by [Andres Vallejo](#)

On April 15, 2009, the California Court of Appeal, First Appellate District, decided *General Mills v. Franchise Tax Board*. The court agreed with General Mills in holding that the “[t]he full sales price of General Mills’ hedging futures sales contracts are ‘gross receipts’ to be included in the calculation of the UDITPA sales factor.” The Court of Appeal, therefore, reversed the trial court’s conclusion to the contrary, and remanded the case to the trial court for a ruling on “whether the Franchise Tax Board met its burden of proving that the apportionment formula does not ‘fairly represent’ General Mills’ business activity within California, thus warranting imposition of an alternative formula pursuant to section 25137.”

This decision should resolve a number of claims currently pending before the Franchise Tax Board and State Board of Equalization, and should also provide a basis for other taxpayers to file claims for refund with the Franchise Tax Board.

Denise Helmken of General Mills, Inc., coordinated the case, which was litigated by Paul H. Frankel, Andres Vallejo, and Scott M. Reiber of Morrison & Foerster LLP.

For further information on this case or for advice on filing a claim for refund based on this case, please contact Paul H. Frankel ([pfrankel@mofo.com](mailto:pfrankel@mofo.com), (212) 468-8034), Andres Vallejo ([avallejo@mofo.com](mailto:avallejo@mofo.com), (415) 268-6793), or Scott M. Reiber ([sreiber@mofo.com](mailto:sreiber@mofo.com), (415) 268-7630).

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