
Legal Updates & News

Legal Updates

California Supreme Court Denies the California Franchise Tax Board's Petition for Review in *General Mills v. Franchise Tax Board*

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by [Andres Vallejo](#), [Paul H. Frankel](#), [Scott M. Reiber](#)

On July 29, 2009, the Supreme Court of California denied the Franchise Tax Board's Petition for Review, which sought to overturn the Court of Appeal's influential sales factor decision in *General Mills v. Franchise Tax Board*. The Court of Appeal had reversed the trial court, and agreed with General Mills in holding that "[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."

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The case will now be remanded to the trial court for a ruling on "whether the Franchise Tax Board met its burden of proving that the apportionment formula does not then 'fairly represent' General Mills' business activity within California, thus warranting imposition of an alternative formula pursuant to section 25137."

This decision should finally resolve a number of claims currently pending before the Franchise Tax Board and the 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, (212) 468-8034), Andres Vallejo (avallejo@mofo.com, (415) 268-6793), or Scott M. Reiber (sreiber@mofo.com, (415) 268-7630).