



TaxNewsFlash

United States

No. 2016-456
October 11, 2016

California: Certiorari denied in Multistate Tax Compact election case

The U.S. Supreme Court today denied certiorari in a case concerning California's treatment of a taxpayer's claim to elect and apply the Multistate Tax Compact rules.

The case is: *Gillette Co. v. Franchise Tax Board*

The California Supreme Court in December 2015 held that certain taxpayers could not elect to use the Multistate Tax Compact's allocation and apportionment provisions to compute their California taxable income. In the state high court's view, the Compact was not akin to a binding contract. Therefore, a signatory state was not required to offer the Compact election. In reaching this conclusion, the high court overturned an appeals court decision holding for the taxpayers.

KPMG observation

While the petition for certiorari was pending, the California Franchise Tax Board (FTB) issued guidance stating that it would take no action on Compact election refund claims until the litigation had been fully resolved by either a denial of a petition for certiorari or any final state court action after a decision by the high court. With the denial of certiorari, it is likely the FTB will start issuing notices of proposed assessment or denials of Compact-related refund claims. In fact, the FTB announced today that guidance for potentially affected taxpayers will be forthcoming shortly.

Read an [October 2016 report](#) [PDF 49 KB] prepared by KPMG LLP: *U.S. Supreme Court Declines to Review California Compact Election Case*

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