

# **Bond Case Briefs**

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## **TAX - CALIFORNIA**

### **City of Fontana v. California Department of Tax and Fee Administration**

**Court of Appeal, First District, Division 2, California - November 28, 2017 - Cal.Rptr.3d - 2017 WL 5711769 - 17 Cal. Daily Op. Serv. 11, 310**

Two cities petitioned for writ of mandamus to challenge State Board of Equalization decision to reallocate to third city local sales tax remitted to two cities following reorganization of seller.

The Superior Court set aside the Board's decision with directions to reconsider, and Board and all three cities appealed.

- The Court of Appeal held that:
- Court would review the decision of the Board for substantial evidence to support the Board's decision, and
- Substantial evidence supported decision that title to retail health care products was passed to consumers by new subsidiary company, rather than parent corporation, and thus to reallocate sales tax.

Substantial evidence supported State Board of Equalization decision that title to retail health care products was passed to customers by subsidiary company, rather than parent corporation, and thus to reallocate remitted local sales tax from cities where parent corporation's warehouses were located to city where subsidiary had its sole facility. There was evidence customers believed they were ordering goods from subsidiary, that subsidiary became the retailer when it purchased goods from parent for shipment to subsidiary's customer, and that when subsidiary paid parent corporation's separate shipping entity to deliver those goods to the customer, subsidiary completed performance with reference to the physical delivery of the goods.