

## Income/Franchise:

### California FTB Legal Ruling Considers Unitary Treatment of Pass-Through Entities and Holding Companies

*Legal Ruling No. 2021-01*, Cal. Fran. Tax Bd. (10/25/21). A recently released California Franchise Tax Board legal ruling (Legal Ruling 2021-01) considers whether, in a series of differing situations, pass-through entity holding companies are unitary with other pass-through entities – ultimately concluding that pursuant to state caselaw and because traditional tests for unity are not “an exact fit” in the context of pass-through entity holding companies, “it becomes apparent that a unity determination in the context of pass-through holding companies requires additional consideration, and may expand on a traditional unity analysis.” Legal Ruling 2021-01 explains that in some instances where a pass-through entity holding company holds less than a controlling interest in an operating entity, the holding company potentially can still be unitary with the operating entity, to the extent of its ownership interest in the entity – “this is because pass-through entities need not hold more than fifty percent of an entity to be unitary with that entity.” In this respect, “if a pass-through entity holding company provides value and support to the operating business, it will be properly treated as unitary with that business.”

**URL:** <https://www.ftb.ca.gov/tax-pros/law/legal-rulings/2021-01.pdf>

See forthcoming Multistate Tax Alert for more details on Legal Ruling 2021-01, including related taxpayer considerations, and please contact us with any questions in the meantime.

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