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ATTORNEYS

**CALIFORNIA STATE TAXES
AND
NONRESIDENT “S” CORPORATION SHAREHOLDERS**
(Corporate Advisory No. 5)

This Advisory explains the nuances and application of the holding of *Valentino Franchise Tax Board* that established tax liability for non-resident “S” Corporation shareholders.

This Advisory is neither exhaustive nor tailored to your specific situation. You should discuss your personal situation with us or with your own attorney. Our representation is only undertaken through a written engagement letter and not by the mere distribution of this Advisory.

A shareholder of an “S” corporation is doing business in California, even if he resides outside of California. He is subject to California state taxes on his pro rata share of the “S” corporation income if the corporation’s income is derived from sources in California.

Who Does The Tax Liability Holding Apply To? Shareholders of “S” corporations whose income is derived from California sources, whether a California corporation or not. If you are subject to the holding, you should receive a California Schedule K-1 (100S) from the corporation. Shareholders of “C” corporations need not be concerned with this holding.

Do I Have to File a California Return? A nonresident is required to file a return if he has any California source income and has more than \$11,302 gross income from all sources, or more than \$9042 Adjusted Gross Income from all sources, or owes \$1 or more in tax. See the California source income section of the California Schedule K-1 that you receive.

Which Return Do I File As A Nonresident? The nonresident can file an individual Form 540NR on which all income from all sources is reported, with adjustments to determine California source income. Alternately, the S corporation may file a group nonresident return on behalf of at least 2 electing nonresident individuals. To take part in the group return, certain requirements must be met: (i) only individuals who are full-year nonresidents and (ii) the electing individual’s only California source income is from the corporation. Please refer to FTB Publication 1067 for further details.

Buynak, Fauver, Archbald & Spray, LLP

820 State Street, 4th Floor | Santa Barbara, California 93101 | (805) 966-7000 tel
433 Alisal Road, Suite C | Solvang, California 93464 | (805) 688-8090
www.BFASLaw.com



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As always, additional legislation may have been enacted that would change the above advisements. This memorandum is neither exhaustive nor is it tailored to your specific situation. You should discuss your individual situation with us or your own attorney. We look forward to being of assistance to you!

S. Timothy Buynak, Partner
Business & Tax Attorney

This Advisory is one of a series of business and tax advisories prepared by the attorneys at Buynak, Fauver, Archbald & Spray, LLP. Should you have further questions regarding the information provided in this Advisory, please contact the author listed above.

Buynak, Fauver, Archbald & Spray, LLP provides business legal services to individuals, business entities and nonprofit organizations from entity formation and start up, through day-to-day operations and exit strategies.

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