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### California Municipalities May Not Levy Taxes On Certain Companies Wholly-Owned By A Financial Corporation

Under California law, a municipality may not impose a gross receipts tax on a financial corporation. Such corporations, however, pay an income tax at a rate two percent higher than non-financial companies. This higher tax is "in lieu of all other taxes" and other fees imposed by the state.

**Question:** May a municipality nonetheless impose a gross receipts tax on a non-financial corporation that (1) is wholly owned by a financial corporation and (2) elects to have its separate existence disregarded for tax purposes?

**Answer:** No, according to the court in *City of Los Angeles v. Furman Selz Capital Management LLC*, 04 C.D.O.S. 7219 (Aug. 9, 2004): "We conclude the municipality may not levy taxes on a limited liability company wholly owned by a financial corporation, where the income of the limited liability company has been included in the income of the parent financial corporation and subjected to the higher income tax rate imposed on financial corporations in lieu of other taxes."

**Note:** Sheppard Mullin's James F. McShane successfully argued this appeal on behalf of Furman Selz. A copy of the full text of the court's opinion is attached.

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For additional information on this topic or other areas of law affecting financial institutions, please contact one of the following attorneys:

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