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This Week in State Tax (TWIST)



November 9, 2026

California: Appellate tax office holds that R&D credits may be used to offset AMT liability

The California Office of Tax Appeals (OTA) held that a taxpayer could use research credits to fully offset its corporate alternative minimum tax (AMT) liability. The taxpayer filed a worldwide unitary combined report for 2015 on which the group's regular tax consisted solely of the minimum franchise tax owed by its taxpayer members. The group's tentative minimum tax was attributable entirely to one member, which applied research credits it had generated to fully offset the resulting AMT liability. The group continued to report the minimum franchise tax as its regular tax liability. The California Franchise Tax Board (FTB) disallowed the offset, asserting that the statutory definition of "tax" unambiguously excludes the AMT and includes it only for specified administrative purposes. The taxpayer argued that the term "tax" was ambiguous and that legislative history supported applying research credits against AMT. California law generally prohibits credits from reducing "tax" below the tentative minimum tax, but expressly excepts certain credits, including the research credit. In a 2010 precedential decision, *Appeal of NASSCO Holdings, Inc.*, the California Board of Equalization (BOE) found that the term "tax" was ambiguous and, relying on legislative history, allowed enterprise zone hiring credits and manufacturer's investment credits to offset corporate AMT. The dispute before the OTA therefore concerned whether that interpretation also applied to research credits or, as the FTB urged, the prior BOE decision should be overturned.

The OTA declined to overturn *NASSCO*, explaining that *stare decisis* carries added force in matters of statutory interpretation because the legislature can amend the law if it disagrees with a decision. The legislature had amended the credit limitation provision eight times since *NASSCO* without rejecting the BOE interpretation, and committee analyses of later bills described credits on the exception list as available to reduce the AMT, which suggested legislative reliance on *NASSCO* that was not limited to the credits at issue there. The OTA further examined a 1993 Senate committee analysis of the bill that added the enterprise zone hiring credit (the credit addressed in *NASSCO*) to the exception list. That analysis explained that certain tax benefits were sufficiently important to permit their use against either regular tax or AMT and expressly identified the research credit among the exceptions.

The OTA found that in this case the FTB largely repeated arguments rejected in *NASSCO* and did not provide sufficient grounds to overturn that decision. It also rejected the FTB contention that the prior interpretation made the statute inoperable, noting that the FTB had issued guidance implementing the decision. The OTA also rejected the FTB's alternative arguments that the research credit statute itself controlled and that *NASSCO* was distinguishable because it involved different credits. Concluding that *NASSCO* remained binding precedent, the OTA reversed the FTB assessment and allowed the taxpayer's research credits to fully offset its AMT liability.

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Please contact Candace Axline and Geoffrey Way with questions about *Appeal of Medivation, Inc.*, 2026-OTA-532P.

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