



February 06, 2023

Ms. Jozel Brunett
Chief Counsel
State of California
Franchise Tax Board
9646 Butterfield Way
Sacramento, CA 95827

**RE: Petition for Alternative Apportionment to the Three-Member Franchise Tax Board
Daimler North America Corporation & Subsidiaries
CNN: 2230130
Taxable Years: 12/2017, 12/2018, 12/2019**

Dear Ms. Brunett,

Daimler North America Corporation & Subsidiaries (“Daimler” or “Taxpayer”) hereby petitions the Three-member Franchise Tax Board (“Three-Member Board”) for alternative apportionment pursuant to California Revenue & Taxation Code (“CRTC”) section 25137. Taxpayer respectfully requests that this matter be put on the agenda for the next public meeting of the Three-Member Board.

Taxpayer originally filed claims for refund requesting alternative apportionment due to double-counted receipts that are subsequently undone in the sales factor on March 10, 2021. At that time, copies of the refund claims were provided to the Franchise Tax Board (“FTB”) auditors reviewing the tax years related to the claims. The auditors issued distortion related Information Document Requests on October 14, 2021. Taxpayer provided the requested information in a timely and forthright manner. Over eight months later, on July 28, 2022 — after several requests from Taxpayer — the FTB auditor indicated that the recommended determination on the request for alternative apportionment would be finalized within two weeks. In that correspondence, the auditor further represented that Taxpayer could present its case in front of the FTB’s CRTC section 25137 committee (“25137 Committee”) in August of 2022.

Taxpayer followed up with the FTB auditor and with the FTB’s Technical Review Section several more times before the auditor’s recommended determination was received by Taxpayer on November 10, 2022. Over a year and eight months after Taxpayer filed its initial claims for refund, the FTB Audit Division issued a recommendation for denial of Taxpayer’s alternative apportionment claims. Taxpayer filed a response to the auditor’s recommendation on November 29, 2022.

On December 14, 2022, Taxpayer presented its case to the 25137 Committee in an oral hearing. On February 3, 2023, the 25137 Committee issued its determination denying Taxpayer’s claims.

To advance Taxpayer’s goal of a timely resolution of this matter, Taxpayer has attached its opening brief to this petition and hereby waives its right to a reply brief, if needed, to facilitate a hearing before the Three-Member Board at its first meeting in 2023.



If you have any questions or wish to discuss further, please do not hesitate to contact me at (916) 601-9707 or jon.a.sperring@pwc.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon A. Sperring", written in a cursive style.

Jon A. Sperring
Principal, SALT Consulting
PricewaterhouseCoopers, LLP

Enclosure: Daimler's Opening Brief
FTB 25137 Committee Determination Letter

cc: Ms. Selvi Stanislaus
Ms. Delinda Tamagni
Ms. Janice Manston, Mercedes Benz
Mr. Chris Whitney, PwC