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March 20, 2025

California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Feedback to General: Applicability Question 1(a) – “Doing business in California”

Ladies and Gentlemen:

SB253 and 261 both require an entity that “does business in California” to provide specified information to CARB. This is a comment to Applicability Question 1(a) that asks whether CARB should adopt the interpretation of “doing business in California” found in the Revenue and Tax Code section 23101. We believe CARB should not adopt that interpretation.

I am writing this on behalf of a client that has no place of business, no sales and no real property in California. The client only has one (1) non-executive level employee that does work for the client in California.

While we respect and support the State of California’s goals of lowering the GHG emissions that are occurring in the state, we do not believe the full application of Revenue and Tax Code section 23101 for the purpose of the Climate Disclosure laws achieves that goal. We believe the employment/compensation element of section 23101(b)(4) imposes an unreasonable burden on companies that are not generating significant emissions in the state. Specifically, the presence of a single non-executive employee should not be sufficient to constitute “doing business” in this context.

The compensation element is appropriate when it requires a company to file a state tax return, which is relevant to employee compensation and a relatively minor task. However, this element is unnecessary when triggering it requires the development of a GHG inventory and climate risk assessment, both of which require a significant financial investment from a company. Using compensation as a test for reporting requirements under SB253 and 261 is unreasonably burdensome within this context, particularly, when reporting can be required by nothing more than the presence of one non-executive level employee working within California.

We believe it would be more appropriate for SB253 and 261 focus exclusively on the sales and real property elements of Revenue and Tax Code section 23101 in this context as those two elements relate directly to generating emissions in the state of California. A company that has no place of business, no sales and no real property in California is not likely to be causing significant emissions in the state.

Walter S. Weems
March 20, 2025
Page 2

Thank you for your service. If you have any questions, please do not hesitate to let me know.

Sincerely,

Brunini, Grantham, Grower & Hewes, PLLC

A handwritten signature in black ink, appearing to read "Walter S. Weems", written in a cursive style.

Walter S. Weems