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Allen Matkins

Corporate and Securities



[Keith Paul Bishop](#)

Partner

Orange County
(949) 851-5428

kbishop@allenmatkins.com



[Joe M. Davidson](#)

Partner

Del Mar Heights
(619) 235-1539

jdavison@allenmatkins.com



[Allen B. Walburn](#)

Partner

San Diego
(619) 235-1547

awalburn@allenmatkins.com

State of California's Issuance of Registered Warrants Raises Securities Law Questions and Concerns

On July 2, 2009, the State of California began issuing IOUs to vendors and other creditors. These IOUs are called "registered warrants" even though they have not been registered with the U.S. Securities & Exchange Commission (SEC) or the California Department of Corporations. They differ from "regular" warrants because they are marked "REGISTERED" and have a special endorsement stamp on the back. A regular warrant is redeemable by the California Treasurer after it is issued, but a registered warrant cannot be redeemed until it matures. In the case of the registered warrants now being issued, the maturity date is on or after October 2, 2009 (assuming California will then have the money to redeem them). If the state has enough money before that date, the registered warrants may be redeemed earlier. The registered warrants bear interest at the rate of 3.7% per annum. A registered warrant can be identified by the word "REGISTERED" on the front. The warrant will be green in color.

Both the [California Treasurer](#) and the [California Controller](#) have published information concerning the registered warrants on their websites. In addition, the Controller has established a toll free assistance number, 1.866.267.4255. The Board of Governors of the Federal Reserve System has also issued a [press release](#) recommending questions that customers should ask their bank before depositing a registered warrant.

Persons who are acquiring registered warrants from the original payee should note that the Treasurer has announced that he will not redeem the warrants without a notarized Bill of Sale signed by the payee whose name appears on the registered warrant. This requirement to

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Allen Matkins Leck Gamble Mallory & Natsis LLP is a California law firm with over 230 attorneys practicing out of seven offices in Orange County, Los Angeles, Century City, Del Mar Heights, San Diego, San Francisco and Walnut Creek. The firm's broad based areas of focus include corporate, real estate, construction, real estate finance, business litigation, employment and labor law, taxation, land use, bankruptcy and creditors' rights, intellectual property and environmental. [more...](#)

present a notarized bill of sale to redeem a registered warrant does NOT apply to banks, credit unions, investment banks, other financial institutions, brokerage firms or broker-dealers.

The California Franchise Tax Board (FTB) has said that it will accept registered warrants that are not yet redeemable for full face value towards the payment of tax liabilities. To make a payment to the FTB, endorse the back of the registered warrant with the phrase "Pay to the order of Franchise Tax Board" and your signature. The registered warrant should be sent to the FTB with an FTB payment voucher for the payment type.

On July 9, 2009, the staff of the U.S. Securities & Exchange Commission issued a [statement](#) that California's registered warrants are securities under the federal securities laws. They have also issued an [investor alert](#) concerning California's registered warrants. The staff's statement (which is not binding on the full Commission or the courts) points out that federal securities laws, including the anti-fraud provisions, will apply to the offer and sale of the registered warrants. This means that buyers and sellers of the registered warrants will have rights and remedies under the securities laws and that the SEC may take action against persons who violate the securities laws with respect to the registered warrants.

In addition, persons acting as intermediaries between buyers and sellers of the warrants may need to register as brokers, dealers or municipal securities dealers, or as alternative trading systems or national securities exchanges. Investors who wish to buy registered warrants can check out registered broker-dealers and their personnel using the BrokerCheck database at www.finra.org. The Municipal Securities Rulemaking Board (MSRB) has issued a [notice](#) advising that all dealers who sell or trade municipal securities must be registered with the MSRB and must comply with MSRB rules on professionalism and fair practice.

Anyone who receives, buys, or sells a California registered warrant should carefully review the information provided by the California Treasurer and Controller as well as the SEC and MSRB.

There may be tax implications associated with the receipt, redemption and sale of the registered warrants that should be considered. If you are interested in learning more about these tax issues, please call Allen Walburn of Allen Matkins' tax group at (619) 235-1547, or any other member of [Allen Matkins' tax group](#).

Allen Matkins

Century City
(310) 788-2400

Los Angeles
(213) 622-5555

San Francisco
(415) 837-1515

Walnut Creek
(925) 943-5551

Del Mar Heights
(858) 481-5055

Orange County
(949) 553-1313

San Diego
(619) 233-1155

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