1. Constitutional Limitations
   a. Due Process
      i. U.S. Constitution 14th Amendment
      iii. Allied-Signal, Inc. v. Director, Div. of Taxation, 504 U.S. 768 (1992)
   b. Commerce Clause
      i. Dormant
         1. Nexus
            c. Direct Marketing Ass'n v. Brohl, 735 F.3d 904 (2013) (U.S. Court of Appeals, 10th Circuit)
         2. Discrimination
            a. Facial
               i. Geographic Difference
               i. Internal consistency
            c. Compensatory Sales and Use
            d. Intent
            e. Impact
      3. Fair Apportionment
         b. External Consistency
         c. Internal Consistency
      4. Related to Benefits

   iii. Foreign Japan Line, Ltd. v. County of Los Angeles, 441 U.S. 434 (1979)
      1. Multiple Taxation
      2. One Voice
      3. Equal Protection

2. Taxability Nexus
d. Tax Commissioner v. MBNA America Bank, N.A., 640 S.E.2d 226 (Supreme Court of Appeals of West Virginia)
e. Griffith v. Conagra Brands, Inc., 728 S.E.2d 74 (2007) (Supreme Court of Appeals of West Virginia)
g. Factor Presence
h. Unity
i. Public Law 86-272 (Interstate Income Act of 1959)

3. Unity - Combined Reporting
   i. Three unities
b. Edison California Stores v. McColgan, 30 Cal.2d 472 (1947) (Supreme Court of California)
   i. Contribution of Dependency
   i. Functional
   ii. Centralize Management
   iii. Economies of Scale
   i. Flow of Value
   ii. Worldwide – Domestic

4. Business Income
a. California Regulations
   i. Transactions and activity in regular course of business
   ii. And Includes if acquisition, management and disposition constitute integral parts
   iii. One or two circumstances
b. Hoechst Celanese Corp. v. Franchise Tax Board, 25 Cal.4th 508 (2001) (Supreme Court of California)
c. New MTC Proposal
f. Allied-Signal Inc. v. Director, Division of Taxation, 504 U.S. 768 (1992)

5. Tax Base
a. Overview of State Taxable Income Computation
   i. States that start with Federal Taxable Income
      1. Fixed vs Rolling Conformity Date Issues
      2. Impact of Differences in Filing Methodology
   ii. Selective IRC Conformity States (e.g., CA)
      1. Fixed vs. Rolling IRC Conformity Date Issues
b. Typical State Addition Modifications
   i. State Taxes
   ii. Payments to Related Parties
   iii. Federal Domestic Production Activities Deduction
   iv. Depreciation
c. Typical State Subtraction Modifications
   i. Dividends –Foreign Domestic, Commerce Clause Considerations
   ii. State vs. Federal NOL, I.R.C. § 382 limitations etc
   iii. Interest on U.S. Obligations
d. California Combined Reporting Mechanics
   i. Worldwide combined reporting
ii. Waters Edge Group composition and computational issues
iii. Treatment of diverse industries
iv. Apportionment considerations
v. Utilization of tax attributes
vi. Intercompany transactions including dividend elimination issues
e. Combined Reporting Issues and mechanics in other states
   i. Massachusetts
   ii. Illinois
   iii. New York
f. Alternative Tax Bases

6. Combined Report
   a. California Regulation 25106.5
   b. Intercompany Transactions California Regulation 25106.5-1

7. Apportionment Factors
   Numerators and Denominators
   a. Property
      i. Tangible
      ii. Owned
      iii. Rented
      iv. Where Used
   b. Payroll
      i. Employees
      ii. One Location
      iii. Follow DE-3
   c. Sales
      i. Sales of Tangible Personal
         1. Delivered
         2. Government
         3. Throwback if not taxable
      ii. Other than sale of tangible personal
         1. Real to situs
         2. Lease or rent to situs
         3. Service and sale or lease of intangible
            a. UDITPA
               i. Single State
               ii. Income Producing Activity
               iii. Greatest proportion
               iv. AT&T Massachusetts – overall activity
               v. AT&T Oregon – each receipt
            b. Market Approach
               i. Benefit Received
               ii. Delivered
            c. Throwout if not taxable

8. Multistate Compact Election
   a. Article III(1) State Rule or Article IV (UDITPA)
      i. California – No Contract – Gillette Co. v. Franchise Tax Board
      ii. Michigan – Various courts and different results different years Retroactive repeal
      iii. Minnesota – Without article III
      iv. Oregon – Tax Court similar to California
      v. Texas – Not an income tax
vi. Cert petitions will be filed

9. UDITPA Section 18
   a. Unfair reflection of activities in state – not unconstitutional
      i. Separate accounting
      ii. Exclusion of a factor
      iii. Addition of factor
      iv. Any other method
   b. External Consistency
   e. AT&T – Treasury Activity (California Board of Equalization)
   f. Merrill Lynch – Stock Broker (California Board of Equalization)
   g. **Microsoft Corp v. Franchise Tax Board, 39 Cal.4th 750 (2005) (Supreme Court of California)** - Treasury
      i. Qualitative and Quantitative
      ii. Whose burden of proof
      iii. Relief to be granted
   h. **General Mills, Inc. v. Franchise Tax Board, 208 Cal.4th 1290 (2012) (Supreme Court of California)** - Hedging
   i. Regulations