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No. 2022/034

July 11, 2022

TO COUNTY ASSESSORS:

2021 LITIGATION

This letter summarizes court cases involving property tax issues that were decided in 2021 by California's Courts of Appeal.

Bohnett v. County of Santa Barbara (2021) 59 Cal.App.5th 1128

The taxpayer appealed a judgment in the Superior Court (trial court) for the County of Santa Barbara (County), which denied the taxpayer's claim for the parent-child exclusion on trust property that the court determined was purchased from the taxpayer's 12 siblings, who were also beneficiaries of the trust. The taxpayer's parents died in 2003 and 2008. In 2012, the trustee filed a successful *Claim for Reassessment Exclusion for Transfer Between Parent and Child* (Proposition 58 claim) with the County, listing the parents as transferors and the 13 children as transferees. In 2013, a grant deed was recorded in the County transferring the property from successor trustee to the taxpayer, and listed the sales price as \$1,030,000. A deed of trust secured a \$417,000 loan to the taxpayer from Parkside Lending, LLC to purchase the property. The trustee distributed the money in equal shares to the 13 siblings. Subsequently, a second Proposition 58 claim for reassessment exclusion for transfers between parent and child was filed, listing the parents as transferors and the taxpayer as transferee, leaving as blank the date of purchase or transfer. The County found this to be a sibling-to-sibling sale, constituting a 12/13 (92.31 percent) change in ownership, and reassessed the property accordingly. The trial court agreed with the County. On appeal, the Court of Appeal affirmed the trial court's judgment and held that under Revenue and Taxation Code¹ section 63.1 two transfers of ownership occurred. The first transfer in 2008 was an excluded transfer to the 13 children (as confirmed by the first Proposition 58 claim), and the second transfer in 2013 was a non-excluded transfer when the taxpayer purchased the siblings' interests in the property by paying cash to the trust, including funds the taxpayer obtained through a loan from a commercial lender.

LA Live Properties, LLC v. County of Los Angeles (2021) 61 Cal.App.5th 363

The taxpayer appealed a judgment in the Superior Court (trial court) for the County of Los Angeles (County), which denied the taxpayer's claim for a tax refund. In 2012, the County levied escape assessments for years in which real property owned by the taxpayer was either not assessed or underassessed. The County mailed the required notices of proposed escape assessments five days before enrolling the escape assessments. The taxpayer paid the taxes due under the escape assessments, but argued that the assessments were void and subject to a refund action without

¹ All statutory references are to the Revenue and Taxation Code, unless otherwise indicated.

filing an assessment appeal due to the County's failure to comply with section 531.8, which required that the notices be issued 10 days before the escape assessments were enrolled. The trial court denied the taxpayer's claim based on the fact that the taxpayer did not exhaust its administrative remedies before resorting to the courts. The Court of Appeal affirmed the trial court's judgement, stating that "[t]he administrative exhaustion requirement is jurisdictional unless the assessment is a 'nullity as a matter of law.'" The Court of Appeal added that even if the County failed to follow the statutory procedure set out in section 531.8, that failure did not render the assessment a nullity because the real property at issue was not tax exempt, nonexistent, or outside the County's jurisdiction.

Valley Baptist Church v. City of San Rafael (2021) 61 Cal.App.5th 401

In 2010, the voters of the City of San Rafael (City) approved a Paramedic Services Special Tax (Paramedic Tax) to defray the cost of paramedic services within city boundaries. In 2017, Valley Baptist Church (Church), a nonprofit religious organization that operates a church on property within the City boundaries filed an action in Marin County Superior Court (trial court) arguing that it is exempted from payment of all property taxes under article XIII, section 3(f) of the California Constitution, including the Paramedic Tax, a non-ad valorem special tax. The City argued that the religious exemption from property taxation is limited to ad valorem property taxes. The trial court disagreed with the City and issued a decision that the Church was constitutionally exempt from payment of the Paramedic Tax because a special tax assessed by any agency upon any parcel of property as an incident of property ownership, such as the Paramedic Tax, falls within the plain meaning of "property taxation" for purposes of the article XIII exemptions. On appeal, the Court of Appeal looked into the historical context of how the religious exemption arose and reviewed established case precedents, as well as an opinion of the State Board of Equalization, and concluded that the religious exemptions from property taxation set forth in article XIII, sections 3 and 4 apply only to ad valorem property taxation and, therefore, do not exempt the Church from payment of the Paramedic Tax.

Verizon California Inc. v. Board of Equalization et al. (2021) 64 Cal.App.5th 1155

Verizon California Inc. (Verizon) appealed a judgment of the Superior Court of Sacramento County (trial court) which granted the State Board of Equalization's (Board) motion for summary adjudication of Verizon's consolidated actions to recover property taxes that Verizon alleged were wrongly levied on its property for 2008 through 2012. The California Constitution requires that the Board annually assess the fair market value of telephone company property in California. A taxpayer may petition the Board to reassess its property. If the petition is denied, the taxpayer may file a judicial action to recover taxes wrongly levied on its property that arise out of a "dispute" regarding the Board's assessed valuation. For each year at issue, Verizon joined with Board staff to seek approval from the Board of the joint recommendations to lower the assessed values of its property set forth in its petitions. The Board approved the joint recommendations. Subsequently, Verizon filed property tax refund actions for years 2008 through 2012, arguing that the Board should have adopted the valuations proposed in its petitions. The trial court consolidated the actions and granted the Board's motion for summary adjudication. On appeal, the Court of Appeals affirmed and held that it is "undisputed that for each tax year from 2008 through 2012 the Board adopted the Verizon/Board staff joint recommendation on valuation. Accordingly, since Verizon

agreed to the reduced assessments, set forth in the joint recommendations and approved by the Board, Verizon had no 'disputes' with the Board regarding assessed valuation."

The full text of these court cases may be viewed from the California Courts website at www.courts.ca.gov/opinions-slip.htm. If you have any questions regarding any of these court cases, please contact the County-Assessed Properties Division at 1-916-274-3350.

Sincerely,

/s/ David Yeung

David Yeung
Deputy Director
Property Tax Department

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